- 1 HB373
- 2 198295-1
- 3 By Representative Weaver
- 4 RFD: Boards, Agencies and Commissions
- 5 First Read: 09-APR-19

| 1 | 198295-1:n:04/01/2019:KMS/tj LSA2019-1050 |
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| 8 | SYNOPSIS: Under existing law, the Board of Nursing is |
| 9 | responsible for the regulation of the practice of |
| 10 | nursing in the state. |
| 11 | This bill would allow the Board of Nursing |
| 12 | to enter into the Enhanced Nurse Licensure Compact |
| 13 | as a means of providing uniformity in licensing |
| 14 | requirements and interstate practice throughout |
| 15 | party states. |
| 16 | This bill would also amend existing law to |
| 17 | make technical corrections relating to the |
| 18 | multistate licensure of nurses. |
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| 20 | A BILL |
| 21 | TO BE ENTITLED |
| 22 | AN ACT |
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| 24 | Relating to the Board of Nursing; to amend Sections |
| 25 | 34-21-1, 34-21-2, 34-21-21, 34-21-22, and 34-21-25, Code of |
| 26 | Alabama 1975, and to add Section 34-21-20.01 and Article 7, |
| 27 | commencing with Section 34-21-120, to the Code of Alabama |

| 1 | 1975, to allow the board to enter into the Enhanced Nurse |
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| 2 | Licensure Compact as a means of providing uniformity in |
| 3 | licensing requirements and interstate practice throughout |
| 4 | party states; and to make technical changes relating to the |
| 5 | multistate licensure of nurses. |
| 6 | BE IT ENACTED BY THE LEGISLATURE OF ALABAMA: |
| 7 | Section 1. Sections 34-21-1, 34-21-2, 34-21-21, |
| 8 | 34-21-22, and 34-21-25 of the Code of Alabama 1975, are |
| 9 | amended to read as follows: |
| 10 | " §34-21-1. |
| 11 | "For purposes of this chapter, the following terms |
| 12 | shall have the respective meanings ascribed by this section: |
| 13 | "(1) BOARD. The Board of Nursing created hereunder. |
| 14 | "(2) ADVISORY COUNCILS. Advisory councils provided |
| 15 | for under the terms of this chapter. |
| 16 | "(3) COMPACT. The Enhanced Nurse Licensure Compact |
| 17 | <pre>provided in Article 7.</pre> |
| 18 | "(4) COORDINATED LICENSE INFORMATION SYSTEM. A |
| 19 | licensing integrated database and process for collecting, |
| 20 | storing, and sharing nurse licensure and enforcement |
| 21 | information that includes all licensed registered nurses and |
| 22 | licensed practical/vocational nurses. The system includes all |
| 23 | disciplinary history of each nurse, as administered by a |
| 24 | nonprofit organization and controlled by licensing boards. |
| 25 | " (3) (5) PRACTICE OF PROFESSIONAL AND PRACTICAL |
| 26 | NURSING. Nursing is a profession the practice of which is |
| 27 | defined as: |

"a. Practice of Professional Nursing. The performance, for compensation, of any act in the care and counselling of persons or in the promotion and maintenance of health and prevention of illness and injury based upon the nursing process which includes systematic data gathering, assessment, appropriate nursing judgment and evaluation of human responses to actual or potential health problems through such services as case finding, health teaching, health counselling; and provision of care supportive to or restorative of life and well-being, and executing medical regimens including administering medications and treatments prescribed by a licensed or otherwise legally authorized physician or dentist. A nursing regimen shall be consistent with and shall not vary any existing medical regimen. Additional acts requiring appropriate education and training designed to maintain access to a level of health care for the consumer may be performed under emergency or other conditions which are recognized by the nursing and medical professions as proper to be performed by a registered nurse.

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"b. Practice of Practical Nursing. The performance, for compensation, of acts designed to promote and maintain health, prevent illness and injury and provide care utilizing standardized procedures and the nursing process, including administering medications and treatments, under the direction of a licensed professional nurse or a licensed or otherwise legally authorized physician or dentist. Such practice requires basic knowledge of the biological, physical, and

behavioral sciences and of nursing skills but does not require
the substantial specialized skill, independent judgment, and
knowledge required in the practice of professional nursing.
Additional acts requiring appropriate education and training
may be performed under emergency or other conditions which are
recognized by the nursing and medical professions as proper to
be performed by a licensed practical nurse.

"(4) (6) LICENSED PROFESSIONAL NURSE. A person who is currently licensed to practice professional nursing.

"(5)(7) LICENSED PRACTICAL NURSE. A person who is currently licensed to practice practical nursing. For the purposes of the Enhanced Nurse Licensure Compact, practical nursing includes practice as a licensed practical nurse, licensed vocational nurse, or other similarly qualified licensed nurse in any state participating in the compact.

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

"(9) MULTISTATE LICENSURE PRIVILEGE. A legal authorization associated with a multistate license that allows the practice of nursing as a registered nurse or licensed practical nurse in any state participating in the Enhanced Nurse Licensure Compact.

"(10) SINGLE STATE LICENSE. A nurse license issued by a state participating in the Enhanced Nurse Licensure

Compact that authorizes practice only within the issuing state
and does not include a multistate licensure privilege to
practice in any other state.

"\$34-21-2.

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"(a) There is created the Board of Nursing, which shall be composed of 13 members to be appointed and have the duties and powers enumerated in this section. The membership of the board shall be inclusive and reflect the racial, gender, geographic, urban/rural, and economic diversity of the state. In order to insure continuity of administration, the nine board members provided for by Section 3 of Act 427, Regular Session 1975, shall continue to serve to the completion of the term for which they are serving. The Governor, within 60 days of January 1, 1984, shall appoint a tenth member who shall be a licensed practical nurse for a term of four years from a list of nominees furnished him or her by the Alabama Federation of Licensed Practical Nurses, Incorporated, or its successor organization. As the terms of all board members expire, their successors shall be appointed for terms of four years each. Vacancies in unexpired terms shall be filled in the same manner as original appointments are made. No member shall be appointed to more than two consecutive terms of four years each. Eight members of the board shall be licensed professional nurses, and four members of the board shall be licensed practical nurses.

"(b)(1) The Governor shall appoint the members of the board who are licensed professional nurses from a list of

nominees who are selected by the Board of Nursing Nomination Committee and furnished to the Governor by the Alabama State Nurses' Association, or its successor organization, and such list, when furnished, shall contain at least twice the number of nominees as there are appointments to be made or vacancies to be filled. The Alabama State Nurses' Association, or its successor organization, on or before December 1 of each year, or at such other times as necessary, shall furnish the Governor with a list of licensed professional nurses qualified for appointment to the board. In the nominating and appointing process, due care shall be taken to ensure the maintenance of qualified representation from the fields of nursing education, nursing administration, clinical nursing, and advanced practice nursing.

"(2) The Governor shall appoint two of the members of the board who are to be licensed practical nurses from a list of nominees furnished him or her by the Board of Directors of the Licensed Practical Nurses Association of Alabama, or its successor organization, and such list, when furnished, shall contain at least twice the number of nominees for the vacancies to be filled. The Board of Directors of the Licensed Practical Nurses Association of Alabama, or its successor organization, on or before December 1 of each year in which the term of office of a board member or a nominee of the Board of Directors shall expire, or at such other time as necessary, shall furnish the Governor with such list of

licensed practical nurses qualified for appointment to the board.

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- "(3) The Governor shall appoint two members on the board who are to be licensed practical nurses from a list of nominees furnished him or her by the Board of Directors of the Alabama Federation of Licensed Practical Nurses, Incorporated, or its successor organization, and such list, when furnished, shall contain at least twice the number of nominees for the vacancies to be filled. The Board of Directors of the Alabama Federation of Licensed Practical Nurses, Incorporated, or its successor organization, on or before December 1 of each year in which the term of office of the board member filled by the nominee of such board of directors shall expire, or at such other times as necessary, shall furnish the Governor with a list of licensed practical nurses qualified for appointment to the board.
- "(c) The Governor may remove any member from the board for neglect of duty of the board, incompetency, or unprofessional or dishonorable conduct.
- "(d) Each person appointed to the board as a licensed professional nurse shall be a citizen of the United States, a resident of the State of Alabama, and have all of these additional qualifications:
- "(1) Be a graduate of a state-approved educational program for the preparation of practitioners of professional nursing.

- 1 "(2) Be a currently licensed professional nurse in
- 2 Alabama.

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- "(3) Have a minimum of five years' successful

 nursing experience in an administrative, teaching, clinical

 capacity, or advanced practice.
- "(4) Be actively engaged in professional nursing in this state immediately preceding and during appointment.
- "(e) Each person appointed to the board as a

 licensed practical nurse shall be a citizen of the United

 States, a resident of the State of Alabama, and have all of

 these additional qualifications:
- "(1) Hold a diploma from an accredited high school or its equivalent.
- "(2) Be a graduate of a state-approved vocational educational program for the preparation of practitioners of licensed practical nursing.
- "(3) Be a currently licensed practical nurse in Alabama.
- "(4) Have a minimum of five years' successful nursing experience.
- "(5) Be actively engaged in licensed practical nursing in this state immediately preceding and during appointment.
 - "(f) There shall be one member of the board who is a consumer and who is not a member of any of the health care professions. The consumer member shall be appointed by the Governor effective January 1, 1998, and shall serve for a term

of four years. His or her successor shall be appointed in a like manner at the expiration of each term or upon a vacancy for the remainder of an unexpired term of office. The consumer member of the board shall have, presently or formerly, no direct financial interest in any health care facility, profession, agency, or insurer, or be or have been a health

care worker.

"(g) There shall be two advanced practice nurse positions to be filled effective January 1, 1998, in the same manner as all other professional nurse positions. One advanced practice nurse position shall be served for an initial five-year term and successors shall serve four-year terms. The remaining member appointed to an advance practice nurse position shall serve an initial four-year term and successors shall serve four-year terms.

"(h) All members of the board shall enjoy immunity from individual civil liability while acting within the scope of their duties as board members.

"(i) The board shall have the following powers and perform the following duties: It shall meet at least once a year and shall, at its organizational meeting and at its annual meetings thereafter, elect from its members a president, a vice-president, and a secretary. It may hold such other and additional meetings during any year as it deems necessary for the transaction of business. A majority of the board, including one officer, shall constitute a quorum at any meeting.

"(j) The board may:

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- "(1) Adopt and, from time to time, revise such rules
 and regulations, not inconsistent with law, as may be
 necessary to carry out this chapter.
 - "(2) Prescribe standards and approve curricula for nursing educational programs preparing persons for licensure under this chapter.
 - "(3) Provide for surveys and evaluations of such programs at such times as it may deem necessary.
 - "(4) Approve such nursing educational programs as meet the requirements of this chapter and the board. Nothing in this chapter shall be construed to diminish the power of the State Board of Education or other constitutionally or legislatively established state agencies to govern the schools under their respective jurisdictions.
 - "(5) Deny or withdraw approval from educational programs for failure to meet prescribed standards. Withdrawal of approval shall be effected only after a hearing in accordance with board rules and regulations.
 - "(6) Examine, license, and renew the licenses of duly qualified applicants and require employers to submit listings of personnel covered by this chapter to the board upon request including, but not limited to, personnel practicing nursing in Alabama under a multistate license, a single state license, or a multistate licensure privilege. The board may issue qualified applicants either a single state license or a multistate license.

- "(7) Conduct investigations, hearings, and proceedings concerning alleged violations of this section or of the rules and regulations of the board.
 - "(8) Have the power to issue subpoenas, compel the attendance of witnesses, and administer oaths to persons giving testimony at hearings.
 - "(9) Cause the prosecution of all persons violating this chapter and incur such necessary expenses therefor.
- 9 "(10) Keep a public record of all of its 10 proceedings.

- "(11) Keep a register of all licensees.
- "(12) Make an annual report to the Governor.
- "(13) Appoint and employ a qualified person, not subject to the state Merit System, who shall not be a member of the board, to serve as executive officer and administrator and commissioner of the Enhanced Nurse Licensure Compact for Alabama.
- "(14) Define the duties and fix the compensation for of the executive officer and administrator and commissioner of the Enhanced Nurse Licensure Compact for Alabama, with the approval of the Governor and the State Personnel Board as provided in Section 36-6-6.
- "(15) Employ such other persons as may be necessary to carry on the work of the board and provide for appropriate bonding of employees. Regular employees of the board shall be employed subject to the state Merit System in effect on January 1, 1966, or at the time of employment.

- "(16) Employ consultants, specialists, counsel, or other specially qualified persons under contract or on a part-time basis to assist it in administering this chapter and without regard to the state Merit System in effect on or after January 1, 1966, and pay for the services of such persons.
 - "(17) Accept gifts and grants upon terms and conditions imposed by it through official resolutions.

- "(18) Perform such other duties, not inconsistent with law, as required by this chapter to foster and improve nursing and the regulation thereof and the public health of this state.
- "(19) Expend funds of the board in exercising its powers and duties and in administering this chapter.
 - "(20) Determine and collect reasonable fees.
- "(21) Adopt standards for registered and practical nursing practice and for continued competency of licensees.
- "(22) Join organizations that develop and regulate the national nursing licensure examinations and promote the improvement of the legal standards of the practice of nursing for the protection of the public health, safety, and welfare.
- "(k) The executive officer employed by the board shall be a citizen of the United States, a person of the highest integrity, and possess these additional qualifications: Be a licensed professional nurse in Alabama or eligible for licensure, be a graduate of a professional nursing program approved by the state in which the program was completed, hold a master's degree, and have had a varied

experience in nursing, including at least five years' experience in an administrative or teaching capacity.

- "(1) The executive officer shall be bonded for the faithful performance of the duties of the office in the sum of not less than five thousand dollars (\$5,000), and the premium of the bond shall be paid out of the funds of the board.
- "(m) Each member of the board shall receive the same per diem and travel allowance as is paid by law to state employees for each day's attendance at the board meetings incurred in the discharge of his or her duties as a board member in addition to any daily compensation or allowance, if any, as may be provided by the board, in such amount as may be determined by the board. Any member of the board engaged in duties under the direction of the board shall receive the per diem and travel expenses and daily compensation or allowance authorized by the board.
- "(n) Nothing in this chapter shall limit the rights of affected parties to appeal decisions of the board with regard to rules and regulations promulgated pursuant to this chapter.
- "(o) Participation by the state in the compact
 provided in Article 7 shall be subject to review and
 evaluation by the Sunset Committee pursuant to Chapter 20 of
 Title 41, with the first review occurring in 2024. The Sunset
 Committee shall determine whether continued participation in
 the compact is in the best interests of the board or the
 licensees of the board. The Sunset Committee shall also review

| 1 | and e | valuate | e partici | pati | Lon | in | the | compact | within | one | year |
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| 2 | after | the o | ccurrence | of | anv | of | the | follow | ing: | | |

"(1) The annual assessment charged the board for participation in the compact exceeds one half of one percent of the gross revenue of the board for the fiscal year immediately preceding the levying of the annual assessment.

"(2) The state, the board, or members or employees of the state or board are named defendants in a suit brought in any court of law or equity by the Interstate Commission of Nurse Licensure Compact Administrators pursuant to Article 7.

"(3) The passage of a resolution by either house of the Legislature requesting review pursuant to subsection (d) of Section 41-20-3.

"§34-21-21.

- "(a) An applicant for a license to practice professional nursing as a registered nurse shall submit to the board written evidence of qualification, verified by oath, that such applicant is of good moral character, holds a diploma from an accredited high school or, in the opinion of the board, the equivalent thereof, has successfully completed an educational program in a school of nursing approved by the board, and is a citizen of the United States or, if not a citizen of the United States, a person who is legally present in the United States with appropriate documentation from the federal government.
- "(b) A license to practice professional nursing as a registered nurse may be obtained in the following manners:

"(1) BY EXAMINATION. The applicant shall be required
to pass an examination on such subjects as the board may
determine; and, upon successfully passing such examination,
the board shall issue such applicant a license.

- "(2) BY ENDORSEMENT. The board may issue a license to practice professional nursing as a registered nurse to an applicant who has been duly licensed as a registered nurse under the laws of another state, territory, or foreign country, if, in the opinion of the board, such applicant meets the qualifications required of registered nurses in this state at the time of his or her graduation. There shall be no license to practice professional nursing granted by the previously known waiver method.
 - "(3) BY TEMPORARY PERMIT. The board may issue temporary permits to practice professional nursing to graduates of approved schools of nursing pending completion of licensing procedures; to qualified applicants pending licensure procedures under subdivision (2); and to those nurses licensed by other states who will practice in this state for a period of one year or less, subject to the discretion of the board.
 - "(c) Any person who holds a license to practice professional nursing as a registered nurse in this state shall have the right to use the title "registered nurse" and the abbreviation "R.N." No other person shall assume or use such title or abbreviation or other words, letters, signs, or

devices to indicate that the person using same is licensed to practice professional nursing as a registered nurse.

"(d) Any person holding a license or certificate of original registration to practice nursing as a registered nurse, issued by the Alabama Board of Nurses' Examiners and Registration and which was valid on December 31, 1965, shall be eligible for licensing to practice professional nursing as a registered nurse under the provisions of this chapter.

"(e) An applicant for a license to practice

professional nursing in Alabama may apply for either a single

state license or a multistate license.

"\$34-21-22.

"(a) An applicant for a license to practice practical nursing as a licensed practical nurse shall submit to the board written evidence of qualification, verified by oath, that the applicant is of good moral character, is a high school graduate and holds a diploma from an accredited high school, or in the opinion of the board, the equivalent thereof, has successfully completed an educational program of at least one year's duration in a school of practical nursing, approved by the board, and is a citizen of the United States or, if not a citizen of the United States, a person who is legally present in the United States with appropriate documentation from the federal government.

"(b) A license to practice as a licensed practical nurse may be obtained in the following manners:

"(1) BY EXAMINATION. The applicant shall be required
to pass an examination on such subjects as the board may
determine; and, upon successfully passing such examination,
the board shall issue such applicant a license.

- "(2) BY ENDORSEMENT. The board may issue a license to practice practical nursing as a licensed practical nurse to an applicant who has been duly licensed as a licensed practical nurse (irrespective of the title or designation granted when such license was issued) under the laws of another state, territory, or foreign country, if, in the opinion of the board, such applicant meets the requirements for licensed practical nurses in this state at the time of his or her graduation. There shall be no license to practice practical nursing granted by the previously known waiver method.
 - "(3) BY TEMPORARY PERMIT. The board may issue a temporary permit to practice practical nursing as a licensed practical nurse to graduates of approved schools of practical nursing pending the completion of licensing procedures in Alabama and to qualified applicants pending licensing procedures under subdivision (2).
 - "(c) Any person who holds a license to practice practical nursing as a licensed practical nurse in this state shall have the right to use the title "licensed practical nurse" and the abbreviation "L.P.N." No other person shall assume or use such title or abbreviation or any other words, letters, signs, or devices to indicate that the person using

| 1 | the | same | is | licensed | to | practice | practical | nursing | as | а |
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"(d) Any person holding a license or certificate of original registration to practice practical nursing as a licensed practical nurse, issued by the Alabama Board of Nurses' Examiners and Registration and issued by the board and which was valid on December 31, 1965, shall hereafter be eligible for licensing to practice practical nursing as a licensed practical nurse under the provisions of this chapter.

"(e) An applicant for a license to practice

practical nursing in Alabama may apply for either a single

state license or a multistate license.

"\$34-21-25.

"(a) For disciplinary purposes, the board may adopt, levy, and collect administrative fines not to exceed one thousand dollars (\$1,000) per violation and may institute any legal proceedings necessary to effect compliance with this chapter against its licensees.

"(b)(1) The board may also deny, revoke, or suspend any license issued by it or otherwise discipline a licensee, or holder of a multistate privilege to practice in Alabama, upon proof of any of the following regarding the licensee:

"a. Is guilty of fraud or deceit in procuring or attempting to procure a license.

"b. Has been convicted of a felony.

- "c. Is guilty of a crime involving moral turpitude 1 2 or of gross immorality that would tend to bring reproach upon the nursing profession. 3 "d. Is unfit or incompetent due to the use of 4 5 alcohol, or is addicted to the use of habit-forming drugs to such an extent as to render him or her unsafe or unreliable as 6 7 a licensee. "e. Is unable to practice nursing with reasonable 8 9 skill and safety to patients by reason of illness, 10 inebriation, excessive use of drugs, narcotics, alcohol, chemicals, or any other substance, or as a result of any 11 12 mental or physical condition. 13 "f. Has been convicted of any violation of a federal or state law relating to controlled substances. 14 15 "q. Is guilty of unprofessional conduct of a character likely to deceive, defraud, or injure the public in 16 17 matters pertaining to health. 18 "h. Has willfully or repeatedly violated this article, as defined by board rules and regulations. 19 20 "i. Has been sentenced to a period of continuous 21 incarceration serving a penal sentence for the commission of a misdemeanor or felony. The disciplinary action shall remain in 22 23 effect until the board acts upon the application of the 24 licensee for reinstatement of the license.
 - "(2) The board may refrain from or delay taking disciplinary action under this subsection if a licensee can be

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voluntarily treated or rehabilitated pursuant to subsection (j).

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"(c) Whenever a written complaint is made to the board that a person has committed any of the acts or has come within any of the provisions enumerated in subsection (b), the board shall investigate the complaint and may bring an action in its own name to hear and determine the complaint. The hearing shall be held in Montgomery. The person whose qualification is under consideration shall have not less than 20 days' written notice of the time and place of the initial hearing, and the notice shall be accompanied by a copy of the complaint. The notice may be served upon the accused person by any sheriff of the State of Alabama. If the accused person is out of the state, evades service, or cannot be served in person, then service may be made by mailing, by registered or certified mail, the notice and a copy of the complaint to the accused person at his or her last known post-office address in this state, and the return shall show that service has been made in this manner.

"(d) At the hearing, the complainant, the person whose qualification is under consideration, and any other person permitted by the board, may introduce all oral or written testimony, or both, as the board deems relevant to the issues involved, and may be heard in person or by counsel, or both. The board may permit the complaint to be amended, but no amendment shall be permitted which is not germane to the charge or charges sought to be amended or which materially

alters the nature of any offense charged. The board may
determine all questions as to the sufficiency of the
complaint, procedure, and admissibility and weight of
evidence. If the person whose qualification is under
consideration is absent, the hearing may proceed in his or her

absence.

- "(e) Any accused person, complainant, or other party and the board may subpoena witnesses or pertinent records for the hearing, and those subpoenas may be served by any sheriff of the State of Alabama. Witnesses may be sworn by the president of the board or by the person discharging the duties of the president. Witnesses testifying at a hearing shall upon discharge as a witness be paid by the party requesting the subpoena an amount not to exceed the per diem expense allowed to Alabama state employees for in-state travel and the actual cost of transportation to and from the place of the hearing, not to exceed the mileage rate allowed to Alabama state employees for in-state travel.
- "(f) Evidence may also be taken by deposition, and the law and practice as to depositions in circuit courts shall be followed in all reasonable respects.
- "(g) If the accused person is found guilty of the charges, the board may refuse to issue a license, may revoke or suspend a license, or may otherwise discipline a licensee. A revoked license may be considered for reinstatement after one year in accordance with board rules.

"(h) Any person whose license is ordered suspended or revoked may appeal to the circuit court or a court of like jurisdiction of Montgomery County, from any order of the board under this section, within 30 days from date of the decision of the board. The trial of appeals shall be conducted in like manner, as nearly as may be, as provided for in the Alabama Administrative Procedure Act.

- "(i) Any organization, registered nurse, licensed practical nurse, or other person who in good faith reports information to the board alleging that any person licensed or applying for a license to practice nursing may be guilty of the acts, offenses, or conditions set out in Section 34-21-7 or subsection (b), shall not be liable to any person for any statement or opinion made in that report.
- "(j) Not later than October 1, 1994, the board shall establish a voluntary Disciplinary Alternative Program to promote early identification, intervention, treatment, and rehabilitation of any licensed nurse whose competence is found to be impaired or compromised because of the use or abuse of drugs, alcohol, controlled substances, chemicals, or other substances or as a result of a physical or mental condition rendering the person unable to meet the standards of the nursing profession. The intent of the program is to provide a voluntary alternative to traditional disciplinary actions.
- "(1) When a registered nurse or licensed practical nurse voluntarily seeks treatment for use or abuse of drugs, controlled substances, alcohol, chemicals, or other

substances, or has a physical or mental condition that would render the individual unable to meet the standards of the nursing profession, the board may refrain from taking disciplinary action under subsection (b) if it determines that the licensee can be treated or rehabilitated effectively and that there is no danger to the public. Upon voluntarily seeking treatment, the licensee is subject to the requirements of the Disciplinary Alternative Program established by the board.

- "(2) The board may <u>establish</u>, <u>promulgate</u>, <u>develop</u>, adopt, and revise rules and regulations, and may adjust the license renewal fee as necessary to implement this subsection.
- "(3) The board may appoint an Advisory Council for the Disciplinary Alternative Program pursuant to Section 34-21-3.
- "(4) The board may contract with specially qualified persons or corporations, or both, to assist it in administering the Disciplinary Alternative Program.
- "(5) The board shall establish by rule criteria for eligibility to participate in the Disciplinary Alternative Program and requirements for successful participation in and completion of the program.
- "(6) All Subject to Section 34-21-125, all records of a licensee who successfully completes the Disciplinary Alternative Program shall be confidential, not subject to public disclosure, and not available for court subpoena or for discovery proceedings. The records of a licensee who fails to

comply with the program agreement or who leaves the state prior to the successful completion of the program are not confidential. Information regarding the participation of a licensee in the Disciplinary Alternative Program reported to the coordinated licensure information system pursuant to Section 34-21-125 shall be made available solely to other state boards of nursing and shall not be disclosed to the public by the coordinated licensure information system. Upon successful completion of the Disciplinary Alternative Program, all information regarding participation of the licensee in the Disciplinary Alternative Program shall be expunged from the coordinated licensure information system.

"(7) Nonpublic or confidential data submitted to the coordinated licensure information system by the board may not be distributed to any nonparty state, organization, person, or entity, or any foreign government or an agent, entity, or representative of a foreign government, without the express written approval of the board.

"(8) On request and payment of a certified verification fee, the board shall provide a registered nurse or licensed practical nurse licensed by this state with a copy of any information regarding the nurse maintained by the coordinated licensure information system under Article 7.

"(9) The board is not obligated to provide information that is not otherwise available to the board or information that is not available to the nurse under the laws of the state contributing the information to the coordinated

| 1 | licensure information system or which has been designated as |
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| 2 | available only to other boards of nursing by the state |
| 3 | contributing the information to the coordinated licensure |
| 4 | information system. |
| 5 | " ${(7)}(10)$ Nothing in this subsection shall limit the |
| 6 | authority of the board to discipline an impaired individual |
| 7 | subject to its jurisdiction. |
| 8 | "(k) The board may adopt rules imposing a |
| 9 | nondisciplinary administrative penalty for designated |
| 10 | violations of this chapter." |
| 11 | Section 2. Section 34-21-20.01 is added to the Code |
| 12 | of Alabama 1975, to read as follows: |
| 13 | \$34-21-20.01. |
| 14 | (a) Each applicant for a multistate license as a |
| 15 | registered nurse or licensed practical nurse, and each |
| 16 | applicant for initial licensure by endorsement as a registered |
| 17 | nurse or licensed practical nurse, shall submit a full set of |
| 18 | fingerprints to the board for the purpose of obtaining a state |
| 19 | and national criminal history background check. |
| 20 | (b) Fingerprints obtained pursuant to subsection (a) |
| 21 | may be exchanged by the board, the Alabama State Law |
| 22 | Enforcement Agency or any successor entity thereof, or any |
| 23 | channeler approved by the board, with the Federal Bureau of |
| 24 | Investigation for the purpose of obtaining a state and |
| 25 | national criminal history background check. |
| 26 | (c) The applicant or licensee shall be responsible |
| 27 | for all costs associated with the submission of his or her |

fingerprints and obtaining a state and national criminal 1 2 history background check. The board may incorporate those costs into the cost of licensure or may charge the applicant 3 or licensee a separate fee, which may be payable to the board, 4 5 the Alabama State Law Enforcement Agency or any successor entity thereof, or the approved channeler, as appropriate.

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- (d) Information received by the board pursuant to a state and national criminal history background check shall be confidential and shall not be a public record, except that any information received by and relied upon by the board in denying the issuance of a license or revoking, suspending, or disciplining a license or licensee may be disclosed as necessary to support the denial or revocation, suspension, or other disciplinary action.
- Section 3. Article 7, commencing with Section 34-21-120, is added to Chapter 21 of Title 34, Code of Alabama 1975, to read as follows:
- 18 ARTICLE 7. Enhanced Nurse Licensure Compact. \$34-21-120. 19
 - (a) The party states find and declare all of the following:
 - (1) The health and safety of the public are affected by the degree of compliance with and the effectiveness of enforcement activities related to state nurse licensure laws.
 - (2) Violations of nurse licensure and other laws regulating the practice of nursing may result in injury or harm to the public.

1 (3) The expanded mobility of nurses and the use of
2 advanced communication technologies as part of a national
3 health care delivery system requires greater coordination and
4 cooperation among states in the areas of nurse licensure and
5 regulation.

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- (4) New practice modalities and technology make compliance with individual state nurse licensure laws difficult and complex.
- (5) Uniformity of nurse licensure requirements throughout the states promotes public safety and public health benefits.
- (b) The general purpose of this compact is to achieve all of the following:
- (1) Facilitate the responsibility of each state to protect public health and safety.
- (2) Ensure and encourage the cooperation of party states in the areas of nurse licensure and regulation.
- (3) Facilitate the exchange of information between party states in the areas of nurse regulation, investigation, and adverse actions.
- (4) Promote compliance with the laws governing the practice of nursing in each jurisdiction.
- (5) Invest all party states with the authority to hold a nurse accountable for satisfying all state practice laws in the state in which the patient is located at the time care is rendered through the mutual recognition of party state licenses.

- 1 (6) Decrease redundancies in the consideration and 2 issuance of nurse licenses.
- 3 (7) Provide opportunities for interstate practice by nurses who meet uniform licensing requirements.

\$34-21-121.

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For the purposes of this article, the following terms shall have the following meanings:

- (1) ADVERSE ACTION. Any administrative, civil, equitable, or criminal action permitted by the law of a state which is imposed by a licensing board or other authority against a nurse, including actions against the license or multistate licensure privilege of an individual, including revocation, suspension, probation, monitoring of a licensee, limitations on the practice of the licensee, the bringing of a cease and desist action against the licensee, or any other encumbrance on licensure affecting the authorization of a nurse to practice.
- (2) ALTERNATIVE PROGRAM. A nondisciplinary monitoring program approved by a licensing board.
- (3) COMMISSION. The Interstate Commission of Nurse Licensure Compact Administrators.
- (4) COMPACT. The Enhanced Nurse Licensure Compact created by this article.
 - (5) COORDINATED LICENSURE INFORMATION SYSTEM. An integrated process for collecting, storing, and sharing information on nurse licensure and enforcement activities related to nurse licensure laws that is administered by a

- nonprofit organization composed of and controlled by licensing boards.
- 3 (6) CURRENT SIGNIFICANT INVESTIGATIVE INFORMATION.
 4 Includes any of the following:

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- a. Investigative information that a licensing board, after a preliminary inquiry that includes notification and an opportunity for the nurse to respond, if required by state law, has reason to believe is not groundless and, if proved true, would indicate more than a minor infraction.
- b. Investigative information indicating that a nurse represents an immediate threat to public health and safety, regardless of whether the nurse has been notified and has had an opportunity to respond.
- (7) ENCUMBRANCE. A revocation or suspension of, or any limitation on, the full and unrestricted practice of nursing imposed by a licensing board.
- (8) HOME STATE. The party state which is the primary state of residence of a nurse.
- (9) LICENSING BOARD. The regulatory body of a party state that is responsible for issuing nurse licenses.
- (10) MULTISTATE LICENSE. A license to practice as a registered nurse or licensed practical nurse issued by a home state licensing board that allows a licensed nurse to practice in any state authorized to grant multistate licensure privileges under the compact.
- (11) MULTISTATE LICENSURE PRIVILEGE. A legal authorization associated with a multistate license that allows

- the practice of nursing as a registered nurse or licensed practical nurse in a remote state.
- 3 (12) NURSE. A registered nurse or licensed practical 4 nurse as those terms are defined by the practice laws of the 5 party state.
 - (13) PARTY STATE. Any state that has adopted this compact.
- 8 (14) REMOTE STATE. A party state, other than the 9 home state.
 - (15) SINGLE STATE LICENSE. A nurse license issued by a state participating in the compact that authorizes practice only within the issuing state and does not include a multistate licensure privilege to practice in any other state.
 - (16) STATE. A state, territory, or possession of the United States and the District of Columbia.
 - (17) STATE PRACTICE LAWS. The laws, rules, and regulations of a party state that govern the practice of nursing, define the scope of nursing practice, and create the methods and grounds for imposing discipline. The term does not include requirements necessary to obtain and retain a license, except for qualifications or requirements of the home state.

\$34-21-122**.**

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

a licensed practical nurse, under a multistate licensure privilege, in each party state.

- (b) A state shall implement procedures for considering the criminal history records of applicants for initial multistate licensure or licensure by endorsement. The procedures shall include the submission of fingerprints or other biometric-based information by applicants for the purpose of obtaining the criminal history record information of an applicant from the Federal Bureau of Investigation and the agency responsible for retaining the criminal records of that state.
 - (c) Each party state shall require an applicant to satisfy all of the following to obtain or retain a multistate license in his or her home state:
 - (1) Satisfies the qualifications for licensure or renewal of licensure of the home state, as well as all other applicable state laws.
 - (2) Satisfies either of the following:
 - a. Has graduated or is eligible to graduate from a licensing board-approved registered nurse or licensed practical nurse prelicensure education program.
 - b. Has graduated from a foreign registered nurse or licensed practical nurse prelicensure education program that (i) has been approved by the authorized accrediting body in the applicable country and (ii) has been verified by an independent credentials review agency to be comparable to a licensing board-approved prelicensure education program.

1 (3) Has, if a graduate of a foreign prelicensure 2 education program not taught in English or if English is not 3 the native language of the applicant, successfully passed an 4 English proficiency examination that includes the components 5 of reading, speaking, writing, and listening.

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- (4) Has successfully passed an NCLEX-RN or NCLEX-PN Examination, or recognized predecessor examination, as applicable.
- 9 (5) Is eligible for or holds an active, unencumbered license.
 - (6) Has submitted, in connection with an application for initial multistate licensure or licensure by endorsement, fingerprints, or other biometric data for the purpose of obtaining criminal history record information from the Federal Bureau of Investigation and the agency responsible for retaining the criminal records of that state.
 - (7) Has not been convicted or found guilty, or has entered into an agreed disposition, of a felony offense under applicable state or federal criminal law.
 - (8) Has not been convicted or found guilty, or has entered into an agreed disposition, of a misdemeanor offense related to the practice of nursing as determined on a case-by-case basis.
 - (9) Is not currently enrolled in an alternative program.
 - (10) Is subject to self-disclosure requirements regarding current participation in an alternative program.

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

- (d) A party state, in accordance with existing state due process law, may take adverse action against the multistate licensure privilege of a nurse including revocation, suspension, probation, or any other action that affects the authorization of the nurse to practice under a multistate licensure privilege, including a cease and desist action. If a party state takes adverse action, the state shall promptly notify the administrator of the coordinated licensure information system. The administrator of the coordinated licensure information system shall promptly notify the home state of any adverse action by a remote state.
 - (e) A nurse practicing in a party state shall comply with the state practice laws of the state in which the client is located at the time service is provided. The practice of nursing is not limited to patient care, and shall include all nursing practice as defined by the practice laws of the party state in which the client is located. The practice of nursing in a party state under a multistate licensure privilege shall subject a nurse to the jurisdiction of the licensing board, the courts, and the laws of the party state in which the client is located at the time service is provided.
 - (f) Individuals not residing in a party state shall continue to be able to apply for a single state license in a party state as provided under the laws of the party state. A single state license granted to these individuals will not be

- recognized as granting the privilege to practice nursing in any other party state. Nothing in this compact shall affect the requirements established by a party state for the issuance of a single state license.
 - (g) Any nurse holding a home state multistate license, on the effective date of this compact, may retain and renew the multistate license issued by his or her then-current home state, provided that:
 - (1) A nurse, who changes his or her primary state of residence after the effective date of this compact, shall satisfy all applicable Section 34-21-122 requirements to obtain a multistate license from a new home state.
 - (2) A nurse who fails to satisfy the multistate licensure requirements in Section 34-21-122 due to a disqualifying event occurring after the effective date of this compact shall be ineligible to retain or renew a multistate license, and the multistate license of that nurse shall be revoked or deactivated in accordance with applicable rules adopted by the Interstate Commission of Nurse Licensure Compact Administrators.

§34-21-123.

- (a) Upon application for a multistate license, the licensing board in the issuing party state shall ascertain, through the coordinated licensure information system, all of the following:
- (1) Whether the applicant has ever held, or is the holder of, a license issued by any other state.

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

- (3) Whether any adverse action has been taken against any license or multistate licensure privilege held by the applicant.
- (4) Whether the applicant is currently participating in an alternative program.
 - (b) A nurse may hold a multistate license, issued by the home state, in only one party state at a time.
 - (c) If a nurse changes his or her primary state of residence by moving between two party states, the nurse shall apply for licensure in the new home state, and the multistate license issued by the prior home state shall be deactivated in accordance with applicable rules adopted by the commission.
 - (1) The nurse may apply for licensure in advance of a change in primary state of residence.
 - (2) A multistate license may not be issued by the new home state until the nurse provides satisfactory evidence of a change in primary state of residence to the new home state and satisfies all applicable requirements to obtain a multistate license from the new home state.
 - (d) If a nurse changes his or her primary state of residence by moving from a party state to a nonparty state, the multistate license issued by the prior home state shall convert to a single state license, valid only in the former home state.

1 \$34-21-124.

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2 (a) In addition to the other powers conferred by 3 state law, a licensing board shall have the authority to do 4 all of the following:

- (1) Take adverse action against the multistate licensure privilege of a nurse to practice within that party state.
- a. Only the home state shall have the power to take adverse action against the license of a nurse issued by the home state.
- b. For purposes of taking adverse action, the home state licensing board shall give the same priority and effect to reported conduct received from a remote state as it would if such conduct had occurred within the home state. In so doing, the home state shall apply its own state laws to determine appropriate action.
- (2) Issue cease and desist orders or impose an encumbrance on the authority of a nurse to practice within that party state.
- (3) Complete any pending investigations of a nurse who changes his or her primary state of residence during the course of such investigations. The licensing board may also take any appropriate actions and shall promptly report the conclusions of any investigations to the administrator of the coordinated licensure information system. The administrator of the coordinated licensure information system shall promptly notify the new home state of any actions.

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

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- (5) Obtain and submit, for each applicant for a multistate license, fingerprint or other biometric-based information to the Federal Bureau of Investigation for criminal background checks, receive the results of the Federal Bureau of Investigation record search on criminal background checks, and use the results in making licensure decisions.
- (6) If otherwise permitted by state law, recover from the affected nurse the costs of investigations and disposition of cases resulting from any adverse action taken against that nurse.
- (7) Take adverse action based on the factual findings of the remote state, provided that the licensing board follows its own procedures for taking the adverse action.

- (b) If adverse action is taken by the home state against the multistate license of a nurse, the multistate licensure privilege to practice in all other party states shall be deactivated until all encumbrances have been removed from the multistate license. All home state disciplinary orders that impose adverse action against the multistate license of a nurse shall include a statement that the multistate licensure privilege of the nurse is deactivated in all party states during the pendency of the order.
- (c) Nothing in this compact shall override the decision of a party state that participation in an alternative program may be used in lieu of adverse action. The home state licensing board shall deactivate the multistate licensure privilege under the multistate license of any nurse for the duration of his or her participation in an alternative program.

§34-21-125.

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- (a) All party states shall participate in a coordinated licensure information system of all licensed registered nurses and licensed practical nurses. This system shall include information on the licensure and disciplinary history of each nurse, as submitted by party states, to assist in the coordination of nurse licensure and enforcement efforts.
- (b) The commission, in consultation with the administrator of the coordinated licensure information system, shall formulate necessary and proper procedures for the

identification, collection, and exchange of information under this compact.

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- (c) All licensing boards shall promptly report to the coordinated licensure information system any adverse action, any current significant investigative information, denials of applications with the reasons for the denials, and nurse current participation in alternative programs known to the licensing board, regardless of whether the participation is deemed nonpublic or confidential under state law.
- (d) Current significant investigative information and participation in nonpublic or confidential alternative programs shall be transmitted through the coordinated licensure information system only to party state licensing boards.
- (e) Notwithstanding any other provision of law, all party state licensing boards contributing information to the coordinated licensure information system may designate information that may not be shared with nonparty states or disclosed to other entities or individuals without the express permission of the contributing state.
- (f) Any personally identifiable information obtained from the coordinated licensure information system by a party state licensing board may not be shared with nonparty states or disclosed to other entities or individuals except to the extent permitted by the laws of the party state contributing the information.

- (g) Any information contributed to the coordinated
 licensure information system that is subsequently required to
 be expunged by the laws of the party state contributing that
 information shall also be expunged from the coordinated
 licensure information system.
 - (h) The compact administrator of each party state shall furnish a uniform data set to the compact administrator of all other party states, which shall include, at a minimum, all of the following:
 - (1) Identifying information.
 - (2) Licensure data.
- (3) Information related to alternative programparticipation.
- 14 (4) Other information that may facilitate the
 15 administration of this compact, as determined by commission
 16 rules.
 - (i) The compact administrator of a party state shall provide all investigative documents and information requested by another party state.
- 20 \$34-21-126.

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- 21 (a) The party states hereby create and establish a 22 joint public entity known as the Interstate Commission of 23 Nurse Licensure Compact Administrators.
- 24 (1) The commission is an instrumentality of the party states.
 - (2) Venue is proper, and judicial proceedings by or against the commission shall be brought solely and

exclusively, in a court of competent jurisdiction where the 1 2 principal office of the commission is located. The commission may waive venue and jurisdictional defenses to the extent the commission adopts or consents to participate in alternative dispute resolution proceedings.

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- (3) Nothing in this compact shall be construed to be a waiver of sovereign immunity.
 - (b) Membership, voting, and meetings.
- (1) Each party state shall have and be limited to one administrator. The head of the state licensing board for each party state, or his or her designee, shall be the administrator of this compact for that state. An administrator may be removed or suspended from office as provided by the law of the state from which the administrator is appointed. Any vacancy occurring in the commission shall be filled in accordance with the laws of the party state in which the vacancy exists.
- (2) Each administrator shall be entitled to one vote with regard to the promulgation of rules and creation of bylaws and shall otherwise have an opportunity to participate in the business and affairs of the commission. An administrator shall vote in person or by such other means as provided in the bylaws. The bylaws may provide for the participation of an administrator in meetings by telephone or other means of communication.

1 (3) The commission shall meet at least once during 2 each calendar year. Additional meetings shall be held as set 3 forth in the bylaws or rules of the commission.

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- (4) All meetings of the commission shall be open to the public, and public notice of meetings shall be given in the same manner as required under the rulemaking provisions in Section 34-21-127.
- (5) The commission may convene in a closed, nonpublic meeting if the commission must discuss any of the following:
 - a. Noncompliance of a party state with its obligations under this compact.
 - b. The employment, compensation, discipline, or other personnel matters, practices, or procedures related to specific employees or other matters related to the internal personnel practices and procedures of the commission.
 - c. Current, threatened, or reasonably anticipated litigation.
 - d. Negotiation of contracts for the purchase or sale of goods, services, or real estate.
- e. Accusing any person of a crime or formally censuring any person.
- f. Disclosure of trade secrets or commercial or financial information that is privileged or confidential.
- g. Disclosure of information of a personal nature
 where disclosure would constitute a clearly unwarranted
 invasion of personal privacy.

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

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- i. Disclosure of information related to any reports prepared by or on behalf of the commission for the purpose of investigation of compliance with this compact.
- j. Matters specifically exempted from disclosure by federal or state statute.
- pursuant to this subsection, the legal counsel of the commission, or his or her designee, shall certify that the meeting may be closed and shall reference each relevant exempting provision. The commission shall keep minutes that fully and clearly describe all matters discussed in a meeting and shall provide a full and accurate summary of actions taken, and the reasons therefor, including a description of the views expressed. All documents considered in connection with an action shall be identified in the minutes. All minutes and documents of a closed meeting shall remain under seal, subject to release by a majority vote of the administrators or order of a court of competent jurisdiction.
- (c) The commission, by a majority vote of the administrators, shall prescribe bylaws or rules to govern its conduct as may be necessary or appropriate to carry out the purposes and exercise the powers of this compact including, but not limited to, all of the following:
 - (1) Establishing the fiscal year of the commission.

- 1 (2) Providing reasonable standards and procedures 2 for all of the following:
- 3 a. For the establishment and meetings of other
 4 committees.

- b. Governing any general or specific delegation of any authority or function of the commission.
- (3) Providing reasonable procedures for calling and conducting meetings of the commission, ensuring reasonable advance notice of all meetings, and providing an opportunity for attendance of the meetings by interested parties, with enumerated exceptions designed to protect the interest of the public, the privacy of individuals, and proprietary information, including trade secrets. The commission may meet in closed session only after a majority of the administrators vote to close a meeting, in whole or in part. As soon as practicable, the commission shall make public a copy of the vote to close the meeting revealing the vote of each administrator, with no proxy votes allowed.
- (4) Establishing the titles, duties, and authority and reasonable procedures for the election of the officers of the commission.
- (5) Providing reasonable standards and procedures for the establishment of personnel policies and programs for the commission. Notwithstanding any civil service or other similar laws of any party state, the bylaws shall exclusively govern the personnel policies and programs of the commission.

- 1 (6) Providing a mechanism for winding up the
 2 operations of the commission and the equitable disposition of
 3 any surplus funds that may exist after the termination of this
 4 compact after the payment or reserving of all of its debts and
 5 obligations.
 - (d) The commission shall publish its bylaws and rules, and any amendments thereto, in a convenient form on the website of the commission.
 - (e) The commission shall maintain its financial records in accordance with the bylaws.

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- (f) The commission shall meet and take such actions as are consistent with this compact and the bylaws.
- (g) The commission shall have all of the following powers:
- (1) To promulgate uniform rules to facilitate and coordinate implementation and administration of this compact. The rules shall have the force and effect of law and shall be binding in all party states.
- (2) To bring and prosecute legal proceedings or actions in the name of the commission, provided that the standing of any licensing board to sue or be sued under applicable law shall not be affected.
 - (3) To purchase and maintain insurance and bonds.
- (4) To borrow, accept, or contract for services of personnel including, but not limited to, employees of a party state or nonprofit organizations.

1 (5) To cooperate with other organizations that
2 administer state compacts related to the regulation of nursing
3 including, but not limited to, sharing administrative or staff
4 expenses, office space, or other resources.

- (6) To hire employees, elect or appoint officers, fix compensation, define duties, grant such individuals appropriate authority to carry out the purposes of this compact, and to establish the personnel policies and programs relating to conflicts of interest, qualifications of personnel, and other related personnel matters of the commission.
- (7) To accept any and all appropriate donations, grants and gifts of money, equipment, supplies, materials, and services, and to receive, utilize, and dispose of the same; provided that at all times the commission shall avoid any appearance of impropriety or conflict of interest.
- (8) To lease, purchase, accept appropriate gifts or donations of, or otherwise to own, hold, improve, or use, any property, whether real, personal, or mixed; provided that at all times the commission shall avoid any appearance of impropriety.
- (9) To sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property, whether real, personal, or mixed.
 - (10) To establish a budget and make expenditures.
- (11) To borrow money; provided that the borrowing of money shall not be constituted as a debt of the State of

Alabama in violation of Section 213 of the Constitution of
Alabama of 1901, as amended by Amendment 26, now appearing as
Section 213 of the Official Recompilation of the Constitution
of Alabama of 1901, as amended.

- (12) To appoint committees, including advisory committees comprised of administrators, state nursing regulators, state legislators or their representatives, and consumer representatives, and other interested persons.
- (13) To provide and receive information from, and to cooperate with, law enforcement agencies.
 - (14) To adopt and use an official seal.
- (15) To perform other functions as may be necessary or appropriate to achieve the purposes of this compact consistent with the state regulation of nurse licensure and practice.
 - (h) Financing of the commission
- (1) The commission shall pay, or provide for the payment of, the reasonable expenses of its establishment, organization, and ongoing activities.
- (2) The commission may also levy on and collect an annual assessment from each party state to cover the cost of its operations, activities, and staff in its annual budget as approved each year. The aggregate annual assessment amount, if any, shall be allocated based upon a formula to be determined by the commission, which shall promulgate a rule that is binding upon all party states.

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

- (4) The commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the commission shall be subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the commission shall be audited yearly by a certified or licensed public accountant, and the report of the audit shall be included in and become part of the annual report of the commission.
- (i) Qualified immunity, defense, and indemnification.
- (1) In accordance with Section 36-1-12, the administrators, officers, executive director, employees, and representatives of the commission shall be immune from suit and liability.
- (2) The commission shall defend any administrator, officer, executive director, employee, or representative of the commission in any civil action seeking to impose liability arising out of any actual or alleged act, error, or omission that occurred within the scope of commission employment, duties, or responsibilities, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of commission employment, duties, or responsibilities; provided that nothing in this compact shall

be construed to prohibit that person from retaining his or her own counsel; and provided further that the actual or alleged act, error, or omission did not result from his or her intentional, willful, or wanton misconduct.

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

\$34-21-127.

- (a) The commission shall exercise its rulemaking powers pursuant to the criteria set forth in this compact and the rules adopted under this compact. Rules and amendments shall become binding as of the date specified in each rule or amendment and shall have the same force and effect as this compact.
- (b) Rules or amendments to the rules shall be adopted at a regular or special meeting of the commission.
- (c) Before the adoption of a final rule by the commission, and at least 60 days in advance of the meeting at which the rule shall be considered and voted upon, the

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

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- (d) The notice of proposed rulemaking shall include all of the following:
 - (1) The proposed time, date, and location of the meeting in which the rule shall be considered and voted upon.
 - (2) The text of the proposed rule or amendment, and the reason for the proposed rule or amendment.
 - (3) A request for comments on the proposed rule from any interested person.
 - (4) The manner in which interested persons may submit notice to the commission of their intention to attend the public hearing and any written comments.
 - (e) Before adoption of a proposed rule, the commission shall allow persons to submit written data, facts, opinions, and arguments, which shall be made available to the public.
 - (f) The commission shall grant an opportunity for a public hearing before it adopts a rule or amendment to a rule.
- (g) The commission shall publish the place, time, and date of the scheduled public hearing.
 - (1) Hearings shall be conducted in a manner providing each person who wishes to comment a fair and reasonable opportunity to comment orally or in writing. All

hearings shall be recorded, and a copy of the recording shall be made available upon request.

- (2) Nothing in this section shall be construed as requiring a separate hearing on each rule. Proposed new rules or amendments to existing rules may be grouped together for the convenience of the commission at hearings required by this section.
- (h) If no one appears at a public hearing, the commission may proceed with the adoption of a proposed rule.
- (i) Following a scheduled hearing date, or by the close of business on the scheduled hearing date if a hearing was not conducted, the commission shall consider all written and oral comments received.
- (j) The commission, by majority vote of all administrators, shall take final action on a proposed rule and shall determine the effective date of the rule, if any, based on the rulemaking record and the full text of the rule.
- (k) Upon determination that an emergency exists, the commission may consider and adopt an emergency rule without prior notice, opportunity for comment, or hearing, provided that the usual rulemaking procedures provided in this compact and in this section shall be retroactively applied to the rule as soon as reasonably possible, in no event later than 90 days after the effective date of the rule. For the purposes of this subsection, an emergency rule is a rule that is adopted immediately to do any of the following:

- 1 (1) Satisfy an imminent threat to public health, 2 safety, or welfare.
- 3 (2) Prevent a loss of commission or party state funds.
 - (3) Satisfy a deadline for the promulgation of an administrative rule that is required by federal law or rule.
 - (4) The commission may direct revisions to a previously adopted rule or amendment for purposes of correcting typographical errors, errors in format, errors in consistency, or grammatical errors. Public notice of any revision shall be posted on the website of the commission. The revision shall be subject to challenge by any person for a period of 30 days after posting. The revision may be challenged only on grounds that the revision results in a material change to a rule. A challenge shall be made in writing, and delivered to the commission, before the end of the notice period. If no challenge is made, the revision shall take effect without further action. If the revision is challenged, the revision may not take effect without the approval of the commission.

\$34-21-128.

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- (a) Oversight.
- (1) Each party state shall enforce this compact and take any action necessary and appropriate to effectuate the purposes and intent of this compact.
- (2) The commission shall receive service of process in any proceeding that may affect the powers,

responsibilities, or actions of the commission, and shall have standing to intervene in such a proceeding for all purposes. Failure to provide service of process in a proceeding to the commission shall render the judgment or order void as to the commission, this compact, or promulgated rules.

- (b) Default, technical assistance, and termination.
- (1) If the commission determines that a party state has defaulted in the performance of its obligations or responsibilities under this compact or the adopted rules, the commission shall do all of the following:
- a. Provide written notice to the defaulting state and other party states of the nature of the default, the proposed means of curing the default, or any other action to be taken by the commission.
- b. Provide remedial training and specific technical assistance regarding the default.
- (2) If a state in default fails to cure the default, the membership of the defaulting state in this compact may be terminated upon an affirmative vote of a majority of the administrators, and all rights, privileges, and benefits conferred by this compact may be terminated on the effective date of termination. A cure of the default does not relieve the defaulting state of obligations or liabilities incurred during the period of default.
- (3) Termination of membership in this compact shall be imposed only after all other means of securing compliance have been exhausted. Notice of intent to suspend or terminate

membership shall be given by the commission to the governor of the defaulting state and to the executive officer of the licensing board of the defaulting state and each of the party states.

2.0

- (4) A state whose membership in this compact has been terminated is responsible for all assessments, obligations, and liabilities incurred through the effective date of termination, including obligations that extend beyond the effective date of termination.
- (5) The commission may not bear any costs related to a state that is found to be in default or whose membership in this compact has been terminated unless agreed upon in writing between the commission and the defaulting state.
- (6) The defaulting state may appeal the action of the commission by petitioning the United States District Court for the District of Columbia or the federal district in which the commission has its principal offices. The prevailing party shall be awarded all costs of litigation, including reasonable attorneys fees.
 - (c) Dispute resolution.
- (1) Upon request by a party state, the commission shall attempt to resolve disputes related to this compact that arise among party states and between party and nonparty states.
- (2) The commission shall adopt a rule providing for both mediation and binding dispute resolution for disputes, as appropriate.

- 1 (3) In the event the commission cannot resolve 2 disputes among party states arising under this compact:
 - a. The party states may submit the issues in dispute to an arbitration panel, which shall be comprised of individuals appointed by the compact administrator in each of the affected party states and an individual mutually agreed upon by the compact administrators of all the party states involved in the dispute.
 - b. The decision of a majority of the arbitrators shall be final and binding.
 - (d) Enforcement.

2.0

- (1) The commission, in the reasonable exercise of its discretion, shall enforce this compact and any rules adopted pursuant to this compact.
- (2) By majority vote of the administrators, the commission may initiate legal action in the federal district in which the commission has its principal offices against a party state that is in default to enforce compliance with this compact and rules or bylaws adopted pursuant to this compact. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary, the prevailing party shall be awarded all costs of the litigation, including reasonable attorneys fees.
- (3) The remedies provided in this article shall not be the exclusive remedies of the commission. The commission may pursue other remedies available under federal or state law.

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2.0

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

- (b) Each party state shall continue to recognize the multistate licensure privilege of a nurse to practice in that party state issued under the Nurse Licensure Compact until the party state has withdrawn from the Nurse Licensure Compact.
- (c) A party state may withdraw from this compact by enacting a general law repealing this compact. Withdrawal by a party state may not take effect until six months after the effective date of the repeal.
- (d) The withdrawal or termination of a party state shall not affect the continuing requirement of the state licensing board of that state to report adverse actions and significant investigations occurring before the effective date of the withdrawal or termination.
- (e) Nothing contained in this compact shall be construed to invalidate or prevent any nurse licensure agreement or other cooperative arrangement between a party state and a nonparty state that is made in accordance with any other provision of this compact.

- 1 (f) This compact may be amended by the party states.
 2 No amendment to this compact shall become effective and
 3 binding upon the party states until it is enacted by all party
 - (g) Representatives of nonparty states shall be invited to participate in the activities of the commission, on a nonvoting basis, before the adoption of this compact by all states.

§34-21-130.

states.

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

Section 4. This act shall become effective on the first day of the third month following its passage and approval by the Governor, or its otherwise becoming law.