

# SENATE . . . . . No. 2866

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Senate, July 11, 2024 -- Text of amendment (180) (offered by Senator Friedman) to the Ways and Means amendment (Senate, No. 2856) to the Senate Bill relative to economic development

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## The Commonwealth of Massachusetts

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In the One Hundred and Ninety-Third General Court  
(2023-2024)  
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1 by adding the following sections:-

2 SECTION X. Subsection (c) of section 14 of chapter 13 of the General Laws, as  
3 appearing in the 2022 Official Edition, is hereby amended by inserting, in line 4, after the words  
4 “twelve,” the following words:- and chapter 112A.

5 SECTION X. Section 79 of chapter 112 of the General Laws, as so appearing, is hereby  
6 amended by adding the following two sentences:-

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

11 SECTION X. The General Laws, as so appearing, are hereby amended by inserting after  
12 chapter 112 the following chapter:-

13 Chapter 112A. Nurse Licensure Compact

14 Section 1.

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

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

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

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

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

32 “Current significant investigative information”, (i) investigative information that a  
33 licensing board, after a preliminary inquiry that includes notification and an opportunity for the  
34 nurse to respond, if required by state law, has reason to believe is not groundless and, if proved  
35 true, would indicate more than a minor infraction or (ii) investigative information that indicates

36 that the nurse represents an immediate threat to public health and safety regardless of whether  
37 the nurse has been notified and had an opportunity to respond.

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

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

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

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

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

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

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

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

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

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

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

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

62 Section 2.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

113 (f) Individuals not residing in a party state shall continue to be able to apply for a party  
114 state's single-state license as provided under the laws of each party state. However, the single-

115 state license granted to these individuals will not be recognized as granting the privilege to  
116 practice nursing in any other party state. Nothing in this compact shall affect the requirements  
117 established by a party state for the issuance of a single-state license.

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

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

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

128 Section 3.

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

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

137 (c) If a nurse changes primary state of residence by moving between two party states, the  
138 nurse must apply for licensure in the new home state, and the multistate license issued by the  
139 prior home state will be deactivated in accordance with applicable rules adopted by the interstate  
140 commission.

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

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

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

149 Section 4.

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

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

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

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

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

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

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

176 (5) Obtain and submit, for each nurse licensure applicant, fingerprint or other biometric-  
177 based information to the Federal Bureau of Investigation for criminal background checks,

178 receive the results of the Federal Bureau of Investigation record search on criminal background  
179 checks and use the results in making licensure decisions.

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

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

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

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

194 Section 5.

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

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

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

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

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

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

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

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

223 (1) Identifying information;

224 (2) Licensure data;

225 (3) Information related to alternative program participation; and

226 (4) Other information that may facilitate the administration of this compact, as  
227 determined by interstate commission rules.

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

230 Section 6.

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

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

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

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

240 (b) Membership, Voting and Meetings

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

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

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

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

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

257 (i) Noncompliance of a party state with its obligations under this compact;

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

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

262 (iv) Negotiation of contracts for the purchase or sale of goods, services or real estate;

263 (v) Accusing any person of a crime or formally censuring any person;

264 (vi) Disclosure of trade secrets or commercial or financial information that is privileged  
265 or confidential;

266 (vii) Disclosure of information of a personal nature where disclosure would constitute a  
267 clearly unwarranted invasion of personal privacy;

268 (viii) Disclosure of investigatory records compiled for law enforcement purposes;

269 (ix) Disclosure of information related to any reports prepared by or on behalf of the  
270 interstate commission for the purpose of investigation of compliance with this compact; or

271 (x) Matters specifically exempted from disclosure by federal or state statute.

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

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

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

285 (2) Providing reasonable standards and procedures:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

339 (11) To borrow money;

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

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

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

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

348 (h) Financing of the interstate commission

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

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

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

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

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

365 (i) Qualified Immunity, Defense and Indemnification

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

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

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

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

392 Section 7.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

451 Section 8.

452 (a) Oversight

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

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

460 (b) Default, Technical Assistance and Termination

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

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

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

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

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

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

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

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 (c) Dispute Resolution

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

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

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

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

500 (d) Enforcement

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

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

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

512 Section 9.

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

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 or 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 the commonwealth 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  
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 X. 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 chapter 112A of the General Laws. The amount of the increase in  
613 fees shall be deposited in the Quality in Health Professions Trust Fund established in section  
614 35X of chapter 10.