

By: Representatives Currie, Arnold, Dixon,
Gibbs (72nd)

To: Public Health and Human
Services

HOUSE BILL NO. 488

1 AN ACT TO CREATE SECTIONS 73-15-201 AND 73-15-202,
2 MISSISSIPPI CODE OF 1972, TO ENACT INTO THE LAW THE NURSE
3 LICENSURE COMPACT AND PROVIDE THAT THE STATE OF MISSISSIPPI ENTERS
4 THE COMPACT WITH OTHER STATES THAT JOIN IN THE COMPACT; TO AMEND
5 SECTION 73-15-5, MISSISSIPPI CODE OF 1972, TO REVISE THE
6 DEFINITION OF "PRIVILEGE TO PRACTICE" IN THE NURSING PRACTICE LAW
7 TO CONFORM TO THE NEW NURSE LICENSURE COMPACT; TO AMEND SECTION
8 73-15-17, MISSISSIPPI CODE OF 1972, TO AUTHORIZE THE MISSISSIPPI
9 BOARD OF NURSING TO IMPLEMENT THE PROVISIONS OF THE NURSE
10 LICENSURE COMPACT; TO REPEAL SECTIONS 73-15-22 AND 73-15-23,
11 MISSISSIPPI CODE OF 1972, WHICH IS THE FORMER NURSE LICENSURE
12 COMPACT; AND FOR RELATED PURPOSES.

13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

14 **SECTION 1.** The following shall be codified as Section
15 73-15-201, Mississippi Code of 1972:

16 73-15-201. The Nurse Licensure Compact is enacted into law
17 and entered into by this state with any and all states legally
18 joining in the compact in accordance with its term, in the form
19 substantially as follows:

20 **ARTICLE I.**

21 **Findings and declaration of purpose.**

22 (a) The party states find that:



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

26 2. Violations of nurse licensure and other laws
27 regulating the practice of nursing may result in injury or harm to
28 the public;

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

33 4. New practice modalities and technology make
34 compliance with individual state nurse licensure laws difficult
35 and complex;

36 5. The current system of duplicative licensure for
37 nurses practicing in multiple states is cumbersome and redundant
38 for both nurses and states; and

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

42 (b) The general purposes of this compact are to:

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

45 2. Ensure and encourage the cooperation of party
46 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 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.



97 (h) "Multistate license" means a license to practice as
98 a registered or a licensed practical/vocational nurse (LPN/VN)
99 issued by a home state licensing board that authorizes the
100 licensed nurse to practice in all party states under a multistate
101 licensure privilege.

102 (i) "Multistate licensure privilege" means a legal
103 authorization associated with a multistate license permitting the
104 practice of nursing as either a registered nurse (RN) or LPN/VN in
105 a remote state.

106 (j) "Nurse" means RN or LPN/VN, as those terms are
107 defined by each party state's practice laws.

108 (k) "Party state" means any state that has adopted this
109 compact.

110 (l) "Remote state" means a party state, other than the
111 home state.

112 (m) "Single-state license" means a nurse license issued
113 by a party state that authorizes practice only within the issuing
114 state and does not include a multistate licensure privilege to
115 practice in any other party state.

116 (n) "State" means a state, territory or possession of
117 the United States and the District of Columbia.

118 (o) "State practice laws" means a party state's laws,
119 rules and regulations that govern the practice of nursing, define
120 the scope of nursing practice, and create the methods and grounds
121 for imposing discipline. "State practice laws" do 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-based 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 a National Council Licensure Examination-Registered Nurse (NCLEX-RN®) or National Council Licensure Examination-Practical Nurse (NCLEX-PN®) Examination or 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.



195 (e) A nurse practicing in a party state must comply
196 with the state practice laws of the state in which the client is
197 located at the time service is provided. The practice of nursing
198 is not limited to patient care, but shall include all nursing
199 practice as defined by the state practice laws of the party state
200 in which the client is located. The practice of nursing in a
201 party state under a multistate licensure privilege will subject a
202 nurse to the jurisdiction of the licensing board, the courts and
203 the laws of the party state in which the client is located at the
204 time service is provided.

205 (f) Individuals not residing in a party state shall
206 continue to be able to apply for a party state's single-state
207 license as provided under the laws of each party state. However,
208 the single-state license granted to these individuals will not be
209 recognized as granting the privilege to practice nursing in any
210 other party state. Nothing in this compact shall affect the
211 requirements established by a party state for the issuance of a
212 single-state license.

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

217 1. A nurse, who changes primary state of residence
218 after this compact's effective date, must meet all applicable



Article III(c) requirements to obtain a multistate license from a new home state.

2. A nurse who fails to satisfy the multistate licensure requirements in subsection(c) of this article 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 ("commission").

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 program.

(b) A nurse may hold a multistate license, issued by the home state, in only one (1) party state at a time.



(c) If a nurse changes primary state of residence by moving between two (2) 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 commission.

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

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 nonparty 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 license 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 action(s) 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 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 nurse licensure applicant, 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 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 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.



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

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

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

357 (f) Any personally identifiable information obtained
358 from the coordinated licensure information system by a party state
359 licensing board shall not be shared with nonparty states or
360 disclosed to other entities or individuals except to the extent
361 permitted by the laws of the party state contributing the
362 information.

363 (g) Any information contributed to the coordinated
364 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 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 determined 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 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



390 a court of competent jurisdiction where the principal office of
391 the commission is located. The commission may waive venue and
392 jurisdictional defenses to the extent it adopts or consents to
393 participate in alternative dispute resolution proceedings.

394 3. Nothing in this compact shall be construed to
395 be a waiver of sovereign immunity.

396 (b) Membership, voting and meetings.

397 1. Each party state shall have and be limited to
398 one (1) administrator. The head of the state licensing board or
399 designee shall be the administrator of this compact for each party
400 state. Any administrator may be removed or suspended from office
401 as provided by the law of the state from which the administrator
402 is appointed. Any vacancy occurring in the commission shall be
403 filled in accordance with the laws of the party state in which the
404 vacancy exists.

405 2. Each administrator shall be entitled to one (1)
406 vote with regard to the promulgation of rules and creation of
407 bylaws and shall otherwise have an opportunity to participate in
408 the business and affairs of the commission. An administrator
409 shall vote in person or by such other means as provided in the
410 bylaws. The bylaws may provide for an administrator's
411 participation in meetings by telephone or other means of
412 communication.

413 3. The commission shall meet at least once during
414 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.

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;



465 2. Providing reasonable standards and procedures:

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

468 (ii) Governing any general or specific
469 delegation of any authority or function of the commission;

470 3. Providing reasonable procedures for calling and
471 conducting meetings of the commission, ensuring reasonable advance
472 notice of all meetings and providing an opportunity for attendance
473 of such meetings by interested parties, with enumerated exceptions
474 designed to protect the public's interest, the privacy of
475 individuals, and proprietary information, including trade secrets.
476 The commission may meet in closed session only after a majority of
477 the administrators vote to close a meeting in whole or in part.
478 As soon as practicable, the commission must make public a copy of
479 the vote to close the meeting revealing the vote of each
480 administrator, with no proxy votes allowed;

481 4. Establishing the titles, duties and authority
482 and reasonable procedures for the election of the officers of the
483 commission;

484 5. Providing reasonable standards and procedures
485 for the establishment of the personnel policies and programs of
486 the commission. Notwithstanding any civil service or other
487 similar laws of any party state, the bylaws shall exclusively
488 govern the personnel policies and programs of the commission; and



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

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

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

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

501 (g) The commission shall have the following powers:

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

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

510 3. To purchase and maintain insurance and bonds;

511 4. To borrow, accept or contract for services of
512 personnel, including, but not limited to, employees of a party
513 state or nonprofit organizations;



514 5. To cooperate with other organizations that
515 administer state compacts related to the regulation of nursing,
516 including, but not limited to, sharing administrative or staff
517 expenses, office space or other resources;

518 6. To hire employees, elect or appoint officers,
519 fix compensation, define duties, grant such individuals
520 appropriate authority to carry out the purposes of this compact,
521 and to establish the commission's personnel policies and programs
522 relating to conflicts of interest, qualifications of personnel and
523 other related personnel matters;

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

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

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

536 10. To establish a budget and make expenditures;

537 11. To borrow money;



538 12. To appoint committees, including advisory
539 committees comprised of administrators, state nursing regulators,
540 state legislators or their representatives, and consumer
541 representatives, and other such interested persons;

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

544 14. To adopt and use an official seal; and

545 15. To perform such other functions as may be
546 necessary or appropriate to achieve the purposes of this compact
547 consistent with the state regulation of nurse licensure and
548 practice.

549 (h) Financing of the commission.

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

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

560 3. The commission shall not incur obligations of
561 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 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 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 commission shall exercise its rulemaking powers pursuant to the criteria set forth in this article and the rules



612 adopted thereunder. Rules and amendments shall become binding as
613 of the date specified in each rule or amendment and shall have the
614 same force and effect as provisions of this compact.

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

617 (c) Prior to promulgation and adoption of a final rule
618 or rules by the commission, and at least sixty (60) days in
619 advance of the meeting at which the rule will be considered and
620 voted upon, the commission shall file a notice of proposed
621 rulemaking:

622 1. On the website of the commission; and
623 2. On the website of each licensing board or the
624 publication in which each state would otherwise publish proposed
625 rules.

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

627 1. The proposed time, date and location of the
628 meeting in which the rule will be considered and voted upon;
629 2. The text of the proposed rule or amendment, and
630 the reason for the proposed rule;
631 3. A request for comments on the proposed rule
632 from any interested person; and
633 4. The manner in which interested persons may
634 submit notice to the commission of their intention to attend the
635 public hearing and any written comments.



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

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

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

644 1. Hearings shall be conducted in a manner
645 providing each person who wishes to comment a fair and reasonable
646 opportunity to comment orally or in writing.

647 All hearings will be recorded, and a copy will be made
648 available upon request.

649 2. Nothing in this section shall be construed as
650 requiring a separate hearing on each rule. Rules may be grouped
651 for the convenience of the commission at hearings required by this
652 section.

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

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

659 (j) The commission shall, by majority vote of all
660 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, in no event later than ninety (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 thirty (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 commission 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 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 executive officer 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 default or whose membership in



736 this compact has been terminated unless agreed upon in writing
737 between the commission and the defaulting state.

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

744 (c) Dispute resolution:

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

748 2. The commission shall promulgate a rule
749 providing for both mediation and binding dispute resolution for
750 disputes, as appropriate.

751 3. In the event the commission cannot resolve
752 disputes among party states arising under this compact:

753 (i) The party states may submit the issues in
754 dispute to an arbitration panel, which will be comprised of
755 individuals appointed by the compact administrator in each of the
756 affected party states and an individual mutually agreed upon by
757 the compact administrators of all the party states involved in the
758 dispute.

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



(d) Enforcement:

1. The commission, in the reasonable exercise of its discretion, shall enforce the provisions and rules of this compact.

2. By majority vote, the commission may initiate legal action in the United States 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 attorneys' 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 legislative enactment of this compact into law by no less than twenty-six (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 the



786 prior compact within six (6) months after the effective date of
787 this compact.

788 (b) Each party state to this compact shall continue to
789 recognize a nurse's multistate licensure privilege to practice in
790 that party state issued under the prior compact until such party
791 state has withdrawn from the prior compact.

792 (c) Any party state may withdraw from this compact by
793 enacting a statute repealing the same. A party state's withdrawal
794 shall not take effect until six (6) months after enactment of the
795 repealing statute.

796 (d) A party state's withdrawal or termination shall not
797 affect the continuing requirement of the withdrawing or terminated
798 state's licensing board to report adverse actions and significant
799 investigations occurring prior to the effective date of such
800 withdrawal or termination.

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

806 (f) This compact may be amended by the party states.
807 No amendment to this compact shall become effective and binding
808 upon the party states unless and until it is enacted into the laws
809 of all party states.



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

814 **ARTICLE XI.**

815 **Construction and severability.**

816 This compact shall be liberally construed so as to effectuate
817 the purposes thereof.

818 The provisions of this compact shall be severable, and if any
819 phrase, clause, sentence or provision of this compact is declared
820 to be contrary to the Constitution of any party state or of the
821 United States, or if the applicability thereof to any government,
822 agency, person or circumstance is held invalid, the validity of
823 the remainder of this compact and the applicability thereof to any
824 government, agency, person or circumstance shall not be affected
825 thereby. If this compact shall be held to be contrary to the
826 Constitution of any party state, this compact shall remain in full
827 force and effect as to the remaining party states and in full
828 force and effect as to the party state affected as to all
829 severable matters.

830 **SECTION 2.** The following shall be codified as Section
831 73-15-202, Mississippi Code of 1972:

832 73-15-202. The term "head of the state licensing board" as
833 used to define the compact administrator in Article VII(b)(1) of



the Nurse Licensure Compact shall mean the Executive Director of the Mississippi Board of Nursing.

SECTION 3. Section 73-15-5, Mississippi Code of 1972, is amended as follows:

73-15-5. (1) "Board" means the Mississippi Board of Nursing.

(2) The "practice of nursing" by a registered nurse means the performance for compensation of services which requires substantial knowledge of the biological, physical, behavioral, psychological and sociological sciences and of nursing theory as the basis for assessment, diagnosis, planning, intervention and evaluation in the promotion and maintenance of health; management of individuals' responses to illness, injury or infirmity; the restoration of optimum function; or the achievement of a dignified death. "Nursing practice" includes, but is not limited to, administration, teaching, counseling, delegation and supervision of nursing, and execution of the medical regimen, including the administration of medications and treatments prescribed by any licensed or legally authorized physician or dentist. The foregoing shall not be deemed to include acts of medical diagnosis or prescriptions of medical, therapeutic or corrective measures, except as may be set forth by rules and regulations promulgated and implemented by the Mississippi Board of Nursing.

(3) "Clinical nurse specialist practice" by a certified clinical nurse specialist means the delivery of advanced practice



859 nursing care to individuals or groups using advanced diagnostic
860 and assessment skills to manage and improve the health status of
861 individuals and families; diagnose human responses to actual or
862 potential health problems; plan for health promotion, disease
863 prevention, and therapeutic intervention in collaboration with the
864 patient or client; implement therapeutic interventions based on
865 the nurse specialist's area of expertise and within the scope of
866 advanced nursing practice, including, but not limited to, direct
867 patient care, counseling, teaching, collaboration with other
868 licensed health care providers; and, coordination of health care
869 as necessary and appropriate and evaluation of the effectiveness
870 of care.

871 (4) "Advanced nursing practice" means, in addition to the
872 practice of professional nursing, the performance of
873 advanced-level nursing approved by the board which, by virtue of
874 graduate education and experience are appropriately performed by
875 an advanced practice registered nurse. The advanced practice
876 registered nurse may diagnose, treat and manage medical
877 conditions. This may include prescriptive authority as identified
878 by the board. Advanced practice registered nurses must practice
879 in a collaborative/consultative relationship with a physician or
880 dentist with an unrestricted license to practice in the State of
881 Mississippi and advanced nursing must be performed within the
882 framework of a standing protocol or practice guidelines, as
883 appropriate.



(5) The "practice of nursing" by a licensed practical nurse means the performance for compensation of services requiring basic knowledge of the biological, physical, behavioral, psychological and sociological sciences and of nursing procedures which do not require the substantial skill, judgment and knowledge required of a registered nurse. These services are performed under the direction of a registered nurse or a licensed physician or licensed dentist and utilize standardized procedures in the observation and care of the ill, injured and infirm; in the maintenance of health; in action to safeguard life and health; and in the administration of medications and treatments prescribed by any licensed physician or licensed dentist authorized by state law to prescribe. On a selected basis, and within safe limits, the role of the licensed practical nurse shall be expanded by the board under its rule-making authority to more complex procedures and settings commensurate with additional preparation and experience.

(6) A "license" means an authorization to practice nursing as a registered nurse or a licensed practical nurse designated herein.

(7) A "registered nurse" is a person who is licensed or holds the privilege to practice under the provisions of this article and who practices nursing as defined herein. "RN" is the abbreviation for the title of Registered Nurse.



908 (8) A "licensed practical nurse" is a person who is licensed
909 or holds the privilege to practice under this article and who
910 practices practical nursing as defined herein. "LPN" is the
911 abbreviation for the title of Licensed Practical Nurse.

912 (9) A "registered nurse in clinical practice" is one who
913 functions in any health care delivery system which provides
914 nursing services.

915 (10) A "clinical nurse specialist" is a person who is
916 licensed or holds the privilege to practice under this article in
917 this state to practice professional nursing and who in this state
918 practices advanced nursing as defined herein. "CNS" is the
919 abbreviation for the title of Clinical Nurse Specialist.

920 (11) An "advancedu practice registered nurse" is a person who
921 is licensed or holds the privilege to practice under this article
922 and who is certified in advanced practice registered nurse or
923 specialized nursing practice and includes certified registered
924 nurse midwives, certified registered nurse anesthetists and
925 certified nurse practitioners. "CNM" is the abbreviation for the
926 title of Certified Nurse Midwife, "CRNA" is the abbreviation for
927 the title of Certified Registered Nurse Anesthetist. "CNP" is the
928 abbreviation for the title of Certified Nurse Practitioner.

929 (12) A "nurse educator" is a registered nurse who meets the
930 criteria for faculty as set forth in a state-accredited program of
931 nursing for registered nurses, or a state-approved program of



nursing for licensed practical nurses, and who functions as a
faculty member.

(13) A "consumer representative" is a person representing
the interests of the general public, who may use services of a
health agency or health professional organization or its members
but who is neither a provider of health services, nor employed in
the health services field, nor holds a vested interest in the
provision of health services at any level, nor has an immediate
family member who holds vested interests in the provision of
health services at any level.

(14) "Privilege to practice" means the * * * multistate
licensure privilege to practice nursing in the state as described
in the Nurse Licensure Compact provided for in Section * * *
73-15-201.

(15) "Licensee" is a person who has been issued a license to
practice nursing in the state or who holds the privilege to
practice nursing in the state.

SECTION 4. Section 73-15-17, Mississippi Code of 1972, is
amended as follows:

73-15-17. The Mississippi Board of Nursing is authorized and
empowered to:

(a) Adopt and from time to time revise such rules and
regulations consistent with the law as shall be necessary to
govern its proceedings and carry into effect the provisions of
this article; however, the board shall not adopt any rule or



957 regulation or impose any requirement regarding the licensing or
958 certification of advanced practice registered nurses that
959 conflicts with the prohibitions in Section 73-49-3.

960 (b) Require the secretary to keep records of all
961 meetings of the board and keep a record of all proceedings, and to
962 prepare a register of registered nurses and a register of licensed
963 practical nurses, all nurses appearing thereon to be duly licensed
964 under this article, and which registers shall be open for public
965 inspection at all reasonable times.

966 (c) Issue subpoenas, require attendance of witnesses,
967 and administer oaths of persons giving testimony.

968 (d) Cause the prosecution of all persons violating the
969 provisions of this article, and incur such necessary expenses
970 therefor.

971 (e) Conduct hearings upon charges calling for
972 discipline of a licensee or revocation of a license or of the
973 privilege to practice.

974 (f) Present a true and full report to the Governor and
975 the Legislature, together with a statement of receipts and
976 disbursements on or before February 1 of each year.

977 (g) Maintain an office in the greater Jackson area for
978 the administration of this article.

979 (h) File an annual list of all certificates of
980 registration issued by the board with the Secretary of State's
981 office for both registered nurses and licensed practical nurses.



(i) File an annual list of all certificates of registration issued by the board to registered nurses, including addresses of the persons with the Mississippi Nurses' Association; and file a similar list of all certificates of registration issued to licensed practical nurses, including addresses of the persons, with the Mississippi Federation of Licensed Practical Nurses and the Mississippi Licensed Practical Nurses Association.

(j) Adopt a seal which shall be in the form of a circle with the image of an eagle in the center, and around the margin the words "Mississippi Board of Nursing," and under the image of the eagle the word "Official." The seal shall be affixed to certificates and warrants issued by the board, and to all records sent up on appeal from its decisions.

(k) Schedule dates and locations for state board examinations for examining qualified applicants for licensure.

(l) Examine, license and renew licenses of duly qualified applicants.

(m) Appoint and employ a qualified person who shall not be a member of the board to serve as executive director, define the duties, fix the compensation, and delegate to him or her those activities that will expedite the functions of the board. The executive director shall meet all the qualifications for board members, and shall in addition:

(i) Have had at least a master's degree in nursing, eight (8) years' experience as a registered nurse, five



1007 (5) of which shall be in teaching or in administration, or a
1008 combination thereof; and

1009 (ii) Have been actively engaged in nursing for at
1010 least five (5) years immediately preceding appointment.

1011 (n) Employ, discharge, define duties, and fix
1012 compensation of such other persons as may be necessary to carry
1013 out the provisions of this article.

1014 (o) Secure the services of research consultants as
1015 deemed necessary who shall receive a per diem, travel and other
1016 necessary expenses incurred while engaged by the board.

1017 (p) Enter into contracts with any other state or
1018 federal agency or with any private person, organization or group
1019 capable of contracting, if it finds such action to be in the
1020 public interest and in the furtherance of its responsibilities.

1021 (q) Upon reasonable suspicion that a holder of a
1022 license issued under this article has violated any statutory
1023 ground for denial of licensure as set forth in Section 73-15-29 or
1024 is guilty of any offense specified in Section 73-15-33, require
1025 the license holder to undergo a fingerprint-based criminal history
1026 records check of the Mississippi central criminal database and the
1027 Federal Bureau of Investigation criminal history database, in the
1028 same manner as required for applicants for licensure under
1029 Sections 73-15-19(1) and 73-15-21(1).

1030 (r) Perform the duties prescribed by the Nurse
1031 Licensure Compact in Section 73-15-201.



1032 **SECTION 5.** Sections 73-15-22 and 73-15-23, Mississippi Code
1033 of 1972, which are the former Nurse Licensure Compact, are
1034 repealed.

1035 **SECTION 6.** The provisions of this act shall not take effect
1036 until a substantially similar act is enacted by at least
1037 twenty-six (26) other states or on December 31, 2018, whichever
1038 occurs first, in accordance with Article X of the Nurse Licensure
1039 Compact, as enacted by Section 1 of this act. If twenty-six (26)
1040 other states enact a substantially similar act before December 31,
1041 2018, the Mississippi Board of Nursing shall notify the House and
1042 Senate Legislative Services Offices within five (5) days after the
1043 26th state has enacted the act.

1044 **SECTION 7.** This act shall take effect and be in force from
1045 and after July 1, 2017, subject to the provisions of Section 6 of
1046 this act.

