

SENATE No. 103

The Commonwealth of Massachusetts

PRESENTED BY:

Joseph A. Boncore

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act relative to nurse licensure compacts.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
<i>Joseph A. Boncore</i>	<i>First Suffolk and Middlesex</i>	
<i>Kay Khan</i>	<i>11th Middlesex</i>	<i>1/25/2019</i>

SENATE No. 103

By Mr. Boncore, a petition (accompanied by bill, Senate, No. 103) of Joseph A. Boncore and Kay Khan for legislation relative to nurse licensure compacts. Consumer Protection and Professional Licensure.

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-First General Court
(2019-2020)**

An Act relative to nurse licensure compacts.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Subsection (c) of section 14 of chapter 13 of the General Laws, as
2 appearing in the 2018 Official Edition, is hereby amended by inserting after the words “chapter
3 one hundred and twelve,” the following words:- chapter one hundred and twelve A,

4 SECTION 2. Section 79 of chapter 112 of the General Laws, as appearing in the 2018
5 Official Edition, is hereby amended by adding the following two sentences:-

6 The board may assess a licensed nurse a penalty of not more than \$2,000 for each
7 violation of regulations promulgated pursuant to this section and for each violation of any
8 general law that governs the practice of nursing. The board, through regulation, shall ensure that
9 any fine levied is commensurate with the severity of the violation.

10 SECTION 3. The General Laws are hereby amended by inserting after chapter 112 the
11 following new chapter:-

12 Chapter 112A. Nurse Licensure Compact

13 Section 1. Definitions

14 As used in this chapter, the following words shall have the following meanings:

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

21 “Alternative program”, a non-disciplinary monitoring program approved by a licensing
22 board.

23 “Compact” or “Nurse Licensure Compact”, the legally binding agreement between party
24 states as adopted by the National Council of State Boards of Nursing Nurse Licensure Compact
25 in its Final Version dated May 4, 2015, and entered into by the commonwealth in accordance
26 with this chapter.

27 “Coordinated licensure information system”, an integrated process for collecting, storing
28 and sharing information on nurse licensure and enforcement activities related to nurse licensure
29 laws that is administered by a nonprofit organization composed of and controlled by licensing
30 boards.

31 “Current significant investigative information”, (i) investigative information that a
32 licensing board, after a preliminary inquiry that includes notification and an opportunity for the

33 nurse to respond, if required by state law, has reason to believe is not groundless and, if proved
34 true, would indicate more than a minor infraction or (ii) investigative information that indicates
35 that the nurse represents an immediate threat to public health and safety regardless of whether
36 the nurse has been notified and had an opportunity to respond.

37 “Encumbrance”, a revocation or suspension of, or any limitation on, the full and
38 unrestricted practice of nursing imposed by a licensing board.

39 “Home state”, the party state which is the nurse’s primary state of residence.

40 “Interstate commission”, the Interstate Commission of Nurse Licensure Compact
41 Administrators as established in section 6 of this chapter.

42 “Licensing board”, a party state’s regulatory body responsible for issuing nurse licenses.

43 “Multistate license”, a license to practice as a registered nurse or a licensed
44 practical/vocational nurse issued by a home state licensing board that authorizes the licensed
45 nurse to practice in all party states under a multistate licensure privilege.

46 “Multistate licensure privilege”, a legal authorization associated with a multistate license
47 permitting the practice of nursing as either a registered nurse or as a licensed practical/vocational
48 nurse in a remote state.

49 “Nurse”, registered nurse or a licensed practical/vocational nurse, as those terms are
50 defined by each party state’s practice laws.

51 “Party state”, the commonwealth and any other state that has adopted this Compact.

52 “Remote state”, a party state other than the home state.

53 “Single-state license”, a nurse license issued by a party state that authorizes practice only
54 within the issuing state and does not include a multistate licensure privilege to practice in any
55 other party state.

56 “State”, a state, territory or possession of the United States and the District of Columbia.

57 “State practice laws”, a party state’s laws, rules and regulations that govern the practice
58 of nursing, define the scope of nursing practice, and establish the methods and grounds for
59 imposing discipline. “State practice laws” do not include requirements necessary to obtain and
60 retain a license, except for qualifications or requirements of the home state.

61 Section 2. General Provisions and Jurisdictions

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

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

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

73 (1) Meets the home state's qualifications for licensure or renewal of licensure, as well as,
74 all other applicable state laws;

75 (2) (i) Has graduated or is eligible to graduate from a licensing board-approved RN or
76 LPN/VN pre-licensure education program; or (ii) Has graduated from a foreign RN or LPN/VN
77 pre-licensure education program that (A) has been approved by the authorized accrediting body
78 in the applicable country and (B) has been verified by an independent credentials review agency
79 to be comparable to a licensing board-approved pre-licensure education program;

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

83 (4) Has successfully passed an NCLEX-RN® or NCLEX-PN® Examination or
84 recognized predecessor, as applicable;

85 (5) Is eligible for or holds an active, unencumbered license;

86 (6) Has submitted, in connection with an application for initial licensure or licensure by
87 endorsement, fingerprints or other biometric data for the purpose of obtaining criminal history
88 record information from the Federal Bureau of Investigation and the agency responsible for
89 retaining that state's criminal records;

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

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

94 (9) Is not currently enrolled in an alternative program;

95 (10) Is subject to self-disclosure requirements regarding current participation in an
96 alternative program; and

97 (11) Has a valid United States Social Security number.

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

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

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

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

119 (1) A nurse, who changes primary state of residence after this Compact's effective date,
120 must meet all applicable requirements under section 2 to obtain a multistate license from a new
121 home state.

122 (2) A nurse who fails to satisfy the multistate licensure requirements in in section 2 due to
123 a disqualifying event occurring after this Compact's effective date shall be ineligible to retain or
124 renew a multistate license, and the nurse's multistate license shall be revoked or deactivated in
125 accordance with applicable rules adopted by the interstate commission.

126 Section 3. Application for Licensure in a Party State

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

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

135 (c) If a nurse changes primary state of residence by moving between two party states, the
136 nurse must apply for licensure in the new home state, and the multistate license issued by the

137 prior home state will be deactivated in accordance with applicable rules adopted by the interstate
138 commission.

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

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

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

147 Section 4. Additional Authorities Invested in Party State Licensing Boards

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

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

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

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

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

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

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

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

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

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

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

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

192 Section 5. Coordinated Licensure Information System and Exchange of Information

193 (a) All party states shall participate in a coordinated licensure information system of all
194 licensed registered nurses (RNs) and licensed practical/vocational nurses (LPNs/VNs). This
195 system will include information on the licensure and disciplinary history of each nurse, as
196 submitted by party states, to assist in the coordination of nurse licensure and enforcement efforts.

197 (b) The interstate commission, in consultation with the administrator of the coordinated
198 licensure information system, shall formulate necessary and proper procedures for the
199 identification, collection and exchange of information under this Compact.

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

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

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

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

216 (g) Any information contributed to the coordinated licensure information system that is
217 subsequently required to be expunged by the laws of the party state contributing that information
218 shall also be expunged from the coordinated licensure information system.

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

- 221 (1) Identifying information;
- 222 (2) Licensure data;
- 223 (3) Information related to alternative program participation; and
- 224 (4) Other information that may facilitate the administration of this Compact, as
- 225 determined by interstate commission rules.

226 (i) The Compact administrator of a party state shall provide all investigative documents

227 and information requested by another party state.

228 Section 6. Establishment of the Interstate Commission of Nurse Licensure Compact

229 Administrators

230 (a) The party states hereby create and establish a joint public entity known as the

231 Interstate Commission of Nurse Licensure Compact Administrators.

232 (1) The interstate commission is an instrumentality of the party states.

233 (2) Venue is proper, and judicial proceedings by or against the interstate commission

234 shall be brought solely and exclusively, in a court of competent jurisdiction where the principal

235 office of the interstate commission is located. The interstate commission may waive venue and

236 jurisdictional defenses to the extent it adopts or consents to participate in alternative dispute

237 resolution proceedings.

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

239 (b) Membership, Voting and Meetings

240 (1) Each party state shall have and be limited to one administrator. The head of the state
241 licensing board or designee shall be the administrator of this Compact for each party state. Any
242 administrator may be removed or suspended from office as provided by the law of the state from
243 which the Administrator is appointed. Any vacancy occurring in the interstate commission shall
244 be filled in accordance with the laws of the party state in which the vacancy exists.

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

250 (3) The interstate commission shall meet at least once during each calendar year.
251 Additional meetings shall be held as set forth in the bylaws or rules of the interstate commission.

252 (4) All meetings shall be open to the public, and public notice of meetings shall be given
253 in the same manner as required under the rulemaking provisions in section 7.

254 (5) The interstate commission may convene in a closed, nonpublic meeting if the
255 interstate commission must discuss:

256 (i) Noncompliance of a party state with its obligations under this Compact;

257 (ii) The employment, compensation, discipline or other personnel matters, practices or
258 procedures related to specific employees or other matters related to the interstate commission's
259 internal personnel practices and procedures;

260 (iii) Current, threatened or reasonably anticipated litigation;

- 261 (iv) Negotiation of contracts for the purchase or sale of goods, services or real estate;
- 262 (v) Accusing any person of a crime or formally censuring any person;
- 263 (vi) Disclosure of trade secrets or commercial or financial information that is privileged
264 or confidential;
- 265 (vii) Disclosure of information of a personal nature where disclosure would constitute a
266 clearly unwarranted invasion of personal privacy;
- 267 (viii) Disclosure of investigatory records compiled for law enforcement purposes;
- 268 (ix) Disclosure of information related to any reports prepared by or on behalf of the
269 interstate commission for the purpose of investigation of compliance with this Compact; or
- 270 (x) Matters specifically exempted from disclosure by federal or state statute.
- 271 (6) If a meeting, or portion of a meeting, is closed pursuant to this provision, the
272 interstate commission's legal counsel or designee shall certify that the meeting may be closed
273 and shall reference each relevant exempting provision. The interstate commission shall keep
274 minutes that fully and clearly describe all matters discussed in a meeting and shall provide a full
275 and accurate summary of actions taken, and the reasons therefor, including a description of the
276 views expressed. All documents considered in connection with an action shall be identified in
277 such minutes. All minutes and documents of a closed meeting shall remain under seal, subject to
278 release by a majority vote of the interstate commission or order of a court of competent
279 jurisdiction.

280 (c) The interstate commission shall, by a majority vote of the administrators, prescribe
281 bylaws or rules to govern its conduct as may be necessary or appropriate to carry out the
282 purposes and exercise the powers of this Compact, including but not limited to:

283 (1) Establishing the fiscal year of the interstate commission;

284 (2) Providing reasonable standards and procedures:

285 (i) For the establishment and meetings of other committees; and

286 (ii) Governing any general or specific delegation of any authority or function of the
287 interstate commission;

288 (3) Providing reasonable procedures for calling and conducting meetings of the interstate
289 commission, ensuring reasonable advance notice of all meetings and providing an opportunity
290 for attendance of such meetings by interested parties, with enumerated exceptions designed to
291 protect the public's interest, the privacy of individuals, and proprietary information, including
292 trade secrets. The interstate commission may meet in closed session only after a majority of the
293 administrators vote to close a meeting in whole or in part. As soon as practicable, the interstate
294 commission must make public a copy of the vote to close the meeting revealing the vote of each
295 administrator, with no proxy votes allowed;

296 (4) Establishing the titles, duties and authority and reasonable procedures for the election
297 of the officers of the interstate commission;

298 (5) Providing reasonable standards and procedures for the establishment of the personnel
299 policies and programs of the interstate commission. Notwithstanding any civil service or other

300 similar laws of any party state, the bylaws shall exclusively govern the personnel policies and
301 programs of the interstate commission; and

302 (6) Providing a mechanism for winding up the operations of the interstate commission
303 and the equitable disposition of any surplus funds that may exist after the termination of this
304 Compact after the payment or reserving of all of its debts and obligations;

305 (d) The interstate commission shall publish its bylaws and rules, and any amendments
306 thereto, in a convenient form on the website of the interstate commission.

307 (e) The interstate commission shall maintain its financial records in accordance with the
308 bylaws.

309 (f) The interstate commission shall meet and take such actions as are consistent with the
310 provisions of this Compact and the bylaws.

311 (g) The interstate commission shall have the following powers:

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

315 (2) To bring and prosecute legal proceedings or actions in the name of the interstate
316 commission, provided that the standing of any licensing board to sue or be sued under applicable
317 law shall not be affected;

318 (3) To purchase and maintain insurance and bonds;

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

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

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

328 (7) To accept any and all appropriate donations, grants and gifts of money, equipment,
329 supplies, materials and services, and to receive, utilize and dispose of the same; provided that at
330 all times the interstate commission shall avoid any appearance of impropriety or conflict of
331 interest;

332 (8) To lease, purchase, accept appropriate gifts or donations of, or otherwise to own,
333 hold, improve or use, any property, whether real, personal or mixed; provided that at all times the
334 interstate commission shall avoid any appearance of impropriety;

335 (9) To sell, convey, mortgage, pledge, lease, exchange, abandon or otherwise dispose of
336 any property, whether real, personal or mixed;

337 (10) To establish a budget and make expenditures;

338 (11) To borrow money;

339 (12) To appoint committees, including advisory committees comprised of administrators,
340 state nursing regulators, state legislators or their representatives, and consumer representatives,
341 and other such interested persons;

342 (13) To provide and receive information from, and to cooperate with, law enforcement
343 agencies;

344 (14) To adopt and use an official seal; and

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

347 (h) Financing of the interstate commission

348 (1) The interstate commission shall pay, or provide for the payment of, the reasonable
349 expenses of its establishment, organization and ongoing activities.

350 (2) The interstate commission may also levy on and collect an annual assessment from
351 each party state to cover the cost of its operations, activities and staff in its annual budget as
352 approved each year. The aggregate annual assessment amount, if any, shall be allocated based
353 upon a formula to be determined by the interstate commission, which shall promulgate a rule that
354 is binding upon all party states.

355 (3) The interstate commission shall not incur obligations of any kind prior to securing
356 the funds adequate to meet the same; nor shall the interstate commission pledge the credit of any
357 of the party states, except by, and with the authority of, such party state.

358 (4) The interstate commission shall keep accurate accounts of all receipts and
359 disbursements. The receipts and disbursements of the interstate commission shall be subject to

360 the audit and accounting procedures established under its bylaws. However, all receipts and
361 disbursements of funds handled by the interstate commission shall be audited yearly by a
362 certified or licensed public accountant, and the report of the audit shall be included in and
363 become part of the annual report of the interstate commission.

364 (i) Qualified Immunity, Defense and Indemnification

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

374 (2) The interstate commission shall defend any administrator, officer, executive director,
375 employee or representative of the interstate commission in any civil action seeking to impose
376 liability arising out of any actual or alleged act, error or omission that occurred within the scope
377 of interstate commission employment, duties or responsibilities, or that the person against whom
378 the claim is made had a reasonable basis for believing occurred within the scope of interstate
379 commission employment, duties or responsibilities; provided that nothing herein shall be
380 construed to prohibit that person from retaining his or her own counsel; and provided further that

381 the actual or alleged act, error or omission did not result from that person’s intentional, willful or
382 wanton misconduct.

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

391 Section 7. Rulemaking

392 (a) The interstate commission shall exercise its rulemaking powers pursuant to the
393 criteria set forth in this section and the rules adopted thereunder. Rules and amendments shall
394 become binding as of the date specified in each rule or amendment and shall have the same force
395 and effect as provisions of this Compact.

396 (b) Rules or amendments to the rules shall be adopted at a regular or special meeting of
397 the interstate commission.

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

401 (1) On the website of the interstate commission; and

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

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

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

407 (2) The text of the proposed rule or amendment, and the reason for the proposed rule;

408 (3) A request for comments on the proposed rule from any interested person; and

409 (4) The manner in which interested persons may submit notice to the interstate
410 commission of their intention to attend the public hearing and any written comments.

411 (e) Prior to adoption of a proposed rule, the interstate commission shall allow persons to
412 submit written data, facts, opinions and arguments, which shall be made available to the public.

413 (f) The interstate commission shall grant an opportunity for a public hearing before it
414 adopts a rule or amendment.

415 (g) The interstate commission shall publish the place, time and date of the scheduled
416 public hearing.

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

420 (2) Nothing in this section shall be construed as requiring a separate hearing on each rule.
421 Rules may be grouped for the convenience of the interstate commission at hearings required by
422 this section.

423 (h) If no one appears at the public hearing, the interstate commission may proceed with
424 promulgation of the proposed rule.

425 (i) Following the scheduled hearing date, or by the close of business on the scheduled
426 hearing date if the hearing was not held, the interstate commission shall consider all written and
427 oral comments received.

428 (j) The interstate commission shall, by majority vote of all administrators, take final
429 action on the proposed rule and shall determine the effective date of the rule, if any, based on the
430 rulemaking record and the full text of the rule.

431 (k) Upon determination that an emergency exists, the interstate commission may
432 consider and adopt an emergency rule without prior notice, opportunity for comment or hearing,
433 provided that the usual rulemaking procedures provided in this Compact and in this section shall
434 be retroactively applied to the rule as soon as reasonably possible, in no event later than ninety
435 (90) days after the effective date of the rule. For the purposes of this provision, an emergency
436 rule is one that must be adopted immediately in order to:

437 (1) Meet an imminent threat to public health, safety or welfare;

438 (2) Prevent a loss of interstate commission or party state funds; or

439 (3) Meet a deadline for the promulgation of an administrative rule that is required by
440 federal law or rule.

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

450 Section 8. Oversight, Dispute Resolution and Enforcement

451 (a) Oversight

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

454 (2) The interstate commission shall be entitled to receive service of process in any
455 proceeding that may affect the powers, responsibilities or actions of the interstate commission,
456 and shall have standing to intervene in such a proceeding for all purposes. Failure to provide
457 service of process in such proceeding to the interstate commission shall render a judgment or
458 order void as to the interstate commission, this Compact or promulgated rules.

459 (b) Default, Technical Assistance and Termination

460 (1) If the interstate commission determines that a party state has defaulted in the
461 performance of its obligations or responsibilities under this Compact or the promulgated rules,
462 the interstate commission shall:

463 (i) Provide written notice to the defaulting state and other party states of the nature of the
464 default, the proposed means of curing the default or any other action to be taken by the interstate
465 commission; and

466 (ii) Provide remedial training and specific technical assistance regarding the default.

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

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

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

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

482 (6) The defaulting state may appeal the action of the interstate commission by petitioning
483 the U.S. District Court for the District of Columbia or the federal district in which the interstate
484 commission has its principal offices. The prevailing party shall be awarded all costs of such
485 litigation, including reasonable attorneys' fees.

486 (c) Dispute Resolution

487 (1) Upon request by a party state, the interstate commission shall attempt to resolve
488 disputes related to the Compact that arise among party states and between party and non-party
489 states.

490 (2) The interstate commission shall promulgate a rule providing for both mediation and
491 binding dispute resolution for disputes, as appropriate.

492 (3) In the event the interstate commission cannot resolve disputes among party states
493 arising under this Compact:

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

498 (ii) The decision of a majority of the arbitrators shall be final and binding.

499 (d) Enforcement

500 (1) The interstate commission, in the reasonable exercise of its discretion, shall enforce
501 the provisions and rules of this Compact.

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

509 (3) The remedies herein shall not be the exclusive remedies of the interstate commission.
510 The interstate commission may pursue any other remedies available under federal or state law.

511 Section 9. Effective Date, Withdrawal and Amendment

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

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

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

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

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

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

533 (g) Representatives of non-party states to this Compact shall be invited to participate in
534 the activities of the interstate commission, on a nonvoting basis, prior to the adoption of this
535 Compact by all states.

536 Section 10. Construction and Severability

537 This Compact shall be liberally construed so as to effectuate the purposes thereof. The
538 provisions of this Compact shall be severable, and if any phrase, clause, sentence or provision of
539 this Compact is declared to be contrary to the constitution of any party state or of the United
540 States, or if the applicability thereof to any government, agency, person or circumstance is held
541 invalid, the validity of the remainder of this Compact and the applicability thereof to any

542 government, agency, person or circumstance shall not be affected thereby. If this Compact shall
543 be held to be contrary to the constitution of any party state, this Compact shall remain in full
544 force and effect as to the remaining party states and in full force and effect as to the party state
545 affected as to all severable matters.

546 Section 11. The executive director of the board of registration in nursing, or the board
547 executive director's designee, shall be the administrator of the Nurse Licensure Compact for the
548 commonwealth.

549 Section 12. The board of registration in nursing shall adopt regulations in the same
550 manner as all other with states legally joining in the Compact and may adopt additional
551 regulations as necessary to implement the provisions of this chapter.

552 Section 13. The board of registration in nursing may recover from a nurse the costs of
553 investigation and disposition of cases resulting in any adverse disciplinary action taken against
554 that nurse's license or privilege to practice. Funds collected pursuant to this section shall be
555 deposited in the Quality in Health Professions Trust Fund established pursuant to section 35X of
556 chapter 10.

557 Section 14. The board of registration in nursing may take disciplinary action against the
558 practice privilege of a registered nurse or of a licensed practical/vocational nurse practicing in
559 the commonwealth under a license issued by party state. The board's disciplinary action may be
560 based on disciplinary action against the nurse's license taken by the nurse's home state.

561 Section 15. In reporting information to the coordinated licensure information system
562 under Section 8 of this chapter related to the Nurse Licensure Compact, the board of registration

563 in nursing may disclose personally identifiable information about the nurse, including social
564 security number.

565 Section 16. Nothing in this chapter, nor the entrance of Massachusetts into the Nurse
566 Licensure Compact shall be construed to supersede existing labor laws.

567 Section 17. The commonwealth, its officers and employees, and the board of registration
568 in nursing and its agents who act in accordance with the provisions of this chapter shall not be
569 liable on account of any act or omission in good faith while engaged in the performance of their
570 duties under this chapter. Good faith shall not include willful misconduct, gross negligence, or
571 recklessness.

572 Section 18. As part of the licensure and background check process for a multistate license
573 and to determine the suitability of an applicant for multistate licensure, the board of registration
574 in nursing, prior to issuing any multistate license, shall conduct a fingerprint-based check of the
575 state and national criminal history databases, as authorized by 28 CFR 20.33 and Public Law 92-
576 544.

577 Fingerprints shall be submitted to the identification section of the department of state
578 police for a state criminal history check and forwarded to the Federal Bureau of Investigation for
579 a national criminal history check, according to the policies and procedures established by the
580 state identification section and by the department of criminal justice information services.
581 Fingerprint submissions may be retained by the Federal Bureau of Investigation, the state
582 identification section and the department of criminal justice information services for requests
583 submitted by the board of registration in nursing as authorized under this section to ensure the
584 continued suitability of these individuals for licensure. The department of criminal justice

585 information services may disseminate the results of the state and national criminal background
586 checks to the executive director of the board of registration in nursing and authorized staff of the
587 board.

588 All applicants shall pay a fee to be established by the secretary of administration and
589 finance, in consultation with the secretary of public safety, to offset the costs of operating and
590 administering a fingerprint-based criminal background check system. The secretary of
591 administration and finance, in consultation with the secretary of public safety, may increase the
592 fee accordingly if the Federal Bureau of Investigation increases its fingerprint background check
593 service fee. Any fees collected from fingerprinting activity under this chapter shall be deposited
594 into the Fingerprint-Based Background Check Trust Fund, established in section 2HHHH of 133
595 chapter 29.

596 The board of registration in nursing may receive all criminal offender record information
597 and the results of checks of state and national criminal history databases under said Public Law
598 92-544. When the board of registration in nursing obtains the results of checks of state and
599 national criminal history databases, it shall treat the information according to sections 167 to
600 178, inclusive, of chapter 6 and the regulations thereunder regarding criminal offender record
601 information.

602 Notwithstanding subsections 9 and 9 1/2 of section 4 of chapter 151B, if the board of
603 registration in nursing receives criminal record information from the state or national fingerprint-
604 based criminal background checks that includes no disposition or is otherwise incomplete, the
605 agency head may request that an applicant for licensure provide additional information regarding

606 the results of the criminal background checks to assist the agency head in determining the
607 applicant's suitability for licensure.

608 SECTION 4. Notwithstanding any general or special law to the contrary, the secretary of
609 administration and finance, following a public hearing, shall increase the fee for obtaining or
610 renewing a license, certificate, registration, permit or authority issued by a board within the
611 department of public health, excluding the board of registration in medicine, as necessary to
612 implement the provisions of the Nurse Licensure Compact. The amount of the increase in fees
613 shall be deposited in the Quality in Health Professions Trust Fund established in section 35X of
614 chapter 10.

615 SECTION 5. The effective date of the commonwealth's entry into the Nurse Licensure
616 Compact shall be one year from the effective date of this act. Prior to said effective date, the
617 board of registration in nursing may take such actions as are necessary to implement chapter
618 112A of the General Laws and effectuate entry into the Nurse Licensure Compact.