

SECOND REGULAR SESSION

[P E R F E C T E D]

SENATE BILL NO. 985

98TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR WASSON.

Read 1st time January 27, 2016, and ordered printed.

Read 2nd time January 28, 2016, and referred to the Committee on Financial and Governmental Organizatins and Elections.

Reported from the Committee March 3, 2016, with recommendation that the bill do pass.

Taken up for Perfection April 12, 2016. Bill declared Perfected and Ordered Printed.

ADRIANE D. CROUSE, Secretary.

6035S.01P

AN ACT

To amend chapter 335, RSMo, by adding thereto twelve new sections relating to the nurse licensure compact, with an effective date.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Chapter 335, RSMo, is amended by adding thereto twelve new sections, to be known as sections 335.360, 335.365, 335.370, 335.375, 335.380, 335.385, 335.390, 335.395, 335.400, 335.405, 335.410, and 335.415, to read as follows:

335.360. 1. The party states find that:

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

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

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

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

(5) The current system of duplicative licensure for nurses practicing in multiple states is cumbersome and redundant to both nurses and states; and

(6) Uniformity of nurse licensure requirements throughout the

17 states promotes public safety and public health benefits.

18 2. The general purposes of this compact are to:

19 (1) Facilitate the states' responsibility to protect the public's
20 health and safety;

21 (2) Ensure and encourage the cooperation of party states in the
22 areas of nurse licensure and regulation;

23 (3) Facilitate the exchange of information between party states
24 in the areas of nurse regulation, investigation, and adverse actions;

25 (4) Promote compliance with the laws governing the practice of
26 nursing in each jurisdiction;

27 (5) Invest all party states with the authority to hold a nurse
28 accountable for meeting all state practice laws in the state in which the
29 patient is located at the time care is rendered through the mutual
30 recognition of party state licenses;

31 (6) Decrease redundancies in the consideration and issuance of
32 nurse licenses; and

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

335.365. As used in this compact, the following terms shall mean:

2 (1) "Adverse action", any administrative, civil, equitable, or
3 criminal action permitted by a state's laws which is imposed by a
4 licensing board or other authority against a nurse, including actions
5 against an individual's license or multistate licensure privilege such as
6 revocation, suspension, probation, monitoring of the licensee, limitation
7 on the licensee's practice, or any other encumbrance on licensure
8 affecting a nurse's authorization to practice, including issuance of a
9 cease and desist action;

10 (2) "Alternative program", a nondisciplinary monitoring program
11 approved by a licensing board;

12 (3) "Coordinated licensure information system", an integrated
13 process for collecting, storing, and sharing information on nurse
14 licensure and enforcement activities related to nurse licensure laws
15 that is administered by a nonprofit organization composed of and
16 controlled by licensing boards;

17 (4) "Current significant investigative information":

18 (a) Investigative information that a licensing board, after a
19 preliminary inquiry that includes notification and an opportunity for

20 the nurse to respond, if required by state law, has reason to believe is
21 not groundless and, if proved true, would indicate more than a minor
22 infraction; or

23 (b) Investigative information that indicates that the nurse
24 represents an immediate threat to public health and safety, regardless
25 of whether the nurse has been notified and had an opportunity to
26 respond;

27 (5) "Encumbrance", a revocation or suspension of, or any
28 limitation on, the full and unrestricted practice of nursing imposed by
29 a licensing board;

30 (6) "Home state", the party state which is the nurse's primary
31 state of residence;

32 (7) "Licensing board", a party state's regulatory body responsible
33 for issuing nurse licenses;

34 (8) "Multistate license", a license to practice as a registered
35 nurse, "RN", or a licensed practical or vocational nurse, "LPN" or "VN",
36 issued by a home state licensing board that authorizes the licensed
37 nurse to practice in all party states under a multistate licensure
38 privilege;

39 (9) "Multistate licensure privilege", a legal authorization
40 associated with a multistate license permitting the practice of nursing
41 as either an RN, LPN, or VN in a remote state;

42 (10) "Nurse", an RN, LPN, or VN, as those terms are defined by
43 each party state's practice laws;

44 (11) "Party state", any state that has adopted this compact;

45 (12) "Remote state", a party state, other than the home state;

46 (13) "Single-state license", a nurse license issued by a party state
47 that authorizes practice only within the issuing state and does not
48 include a multistate licensure privilege to practice in any other party
49 state;

50 (14) "State", a state, territory, or possession of the United States
51 and the District of Columbia;

52 (15) "State practice laws", a party state's laws, rules, and
53 regulations that govern the practice of nursing, define the scope of
54 nursing practice, and create the methods and grounds for imposing
55 discipline. State practice laws do not include requirements necessary
56 to obtain and retain a license, except for qualifications or requirements

57 of the home state.

335.370. 1. A multistate license to practice registered or licensed
2 practical or vocational nursing issued by a home state to a resident in
3 that state shall be recognized by each party state as authorizing a
4 nurse to practice as a registered nurse, "RN", or as a licensed practical
5 or vocational nurse, "LPN" or "VN", under a multistate licensure
6 privilege, in each party state.

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

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

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

18 (2) (a) Has graduated or is eligible to graduate from a licensing
19 board-approved RN or LPN or VN prelicensure education program; or

20 (b) Has graduated from a foreign RN or LPN or VN prelicensure
21 education program that has been approved by the authorized
22 accrediting body in the applicable country and has been verified by an
23 independent credentials review agency to be comparable to a licensing
24 board-approved prelicensure education program;

25 (3) Has, if a graduate of a foreign prelicensure education
26 program not taught in English or if English is not the individual's
27 native language, successfully passed an English proficiency
28 examination that includes the components of reading, speaking,
29 writing, and listening;

30 (4) Has successfully passed an NCLEX-RN or NCLEX-PN
31 examination or recognized predecessor, as applicable;

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

33 (6) Has submitted, in connection with an application for initial
34 licensure or licensure by endorsement, fingerprints or other biometric
35 data for the purpose of obtaining criminal history record information
36 from the Federal Bureau of Investigation and the agency responsible

37 for retaining that state's criminal records;

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

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

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

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

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

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

58 5. A nurse practicing in a party state shall comply with the state
59 practice laws of the state in which the client is located at the time
60 service is provided. The practice of nursing is not limited to patient
61 care, but shall include all nursing practice as defined by the state
62 practice laws of the party state in which the client is located. The
63 practice of nursing in a party state under a multistate licensure
64 privilege shall subject a nurse to the jurisdiction of the licensing board,
65 the courts, and the laws of the party state in which the client is located
66 at the time service is provided.

67 6. Individuals not residing in a party state shall continue to be
68 able to apply for a party state's single-state license as provided under
69 the laws of each party state. However, the single-state license granted
70 to these individuals shall not be recognized as granting the privilege
71 to practice nursing in any other party state. Nothing in this compact
72 shall affect the requirements established by a party state for the
73 issuance of a single-state license.

74 7. Any nurse holding a home state multistate license on the
75 effective date of this compact may retain and renew the multistate
76 license issued by the nurse's then current home state, provided that:

77 (1) A nurse who changes primary state of residence after this
78 compact's effective date shall meet all applicable requirements as
79 provided in subsection 3 of this section to obtain a multistate license
80 from a new home state;

81 (2) A nurse who fails to satisfy the multistate licensure
82 requirements in subsection 3 of this section due to a disqualifying
83 event occurring after this compact's effective date shall be ineligible to
84 retain or renew a multistate license, and the nurse's multistate license
85 shall be revoked or deactivated in accordance with applicable rules
86 adopted by the Interstate Commission of Nurse Licensure Compact
87 Administrators, commission.

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

10 2. A nurse shall hold a multistate license, issued by the home
11 state, in only one party state at a time.

12 3. If a nurse changes primary state of residence by moving
13 between two party states, the nurse shall apply for licensure in the new
14 home state, and the multistate license issued by the prior home state
15 shall be deactivated in accordance with applicable rules adopted by the
16 commission.

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

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

23 4. If a nurse changes primary state of residence by moving from

24 a party state to a non-party state, the multistate license issued by the
25 prior home state shall convert to a single-state license, valid only in the
26 former home state.

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

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

5 (a) Only the home state shall have the power to take adverse
6 action against a nurse's license issued by the home state;

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

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

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

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

33 (5) Obtain and submit, for each nurse licensure applicant,
34 fingerprint or other biometric based information to the Federal Bureau

35 of Investigation for criminal background checks, receive the results of
36 the Federal Bureau of Investigation record search on criminal
37 background checks, and use the results in making licensure decisions;

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

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

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

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

335.385. 1. All party states shall participate in a coordinated
2 licensure information system of all licensed registered nurses, "RNs",
3 and licensed practical or vocational nurses, "LPNs" or "VNs". This
4 system shall include information on the licensure and disciplinary
5 history of each nurse, as submitted by party states, to assist in the
6 coordination of nurse licensure and enforcement efforts.

7 2. The commission, in consultation with the administrator of the
8 coordinated licensure information system, shall formulate necessary
9 and proper procedures for the identification, collection, and exchange
10 of information under this compact.

11 3. All licensing boards shall promptly report to the coordinated
12 licensure information system any adverse action, any current
13 significant investigative information, denials of applications with the
14 reasons for such denials, and nurse participation in alternative
15 programs known to the licensing board regardless of whether such

16 participation is deemed nonpublic or confidential under state law.

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

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

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

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

35 8. The compact administrator of each party state shall furnish a
36 uniform data set to the compact administrator of each other party
37 state, which shall include, at a minimum:

- 38 (1) Identifying information;
39 (2) Licensure data;
40 (3) Information related to alternative program participation; and
41 (4) Other information that may facilitate the administration of
42 this compact, as determined by commission rules.

43 9. The compact administrator of a party state shall provide all
44 investigative documents and information requested by another party
45 state.

335.390. 1. The party states hereby create and establish a joint
2 public entity known as the "Interstate Commission of Nurse Licensure
3 Compact Administrators".

- 4 (1) The commission is an instrumentality of the party states.
5 (2) Venue is proper, and judicial proceedings by or against the
6 commission shall be brought solely and exclusively in a court of
7 competent jurisdiction where the principal office of the commission is

8 located. The commission may waive venue and jurisdictional defenses
9 to the extent it adopts or consents to participate in alternative dispute
10 resolution proceedings.

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

13 2. (1) Each party state shall have and be limited to one
14 administrator. The head of the state licensing board or designee shall
15 be the administrator of this compact for each party state. Any
16 administrator may be removed or suspended from office as provided by
17 the law of the state from which the administrator is appointed. Any
18 vacancy occurring in the commission shall be filled in accordance with
19 the laws of the party state in which the vacancy exists.

20 (2) Each administrator shall be entitled to one vote with regard
21 to the promulgation of rules and creation of bylaws and shall otherwise
22 have an opportunity to participate in the business and affairs of the
23 commission. An administrator shall vote in person or by such other
24 means as provided in the bylaws. The bylaws may provide for an
25 administrator's participation in meetings by telephone or other means
26 of communication.

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

30 (4) All meetings shall be open to the public, and public notice of
31 meetings shall be given in the same manner as required under the
32 rulemaking provisions in section 335.395.

33 (5) The commission may convene in a closed, nonpublic meeting
34 if the commission must discuss:

35 (a) Noncompliance of a party state with its obligations under this
36 compact;

37 (b) The employment, compensation, discipline, or other
38 personnel matters, practices, or procedures related to specific
39 employees, or other matters related to the commission's internal
40 personnel practices and procedures;

41 (c) Current, threatened, or reasonably anticipated litigation;

42 (d) Negotiation of contracts for the purchase or sale of goods,
43 services, or real estate;

44 (e) Accusing any person of a crime or formally censuring any

45 **person;**

46 **(f) Disclosure of trade secrets or commercial or financial**
47 **information that is privileged or confidential;**

48 **(g) Disclosure of information of a personal nature where**
49 **disclosure would constitute a clearly unwarranted invasion of personal**
50 **privacy;**

51 **(h) Disclosure of investigatory records compiled for law**
52 **enforcement purposes;**

53 **(i) Disclosure of information related to any reports prepared by**
54 **or on behalf of the commission for the purpose of investigation of**
55 **compliance with this compact; or**

56 **(j) Matters specifically exempted from disclosure by federal or**
57 **state statute.**

58 **(6) If a meeting, or portion of a meeting, is closed pursuant to**
59 **subdivision (5) of this subsection, the commission's legal counsel or**
60 **designee shall certify that the meeting shall be closed and shall**
61 **reference each relevant exempting provision. The commission shall**
62 **keep minutes that fully and clearly describe all matters discussed in a**
63 **meeting and shall provide a full and accurate summary of actions**
64 **taken, and the reasons therefor, including a description of the views**
65 **expressed. All documents considered in connection with an action shall**
66 **be identified in such minutes. All minutes and documents of a closed**
67 **meeting shall remain under seal, subject to release by a majority vote**
68 **of the commission or order of a court of competent jurisdiction.**

69 **3. The commission shall, by a majority vote of the administrators,**
70 **prescribe bylaws or rules to govern its conduct as may be necessary or**
71 **appropriate to carry out the purposes and exercise the powers of this**
72 **compact including, but not limited to:**

73 **(1) Establishing the fiscal year of the commission;**

74 **(2) Providing reasonable standards and procedures:**

75 **(a) For the establishment and meetings of other committees; and**

76 **(b) Governing any general or specific delegation of any authority**
77 **or function of the commission;**

78 **(3) Providing reasonable procedures for calling and conducting**
79 **meetings of the commission, ensuring reasonable advance notice of all**
80 **meetings and providing an opportunity for attendance of such meetings**
81 **by interested parties, with enumerated exceptions designed to protect**

82 the public's interest, the privacy of individuals, and proprietary
83 information, including trade secrets. The commission may meet in
84 closed session only after a majority of the administrators vote to close
85 a meeting in whole or in part. As soon as practicable, the commission
86 must make public a copy of the vote to close the meeting revealing the
87 vote of each administrator, with no proxy votes allowed;

88 (4) Establishing the titles, duties, and authority and reasonable
89 procedures for the election of the officers of the commission;

90 (5) Providing reasonable standards and procedures for the
91 establishment of the personnel policies and programs of the
92 commission. Notwithstanding any civil service or other similar laws of
93 any party state, the bylaws shall exclusively govern the personnel
94 policies and programs of the commission; and

95 (6) Providing a mechanism for winding up the operations of the
96 commission and the equitable disposition of any surplus funds that may
97 exist after the termination of this compact after the payment or
98 reserving of all of its debts and obligations.

99 4. The commission shall publish its bylaws and rules, and any
100 amendments thereto, in a convenient form on the website of the
101 commission.

102 5. The commission shall maintain its financial records in
103 accordance with the bylaws.

104 6. The commission shall meet and take such actions as are
105 consistent with the provisions of this compact and the bylaws.

106 7. The commission shall have the following powers:

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

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

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

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

117 (5) To cooperate with other organizations that administer state
118 compacts related to the regulation of nursing including, but not limited

119 to, sharing administrative or staff expenses, office space, or other
120 resources;

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

126 (7) To accept any and all appropriate donations, grants and gifts
127 of money, equipment, supplies, materials, and services, and to receive,
128 utilize, and dispose of the same; provided that, at all times the
129 commission shall avoid any appearance of impropriety or conflict of
130 interest;

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

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

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

138 (11) To borrow money;

139 (12) To appoint committees, including advisory committees
140 comprised of administrators, state nursing regulators, state legislators
141 or their representatives, consumer representatives, and other such
142 interested persons;

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

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

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

149 8. (1) The commission shall pay, or provide for the payment of,
150 the reasonable expenses of its establishment, organization, and ongoing
151 activities.

152 (2) The commission may also levy on and collect an annual
153 assessment from each party state to cover the cost of its operations,
154 activities, and staff in its annual budget as approved each year. The
155 aggregate annual assessment amount, if any, shall be allocated based

156 upon a formula to be determined by the commission, which shall
157 promulgate a rule that is binding upon all party states.

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

162 (4) The commission shall keep accurate accounts of all receipts
163 and disbursements. The receipts and disbursements of the commission
164 shall be subject to the audit and accounting procedures established
165 under its bylaws. However, all receipts and disbursements of funds
166 handled by the commission shall be audited yearly by a certified or
167 licensed public accountant, and the report of the audit shall be
168 included in and become part of the annual report of the commission.

169 9. (1) The administrators, officers, executive director, employees,
170 and representatives of the commission shall be immune from suit and
171 liability, either personally or in their official capacity, for any claim for
172 damage to or loss of property, personal injury, or other civil liability
173 caused by or arising out of any actual or alleged act, error, or omission
174 that occurred, or that the person against whom the claim is made had
175 a reasonable basis for believing occurred, within the scope of
176 commission employment, duties, or responsibilities; provided that,
177 nothing in this paragraph shall be construed to protect any such person
178 from suit or liability for any damage, loss, injury, or liability caused by
179 the intentional, willful, or wanton misconduct of that person.

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

191 (3) The commission shall indemnify and hold harmless any
192 administrator, officer, executive director, employee, or representative

193 of the commission for the amount of any settlement or judgment
194 obtained against that person arising out of any actual or alleged act,
195 error, or omission that occurred within the scope of commission
196 employment, duties, or responsibilities, or that such person had a
197 reasonable basis for believing occurred within the scope of commission
198 employment, duties, or responsibilities; provided that, the actual or
199 alleged act, error, or omission did not result from the intentional,
200 willful, or wanton misconduct of that person.

335.395. 1. The commission shall exercise its rulemaking powers
2 pursuant to the criteria set forth in this section and the rules adopted
3 thereunder. Rules and amendments shall become binding as of the date
4 specified in each rule or amendment and shall have the same force and
5 effect as provisions of this compact.

6 2. Rules or amendments to the rules shall be adopted at a regular
7 or special meeting of the commission.

8 3. Prior to promulgation and adoption of a final rule or rules by
9 the commission, and at least sixty days in advance of the meeting at
10 which the rule shall be considered and voted upon, the commission
11 shall file a notice of proposed rulemaking:

12 (1) On the website of the commission; and

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

15 4. The notice of proposed rulemaking shall include:

16 (1) The proposed time, date, and location of the meeting in which
17 the rule shall be considered and voted upon;

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

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

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

25 5. Prior to adoption of a proposed rule, the commission shall
26 allow persons to submit written data, facts, opinions, and arguments,
27 which shall be made available to the public.

28 6. The commission shall grant an opportunity for a public
29 hearing before it adopts a rule or amendment.

30 7. The commission shall publish the place, time, and date of the
31 scheduled public hearing.

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

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

39 8. If no one appears at the public hearing, the commission may
40 proceed with promulgation of the proposed rule.

41 9. Following the scheduled hearing date, or by the close of
42 business on the scheduled hearing date if the hearing was not held, the
43 commission shall consider all written and oral comments received.

44 10. The commission shall, by majority vote of all administrators,
45 take final action on the proposed rule and shall determine the effective
46 date of the rule, if any, based on the rulemaking record and the full
47 text of the rule.

48 11. Upon determination that an emergency exists, the
49 commission may consider and adopt an emergency rule without prior
50 notice, opportunity for comment, or hearing; provided that, the usual
51 rulemaking procedures provided in this compact and in this section
52 shall be retroactively applied to the rule as soon as reasonably possible,
53 in no event later than ninety days after the effective date of the
54 rule. For the purposes of this provision, an emergency rule is one that
55 shall be adopted immediately in order to:

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

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

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

60 12. The commission may direct revisions to a previously adopted
61 rule or amendment for purposes of correcting typographical errors,
62 errors in format, errors in consistency, or grammatical errors. Public
63 notice of any revisions shall be posted on the website of the
64 commission. The revision shall be subject to challenge by any person
65 for a period of thirty days after posting. The revision shall be
66 challenged only on grounds that the revision results in a material

67 change to a rule. A challenge shall be made in writing and delivered
68 to the commission prior to the end of the notice period. If no challenge
69 is made, the revision shall take effect without further action. If the
70 revision is challenged, the revision shall not take effect without the
71 approval of the commission.

335.400. 1. (1) Each party state shall enforce this compact and
2 take all actions necessary and appropriate to effectuate this compact's
3 purposes and intent.

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

10 2. (1) If the commission determines that a party state has
11 defaulted in the performance of its obligations or responsibilities under
12 this compact or the promulgated rules, the commission shall:

13 (a) Provide written notice to the defaulting state and other party
14 states of the nature of the default, the proposed means of curing the
15 default, or any other action to be taken by the commission; and

16 (b) Provide remedial training and specific technical assistance
17 regarding the default.

18 (2) If a state in default fails to cure the default, the defaulting
19 state's membership in this compact shall be terminated upon an
20 affirmative vote of a majority of the administrators, and all rights,
21 privileges, and benefits conferred by this compact shall be terminated
22 on the effective date of termination. A cure of the default does not
23 relieve the offending state of obligations or liabilities incurred during
24 the period of default.

25 (3) Termination of membership in this compact shall be imposed
26 only after all other means of securing compliance have been
27 exhausted. Notice of intent to suspend or terminate shall be given by
28 the commission to the governor of the defaulting state, to the executive
29 officer of the defaulting state's licensing board, and each of the party
30 states.

31 (4) A state whose membership in this compact has been
32 terminated is responsible for all assessments, obligations, and

33 liabilities incurred through the effective date of termination, including
34 obligations that extend beyond the effective date of termination.

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

39 (6) The defaulting state may appeal the action of the commission
40 by petitioning the United States District Court for the District of
41 Columbia or the federal district in which the commission has its
42 principal offices. The prevailing party shall be awarded all costs of
43 such litigation, including reasonable attorneys' fees.

44 3. (1) Upon request by a party state, the commission shall
45 attempt to resolve disputes related to the compact that arise among
46 party states and between party and non-party states.

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

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

51 (a) The party states shall submit the issues in dispute to an
52 arbitration panel, which shall be comprised of individuals appointed by
53 the compact administrator in each of the affected party states and an
54 individual mutually agreed upon by the compact administrators of all
55 the party states involved in the dispute.

56 (b) The decision of a majority of the arbitrators shall be final
57 and binding.

58 4. (1) The commission, in the reasonable exercise of its
59 discretion, shall enforce the provisions and rules of this compact.

60 (2) By majority vote, the commission may initiate legal action in
61 the United States District Court for the District of Columbia or the
62 federal district in which the commission has its principal offices
63 against a party state that is in default to enforce compliance with the
64 provisions of this compact and its promulgated rules and bylaws. The
65 relief sought may include both injunctive relief and damages. In the
66 event judicial enforcement is necessary, the prevailing party shall be
67 awarded all costs of such litigation, including reasonable attorneys'
68 fees.

69 (3) The remedies herein shall not be the exclusive remedies of

70 the commission. The commission may pursue any other remedies
71 available under federal or state law.

335.405. 1. This compact shall become effective and binding on
2 the earlier of the date of legislative enactment of this compact into law
3 by no less than twenty-six states or December 31, 2018. All party states
4 to this compact that also were parties to the prior Nurse Licensure
5 Compact superseded by this compact "prior compact" shall be deemed
6 to have withdrawn from said prior compact within six months after the
7 effective date of this compact.

8 2. Each party state to this compact shall continue to recognize
9 a nurse's multistate licensure privilege to practice in that party state
10 issued under the prior compact until such party state has withdrawn
11 from the prior compact.

12 3. Any party state may withdraw from this compact by enacting
13 a statute repealing the same. A party state's withdrawal shall not take
14 effect until six months after enactment of the repealing statute.

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

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

23 6. This compact may be amended by the party states. No
24 amendment to this compact shall become effective and binding upon
25 the party states unless and until it is enacted into the laws of all party
26 states.

27 7. Representatives of non-party states to this compact shall be
28 invited to participate in the activities of the commission on a nonvoting
29 basis prior to the adoption of this compact by all states.

335.410. This compact shall be liberally construed so as to
2 effectuate the purposes thereof. The provisions of this compact shall
3 be severable and if any phrase, clause, sentence, or provision of this
4 compact is declared to be contrary to the constitution of any party
5 state or of the United States or the applicability thereof to any
6 government, agency, person, or circumstance is held invalid, the

7 validity of the remainder of this compact and the applicability thereof
8 to any government, agency, person, or circumstance shall not be
9 affected thereby. If this compact shall be held contrary to the
10 constitution of any party state, this compact shall remain in full force
11 and effect as to the remaining party states and in full force and effect
12 as to the party state affected as to all severable matters.

335.415. 1. The term "head of the nurse licensing board" as
2 referred to in section 335.390 of this compact shall mean the executive
3 director of the Missouri state board of nursing.

4 2. A person who is extended the privilege to practice in this state
5 pursuant to the nurse licensure compact is subject to discipline by the
6 board, as set forth in this chapter, for violation of this chapter or the
7 rules and regulations promulgated herein. A person extended the
8 privilege to practice in this state pursuant to the nurse licensure
9 compact shall be subject to adhere to all requirements of this chapter,
10 as if such person were originally licensed in this state.

11 3. This compact is designed to facilitate the regulation of nurses,
12 and does not relieve employers from complying with statutorily
13 imposed obligations.

14 4. This compact does not supercede existing state labor laws.

Section B. This act shall become effective on December 31, 2018, or upon
2 the enactment of this act by no less than twenty-six states and notification of
3 such enactment to the revisor of statutes by the Interstate Commission of Nurse
4 Licensure Compact Administrators, whichever occurs first.

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