

1 SB38
2 196073-5
3 By Senator Reed
4 RFD: Healthcare
5 First Read: 05-MAR-19
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1 SB38

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4 ENROLLED, An Act,

5 Relating to the Board of Nursing; to amend Sections
6 34-21-1, 34-21-2, 34-21-21, 34-21-22, and 34-21-25, Code of
7 Alabama 1975, and to add Section 34-21-20.01 and Article 7,
8 commencing with Section 34-21-120, to the Code of Alabama
9 1975, to allow the board to enter into the Enhanced Nurse
10 Licensure Compact as a means of providing uniformity in
11 licensing requirements and interstate practice throughout
12 party states; and to make technical changes relating to the
13 multistate licensure of nurses.

14 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

15 Section 1. Sections 34-21-1, 34-21-2, 34-21-21,
16 34-21-22, and 34-21-25 of the Code of Alabama 1975, are
17 amended to read as follows:

18 "§34-21-1.

19 "For purposes of this chapter, the following terms
20 shall have the respective meanings ascribed by this section:

21 "(1) BOARD. The Board of Nursing created hereunder.

22 "(2) ADVISORY COUNCILS. Advisory councils provided
23 for under the terms of this chapter.

24 "(3) COMPACT. The Enhanced Nurse Licensure Compact
25 provided in Article 7.

1 "(4) COORDINATED LICENSE INFORMATION SYSTEM. A
2 licensing integrated database and process for collecting,
3 storing, and sharing nurse licensure and enforcement
4 information that includes all licensed registered nurses and
5 licensed practical/vocational nurses. The system includes all
6 disciplinary history of each nurse, as administered by a
7 nonprofit organization and controlled by licensing boards.

8 "~~(3)~~(5) PRACTICE OF PROFESSIONAL AND PRACTICAL
9 NURSING. Nursing is a profession the practice of which is
10 defined as:

11 "a. Practice of Professional Nursing. The
12 performance, for compensation, of any act in the care and
13 counselling of persons or in the promotion and maintenance of
14 health and prevention of illness and injury based upon the
15 nursing process which includes systematic data gathering,
16 assessment, appropriate nursing judgment and evaluation of
17 human responses to actual or potential health problems through
18 such services as case finding, health teaching, health
19 counselling; and provision of care supportive to or
20 restorative of life and well-being, and executing medical
21 regimens including administering medications and treatments
22 prescribed by a licensed or otherwise legally authorized
23 physician or dentist. A nursing regimen shall be consistent
24 with and shall not vary any existing medical regimen.
25 Additional acts requiring appropriate education and training

1 designed to maintain access to a level of health care for the
2 consumer may be performed under emergency or other conditions
3 which are recognized by the nursing and medical professions as
4 proper to be performed by a registered nurse.

5 "b. Practice of Practical Nursing. The performance,
6 for compensation, of acts designed to promote and maintain
7 health, prevent illness and injury and provide care utilizing
8 standardized procedures and the nursing process, including
9 administering medications and treatments, under the direction
10 of a licensed professional nurse or a licensed or otherwise
11 legally authorized physician or dentist. Such practice
12 requires basic knowledge of the biological, physical, and
13 behavioral sciences and of nursing skills but does not require
14 the substantial specialized skill, independent judgment, and
15 knowledge required in the practice of professional nursing.
16 Additional acts requiring appropriate education and training
17 may be performed under emergency or other conditions which are
18 recognized by the nursing and medical professions as proper to
19 be performed by a licensed practical nurse.

20 "~~(4)~~ (6) LICENSED PROFESSIONAL NURSE. A person who is
21 currently licensed to practice professional nursing.

22 "~~(5)~~ (7) LICENSED PRACTICAL NURSE. A person who is
23 currently licensed to practice practical nursing. For the
24 purposes of the Enhanced Nurse Licensure Compact, practical
25 nursing includes practice as a licensed practical nurse,

1 licensed vocational nurse, or other similarly qualified
2 licensed nurse in any state participating in the compact.

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

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

13 "(10) SINGLE STATE LICENSE. A nurse license issued
14 by a state participating in the Enhanced Nurse Licensure
15 Compact that authorizes practice only within the issuing state
16 and does not include a multistate licensure privilege to
17 practice in any other state.

18 "§34-21-2.

19 "(a) There is created the Board of Nursing, which
20 shall be composed of 13 members to be appointed and have the
21 duties and powers enumerated in this section. The membership
22 of the board shall be inclusive and reflect the racial,
23 gender, geographic, urban/rural, and economic diversity of the
24 state. In order to insure continuity of administration, the
25 nine board members provided for by Section 3 of Act 427,

1 Regular Session 1975, shall continue to serve to the
2 completion of the term for which they are serving. The
3 Governor, within 60 days of January 1, 1984, shall appoint a
4 tenth member who shall be a licensed practical nurse for a
5 term of four years from a list of nominees furnished him or
6 her by the Alabama Federation of Licensed Practical Nurses,
7 Incorporated, or its successor organization. As the terms of
8 all board members expire, their successors shall be appointed
9 for terms of four years each. Vacancies in unexpired terms
10 shall be filled in the same manner as original appointments
11 are made. No member shall be appointed to more than two
12 consecutive terms of four years each. Eight members of the
13 board shall be licensed professional nurses, and four members
14 of the board shall be licensed practical nurses.

15 "(b) (1) The Governor shall appoint the members of
16 the board who are licensed professional nurses from a list of
17 nominees who are selected by the Board of Nursing Nomination
18 Committee and furnished to the Governor by the Alabama State
19 Nurses' Association, or its successor organization, and such
20 list, when furnished, shall contain at least twice the number
21 of nominees as there are appointments to be made or vacancies
22 to be filled. The Alabama State Nurses' Association, or its
23 successor organization, on or before December 1 of each year,
24 or at such other times as necessary, shall furnish the
25 Governor with a list of licensed professional nurses qualified

1 for appointment to the board. In the nominating and appointing
2 process, due care shall be taken to ensure the maintenance of
3 qualified representation from the fields of nursing education,
4 nursing administration, clinical nursing, and advanced
5 practice nursing.

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

20 "(3) The Governor shall appoint two members on the
21 board who are to be licensed practical nurses from a list of
22 nominees furnished him or her by the Board of Directors of the
23 Alabama Federation of Licensed Practical Nurses, Incorporated,
24 or its successor organization, and such list, when furnished,
25 shall contain at least twice the number of nominees for the

1 vacancies to be filled. The Board of Directors of the Alabama
2 Federation of Licensed Practical Nurses, Incorporated, or its
3 successor organization, on or before December 1 of each year
4 in which the term of office of the board member filled by the
5 nominee of such board of directors shall expire, or at such
6 other times as necessary, shall furnish the Governor with a
7 list of licensed practical nurses qualified for appointment to
8 the board.

9 "(c) The Governor may remove any member from the
10 board for neglect of duty of the board, incompetency, or
11 unprofessional or dishonorable conduct.

12 "(d) Each person appointed to the board as a
13 licensed professional nurse shall be a citizen of the United
14 States, a resident of the State of Alabama, and have all of
15 these additional qualifications:

16 "(1) Be a graduate of a state-approved educational
17 program for the preparation of practitioners of professional
18 nursing.

19 "(2) Be a currently licensed professional nurse in
20 Alabama.

21 "(3) Have a minimum of five years' successful
22 nursing experience in an administrative, teaching, clinical
23 capacity, or advanced practice.

24 "(4) Be actively engaged in professional nursing in
25 this state immediately preceding and during appointment.

1 "(e) Each person appointed to the board as a
2 licensed practical nurse shall be a citizen of the United
3 States, a resident of the State of Alabama, and have all of
4 these additional qualifications:

5 "(1) Hold a diploma from an accredited high school
6 or its equivalent.

7 "(2) Be a graduate of a state-approved vocational
8 educational program for the preparation of practitioners of
9 licensed practical nursing.

10 "(3) Be a currently licensed practical nurse in
11 Alabama.

12 "(4) Have a minimum of five years' successful
13 nursing experience.

14 "(5) Be actively engaged in licensed practical
15 nursing in this state immediately preceding and during
16 appointment.

17 "(f) There shall be one member of the board who is a
18 consumer and who is not a member of any of the health care
19 professions. The consumer member shall be appointed by the
20 Governor effective January 1, 1998, and shall serve for a term
21 of four years. His or her successor shall be appointed in a
22 like manner at the expiration of each term or upon a vacancy
23 for the remainder of an unexpired term of office. The consumer
24 member of the board shall have, presently or formerly, no
25 direct financial interest in any health care facility,

1 profession, agency, or insurer, or be or have been a health
2 care worker.

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

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

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

23 "(j) The board may:

1 "(1) Adopt and, from time to time, revise such rules
2 and regulations, not inconsistent with law, as may be
3 necessary to carry out this chapter.

4 "(2) Prescribe standards and approve curricula for
5 nursing educational programs preparing persons for licensure
6 under this chapter.

7 "(3) Provide for surveys and evaluations of such
8 programs at such times as it may deem necessary.

9 "(4) Approve such nursing educational programs as
10 meet the requirements of this chapter and the board. Nothing
11 in this chapter shall be construed to diminish the power of
12 the State Board of Education or other constitutionally or
13 legislatively established state agencies to govern the schools
14 under their respective jurisdictions.

15 "(5) Deny or withdraw approval from educational
16 programs for failure to meet prescribed standards. Withdrawal
17 of approval shall be effected only after a hearing in
18 accordance with board rules and regulations.

19 "(6) Examine, license, and renew the licenses of
20 duly qualified applicants and require employers to submit
21 listings of personnel covered by this chapter to the board
22 upon request including, but not limited to, personnel
23 practicing nursing in Alabama under a multistate license, a
24 single state license, or a multistate licensure privilege. The

1 board may issue qualified applicants either a single state
2 license or a multistate license.

3 "(7) Conduct investigations, hearings, and
4 proceedings concerning alleged violations of this section or
5 of the rules and regulations of the board.

6 "(8) Have the power to issue subpoenas, compel the
7 attendance of witnesses, and administer oaths to persons
8 giving testimony at hearings.

9 "(9) Cause the prosecution of all persons violating
10 this chapter and incur such necessary expenses therefor.

11 "(10) Keep a public record of all of its
12 proceedings.

13 "(11) Keep a register of all licensees.

14 "(12) Make an annual report to the Governor.

15 "(13) Appoint and employ a qualified person, not
16 subject to the state Merit System, who shall not be a member
17 of the board, to serve as executive officer and administrator
18 and commissioner of the Enhanced Nurse Licensure Compact for
19 Alabama.

20 "(14) Define the duties and fix the compensation
21 for of the executive officer and administrator and
22 commissioner of the Enhanced Nurse Licensure Compact for
23 Alabama, with the approval of the Governor and the State
24 Personnel Board as provided in Section 36-6-6.

1 "(15) Employ such other persons as may be necessary
2 to carry on the work of the board and provide for appropriate
3 bonding of employees. Regular employees of the board shall be
4 employed subject to the state Merit System in effect on
5 January 1, 1966, or at the time of employment.

6 "(16) Employ consultants, specialists, counsel, or
7 other specially qualified persons under contract or on a
8 part-time basis to assist it in administering this chapter and
9 without regard to the state Merit System in effect on or after
10 January 1, 1966, and pay for the services of such persons.

11 "(17) Accept gifts and grants upon terms and
12 conditions imposed by it through official resolutions.

13 "(18) Perform such other duties, not inconsistent
14 with law, as required by this chapter to foster and improve
15 nursing and the regulation thereof and the public health of
16 this state.

17 "(19) Expend funds of the board in exercising its
18 powers and duties and in administering this chapter.

19 "(20) Determine and collect reasonable fees.

20 "(21) Adopt standards for registered and practical
21 nursing practice and for continued competency of licensees.

22 "(22) Join organizations that develop and regulate
23 the national nursing licensure examinations and promote the
24 improvement of the legal standards of the practice of nursing
25 for the protection of the public health, safety, and welfare.

1 "(k) The executive officer employed by the board
2 shall be a citizen of the United States, a person of the
3 highest integrity, and possess these additional
4 qualifications: Be a licensed professional nurse in Alabama or
5 eligible for licensure, be a graduate of a professional
6 nursing program approved by the state in which the program was
7 completed, hold a master's degree, and have had a varied
8 experience in nursing, including at least five years'
9 experience in an administrative or teaching capacity.

10 "(l) The executive officer shall be bonded for the
11 faithful performance of the duties of the office in the sum of
12 not less than five thousand dollars (\$5,000), and the premium
13 of the bond shall be paid out of the funds of the board.

14 "(m) Each member of the board shall receive the same
15 per diem and travel allowance as is paid by law to state
16 employees for each day's attendance at the board meetings
17 incurred in the discharge of his or her duties as a board
18 member in addition to any daily compensation or allowance, if
19 any, as may be provided by the board, in such amount as may be
20 determined by the board. Any member of the board engaged in
21 duties under the direction of the board shall receive the per
22 diem and travel expenses and daily compensation or allowance
23 authorized by the board.

24 "(n) Nothing in this chapter shall limit the rights
25 of affected parties to appeal decisions of the board with

1 regard to rules and regulations promulgated pursuant to this
2 chapter.

3 "(o) Participation by the state in the compact
4 provided in Article 7 shall be subject to review and
5 evaluation by the Sunset Committee pursuant to Chapter 20 of
6 Title 41, with the first review occurring in 2024. The Sunset
7 Committee shall determine whether continued participation in
8 the compact is in the best interests of the board or the
9 licensees of the board. The Sunset Committee shall also review
10 and evaluate participation in the compact within one year
11 after the occurrence of any of the following:

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

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

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

23 "§34-21-21.

24 "(a) An applicant for a license to practice
25 professional nursing as a registered nurse shall submit to the

1 board written evidence of qualification, verified by oath,
2 that such applicant is of good moral character, holds a
3 diploma from an accredited high school or, in the opinion of
4 the board, the equivalent thereof, has successfully completed
5 an educational program in a school of nursing approved by the
6 board, and is a citizen of the United States or, if not a
7 citizen of the United States, a person who is legally present
8 in the United States with appropriate documentation from the
9 federal government.

10 "(b) A license to practice professional nursing as a
11 registered nurse may be obtained in the following manners:

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

16 "(2) BY ENDORSEMENT. The board may issue a license
17 to practice professional nursing as a registered nurse to an
18 applicant who has been duly licensed as a registered nurse
19 under the laws of another state, territory, or foreign
20 country, if, in the opinion of the board, such applicant meets
21 the qualifications required of registered nurses in this state
22 at the time of his or her graduation. There shall be no
23 license to practice professional nursing granted by the
24 previously known waiver method.

1 "(3) BY TEMPORARY PERMIT. The board may issue
2 temporary permits to practice professional nursing to
3 graduates of approved schools of nursing pending completion of
4 licensing procedures; to qualified applicants pending
5 licensure procedures under subdivision (2); and to those
6 nurses licensed by other states who will practice in this
7 state for a period of one year or less, subject to the
8 discretion of the board.

9 "(c) Any person who holds a license to practice
10 professional nursing as a registered nurse in this state shall
11 have the right to use the title "registered nurse" and the
12 abbreviation "R.N." No other person shall assume or use such
13 title or abbreviation or other words, letters, signs, or
14 devices to indicate that the person using same is licensed to
15 practice professional nursing as a registered nurse.

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

22 "(e) An applicant for a license to practice
23 professional nursing in Alabama may apply for either a single
24 state license or a multistate license.

25 "§34-21-22.

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

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

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

19 "(2) BY ENDORSEMENT. The board may issue a license
20 to practice practical nursing as a licensed practical nurse to
21 an applicant who has been duly licensed as a licensed
22 practical nurse (irrespective of the title or designation
23 granted when such license was issued) under the laws of
24 another state, territory, or foreign country, if, in the
25 opinion of the board, such applicant meets the requirements

1 for licensed practical nurses in this state at the time of his
2 or her graduation. There shall be no license to practice
3 practical nursing granted by the previously known waiver
4 method.

5 "(3) BY TEMPORARY PERMIT. The board may issue a
6 temporary permit to practice practical nursing as a licensed
7 practical nurse to graduates of approved schools of practical
8 nursing pending the completion of licensing procedures in
9 Alabama and to qualified applicants pending licensing
10 procedures under subdivision (2).

11 "(c) Any person who holds a license to practice
12 practical nursing as a licensed practical nurse in this state
13 shall have the right to use the title "licensed practical
14 nurse" and the abbreviation "L.P.N." No other person shall
15 assume or use such title or abbreviation or any other words,
16 letters, signs, or devices to indicate that the person using
17 the same is licensed to practice practical nursing as a
18 licensed practical nurse.

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

1 "(e) An applicant for a license to practice
2 practical nursing in Alabama may apply for either a single
3 state license or a multistate license.

4 "§34-21-25.

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

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

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

16 "b. Has been convicted of a felony.

17 "c. Is guilty of a crime involving moral turpitude
18 or of gross immorality that would tend to bring reproach upon
19 the nursing profession.

20 "d. Is unfit or incompetent due to the use of
21 alcohol, or is addicted to the use of habit-forming drugs to
22 such an extent as to render him or her unsafe or unreliable as
23 a licensee.

24 "e. Is unable to practice nursing with reasonable
25 skill and safety to patients by reason of illness,

1 inebriation, excessive use of drugs, narcotics, alcohol,
2 chemicals, or any other substance, or as a result of any
3 mental or physical condition.

4 "f. Has been convicted of any violation of a federal
5 or state law relating to controlled substances.

6 "g. Is guilty of unprofessional conduct of a
7 character likely to deceive, defraud, or injure the public in
8 matters pertaining to health.

9 "h. Has willfully or repeatedly violated this
10 article, as defined by board rules and regulations.

11 "i. Has been sentenced to a period of continuous
12 incarceration serving a penal sentence for the commission of a
13 misdemeanor or felony. The disciplinary action shall remain in
14 effect until the board acts upon the application of the
15 licensee for reinstatement of the license.

16 "(2) The board may refrain from or delay taking
17 disciplinary action under this subsection if a licensee can be
18 voluntarily treated or rehabilitated pursuant to subsection
19 (j).

20 "(c) Whenever a written complaint is made to the
21 board that a person has committed any of the acts or has come
22 within any of the provisions enumerated in subsection (b), the
23 board shall investigate the complaint and may bring an action
24 in its own name to hear and determine the complaint. The
25 hearing shall be held in Montgomery. The person whose

1 qualification is under consideration shall have not less than
2 20 days' written notice of the time and place of the initial
3 hearing, and the notice shall be accompanied by a copy of the
4 complaint. The notice may be served upon the accused person by
5 any sheriff of the State of Alabama. If the accused person is
6 out of the state, evades service, or cannot be served in
7 person, then service may be made by mailing, by registered or
8 certified mail, the notice and a copy of the complaint to the
9 accused person at his or her last known post-office address in
10 this state, and the return shall show that service has been
11 made in this manner.

12 "(d) At the hearing, the complainant, the person
13 whose qualification is under consideration, and any other
14 person permitted by the board, may introduce all oral or
15 written testimony, or both, as the board deems relevant to the
16 issues involved, and may be heard in person or by counsel, or
17 both. The board may permit the complaint to be amended, but no
18 amendment shall be permitted which is not germane to the
19 charge or charges sought to be amended or which materially
20 alters the nature of any offense charged. The board may
21 determine all questions as to the sufficiency of the
22 complaint, procedure, and admissibility and weight of
23 evidence. If the person whose qualification is under
24 consideration is absent, the hearing may proceed in his or her
25 absence.

1 "(e) Any accused person, complainant, or other party
2 and the board may subpoena witnesses or pertinent records for
3 the hearing, and those subpoenas may be served by any sheriff
4 of the State of Alabama. Witnesses may be sworn by the
5 president of the board or by the person discharging the duties
6 of the president. Witnesses testifying at a hearing shall upon
7 discharge as a witness be paid by the party requesting the
8 subpoena an amount not to exceed the per diem expense allowed
9 to Alabama state employees for in-state travel and the actual
10 cost of transportation to and from the place of the hearing,
11 not to exceed the mileage rate allowed to Alabama state
12 employees for in-state travel.

13 "(f) Evidence may also be taken by deposition, and
14 the law and practice as to depositions in circuit courts shall
15 be followed in all reasonable respects.

16 "(g) If the accused person is found guilty of the
17 charges, the board may refuse to issue a license, may revoke
18 or suspend a license, or may otherwise discipline a licensee.
19 A revoked license may be considered for reinstatement after
20 one year in accordance with board rules.

21 "(h) Any person whose license is ordered suspended
22 or revoked may appeal to the circuit court or a court of like
23 jurisdiction of Montgomery County, from any order of the board
24 under this section, within 30 days from date of the decision
25 of the board. The trial of appeals shall be conducted in like

1 manner, as nearly as may be, as provided for in the Alabama
2 Administrative Procedure Act.

3 "(i) Any organization, registered nurse, licensed
4 practical nurse, or other person who in good faith reports
5 information to the board alleging that any person licensed or
6 applying for a license to practice nursing may be guilty of
7 the acts, offenses, or conditions set out in Section 34-21-7
8 or subsection (b), shall not be liable to any person for any
9 statement or opinion made in that report.

10 "(j) Not later than October 1, 1994, the board shall
11 establish a voluntary Disciplinary Alternative Program to
12 promote early identification, intervention, treatment, and
13 rehabilitation of any licensed nurse whose competence is found
14 to be impaired or compromised because of the use or abuse of
15 drugs, alcohol, controlled substances, chemicals, or other
16 substances or as a result of a physical or mental condition
17 rendering the person unable to meet the standards of the
18 nursing profession. The intent of the program is to provide a
19 voluntary alternative to traditional disciplinary actions.

20 "(1) When a registered nurse or licensed practical
21 nurse voluntarily seeks treatment for use or abuse of drugs,
22 controlled substances, alcohol, chemicals, or other
23 substances, or has a physical or mental condition that would
24 render the individual unable to meet the standards of the
25 nursing profession, the board may refrain from taking

1 disciplinary action under subsection (b) if it determines that
2 the licensee can be treated or rehabilitated effectively and
3 that there is no danger to the public. Upon voluntarily
4 seeking treatment, the licensee is subject to the requirements
5 of the Disciplinary Alternative Program established by the
6 board.

7 "(2) The board may establish, promulgate, develop,
8 adopt, and revise rules and regulations, and may adjust the
9 license renewal fee as necessary to implement this subsection.

10 "(3) The board may appoint an Advisory Council for
11 the Disciplinary Alternative Program pursuant to Section
12 34-21-3.

13 "(4) The board may contract with specially qualified
14 persons or corporations, or both, to assist it in
15 administering the Disciplinary Alternative Program.

16 "(5) The board shall establish by rule criteria for
17 eligibility to participate in the Disciplinary Alternative
18 Program and requirements for successful participation in and
19 completion of the program.

20 "(6) ~~All~~ Subject to Section 34-21-125, all records
21 of a licensee who successfully completes the Disciplinary
22 Alternative Program shall be confidential, not subject to
23 public disclosure, and not available for court subpoena or for
24 discovery proceedings. The records of a licensee who fails to
25 comply with the program agreement or who leaves the state

1 prior to the successful completion of the program are not
2 confidential. Information regarding the participation of a
3 licensee in the Disciplinary Alternative Program reported to
4 the coordinated licensure information system pursuant to
5 Section 34-21-125 shall be made available solely to other
6 state boards of nursing and shall not be disclosed to the
7 public by the coordinated licensure information system. Upon
8 successful completion of the Disciplinary Alternative Program,
9 all information regarding participation of the licensee in the
10 Disciplinary Alternative Program shall be expunged from the
11 coordinated licensure information system.

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

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

23 "(9) The board is not obligated to provide
24 information that is not otherwise available to the board or
25 information that is not available to the nurse under the laws

1 of the state contributing the information to the coordinated
2 licensure information system or which has been designated as
3 available only to other boards of nursing by the state
4 contributing the information to the coordinated licensure
5 information system.

6 ~~"(7)(10)~~ Nothing in this subsection shall limit the
7 authority of the board to discipline an impaired individual
8 subject to its jurisdiction.

9 "(k) The board may adopt rules imposing a
10 nondisciplinary administrative penalty for designated
11 violations of this chapter."

12 Section 2. Section 34-21-20.01 is added to the Code
13 of Alabama 1975, to read as follows:

14 §34-21-20.01.

15 (a) Each applicant for a multistate license as a
16 registered nurse or licensed practical nurse, and each
17 applicant for initial licensure by endorsement as a registered
18 nurse or licensed practical nurse, shall submit a full set of
19 fingerprints to the board for the purpose of obtaining a state
20 and national criminal history background check.

21 (b) Fingerprints obtained pursuant to subsection (a)
22 may be exchanged by the board, the Alabama State Law
23 Enforcement Agency or any successor entity thereof, or any
24 channeler approved by the board, with the Federal Bureau of

1 Investigation for the purpose of obtaining a state and
2 national criminal history background check.

3 (c) The applicant or licensee shall be responsible
4 for all costs associated with the submission of his or her
5 fingerprints and obtaining a state and national criminal
6 history background check. The board may incorporate those
7 costs into the cost of licensure or may charge the applicant
8 or licensee a separate fee, which may be payable to the board,
9 the Alabama State Law Enforcement Agency or any successor
10 entity thereof, or the approved channeler, as appropriate.

11 (d) Information received by the board pursuant to a
12 state and national criminal history background check shall be
13 confidential and shall not be a public record, except that any
14 information received by and relied upon by the board in
15 denying the issuance of a license or revoking, suspending, or
16 disciplining a license or licensee may be disclosed as
17 necessary to support the denial or revocation, suspension, or
18 other disciplinary action.

19 Section 3. Article 7, commencing with Section
20 34-21-120, is added to Chapter 21 of Title 34, Code of Alabama
21 1975, to read as follows:

22 ARTICLE 7. Enhanced Nurse Licensure Compact.

23 §34-21-120.

24 (a) The party states find and declare all of the
25 following:

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

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

7 (3) The expanded mobility of nurses and the use of
8 advanced communication technologies as part of a national
9 health care delivery system requires greater coordination and
10 cooperation among states in the areas of nurse licensure and
11 regulation.

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

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

18 (b) The general purpose of this compact is to
19 achieve all of the following:

20 (1) Facilitate the responsibility of each state to
21 protect public health and safety.

22 (2) Ensure and encourage the cooperation of party
23 states in the areas of nurse licensure and regulation.

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

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

6 (5) Invest all party states with the authority to
7 hold a nurse accountable for satisfying all state practice
8 laws in the state in which the patient is located at the time
9 care is rendered through the mutual recognition of party state
10 licenses.

11 (6) Decrease redundancies in the consideration and
12 issuance of nurse licenses.

13 (7) Provide opportunities for interstate practice by
14 nurses who meet uniform licensing requirements.

15 §34-21-121.

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

18 (1) ADVERSE ACTION. Any administrative, civil,
19 equitable, or criminal action permitted by the law of a state
20 which is imposed by a licensing board or other authority
21 against a nurse, including actions against the license or
22 multistate licensure privilege of an individual, including
23 revocation, suspension, probation, monitoring of a licensee,
24 limitations on the practice of the licensee, the bringing of a
25 cease and desist action against the licensee, or any other

1 encumbrance on licensure affecting the authorization of a
2 nurse to practice.

3 (2) ALTERNATIVE PROGRAM. A nondisciplinary
4 monitoring program approved by a licensing board.

5 (3) COMMISSION. The Interstate Commission of Nurse
6 Licensure Compact Administrators.

7 (4) COMPACT. The Enhanced Nurse Licensure Compact
8 created by this article.

9 (5) COORDINATED LICENSURE INFORMATION SYSTEM. An
10 integrated process for collecting, storing, and sharing
11 information on nurse licensure and enforcement activities
12 related to nurse licensure laws that is administered by a
13 nonprofit organization composed of and controlled by licensing
14 boards.

15 (6) CURRENT SIGNIFICANT INVESTIGATIVE INFORMATION.
16 Includes any of the following:

17 a. Investigative information that a licensing board,
18 after a preliminary inquiry that includes notification and an
19 opportunity for the nurse to respond, if required by state
20 law, has reason to believe is not groundless and, if proved
21 true, would indicate more than a minor infraction.

22 b. Investigative information indicating that a nurse
23 represents an immediate threat to public health and safety,
24 regardless of whether the nurse has been notified and has had
25 an opportunity to respond.

1 (7) ENCUMBRANCE. A revocation or suspension of, or
2 any limitation on, the full and unrestricted practice of
3 nursing imposed by a licensing board.

4 (8) HOME STATE. The party state which is the primary
5 state of residence of a nurse.

6 (9) LICENSING BOARD. The regulatory body of a party
7 state that is responsible for issuing nurse licenses.

8 (10) MULTISTATE LICENSE. A license to practice as a
9 registered nurse or licensed practical nurse issued by a home
10 state licensing board that allows a licensed nurse to practice
11 in any state authorized to grant multistate licensure
12 privileges under the compact.

13 (11) MULTISTATE LICENSURE PRIVILEGE. A legal
14 authorization associated with a multistate license that allows
15 the practice of nursing as a registered nurse or licensed
16 practical nurse in a remote state.

17 (12) NURSE. A registered nurse or licensed practical
18 nurse as those terms are defined by the practice laws of the
19 party state.

20 (13) PARTY STATE. Any state that has adopted this
21 compact.

22 (14) REMOTE STATE. A party state, other than the
23 home state.

24 (15) SINGLE STATE LICENSE. A nurse license issued by
25 a state participating in the compact that authorizes practice

1 only within the issuing state and does not include a
2 multistate licensure privilege to practice in any other state.

3 (16) STATE. A state, territory, or possession of the
4 United States and the District of Columbia.

5 (17) STATE PRACTICE LAWS. The laws, rules, and
6 regulations of a party state that govern the practice of
7 nursing, define the scope of nursing practice, and create the
8 methods and grounds for imposing discipline. The term does not
9 include requirements necessary to obtain and retain a license,
10 except for qualifications or requirements of the home state.

11 §34-21-122.

12 (a) A multistate license to practice registered or
13 licensed practical nursing issued by a home state to a
14 resident in that state shall be recognized by each party state
15 as authorizing a nurse to practice as a registered nurse or as
16 a licensed practical nurse, under a multistate licensure
17 privilege, in each party state.

18 (b) A state shall implement procedures for
19 considering the criminal history records of applicants for
20 initial multistate licensure or licensure by endorsement. The
21 procedures shall include the submission of fingerprints or
22 other biometric-based information by applicants for the
23 purpose of obtaining the criminal history record information
24 of an applicant from the Federal Bureau of Investigation and

1 the agency responsible for retaining the criminal records of
2 that state.

3 (c) Each party state shall require an applicant to
4 satisfy all of the following to obtain or retain a multistate
5 license in his or her home state:

6 (1) Satisfies the qualifications for licensure or
7 renewal of licensure of the home state, as well as all other
8 applicable state laws.

9 (2) Satisfies either of the following:

10 a. Has graduated or is eligible to graduate from a
11 licensing board-approved registered nurse or licensed
12 practical nurse prelicensure education program.

13 b. Has graduated from a foreign registered nurse or
14 licensed practical nurse prelicensure education program that
15 (i) has been approved by the authorized accrediting body in
16 the applicable country and (ii) has been verified by an
17 independent credentials review agency to be comparable to a
18 licensing board-approved prelicensure education program.

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

1 (4) Has successfully passed an NCLEX-RN or NCLEX-PN
2 Examination, or recognized predecessor examination, as
3 applicable.

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

6 (6) Has submitted, in connection with an application
7 for initial multistate licensure or licensure by endorsement,
8 fingerprints, or other biometric data for the purpose of
9 obtaining criminal history record information from the Federal
10 Bureau of Investigation and the agency responsible for
11 retaining the criminal records of that state.

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

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

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

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

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

1 (d) A party state, in accordance with existing state
2 due process law, may take adverse action against the
3 multistate licensure privilege of a nurse including
4 revocation, suspension, probation, or any other action that
5 affects the authorization of the nurse to practice under a
6 multistate licensure privilege, including a cease and desist
7 action. If a party state takes adverse action, the state shall
8 promptly notify the administrator of the coordinated licensure
9 information system. The administrator of the coordinated
10 licensure information system shall promptly notify the home
11 state of any adverse action by a remote state.

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

22 (f) Individuals not residing in a party state shall
23 continue to be able to apply for a single state license in a
24 party state as provided under the laws of the party state. A
25 single state license granted to these individuals will not be

1 recognized as granting the privilege to practice nursing in
2 any other party state. Nothing in this compact shall affect
3 the requirements established by a party state for the issuance
4 of a single state license.

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

9 (1) A nurse, who changes his or her primary state of
10 residence after the effective date of this compact, shall
11 satisfy all applicable Section 34-21-122 requirements to
12 obtain a multistate license from a new home state.

13 (2) A nurse who fails to satisfy the multistate
14 licensure requirements in Section 34-21-122 due to a
15 disqualifying event occurring after the effective date of this
16 compact shall be ineligible to retain or renew a multistate
17 license, and the multistate license of that nurse shall be
18 revoked or deactivated in accordance with applicable rules
19 adopted by the Interstate Commission of Nurse Licensure
20 Compact Administrators.

21 §34-21-123.

22 (a) Upon application for a multistate license, the
23 licensing board in the issuing party state shall ascertain,
24 through the coordinated licensure information system, all of
25 the following:

1 (1) Whether the applicant has ever held, or is the
2 holder of, a license issued by any other state.

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

6 (3) Whether any adverse action has been taken
7 against any license or multistate licensure privilege held by
8 the applicant.

9 (4) Whether the applicant is currently participating
10 in an alternative program.

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

13 (c) If a nurse changes his or her primary state of
14 residence by moving between two party states, the nurse shall
15 apply for licensure in the new home state, and the multistate
16 license issued by the prior home state shall be deactivated in
17 accordance with applicable rules adopted by the commission.

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

20 (2) A multistate license may not be issued by the
21 new home state until the nurse provides satisfactory evidence
22 of a change in primary state of residence to the new home
23 state and satisfies all applicable requirements to obtain a
24 multistate license from the new home state.

1 (d) If a nurse changes his or her primary state of
2 residence by moving from a party state to a nonparty state,
3 the multistate license issued by the prior home state shall
4 convert to a single state license, valid only in the former
5 home state.

6 §34-21-124.

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

10 (1) Take adverse action against the multistate
11 licensure privilege of a nurse to practice within that party
12 state.

13 a. Only the home state shall have the power to take
14 adverse action against the license of a nurse issued by the
15 home state.

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

22 (2) Issue cease and desist orders or impose an
23 encumbrance on the authority of a nurse to practice within
24 that party state.

1 (3) Complete any pending investigations of a nurse
2 who changes his or her primary state of residence during the
3 course of such investigations. The licensing board may also
4 take any appropriate actions and shall promptly report the
5 conclusions of any investigations to the administrator of the
6 coordinated licensure information system. The administrator of
7 the coordinated licensure information system shall promptly
8 notify the new home state of any actions.

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

21 (5) Obtain and submit, for each applicant for a
22 multistate license, fingerprint or other biometric-based
23 information to the Federal Bureau of Investigation for
24 criminal background checks, receive the results of the Federal

1 Bureau of Investigation record search on criminal background
2 checks, and use the results in making licensure decisions.

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

7 (7) Take adverse action based on the factual
8 findings of the remote state, provided that the licensing
9 board follows its own procedures for taking the adverse
10 action.

11 (b) If adverse action is taken by the home state
12 against the multistate license of a nurse, the multistate
13 licensure privilege to practice in all other party states
14 shall be deactivated until all encumbrances have been removed
15 from the multistate license. All home state disciplinary
16 orders that impose adverse action against the multistate
17 license of a nurse shall include a statement that the
18 multistate licensure privilege of the nurse is deactivated in
19 all party states during the pendency of the order.

20 (c) Nothing in this compact shall override the
21 decision of a party state that participation in an alternative
22 program may be used in lieu of adverse action. The home state
23 licensing board shall deactivate the multistate licensure
24 privilege under the multistate license of any nurse for the

1 duration of his or her participation in an alternative
2 program.

3 §34-21-125.

4 (a) All party states shall participate in a
5 coordinated licensure information system of all licensed
6 registered nurses and licensed practical nurses. This system
7 shall include information on the licensure and disciplinary
8 history of each nurse, as submitted by party states, to assist
9 in the coordination of nurse licensure and enforcement
10 efforts.

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

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

23 (d) Current significant investigative information
24 and participation in nonpublic or confidential alternative
25 programs shall be transmitted through the coordinated

1 licensure information system only to party state licensing
2 boards.

3 (e) Notwithstanding any other provision of law, all
4 party state licensing boards contributing information to the
5 coordinated licensure information system may designate
6 information that may not be shared with nonparty states or
7 disclosed to other entities or individuals without the express
8 permission of the contributing state.

9 (f) Any personally identifiable information obtained
10 from the coordinated licensure information system by a party
11 state licensing board may not be shared with nonparty states
12 or disclosed to other entities or individuals except to the
13 extent permitted by the laws of the party state contributing
14 the information.

15 (g) Any information contributed to the coordinated
16 licensure information system that is subsequently required to
17 be expunged by the laws of the party state contributing that
18 information shall also be expunged from the coordinated
19 licensure information system.

20 (h) The compact administrator of each party state
21 shall furnish a uniform data set to the compact administrator
22 of all other party states, which shall include, at a minimum,
23 all of the following:

24 (1) Identifying information.

25 (2) Licensure data.

1 (3) Information related to alternative program
2 participation.

3 (4) Other information that may facilitate the
4 administration of this compact, as determined by commission
5 rules.

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

9 §34-21-126.

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

13 (1) The commission is an instrumentality of the
14 party states.

15 (2) Venue is proper, and judicial proceedings by or
16 against the commission shall be brought solely and
17 exclusively, in a court of competent jurisdiction where the
18 principal office of the commission is located. The commission
19 may waive venue and jurisdictional defenses to the extent the
20 commission adopts or consents to participate in alternative
21 dispute resolution proceedings.

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

24 (b) Membership, voting, and meetings.

1 (1) Each party state shall have and be limited to
2 one administrator. The head of the state licensing board for
3 each party state, or his or her designee, shall be the
4 administrator of this compact for that state. An administrator
5 may be removed or suspended from office as provided by the law
6 of the state from which the administrator is appointed. Any
7 vacancy occurring in the commission shall be filled in
8 accordance with the laws of the party state in which the
9 vacancy exists.

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

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

21 (4) All meetings of the commission shall be open to
22 the public, and public notice of meetings shall be given in
23 the same manner as required under the rulemaking provisions in
24 Section 34-21-127.

1 (5) The commission may convene in a closed,
2 nonpublic meeting if the commission must discuss any of the
3 following:

4 a. Noncompliance of a party state with its
5 obligations under this compact.

6 b. The employment, compensation, discipline, or
7 other personnel matters, practices, or procedures related to
8 specific employees or other matters related to the internal
9 personnel practices and procedures of the commission.

10 c. Current, threatened, or reasonably anticipated
11 litigation.

12 d. Negotiation of contracts for the purchase or sale
13 of goods, services, or real estate.

14 e. Accusing any person of a crime or formally
15 censuring any person.

16 f. Disclosure of trade secrets or commercial or
17 financial information that is privileged or confidential.

18 g. Disclosure of information of a personal nature
19 where disclosure would constitute a clearly unwarranted
20 invasion of personal privacy.

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

23 i. Disclosure of information related to any reports
24 prepared by or on behalf of the commission for the purpose of
25 investigation of compliance with this compact.

1 j. Matters specifically exempted from disclosure by
2 federal or state statute.

3 (6) If a meeting, or portion of a meeting, is closed
4 pursuant to this subsection, the legal counsel of the
5 commission, or his or her designee, shall certify that the
6 meeting may be closed and shall reference each relevant
7 exempting provision. The commission shall keep minutes that
8 fully and clearly describe all matters discussed in a meeting
9 and shall provide a full and accurate summary of actions
10 taken, and the reasons therefor, including a description of
11 the views expressed. All documents considered in connection
12 with an action shall be identified in the minutes. All minutes
13 and documents of a closed meeting shall remain under seal,
14 subject to release by a majority vote of the administrators or
15 order of a court of competent jurisdiction.

16 (c) The commission, by a majority vote of the
17 administrators, shall prescribe bylaws or rules to govern its
18 conduct as may be necessary or appropriate to carry out the
19 purposes and exercise the powers of this compact including,
20 but not limited to, all of the following:

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

22 (2) Providing reasonable standards and procedures
23 for all of the following:

24 a. For the establishment and meetings of other
25 committees.

1 b. Governing any general or specific delegation of
2 any authority or function of the commission.

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

15 (4) Establishing the titles, duties, and authority
16 and reasonable procedures for the election of the officers of
17 the commission.

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

23 (6) Providing a mechanism for winding up the
24 operations of the commission and the equitable disposition of
25 any surplus funds that may exist after the termination of this

1 compact after the payment or reserving of all of its debts and
2 obligations.

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

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

8 (f) The commission shall meet and take such actions
9 as are consistent with this compact and the bylaws.

10 (g) The commission shall have all of the following
11 powers:

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

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

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

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

24 (5) To cooperate with other organizations that
25 administer state compacts related to the regulation of nursing

1 including, but not limited to, sharing administrative or staff
2 expenses, office space, or other resources.

3 (6) To hire employees, elect or appoint officers,
4 fix compensation, define duties, grant such individuals
5 appropriate authority to carry out the purposes of this
6 compact, and to establish the personnel policies and programs
7 relating to conflicts of interest, qualifications of
8 personnel, and other related personnel matters of the
9 commission.

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

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

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

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

24 (11) To borrow money; provided that the borrowing of
25 money shall not be constituted as a debt of the State of

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

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

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

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

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

16 (h) Financing of the commission

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

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

1 by the commission, which shall promulgate a rule that is
2 binding upon all party states.

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

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

15 (i) Qualified immunity, defense, and
16 indemnification.

17 (1) In accordance with Section 36-1-12, the
18 administrators, officers, executive director, employees, and
19 representatives of the commission shall be immune from suit
20 and liability.

21 (2) The commission shall defend any administrator,
22 officer, executive director, employee, or representative of
23 the commission in any civil action seeking to impose liability
24 arising out of any actual or alleged act, error, or omission
25 that occurred within the scope of commission employment,

1 duties, or responsibilities, or that the person against whom
2 the claim is made had a reasonable basis for believing
3 occurred within the scope of commission employment, duties, or
4 responsibilities; provided that nothing in this compact shall
5 be construed to prohibit that person from retaining his or her
6 own counsel; and provided further that the actual or alleged
7 act, error, or omission did not result from his or her
8 intentional, willful, or wanton misconduct.

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

20 §34-21-127.

21 (a) The commission shall exercise its rulemaking
22 powers pursuant to the criteria set forth in this compact and
23 the rules adopted under this compact. Rules and amendments
24 shall become binding as of the date specified in each rule or

1 amendment and shall have the same force and effect as this
2 compact.

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

5 (c) Before the adoption of a final rule by the
6 commission, and at least 60 days in advance of the meeting at
7 which the rule shall be considered and voted upon, the
8 commission shall file a notice of proposed rulemaking on the
9 website of the commission and on the website of each licensing
10 board or the publication in which each party state would
11 otherwise publish proposed rules.

12 (d) The notice of proposed rulemaking shall include
13 all of the following:

14 (1) The proposed time, date, and location of the
15 meeting in which the rule shall be considered and voted upon.

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

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

20 (4) The manner in which interested persons may
21 submit notice to the commission of their intention to attend
22 the public hearing and any written comments.

23 (e) Before adoption of a proposed rule, the
24 commission shall allow persons to submit written data, facts,

1 opinions, and arguments, which shall be made available to the
2 public.

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

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

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

12 (2) Nothing in this section shall be construed as
13 requiring a separate hearing on each rule. Proposed new rules
14 or amendments to existing rules may be grouped together for
15 the convenience of the commission at hearings required by this
16 section.

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

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

23 (j) The commission, by majority vote of all
24 administrators, shall take final action on a proposed rule and

1 shall determine the effective date of the rule, if any, based
2 on the rulemaking record and the full text of the rule.

3 (k) Upon determination that an emergency exists, the
4 commission may consider and adopt an emergency rule without
5 prior notice, opportunity for comment, or hearing, provided
6 that the usual rulemaking procedures provided in this compact
7 and in this section shall be retroactively applied to the rule
8 as soon as reasonably possible, in no event later than 90 days
9 after the effective date of the rule. For the purposes of this
10 subsection, an emergency rule is a rule that is adopted
11 immediately to do any of the following:

12 (1) Satisfy an imminent threat to public health,
13 safety, or welfare.

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

16 (3) Satisfy a deadline for the promulgation of an
17 administrative rule that is required by federal law or rule.

18 (4) The commission may direct revisions to a
19 previously adopted rule or amendment for purposes of
20 correcting typographical errors, errors in format, errors in
21 consistency, or grammatical errors. Public notice of any
22 revision shall be posted on the website of the commission. The
23 revision shall be subject to challenge by any person for a
24 period of 30 days after posting. The revision may be
25 challenged only on grounds that the revision results in a

1 material change to a rule. A challenge shall be made in
2 writing, and delivered to the commission, before the end of
3 the notice period. If no challenge is made, the revision shall
4 take effect without further action. If the revision is
5 challenged, the revision may not take effect without the
6 approval of the commission.

7 §34-21-128.

8 (a) Oversight.

9 (1) Each party state shall enforce this compact and
10 take any action necessary and appropriate to effectuate the
11 purposes and intent of this compact.

12 (2) The commission shall receive service of process
13 in any proceeding that may affect the powers,
14 responsibilities, or actions of the commission, and shall have
15 standing to intervene in such a proceeding for all purposes.
16 Failure to provide service of process in a proceeding to the
17 commission shall render the judgment or order void as to the
18 commission, this compact, or promulgated rules.

19 (b) Default, technical assistance, and termination.

20 (1) If the commission determines that a party state
21 has defaulted in the performance of its obligations or
22 responsibilities under this compact or the adopted rules, the
23 commission shall do all of the following:

24 a. Provide written notice to the defaulting state
25 and other party states of the nature of the default, the

1 proposed means of curing the default, or any other action to
2 be taken by the commission.

3 b. Provide remedial training and specific technical
4 assistance regarding the default.

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

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

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

1 (5) The commission may not bear any costs related to
2 a state that is found to be in default or whose membership in
3 this compact has been terminated unless agreed upon in writing
4 between the commission and the defaulting state.

5 (6) The defaulting state may appeal the action of
6 the commission by petitioning the United States District Court
7 for the District of Columbia or the federal district in which
8 the commission has its principal offices. The prevailing party
9 shall be awarded all costs of litigation, including reasonable
10 attorneys fees.

11 (c) Dispute resolution.

12 (1) Upon request by a party state, the commission
13 shall attempt to resolve disputes related to this compact that
14 arise among party states and between party and nonparty
15 states.

16 (2) The commission shall adopt a rule providing for
17 both mediation and binding dispute resolution for disputes, as
18 appropriate.

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

21 a. The party states may submit the issues in dispute
22 to an arbitration panel, which shall be comprised of
23 individuals appointed by the compact administrator in each of
24 the affected party states and an individual mutually agreed

1 upon by the compact administrators of all the party states
2 involved in the dispute.

3 b. The decision of a majority of the arbitrators
4 shall be final and binding.

5 (d) Enforcement.

6 (1) The commission, in the reasonable exercise of
7 its discretion, shall enforce this compact and any rules
8 adopted pursuant to this compact.

9 (2) By majority vote of the administrators, the
10 commission may initiate legal action in the federal district
11 in which the commission has its principal offices against a
12 party state that is in default to enforce compliance with this
13 compact and rules or bylaws adopted pursuant to this compact.
14 The relief sought may include both injunctive relief and
15 damages. In the event judicial enforcement is necessary, the
16 prevailing party shall be awarded all costs of the litigation,
17 including reasonable attorneys fees.

18 (3) The remedies provided in this article shall not
19 be the exclusive remedies of the commission. The commission
20 may pursue other remedies available under federal or state
21 law.

22 §34-21-129.

23 (a) This compact shall become effective and binding
24 on the earlier of the date of legislative enactment of this
25 compact into law by not less than 26 states or December 31,

1 2019. All party states, that also participated in the prior
2 Nurse Licensure Compact, which is superseded by this compact,
3 shall be deemed to have withdrawn from the Nurse Licensure
4 Compact on the first day of the sixth month after the
5 effective date of this compact.

6 (b) Each party state shall continue to recognize the
7 multistate licensure privilege of a nurse to practice in that
8 party state issued under the Nurse Licensure Compact until the
9 party state has withdrawn from the Nurse Licensure Compact.

10 (c) A party state may withdraw from this compact by
11 enacting a general law repealing this compact. Withdrawal by a
12 party state may not take effect until six months after the
13 effective date of the repeal.

14 (d) The withdrawal or termination of a party state
15 shall not affect the continuing requirement of the state
16 licensing board of that state to report adverse actions and
17 significant investigations occurring before the effective date
18 of the withdrawal or termination.

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

24 (f) This compact may be amended by the party states.
25 No amendment to this compact shall become effective and

1 binding upon the party states until it is enacted by all party
2 states.

3 (g) Representatives of nonparty states shall be
4 invited to participate in the activities of the commission, on
5 a nonvoting basis, before the adoption of this compact by all
6 states.

7 §34-21-130.

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

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

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President and Presiding Officer of the Senate

Speaker of the House of Representatives

SB38
Senate 02-APR-19
I hereby certify that the within Act originated in and passed
the Senate, as amended.

Patrick Harris,
Secretary.

House of Representatives
Passed: 25-APR-19

By: Senator Reed