

2018 Regular Session

SENATE BILL NO. 202

BY SENATOR PEACOCK

NURSES. Provides relative to the Nurse Licensure Compact. (gov sig)

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AN ACT

To enact Part V of Chapter 11 of Title 37 of the Louisiana Revised Statutes of 1950, to be comprised of R.S. 37:1018 through 1020, relative to the Nurse Licensure Compact; to provide for enactment of the model language required to participate in the compact; to provide for appointment of an administrator; to provide for enforcement and rulemaking authority; to provide for an effective date; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. Part V of Chapter 11 of Title 37 of the Louisiana Revised Statutes of 1950, comprised of R.S. 37:1018 through 1020, is hereby enacted to read as follows:

PART V. NURSE LICENSURE COMPACT

§1018. Nurse Licensure Compact; adoption

The Nurse Licensure Compact is hereby recognized and enacted into law and entered into by this state with all states legally joining therein in the form substantially as follows:

NURSE LICENSURE COMPACT

ARTICLE I. Findings and Declaration of Purpose

1 **(a) The party states find that:**

2 **(1) The health and safety of the public are affected by the degree of**
3 **compliance with and the effectiveness of enforcement activities related to state**
4 **nurse licensure laws.**

5 **(2) Violations of nurse licensure and other laws regulating the practice**
6 **of nursing may result in injury or harm to the public.**

7 **(3) The expanded mobility of nurses and the use of advanced**
8 **communication technologies as part of our nation's health care delivery system**
9 **require greater coordination and cooperation among states in the areas of nurse**
10 **licensure and regulation.**

11 **(4) New practice modalities and technology make compliance with**
12 **individual state nurse licensure laws difficult and complex.**

13 **(5) The current system of duplicative licensure for nurses practicing in**
14 **multiple states is cumbersome and redundant for both nurses and states.**

15 **(6) Uniformity of nurse licensure requirements throughout the states**
16 **promotes public safety and public health benefits.**

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

18 **(1) Facilitate the states' responsibility to protect the public's health and**
19 **safety.**

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

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

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

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

29 **(6) Decrease redundancies in the consideration and issuance of nurse**

1 licenses.

2 (7) Provide opportunities for interstate practice by nurses who meet
3 uniform licensure requirements.

4 ARTICLE II. Definitions

5 As used in this compact:

6 (a) "Adverse action" means any administrative, civil, equitable, or
7 criminal action permitted by a state's laws which is imposed by a licensing
8 board or other authority against a nurse, including actions against an
9 individual's license or multistate licensure privilege such as revocation,
10 suspension, probation, monitoring of the licensee, limitation on the licensee's
11 practice, or any other encumbrance on licensure affecting a nurse's
12 authorization to practice, including issuance of a cease and desist action.

13 (b) "Alternative program" means a nondisciplinary monitoring program
14 approved by a licensing board.

15 (c) "Coordinated licensure information system" means an integrated
16 process for collecting, storing, and sharing information on nurse licensure and
17 enforcement activities related to nurse licensure laws that is administered by a
18 nonprofit organization composed of and controlled by licensing boards.

19 (d) "Current significant investigative information" means:

20 (1) Investigative information that a licensing board, after a preliminary
21 inquiry that includes notification and an opportunity for the nurse to respond,
22 if required by state law, has reason to believe is not groundless and, if proved
23 true, would indicate more than a minor infraction; or

24 (2) Investigative information that indicates that the nurse represents an
25 immediate threat to public health and safety regardless of whether the nurse
26 has been notified and had an opportunity to respond.

27 (e) "Encumbrance" means a revocation or suspension of, or any
28 limitation on, the full and unrestricted practice of nursing imposed by a
29 licensing board.

1 (f) "Home state" means the party state which is the nurse's primary state
2 of residence.

3 (g) "Licensing board" means a party state's regulatory body responsible
4 for issuing nurse licenses.

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

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

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

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

15 (l) "Remote state" means a party state other than the home state.

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

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

21 (o) "State practice laws" means a party state's laws, rules, and
22 regulations that govern the practice of nursing, define the scope of nursing
23 practice, and create the methods and grounds for imposing discipline. "State
24 practice laws" do not include requirements necessary to obtain and retain a
25 license, except for qualifications or requirements of the home state.

26 ARTICLE III. General Provisions and Jurisdiction

27 (a) A multistate license to practice registered or licensed
28 practical/vocational nursing issued by a home state to a resident in that state
29 will be recognized by each party state as authorizing a nurse to practice as a

1 registered nurse (RN) or as a licensed practical/vocational nurse (LPN/VN),
2 under a multistate licensure privilege, in each party state.

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

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

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

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

16 (ii) Has graduated from a foreign RN or LPN/VN prelicensure education
17 program that (a) has been approved by the authorized accrediting body in the
18 applicable country and (b) has been verified by an independent credentials
19 review agency to be comparable to a licensing board-approved prelicensure
20 education program.

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

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

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

28 (6) Has submitted, in connection with an application for initial licensure
29 or licensure by endorsement, fingerprints or other biometric data for the

1 purpose of obtaining criminal history record information from the Federal
2 Bureau of Investigation and the agency responsible for retaining that state's
3 criminal records.

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

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

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

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

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

13 (d) All party states shall be authorized, in accordance with existing state
14 due process law, to take adverse action against a nurse's multistate licensure
15 privilege such as revocation, suspension, probation, or any other action that
16 affects a nurse's authorization to practice under a multistate licensure privilege,
17 including cease and desist actions. If a party state takes such action, it shall
18 promptly notify the administrator of the coordinated licensure information
19 system. The administrator of the coordinated licensure information system shall
20 promptly notify the home state of any such actions by remote states.

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

29 (f) Individuals not residing in a party state shall continue to be able to

1 apply for a party state's single-state license as provided under the laws of each
2 party state. However, the single-state license granted to these individuals will
3 not be recognized as granting the privilege to practice nursing in any other
4 party state. Nothing in this compact shall affect the requirements established by
5 a party state for the issuance of a single-state license.

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

9 (1) A nurse, who changes primary state of residence after this compact's
10 effective date, must meet all applicable Article III.c. requirements to obtain a
11 multistate license from a new home state.

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

18 ARTICLE IV. Applications for Licensure in a Party State

19 (a) Upon application for a multistate license, the licensing board in the
20 issuing party state shall ascertain, through the coordinated licensure
21 information system, whether the applicant has ever held, or is the holder of, a
22 license issued by any other state, whether there are any encumbrances on any
23 license or multistate licensure privilege held by the applicant, whether any
24 adverse action has been taken against any license or multistate licensure
25 privilege held by the applicant and whether the applicant is currently
26 participating in an alternative program.

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

29 (c) If a nurse changes primary state of residence by moving between two

1 party states, the nurse must apply for licensure in the new home state, and the
2 multistate license issued by the prior home state will be deactivated in
3 accordance with applicable rules adopted by the commission.

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

6 (2) A multistate license shall not be issued by the new home state until
7 the nurse provides satisfactory evidence of a change in primary state of
8 residence to the new home state and satisfies all applicable requirements to
9 obtain a multistate license from the new home state.

10 (d) If a nurse changes primary state of residence by moving from a party
11 state to a nonparty state, the multistate license issued by the prior home state
12 will convert to a single-state license, valid only in the former home state.

13 ARTICLE V. Additional Authorities Invested in Party State Licensing Boards

14 (a) In addition to the other powers conferred by state law, a licensing
15 board shall have the authority to:

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

18 (i) Only the home state shall have the power to take adverse action
19 against a nurse's license issued by the home state.

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

25 (2) Issue cease and desist orders or impose an encumbrance on a nurse's
26 authority to practice within that party state.

27 (3) Complete any pending investigations of a nurse who changes primary
28 state of residence during the course of such investigations. The licensing board
29 shall also have the authority to take appropriate action(s) and shall promptly

1 report the conclusions of such investigations to the administrator of the
2 coordinated licensure information system. The administrator of the coordinated
3 licensure information system shall promptly notify the new home state of any
4 such actions.

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

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

19 (6) If otherwise permitted by state law, recover from the affected nurse
20 the costs of investigations and disposition of cases resulting from any adverse
21 action taken against that nurse.

22 (7) Take adverse action based on the factual findings of the remote state,
23 provided that the licensing board follows its own procedures for taking such
24 adverse action.

25 (b) If adverse action is taken by the home state against a nurse's
26 multistate license, the nurse's multistate licensure privilege to practice in all
27 other party states shall be deactivated until all encumbrances have been
28 removed from the multistate license. All home state disciplinary orders that
29 impose adverse action against a nurse's multistate license shall include a

1 statement that the nurse's multistate licensure privilege is deactivated in all
2 party states during the pendency of the order.

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

8 ARTICLE VI. Coordinated Licensure Information System and
9 Exchange of Information

10 (a) All party states shall participate in a coordinated licensure
11 information system of all licensed registered nurses (RNs) and licensed
12 practical/vocational nurses (LPNs/VNs). This system will include information
13 on the licensure and disciplinary history of each nurse, as submitted by party
14 states, to assist in the coordination of nurse licensure and enforcement efforts.

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

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

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

28 (e) Notwithstanding any other provision of law, all party state licensing
29 boards contributing information to the coordinated licensure information

1 system may designate information that may not be shared with nonparty states
2 or disclosed to other entities or individuals without the express permission of the
3 contributing state.

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

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

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

16 (1) Identifying information;
17 (2) Licensure data;
18 (3) Information related to alternative program participation; and
19 (4) Other information that may facilitate the administration of this
20 compact, as determined by commission rules.

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

23 ARTICLE VII. Establishment of the Interstate Commission
24 of Nurse Licensure Compact Administrators

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

28 (1) The commission is an instrumentality of the party states.
29 (2) Venue is proper, and judicial proceedings by or against the

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

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

7 (b) Membership, Voting, and Meetings

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

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

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

23 (4) All meetings shall be open to the public, and public notice of meetings
24 shall be given in the same manner as required under the rulemaking provisions
25 in Article VIII.

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

28 (i) Noncompliance of a party state with its obligations under this
29 compact.

1 (ii) The employment, compensation, discipline, or other personnel
2 matters, practices or procedures related to specific employees or other matters
3 related to the commission's internal personnel practices and procedures.

4 (iii) Current, threatened, or reasonably anticipated litigation.

5 (iv) Negotiation of contracts for the purchase or sale of goods, services,
6 or real estate.

7 (v) Accusing any person of a crime or formally censuring any person.

8 (vi) Disclosure of trade secrets or commercial or financial information
9 that is privileged or confidential.

10 (vii) Disclosure of information of a personal nature where disclosure
11 would constitute a clearly unwarranted invasion of personal privacy.

12 (viii) Disclosure of investigatory records compiled for law enforcement
13 purposes.

14 (ix) Disclosure of information related to any reports prepared by or on
15 behalf of the commission for the purpose of investigation of compliance with
16 this compact.

17 (x) Matters specifically exempted from disclosure by federal or state
18 statute.

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

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

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

29 (c) The commission shall, by a majority vote of the administrators,

1 prescribe bylaws or rules to govern its conduct as may be necessary or
2 appropriate to carry out the purposes and exercise the powers of this compact,
3 including but not limited to:

4 (1) Establishing the fiscal year of the commission.

5 (2) Providing reasonable standards and procedures.

6 (i) For the establishment and meetings of other committees.

7 (ii) Governing any general or specific delegation of any authority or
8 function of the commission.

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

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

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

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

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

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

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

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

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

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

12 (3) To purchase and maintain insurance and bonds.

13 (4) To borrow, accept, or contract for services of personnel, including
14 but not limited to employees of a party state or nonprofit organizations.

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

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

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

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

1 of impropriety.

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

4 (10) To establish a budget and make expenditures.

5 (11) To borrow money.

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

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

12 (14) To adopt and use an official seal.

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

16 (h) Financing of the commission

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

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

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

28 (4) The commission shall keep accurate accounts of all receipts and
29 disbursements. The receipts and disbursements of the commission shall be

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

6 (i) Qualified immunity, defense, and indemnification

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

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

27 (3) The commission shall indemnify and hold harmless any
28 administrator, officer, executive director, employee, or representative of the
29 commission for the amount of any settlement or judgment obtained against that

1 person arising out of any actual or alleged act, error, or omission that occurred
2 within the scope of commission employment, duties, or responsibilities, or that
3 such person had a reasonable basis for believing occurred within the scope of
4 commission employment, duties, or responsibilities, provided that the actual or
5 alleged act, error, or omission did not result from the intentional, willful, or
6 wanton misconduct of that person.

7 ARTICLE VIII. Rulemaking

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

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

15 (c) Prior to promulgation and adoption of a final rule or rules by the
16 commission, and at least sixty days in advance of the meeting at which the rule
17 will be considered and voted upon, the commission shall file a notice of
18 proposed rulemaking:

19 (1) On the website of the commission.

20 (2) On the website of each licensing board or the publication in which
21 each state would otherwise publish proposed rules.

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

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

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

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

29 (4) The manner in which interested persons may submit notice to the

1 commission of their intention to attend the public hearing and any written
2 comments.

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

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

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

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

14 (2) Nothing in this Section shall be construed as requiring a separate
15 hearing on each rule. Rules may be grouped for the convenience of the
16 commission at hearings required by this Section.

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

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

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

25 (k) Upon determination that an emergency exists, the commission may
26 consider and adopt an emergency rule without prior notice, opportunity for
27 comment or hearing, provided that the usual rulemaking procedures provided
28 in this compact and in this Section shall be retroactively applied to the rule as
29 soon as reasonably possible, in no event later than ninety days after the effective

1 date of the rule. For the purposes of this provision, an emergency rule is one
2 that must be adopted immediately in order to:

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

4 (2) Prevent a loss of commission or party state funds.

5 (3) Meet a deadline for the promulgation of an administrative rule that
6 is required by federal law or rule.

7 (l) The commission may direct revisions to a previously adopted rule or
8 amendment for purposes of correcting typographical errors, errors in format,
9 errors in consistency, or grammatical errors. Public notice of any revisions shall
10 be posted on the website of the commission. The revision shall be subject to
11 challenge by any person for a period of thirty days after posting. The revision
12 may be challenged only on grounds that the revision results in a material change
13 to a rule. A challenge shall be made in writing, and delivered to the commission,
14 prior to the end of the notice period. If no challenge is made, the revision will
15 take effect without further action. If the revision is challenged, the revision may
16 not take effect without the approval of the commission.

17 ARTICLE IX. Oversight, Dispute Resolution, and Enforcement

18 (a) Oversight

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

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

27 (b) Default, technical assistance, and termination

28 (1) If the commission determines that a party state has defaulted in the
29 performance of its obligations or responsibilities under this compact or the

1 promulgated rules, the commission shall:

2 (i) Provide written notice to the defaulting state and other party states
3 of the nature of the default, the proposed means of curing the default, or any
4 other action to be taken by the commission.

5 (ii) Provide remedial training and specific technical assistance regarding
6 the default.

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

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

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

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

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

1 attorneys' fees.

2 (c) Dispute resolution

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

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

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

10 (i) The party states may submit the issues in dispute to an arbitration
11 panel, which will be comprised of individuals appointed by the compact
12 administrator in each of the affected party states and an individual mutually
13 agreed upon by the compact administrators of all the party states involved in
14 the dispute.

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

17 (d) Enforcement

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

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

28 (3) The remedies herein shall not be the exclusive remedies of the
29 commission. The commission may pursue any other remedies available under

1 federal or state law.

2 ARTICLE X. Effective Date, Withdrawal, and Amendment

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

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

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

15 (d) A party state's withdrawal or termination shall not affect the
16 continuing requirement of the withdrawing or terminated state's licensing
17 board to report adverse actions and significant investigations occurring prior
18 to the effective date of such withdrawal or termination.

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

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

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

29 ARTICLE XI. Construction and Severability

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

12 §1019. Nurse Licensure Compact Administrator

13 (A) The nurse licensure compact administrator for this state shall be
14 appointed by the governor to serve as the single state designee on the Interstate
15 Commission of Nurse Licensure Compact Administrators.

16 (B) The administrator shall be a current board member or the executive
17 director of the Louisiana State Board of Nursing for two years beginning in the
18 year of enactment of this Part and shall rotate every two years thereafter with
19 an appointment of a current board member or the executive director of the
20 Louisiana State Board of Practical Nurse Examiners.

21 §1020. Implementation; rulemaking

22 The Louisiana State Board of Nursing and the Louisiana State Board of
23 Practical Nurse Examiners shall:

24 (1) Ensure application and enforcement of the nurse licensure compact
25 as it applies to their respective licensees and licensees from compact states
26 performing nursing services under each board's respective practice act.

27 (2) Promulgate rules and regulations necessary to implement the
28 provisions of this Part in accordance with the Administrative Procedure Act.

29 Section 2. This Act shall become effective upon signature by the governor or, if not

1 signed by the governor, upon expiration of the time for bills to become law without signature
 2 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
 3 vetoed by the governor and subsequently approved by the legislature, this Act shall become
 4 effective on the day following such approval.

The original instrument and the following digest, which constitutes no part
 of the legislative instrument, were prepared by Christine Arbo Peck.

DIGEST

SB 202 Original 2018 Regular Session Peacock

Proposed law enacts the nurse licensure compact. Proposed law allows Louisiana to join a multi-state compact for nurses to obtain multi-state license privileges to practice in participating compact states to decrease redundancies in the consideration and issuance of nursing licenses and provide opportunity for interstate practice by nurses who meet the uniform licensure requirements.

Proposed law provides that each participating state to the compact adopt similar requirements for criminal background checks, licensure, and education. Proposed law requires verification of licensure information through the coordinated information system and exchange of information regarding discipline and adverse actions by all participating states.

Proposed law requires a nurse leaving his home state to practice in a participating state to comply with the laws of the participating state. Proposed law provides for a home state license and process for changing home state and location of primary residence. Proposed law provides that the home state is responsible for taking adverse action against nurses in violation of practice act requirements, including deactivation of multi-state licensure privileges.

Proposed law establishes the Interstate Commission and grants each participating state a single seat on the commission.

Proposed law provides for gubernatorial appointment, based on a two year rotation, of an appointee from the Louisiana State Board of Nursing and the Louisiana State Board of Practical Nurse Examiners.

Proposed law provides for enforcement and rulemaking authority.

Effective upon signature of the governor or lapse of time for gubernatorial action.

(Adds R.S. 37:1018-1020)