

Senate File 419 - Introduced

SENATE FILE 419
BY COMMITTEE ON HUMAN
RESOURCES

(SUCCESSOR TO SSB 1076)

A BILL FOR

1 An Act relating to the nurse licensure compact, including
2 provisions for assessments against party states, and
3 including effective date provisions.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 152E.1, Code 2017, is amended by striking
2 the section and inserting in lieu thereof the following:

3 **152E.1 Form of compact.**

4 1. *Article I — Findings and declaration of purpose.*

5 a. The party states find that:

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

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

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

16 (4) New practice modalities and technology make compliance
17 with individual state nurse licensure laws difficult and
18 complex.

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

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

24 b. The general purposes of this compact are to:

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

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

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

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

34 (5) Invest all party states with the authority to hold
35 a nurse accountable for meeting all state practice laws in

1 the state in which the patient is located at the time care
2 is rendered through the mutual recognition of party state
3 licenses.

4 (6) Decrease redundancies in the consideration and issuance
5 of nurse licenses.

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

8 2. *Article II — Definitions.* As used in this compact:

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

18 b. "*Alternative program*" means a nondisciplinary monitoring
19 program approved by a licensing board.

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

26 d. "*Current significant investigative information*" means
27 either of the following:

28 (1) Investigative information that a licensing board,
29 after a preliminary inquiry that includes notification and an
30 opportunity for the nurse to respond, if required by state law,
31 has reason to believe is not groundless and, if proved true,
32 would indicate more than a minor infraction.

33 (2) Investigative information that indicates that the nurse
34 represents an immediate threat to public health and safety
35 regardless of whether the nurse has been notified and had an

1 opportunity to respond.

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

5 *f.* "Home state" means the party state which is the nurse's
6 primary state of residence.

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

9 *h.* "Multistate license" means a license to practice as a
10 registered or a licensed practical or vocational nurse issued
11 by a home state licensing board that authorizes the licensed
12 nurse to practice in all party states under a multistate
13 licensure privilege.

14 *i.* "Multistate licensure privilege" means a legal
15 authorization associated with a multistate license permitting
16 the practice of nursing as either a registered nurse or a
17 licensed practical or vocational nurse in a remote state.

18 *j.* "Nurse" means a registered nurse or licensed practical
19 or vocational nurse, as those terms are defined by each party
20 state's practice laws.

21 *k.* "Party state" means any state that has adopted this
22 compact.

23 *l.* "Remote state" means a party state other than the home
24 state.

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

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

31 *o.* "State practice laws" means a party state's laws,
32 rules, and regulations that govern the practice of nursing,
33 define the scope of nursing practice, and create the methods
34 and grounds for imposing discipline. "State practice laws"
35 does not include the initial qualifications for licensure or

1 requirements necessary to obtain and retain a license, except
2 for qualifications or requirements of the home state.

3 3. *Article III — General provisions and jurisdiction.*

4 a. A multistate license to practice registered or licensed
5 practical or vocational nursing issued by a home state to a
6 resident in that state will be recognized by each party state
7 as authorizing a nurse to practice as a registered nurse or as
8 a licensed practical or vocational nurse, under a multistate
9 licensure privilege, in each party state.

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

18 c. Each party state shall require all of the following for
19 an applicant to obtain or retain a multistate license in the
20 home state:

21 (1) Meets the home state's qualifications for licensure or
22 renewal of licensure, as well as all other applicable state
23 laws.

24 (2) Either of the following:

25 (a) Has graduated or is eligible to graduate from a
26 licensing board-approved registered nurse or licensed practical
27 or vocational nurse prelicensure education program.

28 (b) Has graduated from a foreign registered nurse or
29 licensed practical or vocational nurse prelicensure program
30 that meets both of the following requirements:

31 (i) Has been approved by the authorized accrediting body in
32 the applicable country.

33 (ii) Has been verified by an independent credentials
34 review agency to be comparable to a licensing board-approved
35 prelicensure education program.

1 (3) Has, if a graduate of a foreign prelicensure education
2 program not taught in English or if English is not the
3 individual's native language, successfully passed an English
4 proficiency examination that includes the components of
5 reading, speaking, writing, and listening.

6 (4) Has successfully passed a national council licensure
7 examination — registered nurse or national council licensure
8 examination — practical nurse examination or recognized
9 predecessor, as applicable.

10 (5) Is eligible for or holds an active, unencumbered
11 license.

12 (6) Has submitted in connection with an application for
13 initial licensure or licensure by endorsement, fingerprints
14 or other biometric data for the purpose of obtaining criminal
15 history record information from the federal bureau of
16 investigation and the agency responsible for retaining that
17 state's criminal records.

18 (7) Has not been convicted or found guilty, or has
19 entered into an agreed disposition, of a felony offense under
20 applicable state or federal criminal law.

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

24 (9) Is not currently enrolled in an alternative program.

25 (10) Is subject to self-disclosure requirements regarding
26 current participation in an alternative program.

27 (11) Has a valid United States social security number.

28 *d.* All party states shall be authorized, in accordance
29 with existing state due process law, to take adverse action
30 against a nurse's multistate licensure privilege such as
31 revocation, suspension, probation, or any other action that
32 affects a nurse's authorization to practice under a multistate
33 licensure privilege, including cease and desist actions. If
34 a party state takes such action, it shall promptly notify the
35 administrator of the coordinated licensure information system.

1 The administrator of the coordinated licensure information
2 system shall promptly notify the home state of any such actions
3 by remote states.

4 *e.* A nurse practicing in a party state must comply with the
5 state practice laws of the state in which the client is located
6 at the time service is provided. The practice of nursing is
7 not limited to patient care, but shall include all nursing
8 practice as defined by the state practice laws of the party
9 state in which the client is located. The practice of nursing
10 in a party state under a multistate licensure privilege will
11 subject a nurse to the jurisdiction of the licensing board, the
12 courts, and the laws of the party state in which the client is
13 located at the time service is provided.

14 *f.* Individuals not residing in a party state shall continue
15 to be able to apply for a party state's single-state license
16 as provided under the laws of each party state. However, the
17 single-state license granted to these individuals will not be
18 recognized as granting the privilege to practice nursing in any
19 other party state. Nothing in this compact shall affect the
20 requirements established by a party state for the issuance of
21 a single-state license.

22 *g.* Any nurse holding a home state multistate license on
23 the effective date of this compact may retain and renew the
24 multistate license issued by the nurse's then-current home
25 state, provided that:

26 (1) A nurse who changes primary state of residence after
27 this compact's effective date must meet all applicable
28 requirements in article III, paragraph "c", to obtain a
29 multistate license from a new home state.

30 (2) A nurse who fails to satisfy the multistate licensure
31 requirements in article III, paragraph "c", due to a
32 disqualifying event occurring after this compact's effective
33 date shall be ineligible to retain or renew a multistate
34 license, and the nurse's multistate license shall be revoked or
35 deactivated in accordance with applicable rules adopted by the

1 commission.

2 4. *Article IV — Applications for licensure in a party state.*

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

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

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

20 (1) The nurse may apply for licensure in advance of a change
21 in the primary state of residence.

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

27 d. If a nurse changes primary state of residence by moving
28 from a party state to a nonparty state, the multistate license
29 issued by the prior home state will convert to a single-state
30 license, valid only in the former home state.

31 5. *Article V — Additional authorities invested in party*
32 *state licensing boards.*

33 a. In addition to the other powers conferred by state law,
34 a licensing board shall have the authority to do all of the
35 following:

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

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

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

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

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

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

33 (5) Obtain and submit, for each nurse licensure applicant,
34 fingerprint or other biometric-based information to the federal
35 bureau of investigation for criminal background checks, receive

1 the results of the federal bureau of investigation record
2 search on criminal background checks, and use the results in
3 making licensure decisions.

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

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

11 *b.* If adverse action is taken by the home state against a
12 nurse's multistate license, the nurse's multistate licensure
13 privilege to practice in all other party states shall be
14 deactivated until all encumbrances have been removed from the
15 multistate license. All home state disciplinary orders that
16 impose adverse action against a nurse's multistate license
17 shall include a statement that the nurse's multistate licensure
18 privilege is deactivated in all party states during the
19 pendency of the order.

20 *c.* Nothing in this compact shall override a party state's
21 decision that participation in an alternative program may be
22 used in lieu of adverse action. The home state licensing board
23 shall deactivate the multistate licensure privilege under the
24 multistate license of any nurse for the duration of the nurse's
25 participation in an alternative program.

26 6. *Article VI — Coordinated licensure information system and*
27 *exchange of information.*

28 *a.* All party states shall participate in a coordinated
29 licensure information system of all licensed registered nurses
30 and licensed practical or vocational nurses. This system will
31 include information on the licensure and disciplinary history
32 of each nurse, as submitted by party states, to assist in the
33 coordination of nurse licensure and enforcement efforts.

34 *b.* The commission, in consultation with the administrator of
35 the coordinated licensure information system, shall formulate

1 necessary and proper procedures for the identification,
2 collection, and exchange of information under this compact.

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

10 *d.* Current significant investigative information and
11 participation in nonpublic or confidential alternative
12 programs shall be transmitted through the coordinated licensure
13 information system only to party state licensing boards.

14 *e.* Notwithstanding any other provision of law, all
15 party state licensing boards contributing information to
16 the coordinated licensure information system may designate
17 information that may not be shared with nonparty states or
18 disclosed to other entities or individuals without the express
19 permission of the contributing state.

20 *f.* Any personally identifiable information obtained from
21 the coordinated licensure information system by a party state
22 licensing board shall not be shared with nonparty states or
23 disclosed to other entities or individuals except to the extent
24 permitted by the laws of the party state contributing the
25 information.

26 *g.* Any information contributed to the coordinated licensure
27 information system that is subsequently required to be expunged
28 by the laws of the party state contributing that information
29 shall also be expunged from the coordinated licensure
30 information system.

31 *h.* The compact administrator of each party state shall
32 furnish a uniform data set to the compact administrator of each
33 other party state, which shall include but not be limited to
34 the following:

35 (1) Identifying information.

1 (2) Licensure data.

2 (3) Information related to alternative program
3 participation.

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

7 *i.* The compact administrator of a party state shall provide
8 all investigative documents and information requested by
9 another party state.

10 7. *Article VII — Establishment of the interstate commission*
11 *of nurse licensure compact administrators.*

12 *a.* The party states hereby create and establish a joint
13 public entity known as the interstate commission of nurse
14 licensure compact administrators.

15 (1) The commission is an instrumentality of the party
16 states.

17 (2) Venue is proper, and judicial proceedings by or against
18 the commission shall be brought solely and exclusively, in a
19 court of competent jurisdiction where the principal office of
20 the commission is located. The commission may waive venue and
21 jurisdictional defenses to the extent it adopts or consents to
22 participate in alternative dispute resolution proceedings.

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

25 *b. Membership, voting, and meetings.*

26 (1) Each party state shall have and be limited to one
27 administrator. The head of the state licensing board or
28 designee shall be the administrator of this compact for each
29 party state. Any administrator may be removed or suspended
30 from office as provided by the law of the state from which
31 the administrator is appointed. Any vacancy occurring in the
32 commission shall be filled in accordance with the laws of the
33 party state in which the vacancy exists.

34 (2) Each administrator shall be entitled to one vote with
35 regard to the promulgation of rules and creation of bylaws

1 and shall otherwise have an opportunity to participate in the
2 business and affairs of the commission. An administrator
3 shall vote in person or by such other means as provided in
4 the bylaws. The bylaws may provide for an administrator's
5 participation in meetings by telephone or other means of
6 communication.

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

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

13 (5) The commission may convene in a closed, nonpublic
14 meeting if the commission must discuss any of the following:

15 (a) Noncompliance of a party state with its obligations
16 under this compact.

17 (b) The employment, compensation, discipline, or other
18 personnel matters, practices, or procedures related to specific
19 employees or other matters related to the commission's internal
20 personnel practices and procedures.

21 (c) Current, threatened, or reasonably anticipated
22 litigation.

23 (d) Negotiation of contracts for the purchase or sale of
24 goods, services, or real estate.

25 (e) Accusing any person of a crime or formally censuring any
26 person.

27 (f) Disclosure of trade secrets or commercial or financial
28 information that is privileged or confidential.

29 (g) Disclosure of information of a personal nature where
30 disclosure would constitute a clearly unwarranted invasion of
31 personal privacy.

32 (h) Disclosure of investigatory records compiled for law
33 enforcement purposes.

34 (i) Disclosure of information related to any reports
35 prepared by or on behalf of the commission for the purpose of

1 investigation of compliance with this compact.

2 (j) Matters specifically exempted from disclosure by
3 federal or state statute.

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

16 c. The commission shall, by a majority vote of the
17 administrators, prescribe bylaws or rules to govern its conduct
18 as may be necessary or appropriate to carry out the purposes
19 and exercise the powers of this compact, including but not
20 limited to any of the following:

21 (1) Establishing the fiscal year of the commission.

22 (2) Providing reasonable standards and procedures for both
23 of the following:

24 (a) The establishment and meetings of other committees.

25 (b) Governing any general or specific delegation of any
26 authority or function of the commission.

27 (3) Providing reasonable procedures for calling and
28 conducting meetings of the commission, ensuring reasonable
29 advance notice of all meetings, and providing an opportunity
30 for attendance of such meetings by interested parties,
31 with enumerated exceptions designed to protect the public's
32 interest, the privacy of individuals, and proprietary
33 information, including trade secrets. The commission may meet
34 in closed session only after a majority of the administrators
35 vote to close a meeting in whole or in part. As soon as

1 practicable, the commission must make public a copy of the vote
2 to close the meeting revealing the vote of each administrator,
3 with no proxy votes allowed.

4 (4) Establishing the titles, duties, and authority and
5 reasonable procedures for the election of the officers of the
6 commission.

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

12 (6) Providing a mechanism for winding up the operations
13 of the commission and the equitable disposition of any
14 surplus funds that may exist after the termination of this
15 compact after the payment or reserving of all of its debts and
16 obligations.

17 *d.* The commission shall publish its bylaws and rules, and
18 any amendments thereto, in a convenient form on the internet
19 site of the commission.

20 *e.* The commission shall maintain its financial records in
21 accordance with the bylaws.

22 *f.* The commission shall meet and take such actions as are
23 consistent with the provisions of this compact and the bylaws.

24 *g.* The commission shall have the following powers:

25 (1) To promulgate uniform rules to facilitate and
26 coordinate implementation and administration of this compact.
27 The rules shall have the force and effect of law and shall be
28 binding in all party states.

29 (2) To bring and prosecute legal proceedings or actions in
30 the name of the commission, provided that the standing of any
31 licensing board to sue or be sued under applicable law shall
32 not be affected.

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

34 (4) To borrow, accept, or contract for services of
35 personnel, including but not limited to employees of a party

1 state or nonprofit organizations.

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

6 (6) To hire employees, elect or appoint officers, fix
7 compensation, define duties, grant such individuals appropriate
8 authority to carry out the purposes of this compact, and to
9 establish the commission's personnel policies and programs
10 relating to conflicts of interest, qualifications of personnel,
11 and other related personnel matters.

12 (7) To accept any and all appropriate donations, grants and
13 gifts of money, equipment, supplies, materials, and services,
14 and to receive, utilize, and dispose of the same; provided
15 that at all times the commission shall avoid any appearance of
16 impropriety or conflict of interest.

17 (8) To lease, purchase, accept appropriate gifts or
18 donations of, or otherwise to own, hold, improve, or use, any
19 property, whether real, personal, or mixed; provided that
20 at all times the commission shall avoid any appearance of
21 impropriety.

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

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

26 (11) To borrow money.

27 (12) To appoint committees, including advisory committees
28 comprised of administrators, state nursing regulators,
29 state legislators or their representatives, and consumer
30 representatives, and other such interested persons.

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

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

34 (15) To perform such other functions as may be necessary or
35 appropriate to achieve the purposes of this compact consistent

1 with the state regulation of nurse licensure and practice.

2 *h. Financing of the commission.*

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

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

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

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

25 *i. Qualified immunity, defense, and indemnification.*

26 (1) The administrators, officers, executive director,
27 employees, and representatives of the commission shall be
28 immune from suit and liability, either personally or in their
29 official capacity, for any claim for damage to or loss of
30 property or personal injury or other civil liability caused by
31 or arising out of any actual or alleged act, error, or omission
32 that occurred, or that the person against whom the claim is
33 made had a reasonable basis for believing occurred, within the
34 scope of commission employment, duties, or responsibilities;
35 provided that nothing in this paragraph "i" shall be construed

1 to protect any such person from suit or liability for any
2 damage, loss, injury, or liability caused by the intentional,
3 willful, or wanton misconduct of that person.

4 (2) The commission shall defend any administrator,
5 officer, executive director, employee, or representative of
6 the commission in any civil action seeking to impose liability
7 arising out of any actual or alleged act, error, or omission
8 that occurred within the scope of commission employment,
9 duties, or responsibilities, or that the person against
10 whom the claim is made had a reasonable basis for believing
11 occurred within the scope of commission employment, duties,
12 or responsibilities; provided that nothing herein shall be
13 construed to prohibit that person from retaining the person's
14 own counsel; and provided further that the actual or alleged
15 act, error, or omission did not result from that person's
16 intentional, willful, or wanton misconduct.

17 (3) The commission shall indemnify and hold harmless
18 any administrator, officer, executive director, employee,
19 or representative of the commission for the amount of any
20 settlement or judgment obtained against that person arising
21 out of any actual or alleged act, error, or omission that
22 occurred within the scope of commission employment, duties,
23 or responsibilities, or that such person had a reasonable
24 basis for believing occurred within the scope of commission
25 employment, duties, or responsibilities, provided that the
26 actual or alleged act, error, or omission did not result from
27 the intentional, willful, or wanton misconduct of that person.

28 8. *Article VIII — Rulemaking.*

29 a. The commission shall exercise its rulemaking powers
30 pursuant to the criteria set forth in this article and the
31 rules adopted thereunder. Rules and amendments shall become
32 binding as of the date specified in each rule or amendment and
33 shall have the same force and effect as provisions of this
34 compact.

35 b. Rules or amendments to the rules shall be adopted at a

1 regular or special meeting of the commission.

2 *c.* Prior to promulgation and adoption of a final rule or
3 rules by the commission, and at least sixty days in advance
4 of the meeting at which the rule will be considered and voted
5 upon, the commission shall file a notice of proposed rulemaking
6 on the internet site of the commission and on the internet site
7 of each licensing board or the publication in which each state
8 would otherwise publish proposed rules.

9 *d.* The notice of proposed rulemaking shall include all of
10 the following:

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

13 (2) The text of the proposed rule or amendment, and the
14 reason for the proposed rule.

15 (3) A request for comments on the proposed rule from any
16 interested person.

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

20 *e.* Prior to adoption of a proposed rule, the commission
21 shall allow persons to submit written data, facts, opinions,
22 and arguments, which shall be made available to the public.

23 *f.* The commission shall grant an opportunity for a public
24 hearing before it adopts a rule or amendment.

25 *g.* The commission shall publish the place, time, and date of
26 the scheduled public hearing.

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

31 (2) Nothing in this article shall be construed as requiring
32 a separate hearing on each rule. Rules may be grouped for the
33 convenience of the commission at hearings required by this
34 article.

35 *h.* If no one appears at the public hearing, the commission

1 may proceed with promulgation of the proposed rule.

2 *i.* Following the scheduled hearing date, or by the close
3 of business on the scheduled hearing date if the hearing was
4 not held, the commission shall consider all written and oral
5 comments received.

6 *j.* The commission shall, by majority vote of all
7 administrators, take final action on the proposed rule and
8 shall determine the effective date of the rule, if any, based
9 on the rulemaking record and the full text of the rule.

10 *k.* Upon determination that an emergency exists, the
11 commission may consider and adopt an emergency rule without
12 prior notice, opportunity for comment or hearing, provided that
13 the usual rulemaking procedures provided in this compact and
14 in this article shall be retroactively applied to the rule as
15 soon as reasonably possible, in no event later than ninety days
16 after the effective date of the rule. For the purposes of
17 this provision, an emergency rule is one that must be adopted
18 immediately in order to do any of the following:

19 (1) Meet an imminent threat to public health, safety, or
20 welfare.

21 (2) Prevent a loss of commission or party state funds.

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

24 *l.* The commission may direct revisions to a previously
25 adopted rule or amendment for purposes of correcting
26 typographical errors, errors in format, errors in consistency,
27 or grammatical errors. Public notice of any revisions shall be
28 posted on the internet site of the commission. The revision
29 shall be subject to challenge by any person for a period of
30 thirty days after posting. The revision may be challenged only
31 on grounds that the revision results in a material change to
32 a rule. A challenge shall be made in writing, and delivered
33 to the commission, prior to the end of the notice period. If
34 no challenge is made, the revision will take effect without
35 further action. If the revision is challenged, the revision

1 may not take effect without the approval of the commission.

2 9. *Article IX — Oversight, dispute resolution, and*
3 *enforcement.*

4 *a. Oversight.*

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

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

15 *b. Default, technical assistance, and termination.*

16 (1) If the commission determines that a party state
17 has defaulted in the performance of its obligations or
18 responsibilities under this compact or the promulgated rules,
19 the commission shall do both of the following:

20 (a) Provide written notice to the defaulting state and other
21 party states of the nature of the default, the proposed means
22 of curing the default, or any other action to be taken by the
23 commission.

24 (b) Provide remedial training and specific technical
25 assistance regarding the default.

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

34 (3) Termination of membership in this compact shall be
35 imposed only after all other means of securing compliance have

1 been exhausted. Notice of intent to suspend or terminate shall
2 be given by the commission to the governor of the defaulting
3 state and to the executive officer of the defaulting state's
4 licensing board and each of the party states.

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

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

14 (6) The defaulting state may appeal the action of the
15 commission by petitioning the United States district court
16 for the District of Columbia or the federal district in which
17 the commission has its principal offices. The prevailing
18 party shall be awarded all costs of such litigation, including
19 reasonable attorneys' fees.

20 *c. Dispute resolution.*

21 (1) Upon request by a party state, the commission shall
22 attempt to resolve disputes related to the compact that arise
23 among party states and between party and nonparty states.

24 (2) The commission shall promulgate a rule providing for
25 both mediation and binding dispute resolution for disputes, as
26 appropriate.

27 (3) In the event the commission cannot resolve disputes
28 among party states arising under this compact:

29 (a) The party states may submit the issues in dispute to
30 an arbitration panel, which will be comprised of individuals
31 appointed by the compact administrator in each of the affected
32 party states and an individual mutually agreed upon by the
33 compact administrators of all the party states involved in the
34 dispute.

35 (b) The decision of a majority of the arbitrators shall be

1 final and binding.

2 *d. Enforcement.*

3 (1) The commission, in the reasonable exercise of its
4 discretion, shall enforce the provisions and rules of this
5 compact.

6 (2) By majority vote, the commission may initiate legal
7 action in the United States district court for the District of
8 Columbia or the federal district in which the commission has
9 its principal offices against a party state that is in default
10 to enforce compliance with the provisions of this compact
11 and its promulgated rules and bylaws. The relief sought may
12 include both injunctive relief and damages. In the event
13 judicial enforcement is necessary, the prevailing party shall
14 be awarded all costs of such litigation, including reasonable
15 attorneys' fees.

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

19 10. *Article X — Effective date, withdrawal, and amendment.*

20 *a.* This compact shall become effective and binding on the
21 earlier of the date of legislative enactment of this compact
22 into law by no less than twenty-six states or December 31,
23 2018. All party states to this compact, that also were parties
24 to the prior nurse licensure compact, superseded by this
25 compact, shall be deemed to have withdrawn from said prior
26 compact within six months after the effective date of this
27 compact.

28 *b.* Each party state to this compact shall continue to
29 recognize a nurse's multistate licensure privilege to practice
30 in that party state issued under the prior nurse licensure
31 compact until such party state has withdrawn from the prior
32 nurse licensure compact.

33 *c.* Any party state may withdraw from this compact by
34 enacting a statute repealing the same. A party state's
35 withdrawal shall not take effect until six months after

1 enactment of the repealing statute.

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

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

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

16 *g.* Representatives of nonparty states to this compact shall
17 be invited to participate in the activities of the commission,
18 on a nonvoting basis, prior to the adoption of this compact by
19 all states.

20 11. *Article XI — Construction and severability.*

21 This compact shall be liberally construed so as to
22 effectuate the purposes thereof. The provisions of this
23 compact shall be severable, and if any phrase, clause,
24 sentence, or provision of this compact is declared to
25 be contrary to the constitution of any party state or of
26 the United States, or if the applicability thereof to any
27 government, agency, person, or circumstance is held invalid,
28 the validity of the remainder of this compact and the
29 applicability thereof to any government, agency, person, or
30 circumstance shall not be affected thereby. If this compact
31 shall be held to be contrary to the constitution of any party
32 state, this compact shall remain in full force and effect as to
33 the remaining party states and in full force and effect as to
34 the party state affected as to all severable matters.

35 Sec. 2. Section 152E.2, Code 2017, is amended to read as

1 follows:

2 **152E.2 Compact administrator.**

3 The executive director of the board of nursing, as provided
4 for in [section 152.2](#), shall serve as the compact administrator
5 identified in article ~~VIII~~ VII, paragraph ~~"a"~~ "b", of the
6 nurse licensure compact contained in [section 152E.1](#) and as the
7 compact administrator identified in article VIII, paragraph
8 "a", of the advanced practice registered nurse compact
9 contained in [section 152E.3](#).

10 Sec. 3. EFFECTIVE DATE. This Act takes effect upon the
11 earlier of the date of adoption of the revised nurse licensure
12 compact contained in this Act by no less than twenty-six states
13 or December 31, 2018. The executive director of the board
14 of nursing shall notify the Code editor upon adoption of the
15 compact by the requisite number of states.

16 EXPLANATION

17 The inclusion of this explanation does not constitute agreement with
18 the explanation's substance by the members of the general assembly.

19 This bill adopts a revised version of the nurse licensure
20 compact in Code chapter 152E. The new compact creates an
21 interstate commission of nurse licensure compact administrators
22 that will have the power to adopt rules binding on its members,
23 or "party states", bring legal action in its own name, purchase
24 insurance and bonds, hire and compensate employees, and rent or
25 purchase property.

26 The commission may also levy on and collect an annual
27 assessment from this state and all other party states to cover
28 the cost of its operations, activities, and staff in its annual
29 budget as approved each year. The aggregate annual assessment
30 amount, if any, shall be allocated based upon a formula to be
31 determined by the commission, which shall adopt a rule that
32 is binding upon all party states. In this state, the compact
33 administrator shall be the executive director of the board of
34 nursing.

35 The bill becomes effective upon its adoption by no less than

S.F. 419

1 26 states or on December 31, 2018, whichever is earlier.