

BOARD OF PHYSICAL THERAPY

Subcommittee Meeting on Licensure Compact

Department of Health Professions
Perimeter Center
9960 Mayland Drive, Suite 300
Henrico, Virginia 23233
**2nd Floor Conference Center
Training Room #2**

Tuesday, October 25, 2016
10:00 a.m.

AGENDA

CALL TO ORDER

DISCUSSION:

- **Physical Therapy Licensure Compact**
 - Physical Therapy Licensure Compact
Mark Lane, PT, Vice President
Leslie Adrian, PT, Director of Professional Standards
Federation of State Boards of Physical Therapy (FSBPT)
 - Implementation and Function of the Board of Nursing Licensure Compact
Jay Douglas, Executive Director, Virginia Board of Nursing

ADJOURNMENT

ATTACHMENTS

- Physical Therapy Licensure Compact
- Board of Nursing Licensure Compact
- Virginia Code § 54.1-2400.2

Physical Therapy Licensure Compact

- 24 2. **“Adverse Action”** means disciplinary action taken by a physical therapy
25 licensing board based upon misconduct, unacceptable performance, or a
26 combination of both.
- 27 3. **“Alternative Program”** means a non-disciplinary monitoring or practice
28 remediation process approved by a physical therapy licensing board. This
29 includes, but is not limited to, substance abuse issues.
- 30 4. **“Compact privilege”** means the authorization granted by a remote state to allow
31 a licensee from another member state to practice as a physical therapist or work
32 as a physical therapist assistant in the remote state under its laws and rules. The
33 practice of physical therapy occurs in the member state where the patient/client is
34 located at the time of the patient/client encounter.
- 35 5. **“Continuing competence”** means a requirement, as a condition of license
36 renewal, to provide evidence of participation in, and/or completion of,
37 educational and professional activities relevant to practice or area of work.
- 38 6. **“Data system”** means a repository of information about licensees, including
39 examination, licensure, investigative, compact privilege, and adverse action.
- 40 7. **“Encumbered license”** means a license that a physical therapy licensing board
41 has limited in any way.
- 42 8. **“Executive Board”** means a group of directors elected or appointed to act on
43 behalf of, and within the powers granted to them by, the Commission.
- 44 9. **“Home state”** means the member state that is the licensee’s primary state of
45 residence.

- 46 10. **“Investigative information”** means information, records, and documents
47 received or generated by a physical therapy licensing board pursuant to an
48 investigation.
- 49 11. **“Jurisprudence Requirement”** means the assessment of an individual’s
50 knowledge of the laws and rules governing the practice of physical therapy in a
51 state.
- 52 12. **“Licensee”** means an individual who currently holds an authorization from the
53 state to practice as a physical therapist or to work as a physical therapist assistant.
- 54 13. **“Member state”** means a state that has enacted the Compact.
- 55 14. **“Party state”** means any member state in which a licensee holds a current
56 license or compact privilege or is applying for a license or compact privilege.
- 57 15. **“Physical therapist”** means an individual who is licensed by a state to practice
58 physical therapy.
- 59 16. **“Physical therapist assistant”** means an individual who is licensed/certified by a
60 state and who assists the physical therapist in selected components of physical
61 therapy.
- 62 17. **“Physical therapy,” “physical therapy practice,” and “the practice of**
63 **physical therapy”** mean the care and services provided by or under the direction
64 and supervision of a licensed physical therapist.
- 65 18. **“Physical Therapy Compact Commission” or “Commission”** means the
66 national administrative body whose membership consists of all states that have
67 enacted the Compact.

- 68 19. **“Physical therapy licensing board” or “licensing board”** means the agency of
69 a state that is responsible for the licensing and regulation of physical therapists
70 and physical therapist assistants.
- 71 20. **“Remote State”** means a member state other than the home state, where a
72 licensee is exercising or seeking to exercise the compact privilege.
- 73 21. **“Rule”** means a regulation, principle, or directive promulgated by the
74 Commission that has the force of law.
- 75 22. **“State”** means any state, commonwealth, district, or territory of the United
76 States of America that regulates the practice of physical therapy.

77 **SECTION 3. STATE PARTICIPATION IN THE COMPACT**

- 78 A. To participate in the Compact, a state must:
- 79 1. Participate fully in the Commission’s data system, including using the
80 Commission’s unique identifier as defined in rules;
- 81 2. Have a mechanism in place for receiving and investigating complaints
82 about licensees;
- 83 3. Notify the Commission, in compliance with the terms of the Compact and
84 rules, of any adverse action or the availability of investigative information
85 regarding a licensee;
- 86 4. Fully implement a criminal background check requirement, within a time
87 frame established by rule, by receiving the results of the Federal Bureau of
88 Investigation record search on criminal background checks and use the
89 results in making licensure decisions in accordance with Section 3.B.4.;
- 90 5. Comply with the rules of the Commission;

- 91 6. Utilize a recognized national examination as a requirement for licensure
92 pursuant to the rules of the Commission; and
93 7. Have continuing competence requirements as a condition for license
94 renewal.

95 B. Upon adoption of this statute, the member state shall have the authority to obtain
96 biometric-based information from each physical therapy licensure applicant and submit this
97 information to the Federal Bureau of Investigation for a criminal background check in accordance
98 with 28 U.S.C. §534 and 42 U.S.C. §14616.

99 C. A member state shall grant the compact privilege to a licensee holding a valid
100 unencumbered license in another member state in accordance with the terms of the Compact and
101 rules.

102 D. Member states may charge a fee for granting a compact privilege
103

104 **SECTION 4. COMPACT PRIVILEGE**

105 A. To exercise the compact privilege under the terms and provisions of the Compact,
106 the licensee shall:

- 107 1. Hold a license in the home state;
108 2. Have no encumbrance on any state license;
109 3. Be eligible for a compact privilege in any member state in accordance
110 with Section 4D, G and H;
111 4. Have not had any adverse action against any license or compact privilege
112 within the previous 2 years;
113 5. Notify the Commission that the licensee is seeking the compact privilege
114 within a remote state(s);

- 115 6. Pay any applicable fees, including any state fee, for the compact
116 privilege;
- 117 7. Meet any jurisprudence requirements established by the remote state(s) in
118 which the licensee is seeking a compact privilege; and
- 119 8. Report to the Commission adverse action taken by any non-member state
120 within 30 days from the date the adverse action is taken.
- 121 B. The compact privilege is valid until the expiration date of the home license. The
122 licensee must comply with the requirements of Section 4.A. to maintain the compact
123 privilege in the remote state.
- 124 C. A licensee providing physical therapy in a remote state under the compact
125 privilege shall function within the laws and regulations of the remote state.
- 126 D. A licensee providing physical therapy in a remote state is subject to that state's
127 regulatory authority. A remote state may, in accordance with due process and that state's
128 laws, remove a licensee's compact privilege in the remote state for a specific period of
129 time, impose fines, and/or take any other necessary actions to protect the health and
130 safety of its citizens. The licensee is not eligible for a compact privilege in any state until
131 the specific time for removal has passed and all fines are paid.
- 132 E. If a home state license is encumbered, the licensee shall lose the compact
133 privilege in any remote state until the following occur:
- 134 1. The home state license is no longer encumbered; and
- 135 2. Two years have elapsed from the date of the adverse action.

136 F. Once an encumbered license in the home state is restored to good standing, the
137 licensee must meet the requirements of Section 4A to obtain a compact privilege in any
138 remote state.

139 G. If a licensee's compact privilege in any remote state is removed, the individual
140 shall lose the compact privilege in any remote state until the following occur:

141 1. The specific period of time for which the compact privilege was removed
142 has ended;

143 2. All fines have been paid; and

144 3. Two years have elapsed from the date of the adverse action.

145 H. Once the requirements of Section 4G have been met, the license must meet the
146 requirements in Section 4A to obtain a compact privilege in a remote state.

147 **SECTION 5. ACTIVE DUTY MILITARY PERSONNEL OR THEIR SPOUSES**

148 A licensee who is active duty military or is the spouse of an individual who is active duty
149 military may designate one of the following as the home state:

150 A. Home of record;

151 B. Permanent Change of Station (PCS); or

152 C. State of current residence if it is different than the PCS state or home of record.

153 **SECTION 6. ADVERSE ACTIONS**

154 A. A home state shall have exclusive power to impose adverse action against a
155 license issued by the home state.

156 B. A home state may take adverse action based on the investigative information of a
157 remote state, so long as the home state follows its own procedures for imposing
158 adverse action.

- 159 C. Nothing in this Compact shall override a member state's decision that
160 participation in an alternative program may be used in lieu of adverse action and
161 that such participation shall remain non-public if required by the member state's
162 laws. Member states must require licensees who enter any alternative programs in
163 lieu of discipline to agree not to practice in any other member state during the
164 term of the alternative program without prior authorization from such other
165 member state.
- 166 D. Any member state may investigate actual or alleged violations of the statutes and
167 rules authorizing the practice of physical therapy in any other member state in
168 which a physical therapist or physical therapist assistant holds a license or
169 compact privilege.
- 170 E. A remote state shall have the authority to:
- 171 1. Take adverse actions as set forth in Section 4.D. against a licensee's
172 compact privilege in the state;
 - 173 2. Issue subpoenas for both hearings and investigations that require the
174 attendance and testimony of witnesses, and the production of evidence.
175 Subpoenas issued by a physical therapy licensing board in a party state for
176 the attendance and testimony of witnesses, and/or the production of
177 evidence from another party state, shall be enforced in the latter state by
178 any court of competent jurisdiction, according to the practice and
179 procedure of that court applicable to subpoenas issued in proceedings
180 pending before it. The issuing authority shall pay any witness fees, travel

181 expenses, mileage, and other fees required by the service statutes of the
182 state where the witnesses and/or evidence are located; and
183 3. If otherwise permitted by state law, recover from the licensee the costs of
184 investigations and disposition of cases resulting from any adverse action
185 taken against that licensee.

186 **F. Joint Investigations**

187 1. In addition to the authority granted to a member state by its respective
188 physical therapy practice act or other applicable state law, a member state
189 may participate with other member states in joint investigations of
190 licensees.
191 2. Member states shall share any investigative, litigation, or compliance
192 materials in furtherance of any joint or individual investigation initiated
193 under the Compact.

194 **SECTION 7. ESTABLISHMENT OF THE PHYSICAL THERAPY COMPACT**
195 **COMMISSION.**

196 **A.** The Compact member states hereby create and establish a joint public agency known
197 as the Physical Therapy Compact Commission:

198 1. The Commission is an instrumentality of the Compact states.
199 2. Venue is proper and judicial proceedings by or against the Commission
200 shall be brought solely and exclusively in a court of competent jurisdiction
201 where the principal office of the Commission is located. The Commission
202 may waive venue and jurisdictional defenses to the extent it adopts or
203 consents to participate in alternative dispute resolution proceedings.

204 3. Nothing in this Compact shall be construed to be a waiver of sovereign
205 immunity.

206 B. Membership, Voting, and Meetings

207 1. Each member state shall have and be limited to one (1) delegate selected
208 by that member state's licensing board.

209 2. The delegate shall be a current member of the licensing board, who is a
210 physical therapist, physical therapist assistant, public member, or the
211 board administrator.

212 3. Any delegate may be removed or suspended from office as provided by
213 the law of the state from which the delegate is appointed.

214 4. The member state board shall fill any vacancy occurring in the
215 Commission.

216 5. Each delegate shall be entitled to one (1) vote with regard to the
217 promulgation of rules and creation of bylaws and shall otherwise have an
218 opportunity to participate in the business and affairs of the Commission.

219 6. A delegate shall vote in person or by such other means as provided in the
220 bylaws. The bylaws may provide for delegates' participation in meetings
221 by telephone or other means of communication.

222 7. The Commission shall meet at least once during each calendar year.
223 Additional meetings shall be held as set forth in the bylaws.

224 C. The Commission shall have the following powers and duties:

225 1. Establish the fiscal year of the Commission;

226 2. Establish bylaws;

- 227 3. Maintain its financial records in accordance with the bylaws;
- 228 4. Meet and take such actions as are consistent with the provisions of this
- 229 Compact and the bylaws;
- 230 5. Promulgate uniform rules to facilitate and coordinate implementation and
- 231 administration of this Compact. The rules shall have the force and effect
- 232 of law and shall be binding in all member states;
- 233 6. Bring and prosecute legal proceedings or actions in the name of the
- 234 Commission, provided that the standing of any state physical therapy
- 235 licensing board to sue or be sued under applicable law shall not be
- 236 affected;
- 237 7. Purchase and maintain insurance and bonds;
- 238 8. Borrow, accept, or contract for services of personnel, including, but not
- 239 limited to, employees of a member state;
- 240 9. Hire employees, elect or appoint officers, fix compensation, define duties,
- 241 grant such individuals appropriate authority to carry out the purposes of
- 242 the Compact, and to establish the Commission's personnel policies and
- 243 programs relating to conflicts of interest, qualifications of personnel, and
- 244 other related personnel matters;
- 245 10. Accept any and all appropriate donations and grants of money, equipment,
- 246 supplies, materials and services, and to receive, utilize and dispose of the
- 247 same; provided that at all times the Commission shall avoid any
- 248 appearance of impropriety and/or conflict of interest;

- 249 11. Lease, purchase, accept appropriate gifts or donations of, or otherwise to
250 own, hold, improve or use, any property, real, personal or mixed; provided
251 that at all times the Commission shall avoid any appearance of
252 impropriety;
- 253 12. Sell convey, mortgage, pledge, lease, exchange, abandon, or otherwise
254 dispose of any property real, personal, or mixed;
- 255 13. Establish a budget and make expenditures;
- 256 14. Borrow money;
- 257 15. Appoint committees, including standing committees comprised of
258 members, state regulators, state legislators or their representatives, and
259 consumer representatives, and such other interested persons as may be
260 designated in this Compact and the bylaws;
- 261 16. Provide and receive information from, and cooperate with, law
262 enforcement agencies;
- 263 17. Establish and elect an Executive Board; and
- 264 18. Perform such other functions as may be necessary or appropriate to
265 achieve the purposes of this Compact consistent with the state regulation
266 of physical therapy licensure and practice.

267 D. The Executive Board

268 The Executive Board shall have the power to act on behalf of the Commission according
269 to the terms of this Compact

- 270 1. The Executive Board shall be comprised of nine members:

- 271 a. Seven voting members who are elected by the Commission from the
272 current membership of the Commission;
- 273 b. One ex-officio, nonvoting member from the recognized national physical
274 therapy professional association; and
- 275 c. One ex-officio, nonvoting member from the recognized membership
276 organization of the physical therapy licensing boards.
- 277 2. The ex-officio members will be selected by their respective organizations.
- 278 3. The Commission may remove any member of the Executive Board as
279 provided in bylaws.
- 280 4. The Executive Board shall meet at least annually.
- 281 5. The Executive Board shall have the following Duties and responsibilities:
- 282 a. Recommend to the entire Commission changes to the rules or bylaws,
283 changes to this Compact legislation, fees paid by Compact member states
284 such as annual dues, and any commission Compact fee charged to
285 licensees for the compact privilege;
- 286 b. Ensure Compact administration services are appropriately provided,
287 contractual or otherwise;
- 288 c. Prepare and recommend the budget;
- 289 d. Maintain financial records on behalf of the Commission;
- 290 e. Monitor Compact compliance of member states and provide compliance
291 reports to the Commission;
- 292 f. Establish additional committees as necessary; and
- 293 g. Other duties as provided in rules or bylaws.

294 E. Meetings of the Commission

295 1. All meetings shall be open to the public, and public notice of meetings
296 shall be given in the same manner as required under the rulemaking
297 provisions in Section 9.

298 2. The Commission or the Executive Board or other committees of the
299 Commission may convene in a closed, non-public meeting if the
300 Commission or Executive Board or other committees of the Commission
301 must discuss:

302 a. Non-compliance of a member state with its obligations under the
303 Compact;

304 b. The employment, compensation, discipline or other matters, practices or
305 procedures related to specific employees or other matters related to the
306 Commission's internal personnel practices and procedures;

307 c. Current, threatened, or reasonably anticipated litigation;

308 d. Negotiation of contracts for the purchase, lease, or sale of goods,
309 services, or real estate;

310 e. Accusing any person of a crime or formally censuring any person;

311 f. Disclosure of trade secrets or commercial or financial information that is
312 privileged or confidential;

313 g. Disclosure of information of a personal nature where disclosure would
314 constitute a clearly unwarranted invasion of personal privacy;

315 h. Disclosure of investigative records compiled for law enforcement
316 purposes;

- 317 i. Disclosure of information related to any investigative reports prepared by
318 or on behalf of or for use of the Commission or other committee charged
319 with responsibility of investigation or determination of compliance issues
320 pursuant to the Compact; or
- 321 j. Matters specifically exempted from disclosure by federal or member state
322 statute.
- 323 3. If a meeting, or portion of a meeting, is closed pursuant to this provision,
324 the Commission's legal counsel or designee shall certify that the meeting
325 may be closed and shall reference each relevant exempting provision.
- 326 4. The Commission shall keep minutes that fully and clearly describe all
327 matters discussed in a meeting and shall provide a full and accurate
328 summary of actions taken, and the reasons therefore, including a
329 description of the views expressed. All documents considered in
330 connection with an action shall be identified in such minutes. All minutes
331 and documents of a closed meeting shall remain under seal, subject to
332 release by a majority vote of the Commission or order of a court of
333 competent jurisdiction.
- 334 F. Financing of the Commission
- 335 1. The Commission shall pay, or provide for the payment of, the reasonable
336 expenses of its establishment, organization, and ongoing activities.
- 337 2. The Commission may accept any and all appropriate revenue sources,
338 donations, and grants of money, equipment, supplies, materials, and
339 services.

340 3. The Commission may levy on and collect an annual assessment from each
341 member state or impose fees on other parties to cover the cost of the
342 operations and activities of the Commission and its staff, which must be in
343 a total amount sufficient to cover its annual budget as approved each year
344 for which revenue is not provided by other sources. The aggregate annual
345 assessment amount shall be allocated based upon a formula to be
346 determined by the Commission, which shall promulgate a rule binding
347 upon all member states.

348 4. The Commission shall not incur obligations of any kind prior to securing
349 the funds adequate to meet the same; nor shall the Commission pledge the
350 credit of any of the member states, except by and with the authority of the
351 member state.

352 5. The Commission shall keep accurate accounts of all receipts and
353 disbursements. The receipts and disbursements of the Commission shall be
354 subject to the audit and accounting procedures established under its
355 bylaws. However, all receipts and disbursements of funds handled by the
356 Commission shall be audited yearly by a certified or licensed public
357 accountant, and the report of the audit shall be included in and become
358 part of the annual report of the Commission.

359 G. Qualified Immunity, Defense, and Indemnification

360 1. The members, officers, executive director, employees and representatives
361 of the Commission shall be immune from suit and liability, either
362 personally or in their official capacity, for any claim for damage to or loss

363 of property or personal injury or other civil liability caused by or arising
364 out of any actual or alleged act, error or omission that occurred, or that the
365 person against whom the claim is made had a reasonable basis for
366 believing occurred within the scope of Commission employment, duties or
367 responsibilities; provided that nothing in this paragraph shall be construed
368 to protect any such person from suit and/or liability for any damage, loss,
369 injury, or liability caused by the intentional or willful or wanton
370 misconduct of that person.

371 2. The Commission shall defend any member, officer, executive director,
372 employee or representative of the Commission in any civil action seeking
373 to impose liability arising out of any actual or alleged act, error, or
374 omission that occurred within the scope of Commission employment,
375 duties, or responsibilities, or that the person against whom the claim is
376 made had a reasonable basis for believing occurred within the scope of
377 Commission employment, duties, or responsibilities; provided that nothing
378 herein shall be construed to prohibit that person from retaining his or her
379 own counsel; and provided further, that the actual or alleged act, error, or
380 omission did not result from that person's intentional or willful or wanton
381 misconduct.

382 3. The Commission shall indemnify and hold harmless any member, officer,
383 executive director, employee, or representative of the Commission for the
384 amount of any settlement or judgment obtained against that person arising
385 out of any actual or alleged act, error or omission that occurred within the

386 scope of Commission employment, duties, or responsibilities, or that such
387 person had a reasonable basis for believing occurred within the scope of
388 Commission employment, duties, or responsibilities, provided that the
389 actual or alleged act, error, or omission did not result from the intentional
390 or willful or wanton misconduct of that person.

391

392 SECTION 8. DATA SYSTEM

393 A. The Commission shall provide for the development, maintenance, and utilization
394 of a coordinated database and reporting system containing licensure, adverse action, and
395 investigative information on all licensed individuals in member states.

396 B. Notwithstanding any other provision of state law to the contrary, a member state
397 shall submit a uniform data set to the data system on all individuals to whom this Compact is
398 applicable as required by the rules of the Commission, including:

- 399 1. Identifying information;
- 400 2. Licensure data;
- 401 3. Adverse actions against a license or compact privilege;
- 402 4. Non-confidential information related to alternative program participation;
- 403 5. Any denial of application for licensure, and the reason(s) for such denial;
- 404 and
- 405 6. Other information that may facilitate the administration of this Compact,
406 as determined by the rules of the Commission.

407 C. Investigative information pertaining to a licensee in any member state will only be
408 available to other party states.

409 D. The Commission shall promptly notify all member states of any adverse action
410 taken against a licensee or an individual applying for a license. Adverse action information
411 pertaining to a licensee in any member state will be available to any other member state.

412 E. Member states contributing information to the data system may designate
413 information that may not be shared with the public without the express permission of the
414 contributing state.

415 F. Any information submitted to the data system that is subsequently required to be
416 expunged by the laws of the member state contributing the information shall be removed from
417 the data system.

418 SECTION 9. RULEMAKING

419 A. The Commission shall exercise its rulemaking powers pursuant to the criteria set
420 forth in this Section and the rules adopted thereunder. Rules and amendments shall become
421 binding as of the date specified in each rule or amendment.

422 B. If a majority of the legislatures of the member states rejects a rule, by enactment
423 of a statute or resolution in the same manner used to adopt the Compact within 4 years of the
424 date of adoption of the rule, then such rule shall have no further force and effect in any member
425 state.

426 C. Rules or amendments to the rules shall be adopted at a regular or special meeting
427 of the Commission.

428 D. Prior to promulgation and adoption of a final rule or rules by the Commission,
429 and at least thirty (30) days in advance of the meeting at which the rule will be considered and
430 voted upon, the Commission shall file a Notice of Proposed Rulemaking:

- 431 1. On the website of the Commission or other publicly accessible platform;
432 and
433 2. On the website of each member state physical therapy licensing board or
434 other publicly accessible platform or the publication in which each state
435 would otherwise publish proposed rules.

436 E. The Notice of Proposed Rulemaking shall include:

- 437 1. The proposed time, date, and location of the meeting in which the rule will
438 be considered and voted upon;
439 2. The text of the proposed rule or amendment and the reason for the
440 proposed rule;
441 3. A request for comments on the proposed rule from any interested person;
442 and
443 4. The manner in which interested persons may submit notice to the
444 Commission of their intention to attend the public hearing and any written
445 comments.

446 F. Prior to adoption of a proposed rule, the Commission shall allow persons to
447 submit written data, facts, opinions, and arguments, which shall be made available to the public.

448 G. The Commission shall grant an opportunity for a public hearing before it adopts a
449 rule or amendment if a hearing is requested by:

- 450 1. At least twenty-five (25) persons;
451 2. A state or federal governmental subdivision or agency; or
452 3. An association having at least twenty-five (25) members.

453 H. If a hearing is held on the proposed rule or amendment, the Commission shall
454 publish the place, time, and date of the scheduled public hearing. If the hearing is held via
455 electronic means, the Commission shall publish the mechanism for access to the electronic
456 hearing.

457 1. All persons wishing to be heard at the hearing shall notify the executive
458 director of the Commission or other designated member in writing of their
459 desire to appear and testify at the hearing not less than five (5) business
460 days before the scheduled date of the hearing.

461 2. Hearings shall be conducted in a manner providing each person who
462 wishes to comment a fair and reasonable opportunity to comment orally or
463 in writing.

464 3. All hearings will be recorded. A copy of the recording will be made
465 available on request.

466 4. Nothing in this section shall be construed as requiring a separate hearing
467 on each rule. Rules may be grouped for the convenience of the
468 Commission at hearings required by this section.

469 I. Following the scheduled hearing date, or by the close of business on the
470 scheduled hearing date if the hearing was not held, the Commission shall consider all written and
471 oral comments received.

472 J. If no written notice of intent to attend the public hearing by interested parties is
473 received, the Commission may proceed with promulgation of the proposed rule without a public
474 hearing.

475 K. The Commission shall, by majority vote of all members, take final action on the
476 proposed rule and shall determine the effective date of the rule, if any, based on the rulemaking
477 record and the full text of the rule.

478 L. Upon determination that an emergency exists, the Commission may consider and
479 adopt an emergency rule without prior notice, opportunity for comment, or hearing, provided that
480 the usual rulemaking procedures provided in the Compact and in this section shall be
481 retroactively applied to the rule as soon as reasonably possible, in no event later than ninety (90)
482 days after the effective date of the rule. For the purposes of this provision, an emergency rule is
483 one that must be adopted immediately in order to:

- 484 1. Meet an imminent threat to public health, safety, or welfare;
- 485 2. Prevent a loss of Commission or member state funds;
- 486 3. Meet a deadline for the promulgation of an administrative rule that is
487 established by federal law or rule; or
- 488 4. Protect public health and safety.

489 M. The Commission or an authorized committee of the Commission may direct
490 revisions to a previously adopted rule or amendment for purposes of correcting typographical
491 errors, errors in format, errors in consistency, or grammatical errors. Public notice of any
492 revisions shall be posted on the website of the Commission. The revision shall be subject to
493 challenge by any person for a period of thirty (30) days after posting. The revision may be
494 challenged only on grounds that the revision results in a material change to a rule. A challenge
495 shall be made in writing, and delivered to the chair of the Commission prior to the end of the
496 notice period. If no challenge is made, the revision will take effect without further action. If the
497 revision is challenged, the revision may not take effect without the approval of the Commission.

498 **SECTION 10. OVERSIGHT, DISPUTE RESOLUTION, AND ENFORCEMENT**

499 **A. Oversight**

- 500 1. The executive, legislative, and judicial branches of state government in
501 each member state shall enforce this Compact and take all actions
502 necessary and appropriate to effectuate the Compact's purposes and intent.
503 The provisions of this Compact and the rules promulgated hereunder shall
504 have standing as statutory law.
- 505 2. All courts shall take judicial notice of the Compact and the rules in any
506 judicial or administrative proceeding in a member state pertaining to the
507 subject matter of this Compact which may affect the powers,
508 responsibilities or actions of the Commission.
- 509 3. The Commission shall be entitled to receive service of process in any such
510 proceeding, and shall have standing to intervene in such a proceeding for
511 all purposes. Failure to provide service of process to the Commission shall
512 render a judgment or order void as to the Commission, this Compact, or
513 promulgated rules.

514 **B. Default, Technical Assistance, and Termination**

- 515 1. If the Commission determines that a member state has defaulted in the
516 performance of its obligations or responsibilities under this Compact or
517 the promulgated rules, the Commission shall:
- 518 a. Provide written notice to the defaulting state and other member states of
519 the nature of the default, the proposed means of curing the default and/or
520 any other action to be taken by the Commission; and

- 521 b. Provide remedial training and specific technical assistance regarding the
522 default.
- 523 2. If a state in default fails to cure the default, the defaulting state may be
524 terminated from the Compact upon an affirmative vote of a majority of the
525 member states, and all rights, privileges and benefits conferred by this
526 Compact may be terminated on the effective date of termination. A cure of
527 the default does not relieve the offending state of obligations or liabilities
528 incurred during the period of default.
- 529 3. Termination of membership in the Compact shall be imposed only after all
530 other means of securing compliance have been exhausted. Notice of intent
531 to suspend or terminate shall be given by the Commission to the governor,
532 the majority and minority leaders of the defaulting state’s legislature, and
533 each of the member states.
- 534 4. A state that has been terminated is responsible for all assessments,
535 obligations, and liabilities incurred through the effective date of
536 termination, including obligations that extend beyond the effective date of
537 termination.
- 538 5. The Commission shall not bear any costs related to a state that is found to
539 be in default or that has been terminated from the Compact, unless agreed
540 upon in writing between the Commission and the defaulting state.
- 541 6. The defaulting state may appeal the action of the Commission by
542 petitioning the U.S. District Court for the District of Columbia or the
543 federal district where the Commission has its principal offices. The

544 prevailing member shall be awarded all costs of such litigation, including
545 reasonable attorney's fees.

546 C. Dispute Resolution

547 1. Upon request by a member state, the Commission shall attempt to resolve
548 disputes related to the Compact that arise among member states and
549 between member and non-member states.

550 2. The Commission shall promulgate a rule providing for both mediation and
551 binding dispute resolution for disputes as appropriate.

552 D. Enforcement

553 1. The Commission, in the reasonable exercise of its discretion, shall enforce
554 the provisions and rules of this Compact.

555 2. By majority vote, the Commission may initiate legal action in the United
556 States District Court for the District of Columbia or the federal district
557 where the Commission has its principal offices against a member state in
558 default to enforce compliance with the provisions of the Compact and its
559 promulgated rules and bylaws. The relief sought may include both
560 injunctive relief and damages. In the event judicial enforcement is
561 necessary, the prevailing member shall be awarded all costs of such
562 litigation, including reasonable attorney's fees.

563 3. The remedies herein shall not be the exclusive remedies of the
564 Commission. The Commission may pursue any other remedies available
565 under federal or state law.

566 **SECTION 11. DATE OF IMPLEMENTATION OF THE INTERSTATE**
567 **COMMISSION FOR PHYSICAL THERAPY PRACTICE AND ASSOCIATED**
568 **RULES, WITHDRAWAL, AND AMENDMENT**

569 A. The Compact shall come into effect on the date on which the Compact statute is
570 enacted into law in the tenth member state. The provisions, which become effective at that time,
571 shall be limited to the powers granted to the Commission relating to assembly and the
572 promulgation of rules. Thereafter, the Commission shall meet and exercise rulemaking powers
573 necessary to the implementation and administration of the Compact.

574 B. Any state that joins the Compact subsequent to the Commission's initial adoption
575 of the rules shall be subject to the rules as they exist on the date on which the Compact becomes
576 law in that state. Any rule that has been previously adopted by the Commission shall have the
577 full force and effect of law on the day the Compact becomes law in that state.

578 C. Any member state may withdraw from this Compact by enacting a statute
579 repealing the same.

580 1. A member state's withdrawal shall not take effect until six (6) months
581 after enactment of the repealing statute.

582 2. Withdrawal shall not affect the continuing requirement of the withdrawing
583 state's physical therapy licensing board to comply with the investigative
584 and adverse action reporting requirements of this act prior to the effective
585 date of withdrawal.

586 D. Nothing contained in this Compact shall be construed to invalidate or prevent any
587 physical therapy licensure agreement or other cooperative arrangement between a member state
588 and a non-member state that does not conflict with the provisions of this Compact.

589 E. This Compact may be amended by the member states. No amendment to this
590 Compact shall become effective and binding upon any member state until it is enacted into the
591 laws of all member states.

592 **SECTION 12. CONSTRUCTION AND SEVERABILITY**

593 This Compact shall be liberally construed so as to effectuate the purposes thereof. The
594 provisions of this Compact shall be severable and if any phrase, clause, sentence or provision
595 of this Compact is declared to be contrary to the constitution of any party state or of the
596 United States or the applicability thereof to any government, agency, person or circumstance
597 is held invalid, the validity of the remainder of this Compact and the applicability thereof to
598 any government, agency, person or circumstance shall not be affected thereby. If this
599 Compact shall be held contrary to the constitution of any party state, the Compact shall
600 remain in full force and effect as to the remaining party states and in full force and effect as
601 to the party state affected as to all severable matters.

602

Board of Nursing Licensure Compact

Board of Nursing Compact

Article 6. Nurse Licensure Compact.

§ 54.1-3030. (For contingent repeal, see Editor's note) Definitions.

As used in the Nurse Licensure Compact, unless the context requires a different meaning:

"Adverse action" means a home or remote state action.

"Alternative program" means a voluntary, non-disciplinary monitoring program approved by a nurse licensing board.

"Coordinated licensure information system" means an integrated process for collecting, storing, and sharing information on nurse licensure and enforcement activities related to nurse licensure laws, which is administered by a nonprofit organization composed of and controlled by state licensing boards.

"Current significant investigative information" means:

1. Investigative information that a licensing board, after a preliminary inquiry that includes notification and an opportunity for the nurse to respond if required by state law, has reason to believe is not groundless and, if proved true, would indicate more than a minor infraction; or
2. Investigative information that indicates that the nurse represents an immediate threat to public health and safety regardless of whether the nurse has been notified and had an opportunity to respond.

"Head of the nurse licensing board" means the Executive Director of the Board of Nursing as used to define the compact administrator.

"Home state" means the party state which is the nurse's primary state of residence.

"Home state action" means any administrative, civil, equitable or criminal action permitted by the home state's laws which are imposed on a nurse by the home state's licensing board or other authority including actions against an individual's license such as: revocation, suspension, probation or any other action which affects a nurse's authorization to practice.

"Licensing board" means a party state's regulatory body responsible for issuing nurse licenses.

"Multistate licensure privilege" means current, official authority from a remote state permitting the practice of nursing as either a registered nurse or a licensed practical nurse in such party state. All party states have the authority, in accordance with existing state due process law, to take actions against the nurse's privilege such as: revocation, suspension, probation or any other action which affects a nurse's authorization to practice.

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"Nurse" means a registered nurse or licensed practical nurse, as those terms are defined in § 54.1-3000.

"Party state" means any state that has adopted this Compact.

"Remote state" means a party state, other than the home state, where the patient is located at the time nursing care is provided, or, in the case of the practice of nursing not involving a patient, in such party state where the recipient of the nursing practice is located.

"Remote state action" means any administrative, civil, equitable or criminal action permitted by a remote state's laws which are imposed on a nurse by the remote state's licensing board or other authority including actions against an individual's multistate licensure privilege to practice in the remote state, and cease and desist and other injunctive or equitable orders issued by remote states or the licensing boards thereof.

"State" means a state, territory, or possession of the United States, the District of Columbia or the Commonwealth of Puerto Rico.

"State practice laws" means those individual party's state laws and regulations that govern the practice of nursing, define the scope of nursing practice, and create the methods and grounds for imposing discipline. "State practice laws" does not include the initial qualifications for licensure or requirements necessary to obtain and retain a license, except for qualifications or requirements of the home state.

2003, c. 249.

§ 54.1-3031. (For contingent repeal, see Editor's note) Findings and declaration of purpose for compact.

A. The party states find that:

1. The health and safety of the public are affected by the degree of compliance with and the effectiveness of enforcement activities related to state nurse licensure laws;
2. Violations of nurse licensure and other laws regulating the practice of nursing may result in injury or harm to the public;
3. The expanded mobility of nurses and the use of advance communication technologies as part of our nation's healthcare delivery system require greater coordination and cooperation among states in the areas of nurse licensure and regulation;
4. New practice modalities and technology make compliance with individual state nurse licensure laws difficult and complex; and
5. The current system of duplicative licensure for nurses practicing in multiple states is cumbersome and redundant to both nurses and states.

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B. The general purposes of this Compact are to:

1. Facilitate the states' responsibility to protect the public's health and safety;
2. Ensure and encourage the cooperation of party states in the areas of nurse licensure and regulation;
3. Facilitate the exchange of information between party states in the areas of nurse regulation, investigation and adverse actions;
4. Promote compliance with the laws governing the practice of nursing in each jurisdiction; and
5. Invest all party states with the authority to hold a nurse accountable for meeting all state practice laws in the state in which the patient is located at the time care is rendered through the mutual recognition of party state licenses.

2003, c. 249.

§ 54.1-3032. (For contingent repeal, see Editor's note) General provisions and jurisdiction.

A. A license to practice registered nursing issued by a home state to a resident in that state will be recognized by each party state as authorizing a multistate licensure privilege to practice as a registered nurse in such party state. A license to practice licensed practical nursing issued by a home state to a resident in that state will be recognized by each party state as authorizing a multistate licensure privilege to practice as a licensed practical nurse in such party state. In order to obtain or retain a license, an applicant must meet the home state's qualifications for licensure and license renewal as well as all other applicable state laws.

B. Party states may, in accordance with state due process laws, limit or revoke the multistate licensure privilege of any nurse to practice in their state and may take any other actions under their applicable state laws necessary to protect the health and safety of their citizens. If a party state takes such action, it shall promptly notify the administrator of the coordinated licensure information system. The administrator of the coordinated licensure information system shall promptly notify the home state of any such actions by remote states.

C. Every nurse practicing in a party state must comply with the state practice laws of the state in which the patient is located at the time care is rendered. In addition, the practice of nursing is not limited to patient care, but shall include all nursing practice as defined by the state practice laws of a party state. The practice of nursing will subject a nurse to the jurisdiction of the nurse licensing board and the courts, as well as the laws, in that party state.

D. This Compact does not affect additional requirements imposed by states for advanced practice registered nursing. However, a multistate licensure privilege to practice registered nursing granted by a party state shall be recognized by other party states as a license to practice registered nursing if one is required by state law as a precondition for qualifying for advanced practice registered nurse authorization.

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E. Individuals not residing in a party state shall continue to be able to apply for nurse licensure as provided for under the laws of each party state. However, the license granted to these individuals will not be recognized as granting the privilege to practice nursing in any other party state unless explicitly agreed to by that party state.

2003, c. 249.

§ 54.1-3033. (For contingent repeal, see Editor's note) Applications for licensure in a party state.

A. Upon application for a license, the licensing board in a party state shall ascertain, through the coordinated licensure information system, whether the applicant has ever held, or is the holder of, a license issued by any other state, whether there are any restrictions on the multistate licensure privilege, and whether any other adverse action by any state has been taken against the license.

B. A nurse in a party state shall hold licensure in only one party state at a time, issued by the home state.

C. A nurse who intends to change primary state of residence may apply for licensure in the new home state in advance of such change. However, new licenses will not be issued by a party state until after a nurse provides evidence of change in primary state of residence satisfactory to the new home state's licensing board.

D. When a nurse changes primary state of residence by:

1. Moving between two party states, and obtains a license from the new home state, the license from the former home state is no longer valid;

2. Moving from a non-party state to a party state, and obtains a license from the new home state, the individual state license issued by the non-party state is not affected and will remain in full force if so provided by the laws of the non-party state;

3. Moving from a party state to a non-party state, the license issued by the prior home state converts to an individual state license, valid only in the former home state, without the multistate licensure privilege to practice in other party states.

2003, c. 249.

§ 54.1-3034. (For contingent repeal, see Editor's note) Adverse actions.

In addition to the general provisions described in § 54.1-3032, the following provisions apply:

1. The licensing board of a remote state shall promptly report to the administrator of the coordinated licensure information system any remote state actions including the factual and legal basis for such action, if known. The licensing board of a remote state shall also promptly report

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any significant current investigative information yet to result in a remote state action. The administrator of the coordinated licensure information system shall promptly notify the home state of any such reports.

2. The licensing board of a party state shall have the authority to complete any pending investigations for a nurse who changes primary state of residence during the course of such investigations. It shall also have the authority to take appropriate actions, and shall promptly report the conclusions of such investigations to the administrator of the coordinated licensure information system. The administrator of the coordinated licensure information system shall promptly notify the new home state of any such actions.

3. A remote state may take adverse action affecting the multistate licensure privilege to practice within that party state. However, only the home state shall have the power to impose adverse action against the license issued by the home state.

4. For purposes of imposing adverse action, the licensing board of the home state shall give the same priority and effect to reported conduct received from a remote state as it would if such conduct had occurred within the home state. In so doing, it shall apply its own state laws to determine appropriate action.

5. The home state may take adverse action based on the factual findings of the remote state, so long as each state follows its own procedures for imposing such adverse action.

6. Nothing in this Compact shall override a party state's decision that participation in an alternative program may be used in lieu of licensure action and that such participation shall remain non-public if required by the party state's laws. Party states must require nurses who enter any alternative programs to agree not to practice in any other party state during the term of the alternative program without prior authorization from such other party state.

2003, c. 249.

§ 54.1-3035. (For contingent repeal, see Editor's note) Additional authorities invested in party state nursing licensing boards.

Notwithstanding any other powers, party state nurse licensing boards shall have the authority to:

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

2. Issue subpoenas for both hearings and investigations which require the attendance and testimony of witnesses, and the production of evidence. Subpoenas issued by a nurse licensing board in a party state for the attendance and testimony of witnesses, and/or the production of evidence from another party state, shall be enforced in the latter state by any court of competent jurisdiction, according to the practice and procedure of that court applicable to subpoenas issued in proceedings pending before it. The issuing authority shall pay any witness fees, travel

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expenses, mileage and other fees required by the service statutes of the state where the witnesses and/or evidence are located;

3. Issue cease and desist orders to limit or revoke a nurse's authority to practice in their state; and

4. Promulgate uniform rules and regulations as provided for in subsection C of § 54.1-3037.

2003, c. 249.

§ 54.1-3036. (For contingent repeal, see Editor's note) Coordinated licensure information system.

A. All party states shall participate in a cooperative effort to create a coordinated database of all licensed registered nurses and licensed practical nurses. This system will include information on the licensure and disciplinary history of each nurse, as contributed by party states, to assist in the coordination of nurse licensure and enforcement efforts.

B. Notwithstanding any other provision of law, all party states' licensing boards shall promptly report adverse actions, actions against multistate licensure privileges, any current significant investigative information yet to result in adverse action, denials of applications, and the reasons for such denials, to the coordinated licensure information system.

C. Current significant investigative information shall be transmitted through the coordinated licensure information system only to party state licensing boards.

D. Notwithstanding any other provision of law, all party states' licensing boards contributing information to the coordinated licensure information system may designate information that may not be shared with non-party states or disclosed to other entities or individuals without the express permission of the contributing state.

E. Any personally identifiable information obtained by a party state's licensing board from the coordinated licensure information system may not be shared with non-party states or disclosed to other entities or individuals except to the extent permitted by the laws of the party state contributing the information.

F. Any information contributed to the coordinated licensure information system that is subsequently required to be expunged by the laws of the party state contributing that information shall also be expunged from the coordinated licensure information system.

G. The Compact administrators, acting jointly with each other and in consultation with the administrator of the coordinated licensure information system, shall formulate necessary and proper procedures for the identification, collection and exchange of information under this Compact.

2003, c. 249.

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§ 54.1-3037. (For contingent repeal, see Editor's note) Compact administration and interchange of information.

A. The head of the nurse licensing board, or his designee, of each party state shall be the administrator of this Compact for his state.

B. The Compact administrator of each party state shall furnish to the Compact administrator of each other party state any information and documents including, but not limited to, a uniform data set of investigations, identifying information, licensure data, and disclosable alternative program participation information to facilitate the administration of this Compact.

C. Compact administrators shall have the authority to develop uniform rules to facilitate and coordinate implementation of this Compact. These uniform rules shall be adopted by party states, under the authority invested by subdivision 4 of § 54.1-3035.

2003, c. 249.

§ 54.1-3038. (For contingent repeal, see Editor's note) Immunity.

No party state or the officers or employees or agents of a party state's nurse licensing board who act in accordance with the provisions of this Compact shall be liable on account of any act or omission in good faith while engaged in the performance of their duties under this Compact. Good faith in this article shall not include willful misconduct, gross negligence, or recklessness.

2003, c. 249.

§ 54.1-3039. (For contingent repeal, see Editor's note) Entry into force, withdrawal and amendment.

A. This Compact shall enter into force and become effective as to any state when it has been enacted into the laws of that state. Any party state may withdraw from this Compact by enacting a statute repealing the same, but no such withdrawal shall take effect until six months after the withdrawing state has given notice of the withdrawal to the executive heads of all other party states.

B. No withdrawal shall affect the validity or applicability by the licensing boards of states remaining party to the Compact of any report of adverse action occurring prior to the withdrawal.

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

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

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2003, c. 249.

§ 54.1-3040. (For contingent repeal, see Editor's note) Construction and severability.

A. This Compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this Compact shall be severable and if any phrase, clause, sentence or provision of this Compact is declared to be contrary to the constitution of any party state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this Compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this Compact shall be held contrary to the constitution of any state party thereto, the Compact shall remain in full force and effect as to the remaining party states and in full force and effect as to the party state affected as to all severable matters.

B. In the event party states find a need for settling disputes arising under this Compact:

1. The party states may submit the issues in dispute to an arbitration panel which will be comprised of an individual appointed by the Compact administrator in the home state; an individual appointed by the Compact administrator in the remote state(s) involved; and an individual mutually agreed upon by the Compact administrators of all the party states involved in the dispute.

2. The decision of a majority of the arbitrators shall be final and binding.

2003, c. 249.

Article 6.1. Nurse Licensure Compact.

§ 54.1-3040.1. (Contingent effective date -- see note) Findings and declaration of purpose.

A. The party states find that:

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

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

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

4. New practice modalities and technology make compliance with individual state nurse licensure laws difficult and complex;

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5. The current system of duplicative licensure for nurses practicing in multiple states is cumbersome and redundant for both nurses and states; and
 6. Uniformity of nurse licensure requirements throughout the states promotes public safety and public health benefits.
- B. The general purposes of this Compact are to:
1. Facilitate the states' responsibility to protect the public's health and safety;
 2. Ensure and encourage the cooperation of party states in the areas of nurse licensure and regulation;
 3. Facilitate the exchange of information between party states in the areas of nurse regulation, investigation, and adverse actions;
 4. Promote compliance with the laws governing the practice of nursing in each jurisdiction;
 5. Invest all party states with the authority to hold a nurse accountable for meeting all state practice laws in the state in which the patient is located at the time care is rendered through the mutual recognition of party state licenses;
 6. Decrease redundancies in the consideration and issuance of nurse licenses; and
 7. Provide opportunities for interstate practice by nurses who meet uniform licensure requirements.

2016, c. 108.

§ 54.1-3040.2. (Contingent effective date -- see note) Definitions.

As used in the Nurse Licensure Compact, unless the context requires a different meaning:

"Adverse action" means any administrative, civil, equitable or criminal action permitted by a state's laws which is imposed by a licensing board or other authority against a nurse, including actions against an individual's license or multistate licensure privilege such as revocation, suspension, probation, monitoring of the licensee, limitation on the licensee's practice, or any other encumbrance on licensure affecting a nurse's authorization to practice, including issuance of a cease and desist action.

"Alternative program" means a nondisciplinary monitoring program approved by a licensing board.

"Coordinated licensure information system" means an integrated process for collecting, storing, and sharing information on nurse licensure and enforcement activities related to nurse licensure

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laws that is administered by a nonprofit organization composed of and controlled by licensing boards.

"Current significant investigative information" means:

1. Investigative information that a licensing board, after a preliminary inquiry that includes notification and an opportunity for the nurse to respond, if required by state law, has reason to believe is not groundless and, if proved true, would indicate more than a minor infraction; or
2. Investigative information that indicates that the nurse represents an immediate threat to public health and safety regardless of whether the nurse has been notified and had an opportunity to respond.

"Encumbrance" means a revocation or suspension of, or any limitation on, the full and unrestricted practice of nursing imposed by a licensing board.

"Home state" means the party state which is the nurse's primary state of residence.

"Licensing board" means a party state's regulatory body responsible for issuing nurse licenses.

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

"Multistate licensure privilege" means a legal authorization associated with a multistate license permitting the practice of nursing as either a registered nurse (RN) or LPN/VN in a remote state.

"Nurse" means RN or LPN/VN, as those terms are defined by each party state's practice laws.

"Party state" means any state that has adopted this Compact.

"Remote state" means a party state, other than the home state.

"Single-state license" means a nurse license issued by a party state that authorizes practice only within the issuing state and does not include a multistate licensure privilege to practice in any other party state.

"State" means a state, territory, or possession of the United States and the District of Columbia.

"State practice laws" means a party state's laws, rules, and regulations that govern the practice of nursing, define the scope of nursing practice, and create the methods and grounds for imposing discipline. "State practice laws" does not include requirements necessary to obtain and retain a license, except for qualifications or requirements of the home state.

2016, c. 108.

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§ 54.1-3040.3. (Contingent effective date -- see note) General provisions and jurisdiction.

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

B. A state must implement procedures for considering the criminal history records of applicants for initial multistate license or licensure by endorsement. Such procedures shall include the submission of fingerprints or other biometric-based information by applicants for the purpose of obtaining an applicant's criminal history record information from the Federal Bureau of Investigation and the agency responsible for retaining that state's criminal records.

C. Each party state shall require the following for an applicant to obtain or retain a multistate license in the home state:

1. Meets the home state's qualifications for licensure or renewal of licensure, as well as all other applicable state laws;
2. Has (a) graduated or is eligible to graduate from a licensing board-approved RN or LPN/VN prelicensure education program or (b) graduated from a foreign RN or LPN/VN prelicensure education program that has been approved by the authorized accrediting body in the applicable country and has been verified by an independent credentials review agency to be comparable to a licensing board-approved prelicensure education program;
3. Has, if a graduate of a foreign prelicensure education program not taught in English or if English is not the individual's native language, successfully passed an English proficiency examination that includes the components of reading, speaking, writing, and listening;
4. Has successfully passed an NCLEX-RN(R) or NCLEX-PN(R) Examination or recognized predecessor, as applicable;
5. Is eligible for or holds an active, unencumbered license;
6. Has submitted, in connection with an application for initial licensure or licensure by endorsement, fingerprints or other biometric data for the purpose of obtaining criminal history record information from the Federal Bureau of Investigation and the agency responsible for retaining that state's criminal records;
7. Has not been convicted or found guilty, or has entered into an agreed disposition, of a felony offense under applicable state or federal criminal law;
8. Has not been convicted or found guilty, or has entered into an agreed disposition, of a misdemeanor offense related to the practice of nursing as determined on a case-by-case basis;
9. Is not currently enrolled in an alternative program;

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10. Is subject to self-disclosure requirements regarding current participation in an alternative program; and

11. Has a valid United States social security number.

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

E. A nurse practicing in a party state must comply with the state practice laws of the state in which the client is located at the time service is provided. The practice of nursing is not limited to patient care, but shall include all nursing practice as defined by the state practice laws of the party state in which the client is located. The practice of nursing in a party state under a multistate licensure privilege will subject a nurse to the jurisdiction of the licensing board, the courts, and the laws of the party state in which the client is located at the time service is provided.

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

G. Any nurse holding a home state multistate license, on the effective date of this Compact, may retain and renew the multistate license issued by the nurse's then-current home state, provided that:

1. A nurse who changes primary state of residence after this Compact's effective date must meet all applicable requirements of subsection C to obtain a multistate license from a new home state.

2. A nurse who fails to satisfy the multistate licensure requirements in subsection C due to a disqualifying event occurring after this Compact's effective date shall be ineligible to retain or renew a multistate license, and the nurse's multistate license shall be revoked or deactivated in accordance with applicable rules adopted by the Interstate Commission of Nurse Licensure Compact Administrators (Commission).

2016, c. 108.

§ 54.1-3040.4. (Contingent effective date -- see note) Applications for licensure in a party state.

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

B. A nurse may hold a multistate license issued by the home state in only one party state at a time.

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

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

2. A multistate license shall not be issued by the new home state until the nurse provides satisfactory evidence of a change in primary state of residence to the new home state and satisfies all applicable requirements to obtain a multistate license from the new home state.

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

2016, c. 108.

§ 54.1-3040.5. (Contingent effective date -- see note) Additional authorities invested in party state licensing boards.

A. In addition to the other powers conferred by state law, a licensing board shall have the authority to:

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

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

b. For purposes of taking adverse action, the home state licensing board shall give the same priority and effect to reported conduct received from a remote state as it would if such conduct had occurred within the home state. In so doing, the home state shall apply its own state laws to determine appropriate action.

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

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

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

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

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

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

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

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

2016, c. 108.

§ 54.1-3040.6. (Contingent effective date -- see note) Coordinated licensure information system and exchange of information.

A. All party states shall participate in a coordinated licensure information system of all licensed registered nurses (RNs) and licensed practical/vocational nurses (LPNs/VNs). This system will

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

B. The Commission, in consultation with the administrator of the coordinated licensure information system, shall formulate necessary and proper procedures for the identification, collection, and exchange of information under this Compact.

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

D. Current significant investigative information and participation in nonpublic or confidential alternative programs shall be transmitted through the coordinated licensure information system only to party state licensing boards.

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

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

G. Any information contributed to the coordinated licensure information system that is subsequently required to be expunged by the laws of the party state contributing that information shall also be expunged from the coordinated licensure information system.

H. The Compact administrator of each party state shall furnish a uniform data set to the Compact administrator of each other party state, which shall include, at a minimum:

1. Identifying information;
2. Licensure data;
3. Information related to alternative program participation; and
4. Other information that may facilitate the administration of this Compact, as determined by Commission rules.

I. The Compact administrator of a party state shall provide all investigative documents and information requested by another party state.

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§ 54.1-3040.7. (Contingent effective date -- see note) Establishment of the Interstate Commission of Nurse Licensure Compact Administrators.

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

1. The Commission is an instrumentality of the party states.
2. Venue is proper, and judicial proceedings by or against the Commission shall be brought solely and exclusively, in a court of competent jurisdiction where the principal office of the Commission is located. The Commission may waive venue and jurisdictional defenses to the extent it adopts or consents to participate in alternative dispute resolution proceedings.
3. Nothing in this Compact shall be construed to be a waiver of sovereign immunity.

B. Membership, voting, and meetings.

1. Each party state shall have and be limited to one administrator. The head of the state licensing board or designee shall be the administrator of this Compact for each party state. Any administrator may be removed or suspended from office as provided by the law of the state from which the Administrator is appointed. Any vacancy occurring in the Commission shall be filled in accordance with the laws of the party state in which the vacancy exists.
2. Each administrator shall be entitled to one (1) vote with regard to the promulgation of rules and creation of bylaws and shall otherwise have an opportunity to participate in the business and affairs of the Commission. An administrator shall vote in person or by such other means as provided in the bylaws. The bylaws may provide for an administrator's participation in meetings by telephone or other means of communication.
3. The Commission shall meet at least once during each calendar year. Additional meetings shall be held as set forth in the bylaws or rules of the commission.
4. All meetings shall be open to the public, and public notice of meetings shall be given in the same manner as required under the rulemaking provisions in § 54.1-3040.8.
5. The Commission may convene in a closed, nonpublic meeting if the Commission must discuss:
 - a. Noncompliance of a party state with its obligations under this Compact;
 - b. The employment, compensation, discipline, or other personnel matters, practices, or procedures related to specific employees or other matters related to the Commission's internal personnel practices and procedures;

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- c. Current, threatened, or reasonably anticipated litigation;
- d. Negotiation of contracts for the purchase or sale of goods, services, or real estate;
- e. Accusing any person of a crime or formally censuring any person;
- f. Disclosure of trade secrets or commercial or financial information that is privileged or confidential;
- g. Disclosure of information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;
- h. Disclosure of investigatory records compiled for law-enforcement purposes;
- i. Disclosure of information related to any reports prepared by or on behalf of the Commission for the purpose of investigation of compliance with this Compact; or
- j. Matters specifically exempted from disclosure by federal or state statute.

6. If a meeting, or portion of a meeting, is closed pursuant to this provision, the Commission's legal counsel or designee shall certify that the meeting may be closed and shall reference each relevant exempting provision. The Commission shall keep minutes that fully and clearly describe all matters discussed in a meeting and shall provide a full and accurate summary of actions taken, and the reasons therefor, including a description of the views expressed. All documents considered in connection with an action shall be identified in such minutes. All minutes and documents of a closed meeting shall remain under seal, subject to release by a majority vote of the Commission or order of a court of competent jurisdiction.

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

- 1. Establishing the fiscal year of the Commission;
- 2. Providing reasonable standards and procedures:
 - a. For the establishment and meetings of other committees; and
 - b. Governing any general or specific delegation of any authority or function of the Commission;
- 3. Providing reasonable procedures for calling and conducting meetings of the Commission, ensuring reasonable advance notice of all meetings, and providing an opportunity for attendance of such meetings by interested parties, with enumerated exceptions designed to protect the public's interest, the privacy of individuals, and proprietary information, including trade secrets. The Commission may meet in closed session only after a majority of the administrators vote to close a meeting in whole or in part. As soon as practicable, the Commission must make public a

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copy of the vote to close the meeting revealing the vote of each administrator, with no proxy votes allowed;

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

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

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

D. The Commission shall publish its bylaws and rules, and any amendments thereto, in a convenient form on the website of the Commission.

E. The Commission shall maintain its financial records in accordance with the bylaws.

F. The Commission shall meet and take such actions as are consistent with the provisions of this Compact and the bylaws.

G. The Commission shall have the following powers:

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

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

3. To purchase and maintain insurance and bonds;

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

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

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

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7. To accept any and all appropriate donations, grants, and gifts of money, equipment, supplies, materials, and services and to receive, utilize, and dispose of the same, provided that at all times the Commission shall avoid any appearance of impropriety or conflict of interest;
8. To lease, purchase, accept appropriate gifts or donations of, or otherwise to own, hold, improve, or use, any property, whether real, personal or mixed, provided that at all times the Commission shall avoid any appearance of impropriety;
9. To sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property, whether real, personal, or mixed;
10. To establish a budget and make expenditures;
11. To borrow money;
12. To appoint committees, including advisory committees comprised of administrators, state nursing regulators, state legislators or their representatives, and consumer representatives and other such interested persons;
13. To provide and receive information from, and to cooperate with, law-enforcement agencies;
14. To adopt and use an official seal; and
15. To perform such other functions as may be necessary or appropriate to achieve the purposes of this Compact consistent with the state regulation of nurse licensure and practice.

H. Financing of the Commission.

1. The Commission shall pay, or provide for the payment of, the reasonable expenses of its establishment, organization, and ongoing activities.
2. The Commission may also levy on and collect an annual assessment from each party state to cover the cost of its operations, activities, and staff in its annual budget as approved each year. The aggregate annual assessment amount, if any, shall be allocated based upon a formula to be determined by the Commission, which shall promulgate a rule that is binding upon all party states.
3. The Commission shall not incur obligations of any kind prior to securing the funds adequate to meet the same, nor shall the Commission pledge the credit of any of the party states, except by, and with the authority of, such party state.
4. The Commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the Commission shall be subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the Commission shall be audited yearly by a certified or licensed public accountant, and the report of the audit shall be included in and become part of the annual report of the Commission.

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I. Qualified immunity, defense, and indemnification.

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

2. The Commission shall defend any administrator, officer, executive director, employee, or representative of the Commission in any civil action seeking to impose liability arising out of any actual or alleged act, error, or omission that occurred within the scope of Commission employment, duties, or responsibilities, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of Commission employment, duties, or responsibilities, provided that nothing herein shall be construed to prohibit that person from retaining his or her own counsel and provided further that the actual or alleged act, error, or omission did not result from that person's intentional, willful, or wanton misconduct.

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

2016, c. 108.

§ 54.1-3040.8. (Contingent effective date -- see note) Rulemaking.

A. The Commission shall exercise its rulemaking powers pursuant to the criteria set forth in this Article and the rules adopted thereunder. Rules and amendments shall become binding as of the date specified in each rule or amendment and shall have the same force and effect as provisions of this Compact.

B. Rules or amendments to the rules shall be adopted at a regular or special meeting of the Commission.

C. Prior to promulgation and adoption of a final rule or rules by the Commission, and at least sixty (60) days in advance of the meeting at which the rule will be considered and voted upon, the Commission shall file a notice of proposed rulemaking:

1. On the website of the Commission; and

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2. On the website of each licensing board or the publication in which each state would otherwise publish proposed rules.

D. The notice of proposed rulemaking shall include:

1. The proposed time, date, and location of the meeting in which the rule will be considered and voted upon;

2. The text of the proposed rule or amendment and the reason for the proposed rule;

3. A request for comments on the proposed rule from any interested person; and

4. The manner in which interested persons may submit notice to the Commission of their intention to attend the public hearing and submit any written comments.

E. Prior to adoption of a proposed rule, the Commission shall allow persons to submit written data, facts, opinions, and arguments, which shall be made available to the public.

F. The Commission shall grant an opportunity for a public hearing before it adopts a rule or amendment.

G. The Commission shall publish the place, time, and date of the scheduled public hearing.

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

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

H. If no one appears at the public hearing, the Commission may proceed with promulgation of the proposed rule.

I. Following the scheduled hearing date, or by the close of business on the scheduled hearing date if the hearing was not held, the Commission shall consider all written and oral comments received.

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

K. Upon determination that an emergency exists, the Commission may consider and adopt an emergency rule without prior notice, opportunity for comment, or hearing, provided that the usual rulemaking procedures provided in this Compact and in this section shall be retroactively applied to the rule as soon as reasonably possible, in no event later than ninety (90) days after the

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effective date of the rule. For the purposes of this provision, an emergency rule is one that must be adopted immediately in order to:

1. Meet an imminent threat to public health, safety, or welfare;
2. Prevent a loss of Commission or party state funds; or
3. Meet a deadline for the promulgation of an administrative rule that is required by federal law or rule.

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

2016, c. 108.

§ 54.1-3040.9. (Contingent effective date -- see note) Oversight, dispute resolution, and enforcement.

A. Oversight.

1. Each party state shall enforce this Compact and take all actions necessary and appropriate to effectuate this Compact's purposes and intent.
2. The Commission shall be entitled to receive service of process in any proceeding that may affect the powers, responsibilities, or actions of the Commission and shall have standing to intervene in such a proceeding for all purposes. Failure to provide service of process in such proceeding to the Commission shall render a judgment or order void as to the Commission, this Compact, or promulgated rules.

B. Default, technical assistance and termination.

1. If the Commission determines that a party state has defaulted in the performance of its obligations or responsibilities under this Compact or the promulgated rules, the Commission shall:
 - a. Provide written notice to the defaulting state and other party states of the nature of the default, the proposed means of curing the default, or any other action to be taken by the Commission; and
 - b. Provide remedial training and specific technical assistance regarding the default.

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2. If a state in default fails to cure the default, the defaulting state's membership in this Compact may be terminated upon an affirmative vote of a majority of the administrators, and all rights, privileges, and benefits conferred by this Compact may be terminated on the effective date of termination. A cure of the default does not relieve the offending state of obligations or liabilities incurred during the period of default.

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

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

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

6. The defaulting state may appeal the action of the Commission by petitioning the U.S. District Court for the District of Columbia or the federal district in which the Commission has its principal offices. The prevailing party shall be awarded all costs of such litigation, including reasonable attorney fees.

C. Dispute resolution.

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

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

3. In the event the Commission cannot resolve disputes among party states arising under this Compact:

a. The party states may submit the issues in dispute to an arbitration panel, which will be comprised of individuals appointed by the Compact administrator in each of the affected party states and an individual mutually agreed upon by the Compact administrators of all the party states involved in the dispute.

b. The decision of a majority of the arbitrators shall be final and binding.

D. Enforcement.

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

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

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

2016, c. 108.

§ 54.1-3040.10. (Contingent effective date -- see note) Effective date, withdrawal, and amendment.

A. This Compact shall become effective and binding on the earlier of the date of legislative enactment of this Compact into law by no less than twenty-six (26) states or December 31, 2018. All party states to this Compact that also were parties to the prior Nurse Licensure Compact (Prior Compact) superseded by this Compact shall be deemed to have withdrawn from said Prior Compact within six (6) months after the effective date of this Compact.

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

C. Any party state may withdraw from this Compact by enacting a statute repealing the same. A party state's withdrawal shall not take effect until six (6) months after enactment of the repealing statute.

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

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

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

G. Representatives of non-party states to this Compact shall be invited to participate in the activities of the Commission, on a nonvoting basis, prior to the adoption of this Compact by all states.

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§ 54.1-3040.11. (Contingent effective date -- see note) Construction and severability.

This Compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this Compact shall be severable, and if any phrase, clause, sentence, or provision of this Compact is declared to be contrary to the constitution of any party state or of the United States, or if the applicability thereof to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this Compact and the applicability thereof to any government, agency, person, or circumstance shall not be affected thereby. If this Compact shall be held to be contrary to the constitution of any party state, this Compact shall remain in full force and effect as to the remaining party states and in full force and effect as to the party state affected as to all severable matters.

2016, c. 108.

Code of Virginia

Title 54.1 - Professions and Occupations

**§ 54.1-2400.2. Confidentiality of information
obtained during an investigation or disciplinary
proceeding; penalty**

2015 Code of Virginia

Title 54.1 - Professions and Occupations

§ 54.1-2400.2. Confidentiality of information obtained during an investigation or disciplinary proceeding; penalty

A. Any reports, information or records received and maintained by the Department of Health Professions or any health regulatory board in connection with possible disciplinary proceedings, including any material received or developed by a board during an investigation or proceeding, shall be strictly confidential. The Department of Health Professions or a board may only disclose such confidential information:

1. In a disciplinary proceeding before a board or in any subsequent trial or appeal of an action or order, or to the respondent in entering into a confidential consent agreement under § 54.1-2400;
2. To regulatory authorities concerned with granting, limiting or denying licenses, certificates or registrations to practice a health profession, including the coordinated licensure information system, as defined in § 54.1-3030;
3. To hospital committees concerned with granting, limiting or denying hospital privileges if a final determination regarding a violation has been made;
4. Pursuant to an order of a court of competent jurisdiction for good cause arising from extraordinary circumstances being shown;
5. To qualified personnel for bona fide research or educational purposes, if personally identifiable information relating to any person is first deleted. Such release shall be made pursuant to a written agreement to ensure compliance with this section; or
6. To the Health Practitioners' Monitoring Program within the Department of Health Professions in connection with health practitioners who apply to or participate in the Program.

B. In no event shall confidential information received, maintained or developed by the Department of Health Professions or any board, or disclosed by the Department of Health Professions or a board to others, pursuant to this section, be available for discovery or court subpoena or introduced into evidence in any civil action. This section shall not, however, be construed to inhibit an investigation or prosecution under Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2.

C. Any claim of a physician-patient or practitioner-patient privilege shall not prevail in any investigation or proceeding by any health regulatory board acting within the scope of its authority. The disclosure, however, of any information pursuant to this provision shall not be deemed a waiver of such privilege in any other proceeding.

D. This section shall not prohibit the Director of the Department of Health Professions, after consultation with the relevant health regulatory board president or his designee, from disclosing to the Attorney General, or the appropriate attorney for the Commonwealth, investigatory information which indicates a possible violation of any provision of criminal law, including the laws relating to the manufacture, distribution, dispensing, prescribing or administration of drugs, other than drugs classified as Schedule VI drugs and devices, by any individual regulated by any health regulatory board.

E. This section shall not prohibit the Director of the Department of Health Professions from disclosing matters listed in subdivision A 1, A 2, or A 3 of § 54.1-2909; from making the reports of aggregate

information and summaries required by § 54.1-2400.3; or from disclosing the information required to be made available to the public pursuant to § 54.1-2910.1.

F. This section shall not prohibit the Director of the Department of Health Professions, following consultation with the relevant health regulatory board president or his designee, from disclosing information about a suspected violation of state or federal law or regulation to other agencies within the Health and Human Resources Secretariat or to federal law-enforcement agencies having jurisdiction over the suspected violation or requesting an inspection or investigation of a licensee by such state or federal agency when the Director has reason to believe that a possible violation of federal or state law has occurred. Such disclosure shall not exceed the minimum information necessary to permit the state or federal agency having jurisdiction over the suspected violation of state or federal law to conduct an inspection or investigation. Disclosures by the Director pursuant to this subsection shall not be limited to requests for inspections or investigations of licensees. Nothing in this subsection shall require the Director to make any disclosure. Nothing in this section shall permit any agency to which the Director makes a disclosure pursuant to this section to re-disclose any information, reports, records, or materials received from the Department.

G. Whenever a complaint or report has been filed about a person licensed, certified, or registered by a health regulatory board, the source and the subject of a complaint or report shall be provided information about the investigative and disciplinary procedures at the Department of Health Professions. Prior to interviewing a licensee who is the subject of a complaint or report, or at the time that the licensee is first notified in writing of the complaint or report, whichever shall occur first, the licensee shall be provided with a copy of the complaint or report and any records or supporting documentation, unless such provision would materially obstruct a criminal or regulatory investigation. If the relevant board concludes that a disciplinary proceeding will not be instituted, the board may send an advisory letter to the person who was the subject of the complaint or report. The relevant board may also inform the source of the complaint or report (i) that an investigation has been conducted, (ii) that the matter was concluded without a disciplinary proceeding, (iii) of the process the board followed in making its determination, and (iv), if appropriate, that an advisory letter from the board has been communicated to the person who was the subject of the complaint or report. In providing such information, the board shall inform the source of the complaint or report that he is subject to the requirements of this section relating to confidentiality and discovery.

H. Orders and notices of the health regulatory boards relating to disciplinary actions shall be disclosed. Information on the date and location of any disciplinary proceeding, allegations against the respondent, and the list of statutes and regulations the respondent is alleged to have violated shall be provided to the source of the complaint or report by the relevant board prior to the proceeding. The source shall be notified of the disposition of a disciplinary case.

I. This section shall not prohibit investigative staff authorized under § 54.1-2506 from interviewing fact witnesses, disclosing to fact witnesses the identity of the subject of the complaint or report, or reviewing with fact witnesses any portion of records or other supporting documentation necessary to refresh the fact witnesses' recollection.

J. Any person found guilty of the unlawful disclosure of confidential information possessed by a health regulatory board shall be guilty of a Class 1 misdemeanor.

1997, c. 698; 1998, c. 744; 1999, c. 888; 2003, cc. 753, 762; 2004, c. 49; 2006, cc. 155, 184; 2007, c. 395; 2009, cc. 342, 472; 2015, c. 114.