

HOUSE No. 1251

The Commonwealth of Massachusetts

PRESENTED BY:

Bud L. Williams

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 Massachusetts joining the nursing licensure compact.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Bud L. Williams</i>	<i>11th Hampden</i>	<i>1/14/2023</i>

HOUSE No. 1251

By Representative Williams of Springfield, a petition (accompanied by bill, House, No. 1251) of Bud L. Williams relative to participation in the national nurse licensure compact agreement. Health Care Financing.

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Third General Court
(2023-2024)**

An Act relative to Massachusetts joining the nursing licensure compact.

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 2020 Official Edition, is hereby amended by inserting, in line 14, after the word
3 “twelve”, the following words:- and chapter 112A.

4 SECTION 2. The General Laws are hereby amended by inserting after chapter 112 the
5 following chapter:-

6 CHAPTER 112A

7 NURSE LICENSURE COMPACT

8 Section 1. As used in this chapter, the following words shall have the following
9 meanings:

10 “Adverse action”, any administrative, civil, equitable or criminal action permitted by a
11 state’s laws which is imposed by a licensing board or other authority against a nurse, including

12 actions against an individual’s license or multistate licensure privilege such as revocation,
13 suspension, probation, monitoring of the licensee, limitation on the licensee’s practice, or any
14 other encumbrance on licensure affecting a nurse’s authorization to practice, including issuance
15 of a cease and desist action.

16 “Alternative program”, a non-disciplinary monitoring program approved by a licensing
17 board.

18 “Compact” or “nurse licensure compact”, the legally binding agreement between party
19 states as adopted by the National Council of State Boards of Nursing, Inc. nurse licensure
20 compact, and entered into by the commonwealth in accordance with this chapter.

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

25 “Current significant investigative information”, (i) investigative information that a
26 licensing board, after a preliminary inquiry that includes notification and an opportunity for the
27 nurse to respond, if required by state law, has reason to believe is not groundless and, if proved
28 true, would indicate more than a minor infraction or (ii) investigative information that indicates
29 that the nurse represents an immediate threat to public health and safety regardless of whether
30 the nurse has been notified and had an opportunity to respond.

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

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

34 “Interstate commission”, the interstate commission of nurse licensure compact
35 administrators as established in section 6 of this chapter.

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

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

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

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

45 “Party state”, the commonwealth and any other state that has adopted this compact.

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

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

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

51 “State practice laws”, a party state’s laws, rules and regulations that govern the practice
52 of nursing, define the scope of nursing practice, and establish the methods and grounds for

53 imposing discipline. “State practice laws” do not include requirements necessary to obtain and
54 retain a license, except for qualifications or requirements of the home state.

55 Section 2. (a) A multistate license to practice as a nurse issued by a home state to a
56 resident in that state will be recognized by each party state as authorizing a nurse to practice as a
57 registered nurse or as a licensed practical or vocational nurse, under a multistate licensure
58 privilege, in each party state.

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

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

66 (1) Meets the home state’s qualifications for licensure or renewal of licensure, as well as,
67 all other applicable state laws;

68 (2) (i) Has graduated or is eligible to graduate from a licensing board-approved registered
69 nurse or practical or vocational nurse pre-licensure education program; or (ii) has graduated from
70 a foreign registered nurse or practical or vocational nurse pre-licensure education program that
71 (A) has been approved by the authorized accrediting body in the applicable country and (B) has
72 been verified by an independent credentials review agency to be comparable to a licensing
73 board-approved pre-licensure education program;

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

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

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

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

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

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

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

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

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

92 (d) All party states shall be authorized, in accordance with existing state due process law,
93 to take adverse action against a nurse's multistate licensure privilege such as revocation,

94 suspension, probation or any other action that affects a nurse's authorization to practice under a
95 multistate licensure privilege, including cease and desist actions. If a party state takes such
96 action, it shall promptly notify the administrator of the coordinated licensure information system.
97 The administrator of the coordinated licensure information system shall promptly notify the
98 home state of any such actions by remote states.

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

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

110

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

114

115 (i) a nurse, who changes primary state of residence after this compact's effective date,
116 must meet all applicable requirements under section 2 to obtain a multistate license from a new
117 home state; and

118 (ii) a nurse who fails to satisfy the multistate licensure requirements in section 2 due to a
119 disqualifying event occurring after this compact's effective date shall be ineligible to retain or
120 renew a multistate license, and the nurse's multistate license shall be revoked or deactivated in
121 accordance with applicable rules adopted by the interstate commission.

122 Section 3. (a) Upon application for a multistate license, the licensing board in the issuing
123 party state shall ascertain, through the coordinated licensure information system, whether the
124 applicant has ever held, or is the holder of, a license issued by any other state, whether there are
125 any encumbrances on any license or multistate licensure privilege held by the applicant, whether
126 any adverse action has been taken against any license or multistate licensure privilege held by
127 the applicant and whether the applicant is currently participating in an alternative program.

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

130 (c) If a nurse changes primary state of residence by moving between two party states, the
131 nurse must apply for licensure in the new home state, and the multistate license issued by the
132 prior home state will be deactivated in accordance with applicable rules adopted by the interstate
133 commission including:

134 (i) the nurse may apply for licensure in advance of a change in primary state of residence;
135 and

136 (ii) a multistate license shall not be issued by the new home state until the nurse provides
137 satisfactory evidence of a change in primary state of residence to the new home state and
138 satisfies all applicable requirements to obtain a multistate license from the new home state.

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

142 Section 4. (a) In addition to the other powers conferred by state law, a licensing board
143 shall have the authority to:

144 (1) Take adverse action against a nurse's multistate licensure privilege to practice within
145 that party state, but:

146 (i) only the home state shall have the power to take adverse action against a nurse's
147 license issued by the home state; and

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

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

154 (3) Complete any pending investigations of a nurse who changes primary state of
155 residence during the course of such investigations. The licensing board shall also have the
156 authority to take appropriate actions and shall promptly report the conclusions of such

157 investigations to the administrator of the coordinated licensure information system. The
158 administrator of the coordinated licensure information system shall promptly notify the new
159 home state of any such actions.

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

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

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

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

176 (b) If adverse action is taken by the home state against a nurse's multistate license, the
177 nurse's multistate licensure privilege to practice in all other party states shall be deactivated until
178 all encumbrances have been removed from the multistate license. All home state disciplinary

179 orders that impose adverse action against a nurse's multistate license shall include a statement
180 that the nurse's multistate licensure privilege is deactivated in all party states during the
181 pendency of the order.

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

186 Section 5. (a) All party states shall participate in a coordinated licensure information
187 system of all licensed registered nurses and licensed practical or vocational nurses. This system
188 will include information on the licensure and disciplinary history of each nurse, as submitted by
189 party states, to assist in the coordination of nurse licensure and enforcement efforts.

190 (b) The interstate commission, in consultation with the administrator of the coordinated
191 licensure information system, shall formulate necessary and proper procedures for the
192 identification, collection and exchange of information under this compact.

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

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

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

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

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

212 (h) The compact administrator of each party state shall furnish a uniform data set to the
213 compact administrator of each other party state, which shall include, at a minimum: (i)
214 identifying information; (ii) licensure data; (iii) information related to alternative program
215 participation; and (iv) other information that may facilitate the administration of this compact, as
216 determined by interstate commission rules.

217

218 (i) The compact administrator of a party state shall provide all investigative documents
219 and information requested by another party state.

220

221 Section 6. (a) The party states hereby create and establish a joint public entity known as
222 the interstate commission of nurse licensure compact administrators.

223 (1) The interstate commission is an instrumentality of the party states;

224

225 (2) Venue is proper, and judicial proceedings by or against the interstate commission
226 shall be brought solely and exclusively, in a court of competent jurisdiction where the principal
227 office of the interstate commission is located. The interstate commission may waive venue and
228 jurisdictional defenses to the extent it adopts or consents to participate in alternative dispute
229 resolution proceedings; and

230

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

232

233 (b) (1) Each party state shall have and be limited to 1 administrator. The head of the state
234 licensing board or designee shall be the administrator of this compact for each party state. Any
235 administrator may be removed or suspended from office as provided by the law of the state from
236 which the administrator is appointed. Any vacancy occurring in the interstate commission shall
237 be filled in accordance with the laws of the party state in which the vacancy exists.

238

239 (2) Each administrator shall be entitled to 1 vote with regard to the promulgation of rules
240 and creation of bylaws and shall otherwise have an opportunity to participate in the business and

241 affairs of the interstate commission. An administrator shall vote in person or by such other means
242 as provided in the bylaws. The bylaws may provide for an administrator's participation in
243 meetings by telephone or other means of communication.

244

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

247

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

250

251 (5) The interstate commission may convene in a closed, nonpublic meeting if the
252 interstate commission must discuss: (i) Noncompliance of a party state with its obligations under
253 this compact; (ii) The employment, compensation, discipline or other personnel matters,
254 practices or procedures related to specific employees or other matters related to the interstate
255 commission's internal personnel practices and procedures; (iii) Current, threatened or reasonably
256 anticipated litigation; (iv) Negotiation of contracts for the purchase or sale of goods, services or
257 real estate; (v) Accusing any person of a crime or formally censuring any person; (vi) Disclosure
258 of trade secrets or commercial or financial information that is privileged or confidential; (vii)
259 Disclosure of information of a personal nature where disclosure would constitute a clearly
260 unwarranted invasion of personal privacy; (viii) Disclosure of investigatory records compiled for
261 law enforcement purposes; (ix) Disclosure of information related to any reports prepared by or

262 on behalf of the interstate commission for the purpose of investigation of compliance with this
263 compact; or (x) Matters specifically exempted from disclosure by federal or state statute.

264

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

274

275 (c) The interstate commission shall, by a majority vote of the administrators, prescribe
276 bylaws or rules to govern its conduct as may be necessary or appropriate to carry out the
277 purposes and exercise the powers of this compact, including but not limited to: (1) Establishing
278 the fiscal year of the interstate commission; (2) Providing reasonable standards and procedures:
279 (i) For the establishment and meetings of other committees; and (ii) Governing any general or
280 specific delegation of any authority or function of the interstate commission; (3) Providing
281 reasonable procedures for calling and conducting meetings of the interstate commission,
282 ensuring reasonable advance notice of all meetings and providing an opportunity for attendance
283 of such meetings by interested parties, with enumerated exceptions designed to protect the

284 public's interest, the privacy of individuals, and proprietary information, including trade secrets.
285 The interstate commission may meet in closed session only after a majority of the administrators
286 vote to close a meeting in whole or in part. As soon as practicable, the interstate commission
287 must make public a copy of the vote to close the meeting revealing the vote of each
288 administrator, with no proxy votes allowed; (4) Establishing the titles, duties and authority and
289 reasonable procedures for the election of the officers of the interstate commission; (5) Providing
290 reasonable standards and procedures for the establishment of the personnel policies and
291 programs of the interstate commission. Notwithstanding any civil service or other similar laws of
292 any party state, the bylaws shall exclusively govern the personnel policies and programs of the
293 interstate commission; and (6) Providing a mechanism for winding up the operations of the
294 interstate commission and the equitable disposition of any surplus funds that may exist after the
295 termination of this compact after the payment or reserving of all of its debts and obligations;

296

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

299

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

302

303 (f) The interstate commission shall meet and take such actions as are consistent with the
304 provisions of this compact and the bylaws.

305
306
307
308
309
310
311
312
313
314
315
316
317
318
319
320
321
322
323
324
325
326
327

(g) The interstate 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 interstate 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 interstate commission’s personnel policies and programs relating to conflicts of interest, qualifications of personnel and other related personnel matters; (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 interstate 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 interstate 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

328 regulators, state legislators or their representatives, and consumer representatives, and other such
329 interested persons; (13) To provide and receive information from, and to cooperate with, law
330 enforcement agencies; (14) To adopt and use an official seal; and (15) To perform such other
331 functions as may be necessary or appropriate to achieve the purposes of this compact consistent
332 with the state regulation of nurse licensure and practice.

333

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

336

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

342

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

346

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

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

353

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

363

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

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

373

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

382

383 Section 7. (a) The interstate commission shall exercise its rulemaking powers pursuant to
384 the criteria set forth in this section and the rules adopted thereunder. Rules and amendments shall
385 become binding as of the date specified in each rule or amendment and shall have the same force
386 and effect as provisions of this compact.

387

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

390 (c) Prior to promulgation and adoption of a final rule or rules by the interstate
391 commission, and at least 60 days in advance of the meeting at which the rule will be considered

392 and voted upon, the interstate commission shall file a notice of proposed rulemaking: (1) On the
393 website of the interstate commission; and (2) On the website of each licensing board or the
394 publication in which each state would otherwise publish proposed rules.

395

396 (d) The notice of proposed rulemaking shall include: (1) The proposed time, date and
397 location of the meeting in which the rule will be considered and voted upon; (2) The text of the
398 proposed rule or amendment, and the reason for the proposed rule; (3) A request for comments
399 on the proposed rule from any interested person; and (4) The manner in which interested persons
400 may submit notice to the interstate commission of their intention to attend the public hearing and
401 any written comments.

402

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

405

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

408

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

411

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

415

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

419

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

422

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

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

429

430 (k) Upon determination that an emergency exists, the interstate commission may consider
431 and adopt an emergency rule without prior notice, opportunity for comment or hearing, provided

432 that the usual rulemaking procedures provided in this compact and in this section shall be
433 retroactively applied to the rule as soon as reasonably possible, in no event later than 90 days
434 after the effective date of the rule. For the purposes of this provision, an emergency rule is one
435 that must be adopted immediately in order to: (1) Meet an imminent threat to public health,
436 safety or welfare; (2) Prevent a loss of interstate commission or party state funds; or (3) Meet a
437 deadline for the promulgation of an administrative rule that is required by federal law or rule.

438

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

448

449 Section 8. (a) (1) Each party state shall enforce this compact and take all actions
450 necessary and appropriate to effectuate this compact's purposes and intent.

451

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

457

458 (b) (1) If the interstate commission determines that a party state has defaulted in the
459 performance of its obligations or responsibilities under this compact or the promulgated rules,
460 the interstate commission shall: (i) Provide written notice to the defaulting state and other party
461 states of the nature of the default, the proposed means of curing the default or any other action to
462 be taken by the interstate commission; and (ii) Provide remedial training and specific technical
463 assistance regarding the default.

464

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

470

471 (3) Termination of membership in this compact shall be imposed only after all other
472 means of securing compliance have been exhausted. Notice of intent to suspend or terminate

473 shall be given by the interstate commission to the governor of the defaulting state and to the
474 executive officer of the defaulting state's licensing board and each of the party states.

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

478

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

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

487

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

491

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

494

495 (3) In the event the interstate commission cannot resolve disputes among party states
496 arising under this compact: (i) The party states may submit the issues in dispute to an arbitration
497 panel, which will be comprised of individuals appointed by the compact administrator in each of
498 the affected party states and an individual mutually agreed upon by the compact administrators
499 of all the party states involved in the dispute; and (ii) The decision of a majority of the arbitrators
500 shall be final and binding.

501

502 (d) (1) The interstate commission, in the reasonable exercise of its discretion, shall
503 enforce the provisions and rules of this compact.

504

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

512

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

515

516 Section 9. (a) Each party state to this compact shall continue to recognize a nurse's
517 multistate licensure privilege to practice in that party state issued under the prior compact until
518 such party state has withdrawn from the prior compact.

519 (b) Any party state may withdraw from this compact by enacting a statute repealing the
520 same. A party state's withdrawal shall not take effect until 6 months after enactment of the
521 repealing statute.

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

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

528 (e) This compact may be amended by the party states. No amendment to this compact
529 shall become effective and binding upon the party states unless and until it is enacted into the
530 laws of all party states.

531 (f) Representatives of non-party states to this compact shall be invited to participate in
532 the activities of the interstate commission, on a nonvoting basis, prior to the adoption of this
533 compact by all states.

534 Section 10. This compact shall be liberally construed so as to effectuate the purposes
535 thereof. The provisions of this compact shall be severable, and if any phrase, clause, sentence or
536 provision of this compact is declared to be contrary to the constitution of any party state or of the
537 United States, or if the applicability thereof to any government, agency, person or circumstance
538 is held invalid, the validity of the remainder of this compact and the applicability thereof to any
539 government, agency, person or circumstance shall not be affected thereby. If this compact shall
540 be held to be contrary to the constitution of any party state, this compact shall remain in full
541 force and effect as to the remaining party states and in full force and effect as to the party state
542 affected as to all severable matters.

543 Section 11. The executive director of the board of registration in nursing, or the board
544 executive director's designee, shall be the administrator of the nurse licensure compact for the
545 commonwealth.

546 Section 12. The board of registration in nursing shall adopt regulations in the same
547 manner as all other with states legally joining in the compact and may adopt additional
548 regulations as necessary to implement the provisions of this chapter.

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

554 Section 14. The board of registration in nursing may take disciplinary action against the
555 practice privilege of a registered nurse or of a licensed practical or vocational nurse practicing in

556 the commonwealth under a license issued by party state. The board's disciplinary action may be
557 based on disciplinary action against the nurse's license taken by the nurse's home state.

558 Section 15. In reporting information to the coordinated licensure information system
559 under section 8 of this chapter related to the nurse licensure compact, the board of registration in
560 nursing may disclose personally identifiable information about the nurse, including social
561 security number.

562 Section 16. Nothing in this chapter, nor the entrance of the commonwealth into the nurse
563 licensure compact shall be construed to supersede existing labor laws.

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

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

574 Fingerprints shall be submitted to the identification section of the department of state
575 police for a state criminal history check and forwarded to the Federal Bureau of Investigation for
576 a national criminal history check, according to the policies and procedures established by the
577 state identification section and by the department of criminal justice information services.

578 Fingerprint submissions may be retained by the Federal Bureau of Investigation, the state
579 identification section and the department of criminal justice information services for requests
580 submitted by the board of registration in nursing as authorized under this section to ensure the
581 continued suitability of these individuals for licensure. The department of criminal justice
582 information services may disseminate the results of the state and national criminal background
583 checks to the executive director of the board of registration in nursing and authorized staff of the
584 board.

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

593 The board of registration in nursing may receive all criminal offender record information
594 and the results of checks of state and national criminal history databases under said Public Law
595 92-544. When the board of registration in nursing obtains the results of checks of state and
596 national criminal history databases, it shall treat the information according to sections 167 to
597 178, inclusive, of chapter 6 and the regulations thereunder regarding criminal offender record
598 information.

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

605 Section 19. The nurse licensure compact is hereby adopted and entered into with all other
606 jurisdictions that legally join in the compact.

607 SECTION 3. Notwithstanding any general or special law to the contrary, the secretary of
608 administration and finance, following a public hearing, shall increase the fee for obtaining or
609 renewing a license, certificate, registration, permit or authority issued by a board within the
610 department of public health, excluding the board of registration in medicine, as necessary to
611 implement the provisions of chapter 112A of the General Laws. The amount of the increase in
612 fees shall be deposited in the Quality in Health Professions Trust Fund established in section
613 35X of chapter 10.

614 SECTION 4. This act shall take effective 180 days upon passage.