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SECTION 34-21-120 FINDINGS; PURPOSE.

(a) The party states find and declare all of the following:

(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 a national health care delivery system requires 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) Uniformity of nurse licensure requirements throughout the states promotes public safety and public health benefits.

(b) The general purpose of this compact is to achieve all of the following:
(1) Facilitate the responsibility of each state to protect public health and safety.

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

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

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

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

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

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

(Act 2019-102, §3.)

SECTION 34-21-121 DEFINITIONS.

For the purposes of this article, the following terms shall have the following meanings:
(1) ADVERSE ACTION. Any administrative, civil, equitable, or criminal action permitted by the law of a state which is imposed by a licensing board or other authority against a nurse, including actions against the license or multistate licensure privilege of an individual, including revocation, suspension, probation, monitoring of a licensee, limitations on the practice of the licensee, the bringing of a cease and desist action against the licensee, or any other encumbrance on licensure affecting the authorization of a nurse to practice.

(2) ALTERNATIVE PROGRAM. A nondisciplinary monitoring program approved by a licensing board.

(3) COMMISSION. The Interstate Commission of Nurse Licensure Compact Administrators.
(4) COMPACT. The Enhanced Nurse Licensure Compact created by this article.

(5) COORDINATED LICENSURE INFORMATION SYSTEM. An integrated process for collecting, storing, and sharing information on nurse licensure and enforcement activities related to nurse licensure laws that is administered by a nonprofit organization composed of and controlled by licensing boards.

(6) CURRENT SIGNIFICANT INVESTIGATIVE INFORMATION. Includes any of the following:
a. Investigative information that a licensing board, after a preliminary inquiry that includes notification and an opportunity for the nurse to respond, if required by state law, has reason to believe is not groundless and, if proved true, would indicate more than a minor infraction.
b. Investigative information indicating that a nurse represents an immediate threat to public health and safety, regardless of whether the nurse has been notified and has had an opportunity to respond.

(7) ENCUMBRANCE. A revocation or suspension of, or any limitation on, the full and unrestricted practice of nursing imposed by a licensing board.

(8) HOME STATE. The party state which is the primary state of residence of a nurse.

(9) LICENSING BOARD. The regulatory body of a party state that is responsible for issuing nurse licenses.

(10) MULTISTATE LICENSE. A license to practice as a registered nurse or licensed practical nurse issued by a home state licensing board that allows a licensed nurse to practice in any state authorized to grant multistate licensure privileges under the compact.

(11) MULTISTATE LICENSURE PRIVILEGE. A legal authorization associated with a multistate license that allows the practice of nursing as a registered nurse or licensed practical nurse in a remote state.

(12) NURSE. A registered nurse or licensed practical nurse as those terms are defined by the practice laws of the party state.

(13) PARTY STATE. Any state that has adopted this compact.

(14) REMOTE STATE. A party state, other than the home state.

(15) SINGLE STATE LICENSE. A nurse license issued by a state participating in the compact that authorizes practice only within the issuing state and does not include a multistate licensure privilege to practice in any other state.

(16) STATE. A state, territory, or possession of the United States and the District of Columbia.

(17) STATE PRACTICE LAWS. The laws, rules, and regulations of a party state that govern the practice of nursing, define the scope of nursing practice, and create the methods and grounds for imposing discipline. The term does not include requirements necessary to obtain and retain a license, except for qualifications or requirements of the home state.

(Act 2019-102, §3.)

SECTION 34-21-122 GENERAL PROVISIONS AND JURISDICTION.

(a) A multistate license to practice registered or licensed practical nursing issued by a home state to a resident in that state shall be recognized by each party state as authorizing a nurse to practice as a registered nurse or as a licensed practical nurse, under a multistate licensure privilege, in each party state.

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

(c) Each party state shall require an applicant to satisfy all of the following to obtain or retain a multistate license in his or her home state:

(1) Satisfies the qualifications for licensure or renewal of licensure of the home state, as well as all other applicable state laws.

(2) Satisfies either of the following:

a. Has graduated or is eligible to graduate from a licensing board-approved registered nurse or licensed practical nurse prelicensure education program.

b. Has graduated from a foreign registered nurse or licensed practical nurse prelicensure education program that (i) has been approved by the authorized accrediting body in the applicable country and (ii) has been verified by an independent credentials review agency to be comparable to a licensing board-approved prelicensure education program.

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

(4) Has successfully passed an NCLEX-RN or NCLEX-PN Examination, or recognized predecessor examination, as applicable.

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

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

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

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

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

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

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

(d) A party state, in accordance with existing state due process law, may take adverse action against the multistate licensure privilege of a nurse including revocation, suspension, probation, or any other action that affects the authorization of the nurse to practice under a multistate licensure privilege, including a cease and desist action. If a party state takes adverse action, the state shall promptly notify the administrator of the coordinated licensure information system. The administrator of the coordinated licensure information system shall promptly notify the home state of any adverse action by a remote state.

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

(f) Individuals not residing in a party state shall continue to be able to apply for a single state license in a party state as provided under the laws of the party state. A single state license granted to these individuals will not be recognized as granting the privilege to practice nursing in any other party state. Nothing in this compact shall affect the requirements established by a party state for the issuance of a single state license.

(g) Any nurse holding a home state multistate license, on the effective date of this compact, may retain and renew the multistate license issued by his or her then-current home state, provided that:

(1) A nurse, who changes his or her primary state of residence after the effective date of this compact, shall satisfy all applicable requirements of this section to obtain a multistate license from a new home state.

(2) A nurse who fails to satisfy the multistate licensure requirements in this section due to a disqualifying event occurring after the effective date of this compact shall be ineligible to retain or renew a multistate license, and the multistate license of that nurse shall be revoked or deactivated in accordance with applicable rules adopted by the Interstate Commission of Nurse Licensure Compact Administrators.

(Act 2019-102, §3.)

SECTION 34-21-123 APPLICATIONS FOR LICENSURE IN A PARTY STATE.

(a) Upon application for a multistate license, the licensing board in the issuing party state shall ascertain, through the coordinated licensure information system, all of the following:

(1) Whether the applicant has ever held, or is the holder of, a license issued by any other state.

(2) Whether there are any encumbrances on any license or multistate licensure privilege held by the applicant.

(3) Whether any adverse action has been taken against any license or multistate licensure privilege held by the applicant.

(4) Whether the applicant is currently participating in an alternative program.

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

(c) If a nurse changes his or her primary state of residence by moving between two party states, the nurse shall apply for licensure in the new home state, and the multistate license issued by the prior home state shall be deactivated in accordance with applicable rules adopted by the commission.

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

(2) A multistate license may not be issued by the new home state until the nurse provides satisfactory evidence of a change in primary state of residence to the new home state and satisfies all applicable requirements to obtain a multistate license from the new home state.
(d) If a nurse changes his or her primary state of residence by moving from a party state to a nonparty state, the multistate license issued by the prior home state shall convert to a single state license, valid only in the former home state.

(Act 2019-102, §3.)

SECTION 34-21-124 ADDITIONAL POWERS OF PARTY STATE LICENSING BOARDS.

(a) In addition to the other powers conferred by state law, a licensing board shall have the authority to do all of the following:

(1) Take adverse action against the multistate licensure privilege of a nurse to practice within that party state.

a. Only the home state shall have the power to take adverse action against the license of a nurse issued by the home state.

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

(2) Issue cease and desist orders or impose an encumbrance on the authority of a nurse to practice within that party state.

(3) Complete any pending investigations of a nurse who changes his or her primary state of residence during the course of such investigations. The licensing board may also take any appropriate actions and shall promptly report the conclusions of any investigations to the administrator of the coordinated licensure information system. The administrator of the coordinated licensure information system shall promptly notify the new home state of any actions.

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

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

(6) If otherwise permitted by state law, recover from the affected nurse the costs of investigations and disposition of cases resulting from any adverse action taken against that nurse.
(7) Take adverse action based on the factual findings of the remote state, provided that the licensing board follows its own procedures for taking the adverse action.

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

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

(Act 2019-102, §3.)

SECTION 34-21-125 COORDINATED LICENSURE INFORMATION SYSTEM; EXCHANGE OF INFORMATION.

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

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

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

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

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

(f) Any personally identifiable information obtained from the coordinated licensure information system by a party state licensing board may not be shared with nonparty states or disclosed to

other entities or individuals except to the extent permitted by the laws of the party state contributing the information.
(g) Any information contributed to the coordinated licensure information system that is subsequently required to be expunged by the laws of the party state contributing that information shall also be expunged from the coordinated licensure information system.

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

(1) Identifying information.

(2) Licensure data.

(3) Information related to alternative program participation.

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

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

(Act 2019-102, §3.)

SECTION 34-21-126 INTERSTATE COMMISSION OF NURSE LICENSURE COMPACT ADMINISTRATORS.

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

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

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

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

(b) Membership, voting, and meetings.

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

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

(3) The commission shall meet at least once during each calendar year. Additional meetings shall be held as set forth in the bylaws or rules of the commission.
(4) All meetings of the commission shall be open to the public, and public notice of meetings shall be given in the same manner as required under the rulemaking provisions in Section 34-21-127.

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

a. Noncompliance of a party state with its obligations under this compact.

b. The employment, compensation, discipline, or other personnel matters, practices, or procedures related to specific employees or other matters related to the internal personnel practices and procedures of the commission.

c. Current, threatened, or reasonably anticipated litigation.

d. Negotiation of contracts for the purchase or sale of goods, services, or real estate.

e. Accusing any person of a crime or formally censuring any person.

f. Disclosure of trade secrets or commercial or financial information that is privileged or confidential.

g. Disclosure of information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy.

h. Disclosure of investigatory records compiled for law enforcement purposes.

i. Disclosure of information related to any reports prepared by or on behalf of the commission for the purpose of investigation of compliance with this compact.

j. Matters specifically exempted from disclosure by federal or state statute.

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

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

(1) Establishing the fiscal year of the commission.
(2) Providing reasonable standards and procedures for all of the following:

a. For the establishment and meetings of other committees.

b. Governing any general or specific delegation of any authority or function of the commission.

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

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

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

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

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

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

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

(g) The commission shall have all of the following powers:

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

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

(3) To purchase and maintain insurance and bonds.

(4) To borrow, accept, or contract for services of personnel including, but not limited to, employees of a party state or nonprofit organizations.
(5) To cooperate with other organizations that administer state compacts related to the regulation of nursing including, but not limited to, sharing administrative or staff expenses, office space, or other resources.

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

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

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

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

(10) To establish a budget and make expenditures.

(11) To borrow money; provided that the borrowing of money shall not be constituted as a debt of the State of Alabama in violation of Section 213 of the Constitution of Alabama of 1901, as amended by Amendment 26, now appearing as Section 213 of the Official Recompilation of the Constitution of Alabama of 1901, as amended.

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

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

(14) To adopt and use an official seal.

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

(h) Financing of the commission.

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

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

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

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

(i) Qualified immunity, defense, and indemnification.

(1) In accordance with Section 36-1-12, the administrators, officers, executive director, employees, and representatives of the commission shall be immune from suit and liability.

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

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

(Act 2019-102, §3.)

SECTION 34-21-127 RULEMAKING AUTHORITY.

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

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

(c) Before the adoption of a final rule by the commission, and at least 60 days in advance of the meeting at which the rule shall be considered and voted upon, the commission shall file a notice

of proposed rulemaking on the website of the commission and on the website of each licensing board or the publication in which each party state would otherwise publish proposed rules.

(d) The notice of proposed rulemaking shall include all of the following:

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

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

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

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

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

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

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

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

(2) Nothing in this section shall be construed as requiring a separate hearing on each rule. Proposed new rules or amendments to existing rules may be grouped together for the convenience of the commission at hearings required by this section.

(h) If no one appears at a public hearing, the commission may proceed with the adoption of a proposed rule.

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

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

(k) Upon determination that an emergency exists, the commission may consider and adopt an emergency rule without prior notice, opportunity for comment, or hearing, provided that the usual rulemaking procedures provided in this compact and in this section shall be retroactively applied to the rule as soon as reasonably possible, in no event later than 90 days after the effective date of the rule. For the purposes of this subsection, an emergency rule is a rule that is adopted immediately to do any of the following:

(1) Satisfy an imminent threat to public health, safety, or welfare.

(2) Prevent a loss of commission or party state funds.
(3) Satisfy a deadline for the promulgation of an administrative rule that is required by federal law or rule.

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

(Act 2019-102, §3.)

SECTION 34-21-128 OVERSIGHT, DISPUTE RESOLUTION, ENFORCEMENT, ETC.

(a) Oversight.

(1) Each party state shall enforce this compact and take any action necessary and appropriate to effectuate the purposes and intent of this compact.

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

(b) Default, technical assistance, and termination.

(1) If the commission determines that a party state has defaulted in the performance of its obligations or responsibilities under this compact or the adopted rules, the commission shall do all of the following:

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

b. Provide remedial training and specific technical assistance regarding the default.

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

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

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

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

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

(c) Dispute resolution.

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

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

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

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

b. The decision of a majority of the arbitrators shall be final and binding.

(d) Enforcement.

(1) The commission, in the reasonable exercise of its discretion, shall enforce this compact and any rules adopted pursuant to this compact.

(2) By majority vote of the administrators, the commission may initiate legal action in the federal district in which the commission has its principal offices against a party state that is in default to enforce compliance with this compact and rules or bylaws adopted pursuant to this compact. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary, the prevailing party shall be awarded all costs of the litigation, including reasonable attorneys fees.

(3) The remedies provided in this article shall not be the exclusive remedies of the commission. The commission may pursue other remedies available under federal or state law.

(Act 2019-102, §3.)

SECTION 34-21-129 EFFECTIVE DATE; WITHDRAWAL OR TERMINATION; AMENDMENTS.

(a) This compact shall become effective and binding on the earlier of the date of legislative enactment of this compact into law by not less than 26 states or December 31, 2019. All party states that also participated in the prior Nurse Licensure Compact, which is superseded by this compact, shall be deemed to have withdrawn from the Nurse Licensure Compact on the first day of the sixth month after the effective date of this compact.

(b) Each party state shall continue to recognize the multistate licensure privilege of a nurse to practice in that party state issued under the Nurse Licensure Compact until the party state has withdrawn from the Nurse Licensure Compact.

(c) A party state may withdraw from this compact by enacting a general law repealing this compact. Withdrawal by a party state may not take effect until six months after the effective date of the repeal.

(d) The withdrawal or termination of a party state shall not affect the continuing requirement of the state licensing board of that state to report adverse actions and significant investigations occurring before the effective date of the withdrawal or termination.

(e) Nothing contained in this compact shall be construed to invalidate or prevent any nurse licensure agreement or other cooperative arrangement between a party state and a nonparty state that is made in accordance with any other provision of this compact.

(f) This compact may be amended by the party states. No amendment to this compact shall become effective and binding upon the party states until it is enacted by all party states.

(g) Representatives of nonparty states shall be invited to participate in the activities of the commission, on a nonvoting basis, before the adoption of this compact by all states.

(Act 2019-102, §3.)

SECTION 34-21-130 CONSTRUCTION; SEVERABILITY.

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

(Act 2019-102, §3.)