House Bill 2748

Sponsored by Representative GOODWIN (Presession filed.)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure as introduced.

Enacts interstate Nurse Licensure Compact. Permits Oregon State Board of Nursing to disclose specified information to Interstate Commission of Nurse Licensure Compact Administrators. Exempts individuals authorized to work as nurses under multistate licensure privilege from requirement to obtain license from board and from restrictions on use of titles. Allows board to use moneys to meet financial obligations imposed on State of Oregon as result of participation in compact. Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

Relating to a nurse licensure compact; creating new provisions; amending ORS 676.177, 678.021 and 678.170; and prescribing an effective date.

Be It Enacted by the People of the State of Oregon:

SECTION 1. The provisions of the Nurse Licensure Compact are as follows:

Nurse Licensure Compact

Approved by the May 4, 2015, Special Delegate Assembly

ARTICLE I

Findings and Declaration of Purpose

a. 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 for both nurses and states; and

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

b. The general purposes of this Compact are to:

1. Facilitate the states' responsibility to protect the public's health and safety;

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

NOTE: Matter in boldfaced type in an amended section is new; matter [italic and bracketed] is existing law to be omitted. New sections are in boldfaced type.

LC 2987
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 meeting 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; and
7. Provide opportunities for interstate practice by nurses who meet uniform licensure requirements.

ARTICLE II
Definitions
As used in this Compact:
a. “Adverse action” means any administrative, civil, equitable or criminal action permitted by a state's laws which is imposed by a licensing board or other authority against a nurse, including actions against an individual's license or multistate licensure privilege such as revocation, suspension, probation, monitoring of the licensee, limitation on the licensee's practice, or any other encumbrance on licensure affecting a nurse's authorization to practice, including issuance of a cease and desist action.
b. “Alternative program” means a nondisciplinary monitoring program approved by a licensing board.
c. “Coordinated licensure information system” means 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.
d. “Current significant investigative information” means:
1. 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; or
2. Investigative information that indicates that the nurse represents an immediate threat to public health and safety regardless of whether the nurse has been notified and had an opportunity to respond.
e. “Encumbrance” means a revocation or suspension of, or any limitation on, the full and unrestricted practice of nursing imposed by a licensing board.
f. “Home state” means the party state which is the nurse’s primary state of residence.
g. “Licensing board” means a party state's regulatory body responsible for issuing nurse licenses.
h. “Multistate license” means a license to practice as a registered or a licensed practical/vocational nurse (LPN/VN) issued by a home state licensing board that authorizes the licensed nurse to practice in all party states under a multistate licensure privilege.
i. “Multistate licensure privilege” means a legal authorization associated with a multistate license permitting the practice of nursing as either a registered nurse (RN) or LPN/VN in a remote state.
j. “Nurse” means RN or LPN/VN, as those terms are defined by each party state’s
practice laws.

k. “Party state” means any state that has adopted this Compact.

l. “Remote state” means a party state other than the home state.

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

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

o. 1. “State practice laws” means a party state's laws, rules and regulations that govern the practice of nursing, define the scope of nursing practice and create the methods and grounds for imposing discipline.

2. “State practice laws” does not include requirements necessary to obtain and retain a license, except for qualifications or requirements of the home state.

**ARTICLE III**

General Provisions and Jurisdiction

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

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

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

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

2. i. Has graduated or is eligible to graduate from a licensing board-approved RN or LPN/VN prelicensure education program; or

   ii. Has graduated from a foreign RN or LPN/VN prelicensure education program that (a) has been approved by the authorized accrediting body in the applicable country and (b) 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 individual's native language, 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 its recognized predecessor, as applicable;

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

6. Has submitted, in connection with an application for initial 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 that state's criminal records;

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; and

11. Has a valid United States Social Security number.

d. All party states shall be authorized, in accordance with existing state due process law, to take adverse action against a nurse’s multistate licensure privilege, such as revocation, suspension, probation or any other action that affects a nurse’s authorization to practice under a multistate licensure privilege, including cease and desist actions. If a party state takes such action, it 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 such actions by remote states.

e. A nurse practicing in a party state must 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, but shall include all nursing practice as defined by the state 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 will 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 party state’s single-state license as provided under the laws of each party state. However, the 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 the nurse’s then-current home state, provided that:

1. A nurse who changes primary state of residence after this Compact’s effective date must meet all applicable requirements in Article III.c. of this Compact to obtain a multistate license from a new home state.

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

ARTICLE IV

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, whether the applicant has ever held, or is the holder of, a license issued by any other state, whether there are any
encumbrances on any license or multistate licensure privilege held by the applicant, whether
any adverse action has been taken against any license or multistate licensure privilege held
by the applicant and whether the applicant is currently participating in an alternative pro-
gram.

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 primary state of residence by moving between two party states, the
nurse must apply for licensure in the new home state, and the multistate license issued by
the prior home state will be deactivated in accordance with applicable rules adopted by the
Interstate Commission of Nurse Licensure Compact Administrators.

1. The nurse may apply for licensure in advance of a change in primary state of resi-
dence.

2. A multistate license shall 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 primary state of residence by moving from a party state to a non-
party state, the multistate license issued by the prior home state will convert to a single-
state license, valid only in the former home state.

ARTICLE V
Additional Authorities Invested in Party State Licensing Boards

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

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

   i. Only the home state shall have the power to take adverse action against a nurse's li-
cense issued by the home state.

   ii. 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 a nurse's authority to
practice within that party state.

3. Complete any pending investigations of a nurse who changes primary state of residence
during the course of such investigations. The licensing board shall also have the authority
to take appropriate actions and shall promptly report the conclusions of such 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 such 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 wit-
ness 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 nurse licensure applicant, fingerprint or other biometric 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 such adverse action.

b. If adverse action is taken by the home state against a nurse's multistate license, the nurse's 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 a nurse's multistate license shall include a statement that the nurse's multistate licensure privilege is deactivated in all party states during the pendency of the order.

c. Nothing in this Compact shall override a party state's decision 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 the nurse's participation in an alternative program.

ARTICLE VI

Coordinated Licensure Information System

and Exchange of Information

a. All party states shall participate in a coordinated licensure information system of all licensed registered nurses (RNs) and licensed practical/vocational nurses (LPNs/VNs). This system will 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 Interstate Commission of Nurse Licensure Compact Administrators, 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 such denials) and nurse participation in alternative programs known to the licensing board regardless of whether such 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 infor-
mation system by a party state licensing board shall 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 infor-
mation 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 each other party state, which shall include, at a minimum:

  1. Identifying information;
  2. Licensure data;
  3. Information related to alternative program participation; and
  4. Other information that may facilitate the administration of this Compact, as deter-
     mined by Commission rules.

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

ARTICLE VII
Establishment of the Interstate Commission of
Nurse Licensure Compact Administrators

a. The party states hereby create and establish a joint public entity known as the Inter-
state 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 it adopts or consents to participate in alternative dispute resolution pro-
     ceedings.
  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 or designee shall be the administrator of this Compact for each party
     state. Any 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 Com-
     mission 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 an administrator's par-
     ticipation 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 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 Article VIII of this
     Compact.
  5. The Commission may convene in a closed, nonpublic meeting if the Commission must
discuss:

i. Noncompliance of a party state with its obligations under this Compact;

ii. The employment, compensation, discipline or other personnel matters, practices or procedures related to specific employees or other matters related to the Commission's internal personnel practices and procedures;

iii. Current, threatened or reasonably anticipated litigation;

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

v. Accusing any person of a crime or formally censuring any person;

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

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

viii. Disclosure of investigatory records compiled for law enforcement purposes;

ix. 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; or

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

6. If a meeting, or portion of a meeting, is closed pursuant to this provision, the Commission's legal counsel or 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 such minutes. All minutes and documents of a closed meeting shall remain under seal, subject to release by a majority vote of the Commission or order of a court of competent jurisdiction.

c. The Commission shall, by a majority vote of the administrators, 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:

1. Establishing the fiscal year of the Commission;

2. Providing reasonable standards and procedures:
   i. For the establishment and meetings of other committees; and
   ii. 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 such meetings by interested parties, with enumerated exceptions designed to protect the public’s interest, 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 must 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 the personnel policies and programs of the Commission. Notwithstanding any civil service or other similar laws of any party state, the bylaws shall exclusively govern the personnel policies and pro-
grams of the Commission; and

6. Providing a mechanism for winding up the operations of the Commission and the eq-
uitable 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 the provisions
of this Compact and the bylaws.

g.1.i. The Commission shall have the powers 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.

ii. Notwithstanding Article VII g.1.i. of this Compact, the Oregon State Board of Nursing
shall review the rules of the Commission. The board may approve and adopt the rules of the
Commission as rules of the board. The State of Oregon is subject to a rule of the Commission
only if the rule of the Commission is adopted by the board;

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 establish
the Commission’s personnel policies and programs relating to conflicts of interest, qual-
ifications of personnel and other related personnel matters;

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

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

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

10. To establish a budget and make expenditures;

11. To borrow money;

12. To appoint committees, including advisory committees comprised of administrators,
state nursing regulators, state legislators or their representatives, and consumer representa-
tives, and other such interested persons;

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

14. To adopt and use an official seal; and
15. To perform such 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.i. 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 promulgate a rule that is binding upon all party states.

ii. An assessment levied, or any other financial obligation imposed, under this Compact is effective against the State of Oregon only to the extent that moneys necessary to pay the assessment or meet the financial obligation have been deposited in the Oregon State Board of Nursing Account established under ORS 678.170.

3. The Commission shall not incur obligations of any kind prior to 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, such 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. The administrators, officers, executive director, employees and representatives of the Commission shall be immune from suit and liability, either personally or in their official capacity, for any claim for damage to or loss of property or personal injury or other civil liability caused by or arising out of any actual or alleged act, error or omission that occurred, 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 paragraph shall be construed to protect any such person from suit or liability for any damage, loss, injury or liability caused by the intentional, willful or wanton misconduct of that person.

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 herein 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 that person's 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 settle-
ment 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 responsi-
bleilities, or that such 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.

ARTICLE VIII
Rulemaking

a. The Interstate Commission of Nurse Licensure Compact Administrators shall exercise
its rulemaking powers pursuant to the criteria set forth in this Article and the rules adopted
thereunder. 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 provisions of this Compact.
b. Rules or amendments to the rules shall be adopted at a regular or special meeting of
the Commission.
c. Prior to promulgation and adoption of a final rule or rules by the Commission, and at
least 60 days in advance of the meeting at which the rule will be considered and voted upon,
the Commission shall file a notice of proposed rulemaking:
1. On the website of the Commission; and
2. On the website of each licensing board or the publication in which each state would
otherwise publish proposed rules.
d. The notice of proposed rulemaking shall include:
1. The proposed time, date and location of the meeting in which the rule will be consid-
ered and voted upon;
2. The text of the proposed rule or amendment, and the reason for the proposed rule;
3. A request for comments on the proposed rule from any interested person; and
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. Prior to 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.
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 com-
ment a fair and reasonable opportunity to comment orally or in writing. All hearings will be
recorded, and a copy will be made available upon request.
2. Nothing in this section shall be construed as requiring a separate hearing on each rule.
Rules may be grouped for the convenience of the Commission at hearings required by this
section.
h. If no one appears at the public hearing, the Commission may proceed with
promulgation of the proposed rule.
i. Following the scheduled hearing date, or by the close of business on the scheduled
hearing date if the hearing was not held, the Commission shall consider all written and oral
comments received.
j. The Commission shall, by majority vote of all administrators, take final action on the
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, but in no event later than 90 days after the effective date of the rule. For the purposes of this provision, an emergency rule is one that must be adopted immediately in order to:

1. Meet an imminent threat to public health, safety or welfare;
2. Prevent a loss of Commission or party state funds; or
3. Meet a deadline for the promulgation of an administrative rule that is required by federal law or rule.

l. 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 revisions 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, prior to the end of the notice period. If no challenge is made, the revision will take effect without further action. If the revision is challenged, the revision may not take effect without the approval of the Commission.

ARTICLE IX
Oversight, Dispute Resolution and Enforcement

a. Oversight
1. Each party state shall enforce this Compact and take all actions necessary and appropriate to effectuate this Compact’s purposes and intent.
2. The Interstate Commission of Nurse Licensure Compact Administrators shall be entitled to 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 such proceeding to the Commission shall render a 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 promulgated rules, the Commission shall:
   i. 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; and
   ii. Provide remedial training and specific technical assistance regarding the default.
2. If a state in default fails to cure the default, the defaulting state’s membership 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 offending 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

[12]
means of securing compliance have been exhausted. Notice of intent to suspend or terminate
shall be given by the Commission to the governor of the defaulting state and to the head of
the defaulting state's licensing board 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 shall not bear any costs related to a state that is found to be in de-
fault 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 U.S.
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 such litigation,
including reasonable attorney fees.

c. Dispute Resolution

1. Upon request by a party state, the Commission shall attempt to resolve disputes re-
lated to the Compact that arise among party states and between party and nonparty states.

2. The Commission shall promulgate 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:
   i. The party states may submit the issues in dispute to an arbitration panel, which will
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.
   ii. 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 the pro-
visions and rules of this Compact.

2. By majority vote, the Commission may initiate legal action in the U.S. District Court
for the District of Columbia or the federal district in which the Commission has its principal
offices against a party state that is in default to enforce compliance with the provisions of
this Compact and its promulgated rules and bylaws. 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 such litigation, including reasonable attorney fees.

3. The remedies herein shall not be the exclusive remedies of the Commission. The
Commission may pursue any other remedies available under federal or state law.

ARTICLE X

Effective Date, Withdrawal and Amendment

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

b. Each party state to this Compact shall continue to recognize a nurse's multistate
licensure privilege to practice in that party state issued under the Prior Compact until such
party state has withdrawn from the Prior Compact.

c. Any party state may withdraw from this Compact by enacting a statute repealing the same. A party state's withdrawal shall not take effect until 6 months after enactment of the repealing statute.

d. A party state's withdrawal or termination shall not affect the continuing requirement of the withdrawing or terminated state's licensing board to report adverse actions and significant investigations occurring prior to the effective date of such 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 the other provisions 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 unless and until it is enacted into the laws of all party states.

g. Representatives of nonparty states to this Compact shall be invited to participate in the activities of the Interstate Commission of Nurse Licensure Compact Administrators, on a nonvoting basis, prior to the adoption of this Compact by all states.

ARTICLE XI

Construction and 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.

SECTION 2. The Legislative Assembly of the State of Oregon hereby ratifies the Nurse Licensure Compact set forth in section 1 of this 2023 Act.

SECTION 3. ORS 676.177 is amended to read:

676.177. (1) Notwithstanding any other provision of ORS 676.165 to 676.180, a health professional regulatory board, upon a determination by the board that it possesses otherwise confidential information that reasonably relates to the regulatory or enforcement function of another public entity, may disclose that information to the other public entity.

(2) Any public entity that receives information pursuant to subsection (1) of this section shall agree to take all reasonable steps to maintain the confidentiality of the information, except that the public entity may use or disclose the information to the extent necessary to carry out the regulatory or enforcement functions of the public entity.

(3) For purposes of this section, "public entity" means:

(a) A board or agency of this state, or a board or agency of another state with regulatory or enforcement functions similar to the functions of a health professional regulatory board of this state;

(b) A district attorney;

(c) The Department of Justice;

(d) A state or local public body of this state that licenses, franchises or provides emergency
medical services; or

(e) A law enforcement agency of this state, another state or the federal government.

(4) Notwithstanding subsections (1) to (3) of this section,:

(a) The Oregon Board of Physical Therapy may disclose information described in subsection (1) of this section to the Physical Therapy Compact Commission established in ORS 688.240.

(b) The Oregon State Board of Nursing may disclose information described in subsection (1) of this section to the Interstate Commission of Nurse Licensure Compact Administrators established in section 1 of this 2023 Act.

SECTION 4. ORS 678.021, as amended by section 4, chapter 62, Oregon Laws 2022, is amended to read:

678.021. (1) Except as provided in section 1, chapter 62, Oregon Laws 2022, it is unlawful for any person to practice nursing or offer to practice nursing in this state or to use any title or abbreviation, sign, card or device to indicate the person is practicing either practical or registered nursing unless the person is licensed under ORS 678.010 to 678.410 at the level for which the indication of practice is made and the license is valid and in effect.

(2) Subsection (1) of this section does not apply to an individual who is authorized to work as a nurse by multistate licensure privilege as defined in section 1 of this 2023 Act.

SECTION 5. ORS 678.170 is amended to read:

678.170. (1) All money received by the Oregon State Board of Nursing under ORS 678.010 to 678.448 shall be paid into the General Fund in the State Treasury and placed to the credit of the Oregon State Board of Nursing Account. Such moneys are appropriated continuously to the board and shall be used only for the administration and enforcement of ORS 676.850, 676.860 and 678.010 to 678.448 and for the purpose of meeting the financial obligations imposed on the State of Oregon as a result of this state’s participation in the Nurse Licensure Compact established under section 1 of this 2023 Act.

(2) The board shall keep a record of all moneys deposited in the Oregon State Board of Nursing Account. This record shall indicate by separate cumulative accounts the source from which the moneys are derived and the individual activity or program against which each withdrawal is charged.

(3) The board may maintain a petty cash fund in compliance with ORS 293.180 in the amount of $1,000.

SECTION 6. (1) The amendments to ORS 676.177 by section 3 of this 2023 Act apply to information disclosed on and after the operative date specified in section 7 of this 2023 Act.

(2) The amendments to ORS 687.021 by section 4 of this 2023 Act apply to individuals authorized to work as nurses by multistate licensure privilege on and after the operative date specified in section 7 of this 2023 Act.

(3) The amendments to ORS 678.170 by section 5 of this 2023 Act apply to moneys received by the Oregon State Board of Nursing on and after the operative date specified in section 7 of this 2023 Act.

SECTION 7. (1) Sections 1 and 2 of this 2023 Act and the amendments to ORS 676.177, 678.021 and 678.170 by sections 3 to 5 of this 2023 Act become operative on January 1, 2024.

(2) The Oregon State Board of Nursing may take any action before the operative date specified in subsection (1) of this section that is necessary to enable the board to exercise, on and after the operative date specified in subsection (1) of this section, all of the duties, functions and powers conferred on the board by sections 1 and 2 of this 2023 Act and the
amendments to ORS 676.177, 678.021 and 678.170 by sections 3 to 5 of this 2023 Act.

SECTION 8. This 2023 Act takes effect on the 91st day after the date on which the 2023 regular session of the Eighty-second Legislative Assembly adjourns sine die.