

1 S.125

2 Introduced by Senators Lyons and Ingram

3 Referred to Committee on

4 Date:

5 Subject: Professions and occupations; nursing; Nurse Licensure Compact

6 Statement of purpose of bill as introduced: This bill proposes to that the State  
7 adopt and enter into the interstate Nurse Licensure Compact.

8 An act relating to Vermont's adoption of the interstate Nurse Licensure  
9 Compact

10 It is hereby enacted by the General Assembly of the State of Vermont:

11 Sec. 1. 26 V.S.A. chapter 28, subchapter 5 is added to read:

12 Subchapter 5. Nurse Licensure Compact

13 § 1647. NURSE LICENSURE COMPACT; ADOPTION

14 This subchapter is the Vermont adoption of the Nurse Licensure Compact  
15 as amended by the National Council of State Boards of Nursing. The form,  
16 format, and text of the Compact have been conformed to the conventions of the  
17 Vermont Statutes Annotated. It is the intent of the General Assembly that this  
18 subchapter be interpreted as substantively the same as the Nurse Licensure  
19 Compact that is enacted by other Compact party states.

1     § 1647a. FINDINGS AND DECLARATION OF PURPOSE

2         (a) The party states find that:

3             (1) The health and safety of the public are affected by the degree of  
4             compliance with and the effectiveness of enforcement activities related to state  
5             nurse licensure laws.

6             (2) Violations of nurse licensure and other laws regulating the practice  
7             of nursing may result in injury or harm to the public.

8             (3) The expanded mobility of nurses and the use of advanced  
9             communication technologies as part of our nation's health care delivery system  
10            require greater coordination and cooperation among states in the areas of nurse  
11            licensure and regulation.

12            (4) New practice modalities and technology make compliance with  
13            individual state nurse licensure laws difficult and complex.

14            (5) The current system of duplicative licensure for nurses practicing in  
15            multiple states is cumbersome and redundant for both nurses and states.

16            (6) Uniformity of nurse licensure requirements throughout the states  
17            promotes public safety and public health benefits.

18         (b) The general purposes of this Compact are to:

19             (1) Facilitate the states' responsibility to protect the public's health and  
20             safety.

1           (2) Ensure and encourage the cooperation of party states in the areas of  
2           nurse licensure and regulation.

3           (3) Facilitate the exchange of information between party states in the  
4           areas of nurse regulation, investigation, and adverse actions.

5           (4) Promote compliance with the laws governing the practice of nursing  
6           in each jurisdiction.

7           (5) Invest all party states with the authority to hold a nurse accountable  
8           for meeting all state practice laws in the state in which the patient is located at  
9           the time care is rendered through the mutual recognition of party state licenses.

10          (6) Decrease redundancies in the consideration and issuance of nurse  
11          licenses.

12          (7) Provide opportunities for interstate practice by nurses who meet  
13          uniform licensure requirements.

14          § 1647b. DEFINITIONS

15           As used in this subchapter:

16           (1) “Adverse action” means any administrative, civil, equitable, or  
17           criminal action permitted by a state’s laws that is imposed by a licensing board  
18           or other authority against a nurse, including actions against an individual’s  
19           license or multistate licensure privilege, such as revocation, suspension,  
20           probation, monitoring of the licensee, limitation on the licensee’s practice, or

1 any other encumbrance on licensure affecting a nurse's authorization to  
2 practice, including issuance of a cease and desist action.

3 (2) "Alternative program" means a nondisciplinary monitoring program  
4 approved by a licensing board.

5 (3) "Commission" means the Interstate Commission of Nurse Licensure  
6 Compact Administrators.

7 (4) "Coordinated licensure information system" means an integrated  
8 process for collecting, storing, and sharing information on nurse licensure and  
9 enforcement activities related to nurse licensure laws that is administered by a  
10 nonprofit organization composed of and controlled by licensing boards.

11 (5) "Current significant investigative information" means:

12 (A) investigative information that a licensing board, after a  
13 preliminary inquiry that includes notification and an opportunity for the nurse  
14 to respond, if required by state law, has reason to believe is not groundless and,  
15 if proved true, would indicate more than a minor infraction; or

16 (B) investigative information that indicates that the nurse represents  
17 an immediate threat to public health and safety regardless of whether the nurse  
18 has been notified and had an opportunity to respond.

19 (6) "Encumbrance" means a revocation or suspension of, or any  
20 limitation on, the full and unrestricted practice of nursing imposed by a  
21 licensing board.

1           (7) “Home state” means the party state that is the nurse’s primary state  
2           of residence.

3           (8) “Licensing board” means a party state’s regulatory body responsible  
4           for issuing nurse licenses.

5           (9) “Multistate license” means a license to practice as a registered nurse  
6           (RN) or a licensed practical or vocational nurse (LPN/VN) issued by a home  
7           state licensing board that authorizes the licensed nurse to practice in all party  
8           states under a multistate licensure privilege.

9           (10) “Multistate licensure privilege” means a legal authorization  
10           associated with a multistate license permitting the practice of nursing as either  
11           an RN or LPN/VN in a remote state.

12           (11) “Nurse” means RN or LPN/VN, as those terms are defined by each  
13           party state’s practice laws.

14           (12) “Party state” means any state that has adopted this Compact.

15           (13) “Remote state” means a party state other than the home state.

16           (14) “Single-state license” means a nurse license issued by a party state  
17           that authorizes practice only within the issuing state and does not include a  
18           multistate licensure privilege to practice in any other party state.

19           (15) “State” means a state, territory, or possession of the United States  
20           and the District of Columbia.

1           (16) “State practice laws” means a party state’s laws, rules, and  
2           regulations that govern the practice of nursing, define the scope of nursing  
3           practice, and create the methods and grounds for imposing discipline. “State  
4           practice laws” do not include requirements necessary to obtain and retain a  
5           license, except for qualifications or requirements of the home state.

6           § 1647c. GENERAL PROVISIONS AND JURISDICTION

7           (a) A multistate license to practice registered or licensed practical or  
8           vocational nursing issued by a home state to a resident in that state will be  
9           recognized by each party state as authorizing a nurse to practice as an RN or  
10           LPN/VN, under a multistate licensure privilege, in each party state.

11           (b) A state must implement procedures for considering the criminal history  
12           records of applicants for initial multistate license or licensure by endorsement.  
13           Such procedures shall include the submission of fingerprints or other  
14           biometric-based information by applicants for the purpose of obtaining an  
15           applicant’s criminal history record information from the Federal Bureau of  
16           Investigation and the agency responsible for retaining that state’s criminal  
17           records.

18           (c) Each party state shall require the following for an applicant to obtain or  
19           retain a multistate license in the home state:

20           (1) meets the home state’s qualifications for licensure or renewal of  
21           licensure, as well as all other applicable state laws;

1           (2)(A) has graduated or is eligible to graduate from a licensing board-  
2           approved RN or LPN/VN pre-licensure education program; or

3           (B) has graduated from a foreign RN or LPN/VN pre-licensure  
4           education program that has been:

5                   (i) approved by the authorized accrediting body in the applicable  
6           country; and

7                   (ii) verified by an independent credentials review agency to be  
8           comparable to a licensing board-approved pre-licensure education program;

9           (3) has, if a graduate of a foreign pre-licensure education program not  
10          taught in English or if English is not the individual's native language,  
11          successfully passed an English proficiency examination that includes the  
12          components of reading, speaking, writing, and listening;

13           (4) has successfully passed an NCLEX-RN or NCLEX-PN Examination  
14          or recognized predecessor, as applicable;

15           (5) is eligible for or holds an active, unencumbered license;

16           (6) has submitted, in connection with an application for initial licensure  
17          or licensure by endorsement, fingerprints or other biometric data for the  
18          purpose of obtaining criminal history record information from the Federal  
19          Bureau of Investigation and the agency responsible for retaining that state's  
20          criminal records;

1           (7) has not been convicted or found guilty, or has entered into an agreed  
2           disposition, of a felony offense under applicable state or federal criminal law;

3           (8) has not been convicted or found guilty, or has entered into an agreed  
4           disposition, of a misdemeanor offense related to the practice of nursing as  
5           determined on a case-by-case basis;

6           (9) is not currently enrolled in an alternative program;

7           (10) is subject to self-disclosure requirements regarding current  
8           participation in an alternative program; and

9           (11) has a valid U.S. Social Security number.

10          (d) All party states shall be authorized, in accordance with existing state  
11          due process law, to take adverse action against a nurse's multistate licensure  
12          privilege, such as revocation, suspension, probation, or any other action that  
13          affects a nurse's authorization to practice under a multistate licensure privilege,  
14          including cease and desist actions. If a party state takes such action, it shall  
15          promptly notify the administrator of the coordinated licensure information  
16          system. The administrator of the coordinated licensure information system  
17          shall promptly notify the home state of any such actions by remote states.

18          (e) A nurse practicing in a party state must comply with the state practice  
19          laws of the state in which the client is located at the time service is provided.  
20          The practice of nursing is not limited to patient care, but shall include all  
21          nursing practice as defined by the state practice laws of the party state in which



1 the client is located. The practice of nursing in a party state under a multistate  
2 licensure privilege will subject a nurse to the jurisdiction of the licensing  
3 board, the courts, and the laws of the party state in which the client is located  
4 at the time service is provided.

5 (f) Individuals not residing in a party state shall continue to be able to apply  
6 for a party state's single-state license as provided under the laws of each party  
7 state. However, the single-state license granted to these individuals will not be  
8 recognized as granting the privilege to practice nursing in any other party state.  
9 Nothing in this Compact shall affect the requirements established by a party  
10 state for the issuance of a single-state license.

11 (g) Any nurse holding a home state multistate license on the effective date  
12 of this Compact may retain and renew the multistate license issued by the  
13 nurse's then-current home state, provided that:

14 (1) A nurse who changes primary state of residence after this Compact's  
15 effective date must meet all applicable requirements of subsection (c) of this  
16 section to obtain a multistate license from a new home state.

17 (2) A nurse who fails to satisfy the multistate licensure requirements in  
18 subsection (c) of this section due to a disqualifying event occurring after this  
19 Compact's effective date shall be ineligible to retain or renew a multistate  
20 license, and the nurse's multistate license shall be revoked or deactivated in

1 accordance with applicable rules adopted by the Interstate Commission of  
2 Nurse Licensure Compact Administrators.

3 § 1647d. APPLICATIONS FOR LICENSURE IN A PARTY STATE

4 (a) Upon application for a multistate license, the licensing board in the  
5 issuing party state shall ascertain, through the coordinated licensure  
6 information system, whether the applicant has ever held, or is the holder of, a  
7 license issued by any other state, whether there are any encumbrances on any  
8 license or multistate licensure privilege held by the applicant, whether any  
9 adverse action has been taken against any license or multistate licensure  
10 privilege held by the applicant, and whether the applicant is currently  
11 participating in an alternative program.

12 (b) A nurse may hold a multistate license, issued by the home state, in only  
13 one party state at a time.

14 (c) If a nurse changes primary state of residence by moving between two  
15 party states, the nurse must apply for licensure in the new home state, and the  
16 multistate license issued by the prior home state will be deactivated in  
17 accordance with applicable rules adopted by the Commission.

18 (1) The nurse may apply for licensure in advance of a change in primary  
19 state of residence.

20 (2) A multistate license shall not be issued by the new home state until  
21 the nurse provides satisfactory evidence of a change in primary state of

1 residence to the new home state and satisfies all applicable requirements to  
2 obtain a multistate license from the new home state.

3 (d) If a nurse changes primary state of residence by moving from a party  
4 state to a non-party state, the multistate license issued by the prior home state  
5 will convert to a single-state license, valid only in the former home state.

6 § 1647e. ADDITIONAL AUTHORITY INVESTED IN PARTY STATE

7 LICENSING BOARDS

8 (a) In addition to the other powers conferred by state law, a licensing board  
9 shall have the authority to:

10 (1) Take adverse action against a nurse's multistate licensure privilege  
11 to practice within that party state.

12 (A) Only the home state shall have the power to take adverse action  
13 against a nurse's license issued by the home state.

14 (B) For purposes of taking adverse action, the home state licensing  
15 board shall give the same priority and effect to reported conduct received from  
16 a remote state as it would if such conduct had occurred within the home state.

17 In so doing, the home state shall apply its own state laws to determine  
18 appropriate action.

19 (2) Issue cease and desist orders or impose an encumbrance on a nurse's  
20 authority to practice within that party state.

1           (3) Complete any pending investigations of a nurse who changes  
2           primary state of residence during the course of such investigations. The  
3           licensing board shall also have the authority to take appropriate action and  
4           shall promptly report the conclusions of such investigations to the  
5           administrator of the coordinated licensure information system. The  
6           administrator of the coordinated licensure information system shall promptly  
7           notify the new home state of any such actions.

8           (4) Issue subpoenas for both hearings and investigations that require the  
9           attendance and testimony of witnesses, as well as the production of evidence.  
10          Subpoenas issued by a licensing board in a party state for the attendance and  
11          testimony of witnesses or the production of evidence from another party state  
12          shall be enforced in the latter state by any court of competent jurisdiction  
13          according to the practice and procedure of that court applicable to subpoenas  
14          issued in proceedings pending before it. The issuing authority shall pay any  
15          witness fees, travel expenses, mileage, and other fees required by the service  
16          statutes of the state in which the witnesses or evidence is located.

17          (5) Obtain and submit, for each nurse licensure applicant, fingerprint or  
18          other biometric-based information to the Federal Bureau of Investigation for  
19          criminal background checks, receive the results of the Federal Bureau of  
20          Investigation record search on criminal background checks, and use the results  
21          in making licensure decisions.

1           (6) If otherwise permitted by state law, recover from the affected nurse  
2           the costs of investigations and disposition of cases resulting from any adverse  
3           action taken against that nurse.

4           (7) Take adverse action based on the factual findings of the remote state,  
5           provided that the licensing board follows its own procedures for taking such  
6           adverse action.

7           (b) If adverse action is taken by the home state against a nurse's multistate  
8           license, the nurse's multistate licensure privilege to practice in all other party  
9           states shall be deactivated until all encumbrances have been removed from the  
10           multistate license. All home state disciplinary orders that impose adverse  
11           action against a nurse's multistate license shall include a statement that the  
12           nurse's multistate licensure privilege is deactivated in all party states during  
13           the pendency of the order.

14           (c) Nothing in this Compact shall override a party state's decision that  
15           participation in an alternative program may be used in lieu of adverse action.  
16           The home state licensing board shall deactivate the multistate licensure  
17           privilege under the multistate license of any nurse for the duration of the  
18           nurse's participation in an alternative program.

19           § 1647f. COORDINATED LICENSURE INFORMATION SYSTEM

20           (a) All party states shall participate in a coordinated licensure information  
21           system of all licensed RNs and LPNs/VNs. This system will include

1 information on the licensure and disciplinary history of each nurse, as  
2 submitted by party states, to assist in the coordination of nurse licensure and  
3 enforcement efforts.

4 (b) The Commission, in consultation with the administrator of the  
5 coordinated licensure information system, shall formulate necessary and proper  
6 procedures for the identification, collection, and exchange of information  
7 under this Compact.

8 (c) All licensing boards shall promptly report to the coordinated licensure  
9 information system any adverse action, any current significant investigative  
10 information, denials of applications with the reasons for such denials, and  
11 nurse participation in alternative programs known to the licensing board  
12 regardless of whether such participation is deemed nonpublic or confidential  
13 under state law.

14 (d) Current significant investigative information and participation in  
15 nonpublic or confidential alternative programs shall be transmitted through the  
16 coordinated licensure information system only to party state licensing boards.

17 (e) Notwithstanding any other provision of law, all party state licensing  
18 boards contributing information to the coordinated licensure information  
19 system may designate information that may not be shared with non-party states  
20 or disclosed to other entities or individuals without the express permission of  
21 the contributing state.

1       (f) Any personally identifiable information obtained from the coordinated  
2       licensure information system by a party state licensing board shall not be  
3       shared with non-party states or disclosed to other entities or individuals except  
4       to the extent permitted by the laws of the party state contributing the  
5       information.

6       (g) Any information contributed to the coordinated licensure information  
7       system that is subsequently required to be expunged by the laws of the party  
8       state contributing that information shall also be expunged from the coordinated  
9       licensure information system.

10       (h) The Compact administrator of each party state shall furnish a uniform  
11       data set to the Compact administrator of each other party state, which shall  
12       include, at a minimum:

13               (1) identifying information;

14               (2) licensure data;

15               (3) information related to alternative program participation; and

16               (4) other information that may facilitate the administration of this

17       Compact, as determined by Commission rules.

18       (i) The Compact administrator of a party state shall provide all  
19       investigative documents and information requested by another party state.

1     § 1647g. INTERSTATE COMMISSION OF NURSE LICENSURE

2                     COMPACT ADMINISTRATORS; ESTABLISHMENT

3             (a) The party states hereby create and establish a joint public entity known  
4     as the Interstate Commission of Nurse Licensure Compact Administrators.

5                     (1) The Commission is an instrumentality of the party states.

6                     (2) Venue is proper, and judicial proceedings by or against the  
7     Commission shall be brought solely and exclusively, in a court of competent  
8     jurisdiction, where the principal office of the Commission is located. The  
9     Commission may waive venue and jurisdictional defenses to the extent it  
10    adopts or consents to participate in alternative dispute resolution proceedings.

11                    (3) Nothing in this Compact shall be construed to be a waiver of  
12    sovereign immunity.

13             (b) Membership, voting, and meetings.

14                    (1) Each party state shall have and be limited to one administrator. The  
15    head of the state licensing board or designee shall be the administrator of this  
16    Compact for each party state. Any administrator may be removed or  
17    suspended from office as provided by the law of the state from which the  
18    administrator is appointed. Any vacancy occurring in the Commission shall be  
19    filled in accordance with the laws of the party state in which the vacancy  
20    exists.



1           (2) Each administrator shall be entitled to one vote with regard to the  
2           promulgation of rules and creation of bylaws and shall otherwise have an  
3           opportunity to participate in the business and affairs of the Commission. An  
4           administrator shall vote in person or by such other means as provided in the  
5           bylaws. The bylaws may provide for an administrator's participation in  
6           meetings by telephone or other means of communication.

7           (3) The Commission shall meet at least once during each calendar year.  
8           Additional meetings shall be held as set forth in the bylaws or rules of the  
9           Commission.

10           (4) All meetings shall be open to the public, and public notice of  
11           meetings shall be given in the same manner as required under the rulemaking  
12           provisions in section 1647h of this chapter.

13           (5) The Commission may convene in a closed, nonpublic meeting if the  
14           Commission must discuss:

15           (A) noncompliance of a party state with its obligations under this  
16           Compact;

17           (B) the employment, compensation, discipline, or other personnel  
18           matters, practices, or procedures related to specific employees or other matters  
19           related to the Commission's internal personnel practices and procedures;

20           (C) current, threatened, or reasonably anticipated litigation;

1           (D) negotiation of contracts for the purchase or sale of goods,  
2           services, or real estate;

3           (E) accusing any person of a crime or formally censuring any person;

4           (F) disclosure of trade secrets or commercial or financial information  
5           that is privileged or confidential;

6           (G) disclosure of information of a personal nature where disclosure  
7           would constitute a clearly unwarranted invasion of personal privacy;

8           (H) disclosure of investigatory records compiled for law enforcement  
9           purposes;

10           (I) disclosure of information related to any reports prepared by or on  
11           behalf of the Commission for the purpose of investigation of compliance with  
12           this Compact; or

13           (J) matters specifically exempted from disclosure by federal or state  
14           statute.

15           (6) If a meeting, or portion of a meeting, is closed pursuant to this  
16           provision, the Commission's legal counsel or designee shall certify that the  
17           meeting may be closed and shall reference each relevant exempting provision.  
18           The Commission shall keep minutes that fully and clearly describe all matters  
19           discussed in a meeting and shall provide a full and accurate summary of  
20           actions taken, and the reasons therefor, including a description of the views  
21           expressed. All documents considered in connection with an action shall be

1 identified in such minutes. All minutes and documents of a closed meeting  
2 shall remain under seal, subject to release by a majority vote of the  
3 Commission or order of a court of competent jurisdiction.

4 (c) The Commission shall, by a majority vote of the administrators,  
5 prescribe bylaws or rules to govern its conduct as may be necessary or  
6 appropriate to carry out the purposes and exercise the powers of this Compact,  
7 including, but not limited to:

8 (1) Establishing the fiscal year of the Commission.

9 (2) Providing reasonable standards and procedures:

10 (A) for the establishment and meetings of other committees; and

11 (B) governing any general or specific delegation of any authority or  
12 function of the Commission.

13 (3) Providing reasonable procedures for calling and conducting  
14 meetings of the Commission, ensuring reasonable advance notice of all  
15 meetings, and providing an opportunity for attendance of such meetings by  
16 interested parties, with enumerated exceptions designed to protect the public's  
17 interest, the privacy of individuals, and proprietary information, including  
18 trade secrets. The Commission may meet in closed session only after a  
19 majority of the administrators vote to close a meeting in whole or in part. As  
20 soon as practicable, the Commission must make public a copy of the vote to

1 close the meeting, revealing the vote of each administrator, with no proxy  
2 votes allowed.

3 (4) Establishing the titles, duties, and authority and reasonable  
4 procedures for the election of the officers of the Commission.

5 (5) Providing reasonable standards and procedures for the establishment  
6 of the personnel policies and programs of the Commission. Notwithstanding  
7 any civil service or other similar laws of any party state, the bylaws shall  
8 exclusively govern the personnel policies and programs of the Commission.

9 (6) Providing a mechanism for winding up the operations of the  
10 Commission and the equitable disposition of any surplus funds that may exist  
11 after the termination of this Compact after the payment or reserving of all of its  
12 debts and obligations.

13 (d) The Commission shall publish its bylaws and rules, and any  
14 amendments thereto, in a convenient form on the website of the Commission.

15 (e) The Commission shall maintain its financial records in accordance with  
16 the bylaws.

17 (f) The Commission shall meet and take such actions as are consistent with  
18 the provisions of this Compact and the bylaws.

1           (g) The Commission shall have the following powers:

2                   (1) To promulgate uniform rules to facilitate and coordinate  
3           implementation and administration of this Compact. The rules shall have the  
4           force and effect of law and shall be binding in all party states.

5                   (2) To bring and prosecute legal proceedings or actions in the name of  
6           the Commission, provided that the standing of any licensing board to sue or be  
7           sued under applicable law shall not be affected.

8                   (3) To purchase and maintain insurance and bonds.

9                   (4) To borrow, accept, or contract for services of personnel, including,  
10          but not limited to, employees of a party state or nonprofit organizations.

11                  (5) To cooperate with other organizations that administer state compacts  
12          related to the regulation of nursing, including, but not limited to, sharing  
13          administrative or staff expenses, office space, or other resources.

14                  (6) To hire employees, elect or appoint officers, fix compensation,  
15          define duties, and grant such individuals appropriate authority to carry out the  
16          purposes of this Compact and to establish the Commission's personnel policies  
17          and programs relating to conflicts of interest, qualifications of personnel, and  
18          other related personnel matters.

19                  (7) To accept any and all appropriate donations, grants, and gifts of  
20          money, equipment, supplies, materials, and services and to receive, utilize, and

1 dispose of the same, provided that at all times the Commission shall avoid any  
2 appearance of impropriety or conflict of interest.

3 (8) To lease, purchase, accept appropriate gifts or donations of, or  
4 otherwise to own, hold, improve, or use any property, whether real, personal,  
5 or mixed, provided that at all times the Commission shall avoid any  
6 appearance of impropriety.

7 (9) To sell, convey, mortgage, pledge, lease, exchange, abandon, or  
8 otherwise dispose of any property, whether real, personal, or mixed.

9 (10) To establish a budget and make expenditures.

10 (11) To borrow money.

11 (12) To appoint committees, including advisory committees composed  
12 of administrators, state nursing regulators, state legislators or their  
13 representatives, consumer representatives, and other such interested persons.

14 (13) To provide and receive information from, and to cooperate with,  
15 law enforcement agencies.

16 (14) To adopt and use an official seal.

17 (15) To perform such other functions as may be necessary or appropriate  
18 to achieve the purposes of this Compact consistent with the state regulation of  
19 nurse licensure and practice.

1       (h) Financing of the Commission.

2           (1) The Commission shall pay, or provide for the payment of, the  
3       reasonable expenses of its establishment, organization, and ongoing activities.

4           (2) The Commission may also levy on and collect an annual assessment  
5       from each party state to cover the cost of its operations, activities, and staff in  
6       its annual budget as approved each year. The aggregate annual assessment  
7       amount, if any, shall be allocated based upon a formula to be determined by  
8       the Commission, which shall promulgate a rule that is binding upon all party  
9       states.

10          (3) The Commission shall not incur obligations of any kind prior to  
11       securing the funds adequate to meet the same, nor shall the Commission pledge  
12       the credit of any of the party states, except by, and with the authority of, such  
13       party state.

14          (4) The Commission shall keep accurate accounts of all receipts and  
15       disbursements. The receipts and disbursements of the Commission shall be  
16       subject to the audit and accounting procedures established under its bylaws.  
17       However, all receipts and disbursements of funds handled by the Commission  
18       shall be audited yearly by a certified or licensed public accountant, and the  
19       report of the audit shall be included in and become part of the annual report of  
20       the Commission.

1           (i) Qualified immunity, defense, and indemnification.

2           (1) The administrators, officers, executive director, employees, and  
3           representatives of the Commission shall be immune from suit and liability,  
4           either personally or in their official capacity, for any claim for damage to or  
5           loss of property or personal injury or other civil liability caused by or arising  
6           out of any actual or alleged act, error, or omission that occurred, or that the  
7           person against whom the claim is made had a reasonable basis for believing  
8           occurred, within the scope of Commission employment, duties, or  
9           responsibilities, provided that nothing in this subsection (i) shall be construed  
10           to protect any such person from suit or liability for any damage, loss, injury, or  
11           liability caused by the intentional, willful, or wanton misconduct of that  
12           person.

13           (2) The Commission shall defend any administrator, officer, executive  
14           director, employee, or representative of the Commission in any civil action  
15           seeking to impose liability arising out of any actual or alleged act, error, or  
16           omission that occurred within the scope of Commission employment, duties, or  
17           responsibilities, or that the person against whom the claim is made had a  
18           reasonable basis for believing occurred within the scope of Commission  
19           employment, duties, or responsibilities, provided that nothing herein shall be  
20           construed to prohibit that person from retaining his or her own counsel, and



1 provided further that the actual or alleged act, error, or omission did not result  
2 from that person's intentional, willful, or wanton misconduct.

3 (3) The Commission shall indemnify and hold harmless any  
4 administrator, officer, executive director, employee, or representative of the  
5 Commission for the amount of any settlement or judgment obtained against  
6 that person arising out of any actual or alleged act, error, or omission that  
7 occurred within the scope of Commission employment, duties, or  
8 responsibilities, or that such person had a reasonable basis for believing  
9 occurred within the scope of Commission employment, duties, or  
10 responsibilities, provided that the actual or alleged act, error, or omission did  
11 not result from the intentional, willful, or wanton misconduct of that person.

12 § 1647h. RULEMAKING

13 (a) The Commission shall exercise its rulemaking powers pursuant to the  
14 criteria set forth in this section and the rules adopted thereunder. Rules and  
15 amendments shall become binding as of the date specified in each rule or  
16 amendment and shall have the same force and effect as provisions of this  
17 Compact.

18 (b) Rules or amendments to the rules shall be adopted at a regular or  
19 special meeting of the Commission.

20 (c) Prior to promulgation and adoption of a final rule or rules by the  
21 Commission, and at least 60 days in advance of the meeting at which the rule

1 will be considered and voted upon, the Commission shall file a notice of  
2 proposed rulemaking:

3 (1) on the website of the Commission; and

4 (2) on the website of each licensing board or the publication in which  
5 each state would otherwise publish proposed rules.

6 (d) The notice of proposed rulemaking shall include:

7 (1) the proposed time, date, and location of the meeting in which the  
8 rule will be considered and voted upon;

9 (2) the text of the proposed rule or amendment and the reason for the  
10 proposed rule;

11 (3) a request for comments on the proposed rule from any interested  
12 person; and

13 (4) the manner in which interested persons may submit notice to the  
14 Commission of their intention to attend the public hearing and any written  
15 comments.

16 (e) Prior to adoption of a proposed rule, the Commission shall allow  
17 persons to submit written data, facts, opinions, and arguments, which shall be  
18 made available to the public.

19 (f) The Commission shall grant an opportunity for a public hearing before  
20 it adopts a rule or amendment.

1       (g) The Commission shall publish the place, time, and date of the  
2       scheduled public hearing.

3           (1) Hearings shall be conducted in a manner providing each person who  
4       wishes to comment a fair and reasonable opportunity to comment orally or in  
5       writing. All hearings will be recorded, and a copy will be made available upon  
6       request.

7           (2) Nothing in this section shall be construed as requiring a separate  
8       hearing on each rule. Rules may be grouped for the convenience of the  
9       Commission at hearings required by this section.

10       (h) If no one appears at the public hearing, the Commission may proceed  
11       with promulgation of the proposed rule.

12       (i) Following the scheduled hearing date, or by the close of business on the  
13       scheduled hearing date if the hearing was not held, the Commission shall  
14       consider all written and oral comments received.

15       (j) The Commission shall, by majority vote of all administrators, take final  
16       action on the proposed rule and shall determine the effective date of the rule, if  
17       any, based on the rulemaking record and the full text of the rule.

18       (k) Upon determination that an emergency exists, the Commission may  
19       consider and adopt an emergency rule without prior notice, opportunity for  
20       comment, or hearing, provided that the usual rulemaking procedures provided  
21       in this Compact and in this section shall be retroactively applied to the rule as

1 soon as reasonably possible, in no event later than 90 days after the effective  
2 date of the rule. For the purposes of this provision, an emergency rule is one  
3 that must be adopted immediately in order to:

4 (1) meet an imminent threat to public health, safety, or welfare;

5 (2) prevent a loss of Commission or party state funds; or

6 (3) meet a deadline for the promulgation of an administrative rule that is  
7 required by federal law or rule.

8 (1) The Commission may direct revisions to a previously adopted rule or  
9 amendment for purposes of correcting typographical errors, errors in format,  
10 errors in consistency, or grammatical errors. Public notice of any revisions  
11 shall be posted on the website of the Commission. The revision shall be  
12 subject to challenge by any person for a period of 30 days after posting. The  
13 revision may be challenged only on grounds that the revision results in a  
14 material change to a rule. A challenge shall be made in writing and delivered  
15 to the Commission prior to the end of the notice period. If no challenge is  
16 made, the revision will take effect without further action. If the revision is  
17 challenged, the revision may not take effect without the approval of the  
18 Commission.

1     § 1647i. OVERSIGHT, DISPUTE RESOLUTION, AND ENFORCEMENT

2         (a) Oversight.

3             (1) Each party state shall enforce this Compact and take all actions  
4             necessary and appropriate to effectuate this Compact's purposes and intent.

5             (2) The Commission shall be entitled to receive service of process in  
6             any proceeding that may affect the powers, responsibilities, or actions of the  
7             Commission and shall have standing to intervene in such a proceeding for all  
8             purposes. Failure to provide service of process in such proceeding to the  
9             Commission shall render a judgment or order void as to the Commission, this  
10            Compact, or promulgated rules.

11         (b) Default, technical assistance, and termination.

12             (1) If the Commission determines that a party state has defaulted in the  
13             performance of its obligations or responsibilities under this Compact or the  
14             promulgated rules, the Commission shall:

15                 (A) provide written notice to the defaulting state and other party  
16                 states of the nature of the default, the proposed means of curing the default, or  
17                 any other action to be taken by the Commission; and

18                 (B) provide remedial training and specific technical assistance  
19                 regarding the default.

20             (2) If a state in default fails to cure the default, the defaulting state's  
21             membership in this Compact may be terminated upon an affirmative vote of a

1 majority of the administrators, and all rights, privileges, and benefits conferred  
2 by this Compact may be terminated on the effective date of termination. A  
3 cure of the default does not relieve the offending state of obligations or  
4 liabilities incurred during the period of default.

5 (3) Termination of membership in this Compact shall be imposed only  
6 after all other means of securing compliance have been exhausted. Notice of  
7 intent to suspend or terminate shall be given by the Commission to the  
8 governor of the defaulting state and to the executive officer of the defaulting  
9 state's licensing board and each of the party states.

10 (4) A state whose membership in this Compact has been terminated is  
11 responsible for all assessments, obligations, and liabilities incurred through the  
12 effective date of termination, including obligations that extend beyond the  
13 effective date of termination.

14 (5) The Commission shall not bear any costs related to a state that is  
15 found to be in default or whose membership in this Compact has been  
16 terminated unless agreed upon in writing between the Commission and the  
17 defaulting state.

18 (6) The defaulting state may appeal the action of the Commission by  
19 petitioning the U.S. District Court for the District of Columbia or the federal  
20 district in which the Commission has its principal offices. The prevailing party

1 shall be awarded all costs of such litigation, including reasonable  
2 attorney's fees.

3 (c) Dispute resolution.

4 (1) Upon request by a party state, the Commission shall attempt to  
5 resolve disputes related to the Compact that arise among party states and  
6 between party and non-party states.

7 (2) The Commission shall promulgate a rule providing for both  
8 mediation and binding dispute resolution for disputes, as appropriate.

9 (3) In the event the Commission cannot resolve disputes among party  
10 states arising under this Compact:

11 (A) The party states may submit the issues in dispute to an arbitration  
12 panel, which will be composed of individuals appointed by the Compact  
13 administrator in each of the affected party states and an individual mutually  
14 agreed upon by the Compact administrators of all the party states involved in  
15 the dispute.

16 (B) The decision of a majority of the arbitrators shall be final and  
17 binding.

18 (d) Enforcement.

19 (1) The Commission, in the reasonable exercise of its discretion, shall  
20 enforce the provisions and rules of this Compact.

1           (2) By majority vote, the Commission may initiate legal action in the  
2           U.S. District Court for the District of Columbia or the federal district in which  
3           the Commission has its principal offices against a party state that is in default  
4           to enforce compliance with the provisions of this Compact and its promulgated  
5           rules and bylaws. The relief sought may include both injunctive relief and  
6           damages. In the event judicial enforcement is necessary, the prevailing party  
7           shall be awarded all costs of such litigation, including reasonable  
8           attorney's fees.

9           (3) The remedies herein shall not be the exclusive remedies of the  
10           Commission. The Commission may pursue any other remedies available under  
11           federal or state law.

12           § 1647j. EFFECTIVE DATE, WITHDRAWAL, AND AMENDMENT

13           (a) This Compact shall become effective and binding on the earlier of the  
14           date of legislative enactment of this Compact into law by no fewer than  
15           26 states or December 31, 2018. All party states to this Compact that also  
16           were parties to the prior Nurse Licensure Compact superseded by this Compact  
17           ("Prior Compact"), shall be deemed to have withdrawn from the Prior  
18           Compact within six months after the effective date of this Compact.

19           (b) Each party state to this Compact shall continue to recognize a nurse's  
20           multistate licensure privilege to practice in that party state issued under the  
21           Prior Compact until such party state has withdrawn from the Prior Compact.



1       (c) Any party state may withdraw from this Compact by enacting a statute  
2       repealing the same. A party state's withdrawal shall not take effect until six  
3       months after enactment of the repealing statute.

4       (d) A party state's withdrawal or termination shall not affect the continuing  
5       requirement of the withdrawing or terminated state's licensing board to report  
6       adverse actions and significant investigations occurring prior to the effective  
7       date of such withdrawal or termination.

8       (e) Nothing contained in this Compact shall be construed to invalidate or  
9       prevent any nurse licensure agreement or other cooperative arrangement  
10       between a party state and a non-party state that is made in accordance with the  
11       other provisions of this Compact.

12       (f) This Compact may be amended by the party states. No amendment to  
13       this Compact shall become effective and binding upon the party states unless  
14       and until it is enacted into the laws of all party states.

15       (g) Representatives of non-party states to this Compact shall be invited to  
16       participate in the activities of the Commission, on a nonvoting basis, prior to  
17       the adoption of this Compact by all states.

18       § 1647k. CONSTRUCTION AND SEVERABILITY

19       This Compact shall be liberally construed so as to effectuate the purposes  
20       thereof. The provisions of this Compact shall be severable, and if any phrase,  
21       clause, sentence, or provision of this Compact is declared to be contrary to the

1 constitution of any party state or of the United States, or if the applicability  
2 thereof to any government, agency, person, or circumstance is held invalid, the  
3 validity of the remainder of this Compact and the applicability thereof to any  
4 government, agency, person, or circumstance shall not be affected thereby. If  
5 this Compact shall be held to be contrary to the constitution of any party state,  
6 this Compact shall remain in full force and effect as to the remaining party  
7 states and in full force and effect as to the party state affected as to all  
8 severable matters.

9 § 1648. ADMINISTRATION OF THE NURSE LICENSURE COMPACT

10 (a) The Vermont State Board of Nursing shall have the power to:

11 (1) oversee the administration and enforcement of the Nurse Licensure  
12 Compact within the State;

13 (2) recover from a nurse practicing under the provisions of the Nurse  
14 Licensure Compact the cost of investigation and disposition of a case resulting  
15 in adverse action taken against that nurse;

16 (3) establish fees to offset the costs associated with administering this  
17 subchapter; and

18 (4) conduct a background check, prior to issuing a multistate license  
19 under the provisions of the Nurse Licensure Compact, that includes a  
20 fingerprint-based check of State and federal criminal history databases, as  
21 authorized by 28 C.F.R. § 20.33.

1       (b) The Executive Director of the Vermont State Board of Nursing or  
2       designee shall be the administrator of the Nurse Licensure Compact for the  
3       State of Vermont pursuant to subdivision 1647g(b)(1) of this chapter.

4       (c) The Vermont State Board of Nursing may:

5           (1) adopt rules necessary to implement and enforce the provisions of this  
6       subchapter within the State; and

7           (2) take disciplinary action against the practice privilege of a nurse  
8       practicing within the State under the provisions of the Nurse Licensure  
9       Compact, which may include disciplinary action based on disciplinary action  
10       taken against the nurse's license by another party state to the Nurse Licensure  
11       Compact.

12       (d) Nothing in this subchapter shall supersede or abridge State labor laws.

13       Sec. 2. EFFECTIVE DATE

14       This act shall take effect on December 1, 2019.