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AN ACT
RELATING TO HEALTH CARE; ENACTING THE NURSE LICENSURE
COMPACT; MAKING CONFORMING CHANGES TO THE NURSING PRACTICE
ACT; REPEALING SECTIONS OF THE NMSA 1978; DECLARING AN
EMERGENCY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 61-3-24.1 NMSA 1978 (being Laws
2003, Chapter 307, Section 1) is repealed and a new Section
61-3-24.1 NMSA 1978 is enacted to read:

"61-3-24.1. NURSE LICENSURE COMPACT ENTERED INTO.--The
Nurse Licensure Compact is entered into law and entered into
with all other jurisdictions legally joining therein in a
form substantially as follows:

"Nurse Licensure Compact

ARTICLE 1 - 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

1 use of advanced communication technologies as part of our
2 nation's health care delivery system require greater
3 coordination and cooperation among states in the areas of
4 nurse licensure and regulation;

5 (4) new practice modalities and technology
6 make compliance with individual state nurse licensure laws
7 difficult and complex;

8 (5) the current system of duplicative
9 licensure for nurses practicing in multiple states is
10 cumbersome and redundant for both nurses and states; and

11 (6) uniformity of nurse licensure
12 requirements throughout the states promotes public safety and
13 public health benefits.

14 B. The general purposes of this compact are to:

15 (1) facilitate the states' responsibility to
16 protect the public's health and safety;

17 (2) ensure and encourage the cooperation of
18 party states in the areas of nurse licensure and regulation;

19 (3) facilitate the exchange of information
20 between party states in the areas of nurse regulation,
21 investigation and adverse actions;

22 (4) promote compliance with the laws
23 governing the practice of nursing in each jurisdiction;

24 (5) invest all party states with the
25 authority to hold a nurse accountable for meeting all state

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

4 (6) decrease redundancies in the
5 consideration and issuance of nurse licenses; and

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

8 ARTICLE 2 - Definitions

9 As used in this compact:

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

19 B. "alternative program" means a non-disciplinary
20 monitoring program approved by a licensing board;

21 C. "commission" means the Interstate Commission of
22 Nurse Licensure Compact Administrators established in this
23 compact;

24 D. "coordinated licensure information system"
25 means an integrated process for collecting, storing and

1 sharing information on nurse licensure and enforcement
2 activities related to nurse licensure laws that is
3 administered by a nonprofit organization composed of and
4 controlled by licensing boards;

5 E. "current significant investigative information"
6 means:

7 (1) investigative information that a
8 licensing board, after a preliminary inquiry that includes
9 notification and an opportunity for the nurse to respond, if
10 required by state law, has reason to believe is not
11 groundless and, if proved true, would indicate more than a
12 minor infraction; or

13 (2) investigative information that indicates
14 that the nurse represents an immediate threat to public
15 health and safety regardless of whether the nurse has been
16 notified and had an opportunity to respond;

17 F. "encumbrance" means a revocation or suspension
18 of, or any limitation on, the full and unrestricted practice
19 of nursing imposed by a licensing board;

20 G. "home state" means the party state which is the
21 nurse's primary state of residence;

22 H. "licensing board" means a party state's
23 regulatory body responsible for issuing nurse licenses;

24 I. "multistate license" means a license to
25 practice as a registered nurse or a licensed practical or

1 vocational nurse issued by a home state licensing board that
2 authorizes the licensed nurse to practice in all party states
3 under a multistate licensure privilege;

4 J. "multistate licensure privilege" means a legal
5 authorization associated with a multistate license permitting
6 the practice of nursing as either a registered nurse or a
7 licensed practical or vocational nurse in a remote state;

8 K. "nurse" means a registered nurse or licensed
9 practical or vocational nurse, as those terms are defined by
10 each party state's practice laws;

11 L. "party state" means any state that has adopted
12 this compact;

13 M. "prior compact" means the prior nurse licensure
14 compact that is superseded by this compact;

15 N. "remote state" means a party state, other than
16 the home state;

17 O. "single-state license" means a nurse license
18 issued by a party state that authorizes practice only within
19 the issuing state and does not include a multistate licensure
20 privilege to practice in any other party state;

21 P. "state" means a state, territory or possession
22 of the United States and the District of Columbia; and

23 Q. "state practice laws" means a party state's
24 laws, rules and regulations that govern the practice of
25 nursing, define the scope of nursing practice, and create the

1 methods and grounds for imposing discipline. "State practice
2 laws" do not include requirements necessary to obtain and
3 retain a license, except for qualifications or requirements
4 of the home state.

5 ARTICLE 3 - General Provisions and Jurisdiction

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

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

22 C. For an applicant to obtain or retain a
23 multistate license in the home state, each party state shall
24 require that the applicant:

- 25 (1) meets the home state's qualifications

1 for licensure or renewal of licensure as well as all other
2 applicable state laws;

3 (2) has graduated:

4 (a) or is eligible to graduate from a
5 licensing board-approved registered nurse or licensed
6 practical or vocational nurse prelicensure education program;
7 or

8 (b) from a foreign registered nurse or
9 licensed practical or vocational nurse prelicensure education
10 program that: 1) has been approved by the authorized
11 accrediting body in the applicable country; and 2) has been
12 verified by an independent credentials review agency to be
13 comparable to a licensing board-approved prelicensure
14 education program;

15 (3) has, if a graduate of a foreign
16 prelicensure education program not taught in English or if
17 English is not the applicant's native language, successfully
18 passed an English proficiency examination that includes the
19 components of reading, speaking, writing and listening;

20 (4) has successfully passed a national
21 council licensure examination for registered nurses or a
22 national council licensure examination for practical or
23 vocational nurses given by the national council of state
24 boards of nursing or an exam given by a recognized
25 predecessor or successor organization, as applicable;

1 (5) is eligible for or holds an active,
2 unencumbered license;

3 (6) has submitted, in connection with an
4 application for initial licensure or licensure by
5 endorsement, fingerprints or other biometric data for the
6 purpose of obtaining criminal history record information from
7 the federal bureau of investigation and the agency
8 responsible for retaining that state's criminal records;

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

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

16 (9) is not currently enrolled in an
17 alternative program;

18 (10) is subject to self-disclosure
19 requirements regarding current participation in an
20 alternative program; and

21 (11) has a valid United States social
22 security number.

23 D. All party states shall be authorized, in
24 accordance with existing state due process law, to take
25 adverse action against a nurse's multistate licensure

1 privilege such as revocation, suspension, probation or any
2 other action that affects a nurse's authorization to practice
3 under a multistate licensure privilege, including cease and
4 desist actions. If a party state takes such action, it shall
5 promptly notify the administrator of the coordinated
6 licensure information system. The administrator of the
7 coordinated licensure information system shall promptly
8 notify the home state of any such actions by remote states.

9 E. A nurse practicing in a party state must comply
10 with the state practice laws of the state in which the client
11 is located at the time service is provided. The practice of
12 nursing is not limited to patient care, but shall include all
13 nursing practice as defined by the state practice laws of the
14 party state in which the client is located. The practice of
15 nursing in a party state under a multistate licensure
16 privilege will subject a nurse to the jurisdiction of the
17 licensing board, the courts and the laws of the party state
18 in which the client is located at the time service is
19 provided.

20 F. Individuals not residing in a party state shall
21 continue to be able to apply for a party state's single-state
22 license as provided under the laws of each party state.
23 However, the single-state license granted to these
24 individuals will not be recognized as granting the privilege
25 to practice nursing in any other party state. Nothing in

1 this compact shall affect the requirements established by a
2 party state for the issuance of a single-state license.

3 G. Any nurse holding a home state multistate
4 license, on the effective date of this compact, may retain
5 and renew the multistate license issued by the nurse's
6 then-current home state, provided that a nurse who:

7 (1) changes primary state of residence after
8 this compact's effective date must meet all applicable
9 requirements of Subsection C of Article 3 of the Nurse
10 Licensure Compact to obtain a multistate license from a new
11 home state; or

12 (2) fails to satisfy the multistate
13 licensure requirements in Subsection C of Article 3 of the
14 Nurse Licensure Compact due to a disqualifying event
15 occurring after this compact's effective date shall be
16 ineligible to retain or renew a multistate license, and the
17 nurse's multistate license shall be revoked or deactivated in
18 accordance with applicable rules adopted by the commission.

19 ARTICLE 4 - Applications for Licensure in a Party State

20 A. Upon application for a multistate license, the
21 licensing board in the issuing party state shall ascertain,
22 through the coordinated licensure information system, whether
23 the applicant has ever held, or is the holder of, a license
24 issued by any other state, whether there are any encumbrances
25 on any license or multistate licensure privilege held by the

1 applicant, whether any adverse action has been taken against
2 any license or multistate licensure privilege held by the
3 applicant and whether the applicant is currently
4 participating in an alternative program.

5 B. A nurse may hold a multistate license, issued
6 by the home state, in only one party state at a time.

7 C. If a nurse changes primary state of residence
8 by moving between two party states, the nurse must apply for
9 licensure in the new home state, and the multistate license
10 issued by the prior home state will be deactivated in
11 accordance with applicable rules adopted by the commission.

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

14 (2) A multistate license shall not be issued
15 by the new home state until the nurse provides satisfactory
16 evidence of a change in primary state of residence to the new
17 home state and satisfies all applicable requirements to
18 obtain a multistate license from the new home state.

19 D. If a nurse changes primary state of residence
20 by moving from a party state to a non-party state, the
21 multistate license issued by the prior home state will
22 convert to a single-state license, valid only in the former
23 home state.

24 ARTICLE 5 - Additional Authorities Invested in Party State

25 Licensing Boards

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

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

6 (a) only the home state shall have the
7 power to take adverse action against a nurse's license issued
8 by the home state; and

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

15 (2) issue cease and desist orders or impose
16 an encumbrance on a nurse's authority to practice within that
17 party state;

18 (3) complete any pending investigations of a
19 nurse who changes primary state of residence during the
20 course of such investigations. The licensing board shall
21 also have the authority to take appropriate action(s) and
22 shall promptly report the conclusions of such investigations
23 to the administrator of the coordinated licensure information
24 system. The administrator of the coordinated licensure
25 information system shall promptly notify the new home state

1 of any such actions;

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

15 (5) obtain and submit, for each nurse
16 licensure applicant, fingerprint or other biometric-based
17 information to the federal bureau of investigation for
18 criminal background checks, receive the results of the
19 federal bureau of investigation record search on criminal
20 background checks and use the results in making licensure
21 decisions;

22 (6) if otherwise permitted by state law,
23 recover from the affected nurse the costs of investigations
24 and disposition of cases resulting from any adverse action
25 taken against that nurse; and

1 nurses. This system will include information on the
2 licensure and disciplinary history of each nurse, as
3 submitted by party states, to assist in the coordination of
4 nurse licensure and enforcement efforts.

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

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

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

22 E. Notwithstanding any other provision of law, all
23 party state licensing boards contributing information to the
24 coordinated licensure information system may designate
25 information that may not be shared with non-party states or

1 disclosed to other entities or individuals without the
2 express permission of the contributing state.

3 F. Any personally identifiable information
4 obtained from the coordinated licensure information system by
5 a party state licensing board shall not be shared with
6 non-party states or disclosed to other entities or
7 individuals except to the extent permitted by the laws of the
8 party state contributing the information.

9 G. Any information contributed to the coordinated
10 licensure information system that is subsequently required to
11 be expunged by the laws of the party state contributing that
12 information shall also be expunged from the coordinated
13 licensure information system.

14 H. The compact administrator of each party state
15 shall furnish a uniform data set to the compact administrator
16 of each other party state, which shall include, at a minimum:

- 17 (1) identifying information;
- 18 (2) licensure data;
- 19 (3) information related to alternative
20 program participation; and
- 21 (4) other information that may facilitate
22 the administration of this compact, as determined by
23 commission rules.

24 I. The compact administrator of a party state
25 shall provide all investigative documents and information

1 requested by another party state.

2 ARTICLE 7 - Establishment of the Interstate Commission of
3 Nurse Licensure Compact Administrators

4 A. The party states hereby create and establish a
5 joint public entity known as the Interstate Commission of
6 Nurse Licensure Compact Administrators.

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

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

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

18 B. Membership, Voting and Meetings

19 (1) Each party state shall have and be
20 limited to one administrator. The head of the state
21 licensing board or designee shall be the administrator of
22 this compact for each party state. Any administrator may be
23 removed or suspended from office as provided by the law of
24 the state from which the administrator is appointed. Any
25 vacancy occurring in the commission shall be filled in

1 accordance with the laws of the party state in which the
2 vacancy exists.

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

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

14 (4) All meetings shall be open to the
15 public, and public notice of meetings shall be given in the
16 same manner as required under the rulemaking provisions in
17 Article 8 of the Nurse Licensure Compact.

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

20 (a) noncompliance of a party state with
21 its obligations under this compact;

22 (b) the employment, compensation,
23 discipline or other personnel matters, practices or
24 procedures related to specific employees or other matters
25 related to the commission's internal personnel practices and

1 procedures;

2 (c) current, threatened or reasonably
3 anticipated litigation;

4 (d) negotiation of contracts for the
5 purchase or sale of goods, services or real estate;

6 (e) accusing any person of a crime or
7 formally censuring any person;

8 (f) disclosure of trade secrets or
9 commercial or financial information that is privileged or
10 confidential;

11 (g) disclosure of information of a
12 personal nature where disclosure would constitute a clearly
13 unwarranted invasion of personal privacy;

14 (h) disclosure of investigatory records
15 compiled for law enforcement purposes;

16 (i) disclosure of information related
17 to any reports prepared by or on behalf of the commission for
18 the purpose of investigation of compliance with this compact;
19 or

20 (j) matters specifically exempted from
21 disclosure by federal or state statute.

22 (6) If a meeting, or portion of a meeting,
23 is closed pursuant to this provision, the commission's legal
24 counsel or designee shall certify that the meeting may be
25 closed and shall reference each relevant exempting provision.

1 The commission shall keep minutes that fully and clearly
2 describe all matters discussed in a meeting and shall provide
3 a full and accurate summary of actions taken, and the reasons
4 therefor, including a description of the views expressed.

5 All documents considered in connection with an action shall
6 be identified in such minutes. All minutes and documents of
7 a closed meeting shall remain under seal, subject to release
8 by a majority vote of the commission or order of a court of
9 competent jurisdiction.

10 C. The commission shall, by a majority vote of the
11 administrators, prescribe bylaws or rules to govern its
12 conduct as may be necessary or appropriate to carry out the
13 purposes and exercise the powers of this compact, including
14 but not limited to:

15 (1) establishing the fiscal year of the
16 commission;

17 (2) providing reasonable standards and
18 procedures:

19 (a) for the establishment and meetings
20 of other committees; and

21 (b) governing any general or specific
22 delegation of any authority or function of the commission;

23 (3) providing reasonable procedures for
24 calling and conducting meetings of the commission, ensuring
25 reasonable advance notice of all meetings and providing an

1 opportunity for attendance of such meetings by interested
2 parties, with enumerated exceptions designed to protect the
3 public's interest, the privacy of individuals, and
4 proprietary information, including trade secrets. The
5 commission may meet in closed session only after a majority
6 of the administrators vote to close a meeting in whole or in
7 part. As soon as practicable, the commission must make
8 public a copy of the vote to close the meeting revealing the
9 vote of each administrator, with no proxy votes allowed;

10 (4) establishing the titles, duties and
11 authority and reasonable procedures for the election of the
12 officers of the commission;

13 (5) providing reasonable standards and
14 procedures for the establishment of the personnel policies
15 and programs of the commission. Notwithstanding any civil
16 service or other similar laws of any party state, the bylaws
17 shall exclusively govern the personnel policies and programs
18 of the commission; and

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

24 D. The commission shall publish its bylaws and
25 rules, and any amendments thereto, in a convenient form on

1 the website of the commission.

2 E. The commission shall maintain its financial
3 records in accordance with the bylaws.

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

7 G. The commission shall have the following powers:

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

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

16 (3) to purchase and maintain insurance and
17 bonds;

18 (4) to borrow, accept or contract for
19 services of personnel, including but not limited to employees
20 of a party state or nonprofit organizations;

21 (5) to cooperate with other organizations
22 that administer state compacts related to the regulation of
23 nursing, including but not limited to sharing administrative
24 or staff expenses, office space or other resources;

25 (6) to hire employees, elect or appoint

1 officers, fix compensation, define duties, grant such
2 individuals appropriate authority to carry out the purposes
3 of this compact, and to establish the commission's personnel
4 policies and programs relating to conflicts of interest,
5 qualifications of personnel and other related personnel
6 matters;

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

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

17 (9) to sell, convey, mortgage, pledge,
18 lease, exchange, abandon or otherwise dispose of any
19 property, whether real, personal or mixed;

20 (10) to establish a budget and make
21 expenditures;

22 (11) to borrow money;

23 (12) to appoint committees, including
24 advisory committees comprised of administrators, state
25 nursing regulators, state legislators or their

1 representatives, consumer representatives, and other such
2 interested persons;

3 (13) to provide and receive information
4 from, and to cooperate with, law enforcement agencies;

5 (14) to adopt and use an official seal; and

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

10 H. Financing of the Commission

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

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

21 (3) The commission shall not incur
22 obligations of any kind prior to securing the funds adequate
23 to meet the same; nor shall the commission pledge the credit
24 of any of the party states, except by, and with the authority
25 of, such party state.

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

10 I. Qualified Immunity, Defense and Indemnification

11 (1) The administrators, officers, executive
12 director, employees and representatives of the commission
13 shall be immune from suit and liability, either personally or
14 in their official capacity, for any claim for damage to or
15 loss of property or personal injury or other civil liability
16 caused by or arising out of any actual or alleged act, error
17 or omission that occurred, or that the person against whom
18 the claim is made had a reasonable basis for believing
19 occurred, within the scope of commission employment, duties
20 or responsibilities; provided that nothing in this paragraph
21 shall be construed to protect any such person from suit or
22 liability for any damage, loss, injury or liability caused by
23 the intentional, willful or wanton misconduct of that person.

24 (2) The commission shall defend any
25 administrator, officer, executive director, employee or

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

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

24 ARTICLE 8 - Rulemaking

25 A. The commission shall exercise its rulemaking

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

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

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

13 (1) on the website of the commission; and

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

17 D. The notice of proposed rulemaking shall
18 include:

19 (1) the proposed time, date and location of
20 the meeting in which the rule will be considered and voted
21 upon;

22 (2) the text of the proposed rule or
23 amendment, and the reason for the proposed rule;

24 (3) a request for comments on the proposed
25 rule from any interested person; and

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

4 E. Prior to adoption of a proposed rule, the
5 commission shall allow persons to submit written data, facts,
6 opinions and arguments, which shall be made available to the
7 public.

8 F. The commission shall grant an opportunity for a
9 public hearing before it adopts a rule or amendment.

10 G. The commission shall publish the place, time
11 and date of the scheduled public hearing.

12 (1) Hearings shall be conducted in a manner
13 providing each person who wishes to comment a fair and
14 reasonable opportunity to comment orally or in writing. All
15 hearings will be recorded, and a copy will be made available
16 upon request.

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

21 H. If no one appears at the public hearing, the
22 commission may proceed with promulgation of the proposed
23 rule.

24 I. Following the scheduled hearing date, or by the
25 close of business on the scheduled hearing date if the

1 hearing was not held, the commission shall consider all
2 written and oral comments received.

3 J. The commission shall, by majority vote of all
4 administrators, take final action on the proposed rule and
5 shall determine the effective date of the rule, if any, based
6 on the rulemaking record and the full text of the rule.

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

16 (1) meet an imminent threat to public
17 health, safety or welfare;

18 (2) prevent a loss of commission or party
19 state funds; or

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

23 L. The commission may direct revisions to a
24 previously adopted rule or amendment for purposes of
25 correcting typographical errors, errors in format, errors in

1 consistency or grammatical errors. Public notice of any
2 revisions shall be posted on the website of the commission.
3 The revision shall be subject to challenge by any person for
4 a period of thirty days after posting. The revision may be
5 challenged only on grounds that the revision results in a
6 material change to a rule. A challenge shall be made in
7 writing, and delivered to the commission, prior to the end of
8 the notice period. If no challenge is made, the revision
9 will take effect without further action. If the revision is
10 challenged, the revision may not take effect without the
11 approval of the commission.

12 ARTICLE 9 - Oversight, Dispute Resolution and Enforcement

13 A. Oversight

14 (1) Each party state shall enforce this
15 compact and take all actions necessary and appropriate to
16 effectuate this compact's purposes and intent.

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

24 B. Default, Technical Assistance and Termination

25 (1) If the commission determines that a

1 party state has defaulted in the performance of its
2 obligations or responsibilities under this compact or the
3 promulgated rules, the commission shall:

4 (a) provide written notice to the
5 defaulting state and other party states of the nature of the
6 default, the proposed means of curing the default or any
7 other action to be taken by the commission; and

8 (b) provide remedial training and
9 specific technical assistance regarding the default.

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

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

25 (4) A state whose membership in this compact

1 has been terminated is responsible for all assessments,
2 obligations and liabilities incurred through the effective
3 date of termination, including obligations that extend beyond
4 the effective date of termination.

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

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

16 C. Dispute Resolution

17 (1) Upon request by a party state, the
18 commission shall attempt to resolve disputes related to the
19 compact that arise among party states and between party and
20 non-party states.

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

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

1 compact:

2 (a) the party states may submit the
3 issues in dispute to an arbitration panel, which will be
4 comprised of individuals appointed by the compact
5 administrator in each of the affected party states and an
6 individual mutually agreed upon by the compact administrators
7 of all the party states involved in the dispute; and

8 (b) the decision of a majority of the
9 arbitrators shall be final and binding.

10 D. Enforcement

11 (1) The commission, in the reasonable
12 exercise of its discretion, shall enforce the provisions and
13 rules of this compact.

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

24 (3) The remedies herein shall not be the
25 exclusive remedies of the commission. The commission may

1 pursue any other remedies available under federal or state
2 law.

3 ARTICLE 10 - Effective Date, Withdrawal and Amendment

4 A. This compact shall become effective and binding
5 on the earlier of the date of legislative enactment of this
6 compact into law by no less than twenty-six states or
7 December 31, 2018. All party states to this compact that
8 were parties to the prior compact shall be deemed to have
9 withdrawn from the prior compact within six months after the
10 effective date of this compact.

11 B. Each party state to this compact shall continue
12 to recognize a nurse's multistate licensure privilege to
13 practice in that party state issued under the prior compact
14 until such party state has withdrawn from the prior compact.

15 C. Any party state may withdraw from this compact
16 by enacting a statute repealing the same. A party state's
17 withdrawal shall not take effect until six months after
18 enactment of the repealing statute.

19 D. A party state's withdrawal or termination shall
20 not affect the continuing requirement of the withdrawing or
21 terminated state's licensing board to report adverse actions
22 and significant investigations occurring prior to the
23 effective date of such withdrawal or termination.

24 E. Nothing contained in this compact shall be
25 construed to invalidate or prevent any nurse licensure

1 agreement or other cooperative arrangement between a party
2 state and a non-party state that is made in accordance with
3 the other provisions of this compact.

4 F. This compact may be amended by the party
5 states. No amendment to this compact shall become effective
6 and binding upon the party states unless and until it is
7 enacted into the laws of all party states.

8 G. Representatives of non-party states to this
9 compact shall be invited to participate in the activities of
10 the commission, on a nonvoting basis, prior to the adoption
11 of this compact by all states.

12 ARTICLE 11 - Construction and Severability

13 This compact shall be liberally construed so as to
14 effectuate the purposes thereof. The provisions of this
15 compact shall be severable, and if any phrase, clause,
16 sentence or provision of this compact is declared to be
17 contrary to the constitution of any party state or of the
18 United States, or if the applicability thereof to any
19 government, agency, person or circumstance is held invalid,
20 the validity of the remainder of this compact and the
21 applicability thereof to any government, agency, person or
22 circumstance shall not be affected thereby. If this compact
23 shall be held to be contrary to the constitution of any party
24 state, this compact shall remain in full force and effect as
25 to the remaining party states and in full force and effect as

1 to the party state affected as to all severable matters."."

2 SECTION 2. Section 61-3-29.1 NMSA 1978 (being Laws
3 1987, Chapter 285, Section 1, as amended) is amended to read:

4 "61-3-29.1. DIVERSION PROGRAM CREATED--ADVISORY
5 COMMITTEE--RENEWAL FEE--REQUIREMENTS--IMMUNITY FROM CIVIL
6 ACTIONS.--

7 A. The board shall establish a diversion program
8 to rehabilitate nurses whose competencies may be impaired
9 because of the abuse of drugs or alcohol so that nurses can
10 be treated and returned to or continue the practice of
11 nursing in a manner that will benefit the public. The intent
12 of the diversion program is to develop a voluntary
13 alternative to traditional disciplinary actions and an
14 alternative to lengthy and costly investigations and
15 administrative proceedings against such nurses, at the same
16 time providing adequate safeguards for the public.

17 B. The board shall appoint one or more evaluation
18 committees, hereinafter called "regional advisory
19 committees", each of which shall be composed of members with
20 expertise in chemical dependency. At least one member shall
21 be a registered nurse. No current member of the board shall
22 be appointed to a regional advisory committee. The executive
23 officer of the board or the executive officer's designee
24 shall be the liaison between each regional advisory committee
25 and the board.

1 C. Each regional advisory committee shall function
2 under the direction of the board and in accordance with
3 regulations of the board. The regulations shall include
4 directions to a regional advisory committee to:

5 (1) establish criteria for continuance in
6 the program;

7 (2) develop a written diversion program
8 contract to be approved by the board that sets forth the
9 requirements that shall be met by the nurse and the
10 conditions under which the diversion program may be
11 successfully completed or terminated;

12 (3) recommend to the board in favor of or
13 against each nurse's discharge from the diversion program;

14 (4) evaluate each nurse's progress in
15 recovery and compliance with the nurse's diversion program
16 contract;

17 (5) report violations to the board;

18 (6) submit an annual report to the board;

19 and

20 (7) coordinate educational programs and
21 research related to chemically dependent nurses.

22 D. The board may increase the renewal fee for each
23 nurse in the state not to exceed twenty dollars (\$20.00) for
24 the purpose of implementing and maintaining the diversion
25 program.

1 E. Files of nurses in the diversion program shall
2 be maintained in the board office and shall be confidential
3 except as required to be disclosed pursuant to the Nurse
4 Licensure Compact, when used to make a report to the board
5 concerning a nurse who is not cooperating and complying with
6 the diversion program contract or, with written consent of a
7 nurse, when used for research purposes as long as the nurse
8 is not specifically identified. However, the files shall be
9 subject to discovery or subpoena. The confidential
10 provisions of this subsection are of no effect if the nurse
11 admitted to the diversion program leaves the state prior to
12 the completion of the program.

13 F. A person making a report to the board or to a
14 regional advisory committee regarding a nurse suspected of
15 practicing nursing while habitually intemperate or addicted
16 to the use of habit-forming drugs or making a report of a
17 nurse's progress or lack of progress in rehabilitation shall
18 be immune from civil action for defamation or other cause of
19 action resulting from such reports if the reports are made in
20 good faith and with some reasonable basis in fact.

21 G. A person admitted to the diversion program for
22 chemically dependent nurses who fails to comply with the
23 provisions of this section or with the rules and regulations
24 adopted by the board pursuant to this section or with the
25 written diversion program contract or with any amendments to

1 the written diversion program contract may be subject to
2 disciplinary action in accordance with Section 61-3-28 NMSA
3 1978."

4 SECTION 3. REPEAL.--Section 61-3-24.2 NMSA 1978 (being
5 Laws 2003, Chapter 307, Section 2) is repealed.

6 SECTION 4. EMERGENCY.--It is necessary for the public
7 peace, health and safety that this act take effect
8 immediately. _____

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