

# State of South Dakota

NINETY-FIRST SESSION  
LEGISLATIVE ASSEMBLY, 2016

400X0202

## SENATE BILL NO. 29

Introduced by: The Committee on Health and Human Services at the request of the Board of Nursing

1 FOR AN ACT ENTITLED, An Act to update the nurse practice act and to adopt a new  
2 Interstate Nurse Licensure Compact.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 36-9-1 be amended to read:

5 36-9-1. Terms as used in this chapter, unless the context otherwise requires, mean:

6 (1) "Advanced practice registered nurse" or "APRN," any person licensed by the board  
7 in the role of a clinical nurse specialist or a certified registered nurse anesthetist;

8 (2) "Approved program," any educational program of study which meets the  
9 requirements established by this chapter and by the board for licensure ~~or~~  
10 ~~certification~~ under this chapter;

11 ~~(2)~~(3) "Board," the South Dakota Board of Nursing;

12 ~~(3)~~(4) "Certified registered nurse anesthetist," any person authorized under this chapter to  
13 practice the nursing specialty of nurse anesthesia as defined in § 36-9-3.1;

14 ~~(4)~~(5) "Clinical nurse specialist," any person authorized under this chapter to practice the  
15 nursing specialty of a clinical nurse specialist as defined in § 36-9-87;



1       ~~(5)~~(6) "Collaboration," communication with a physician licensed under chapter 36-4, prior  
2           to before care ~~being~~ is provided, to set goals and objectives for the client to assure  
3           quality and appropriateness of services rendered;

4       ~~(6)~~ "Employment," ~~being employed as a nurse for at least one hundred forty hours in any~~  
5           ~~one calendar year;~~

6       (7)   "Comprehensive nursing assessment," collection, analysis, and synthesis of data  
7           performed by the registered nurse used to establish a health status baseline, nursing  
8           diagnosis, plan nursing care, and address changes in a patient's condition;

9       (8)   "Focused nursing assessment," recognizing patient characteristics by a licensed  
10          practical nurse that may affect the patient's health status, gathering and recording  
11          assessment data, and demonstrating attentiveness by observing, monitoring, and  
12          reporting signs, symptoms, and changes in patient condition in an ongoing manner  
13          to the supervising health care provider as defined in § 36-9-4;

14      (9)    "Licensed," written authorization by the board to practice ~~either~~ as a registered nurse,  
15          ~~or a licensed practical nurse, certified nurse anesthetist, or clinical nurse specialist;~~

16      ~~(8)~~(10)    "Licensed practical nurse," any person duly authorized under this chapter to  
17           practice practical nursing as defined in § 36-9-4;

18      ~~(9)~~ "Nursing diagnosis," ~~the identification of and discrimination between physical and~~  
19          ~~psychological signs or symptoms essential to the effective execution and~~  
20          ~~management of a nursing regimen;~~

21      (11)   "Patient" or "client," a recipient of care and may be an individual, family, group, or  
22          community;

23      ~~(10)~~(12)    "Public member," any person who is not licensed by the board, but is a user  
24          of the services regulated by the board;



- 1           (c) Prescribing nursing interventions;
- 2           (4) Implementing nursing care through the execution of independent nursing strategies
- 3           and the provision of regimens requested, ordered, or prescribed by authorized health
- 4           care providers;
- 5           (5) Evaluating responses to interventions and the effectiveness of the plan of care;
- 6           (6) Designing and implementing teaching plans based on patient needs;
- 7           (7) Delegating and assigning nursing interventions to implement the plan of care;
- 8           (8) Providing for the maintenance of safe and effective nursing care rendered directly or
- 9           indirectly;
- 10          (9) Advocating for the best interest of the patient;
- 11          (10) Communicating and collaborating with other health care providers in the
- 12          management of health care and the implementation of the total health care regimen
- 13          within and across settings;
- 14          (11) Managing, supervising, and evaluating the practice of nursing;
- 15          (12) Teaching the theory and practice of nursing;
- 16          (13) Participating in development of health care policies, procedures, and systems; and
- 17          (14) Other acts that require education and training consistent with professional standards
- 18          as prescribed by the board, by rules promulgated pursuant to chapter 1-26, and
- 19          commensurate with the registered nurse's education, demonstrated competence, and
- 20          experience.

21          Section 3. That § 36-9-4 be amended to read:

22          36-9-4. ~~As used in this chapter, the practice of licensed practical nursing means:~~

- 23          ~~(1) The performance of any acts in the care, treatment, or observation of the ill, injured~~
- 24          ~~or infirm;~~

- 1 ~~(2) Maintenance of health of others and promotion of health care;~~  
2 ~~(3) Assisting with health counseling and teaching; and~~  
3 ~~(4) Applying procedures to safeguard life and health, including the administration of~~  
4 ~~medications and treatments consistent with the practical nurse's education and~~  
5 ~~preparation under the direction of a physician licensed or exempt from licensing~~  
6 ~~pursuant to chapter 36-4, dentist or registered nurse. A licensed practical nurse~~  
7 ~~practices under the supervision of a registered nurse, advanced practice registered~~  
8 ~~nurse, licensed physician, or other health care provider authorized by the state. A~~  
9 ~~licensed practical nurse is guided by nursing standards established or recognized by~~  
10 ~~the board and includes:~~  
11 (1) Collecting data and conducting a focused nursing assessment of the health status of  
12 a patient;  
13 (2) Participating with other health care providers in the development and modification  
14 of the patient-centered health care plan;  
15 (3) Implementing nursing interventions within a patient-centered health care plan;  
16 (4) Assisting in the evaluation of responses to interventions;  
17 (5) Providing for the maintenance of safe and effective nursing care rendered directly or  
18 indirectly;  
19 (6) Advocating for the best interest of the patient;  
20 (7) Communicating and collaborating with patients and members of the health care team;  
21 (8) Assisting with health counseling and teaching;  
22 (9) Delegating and assigning nursing interventions to implement the plan of care; and  
23 (10) Other acts that require education and training consistent with professional standards  
24 as prescribed by the board, by rules promulgated pursuant to chapter 1-26, and

1           commensurate with the licensed practical nurse's education, demonstrated  
2           competence, and experience.

3           Section 4. That § 36-9-5 be amended to read:

4           36-9-5. The Governor shall appoint a board of eleven consisting of ~~six~~ seven registered  
5           nurses, ~~three~~ two licensed practical nurses, and two public members.

6           Section 5. That § 36-9-6 be amended to read:

7           36-9-6. Each member of the board shall be a citizen of the United States; and a resident of  
8           this state for two years, ~~and shall file with the secretary of state an oath of office before~~  
9           beginning ~~her~~ a term of office.

10          Section 6. That § 36-9-7 be amended to read:

11          36-9-7. ~~Registered~~ Each registered nurse ~~members~~ member of the ~~Board of Nursing board~~  
12          shall be licensed in good standing as a registered ~~nurses~~ nurse in this state, shall be ~~graduates~~  
13          a graduate from an approved program for the preparation of registered nurses, shall have ~~had~~  
14          at least five ~~years'~~ years experience since graduation in the practice of nursing, and shall have  
15          been actively engaged in nursing for at least three of the last four years preceding appointment.

16          Of the ~~six~~ seven registered nurse members, at least two shall be from nursing service or  
17          practice ~~and~~, two from nursing education. ~~Of the two registered nurse members from nursing~~  
18          ~~service or practice,~~ and at least one shall be a certified registered nurse anesthetist, a certified  
19          nurse practitioner, a certified nurse midwife, or a clinical nurse specialist.

20          Of the two members from nursing education, one shall be a faculty member or administrator  
21          of a practical ~~school of nursing~~ program and one shall be a faculty member or an administrator  
22          of a ~~professional school of nursing~~ registered nursing program.

23          ~~The composition of the registered nurse members of the board shall, as nearly as practicable,~~  
24          ~~reflect the educational backgrounds of registered nurses as a whole in the state; and the members~~

1 ~~shall possess the expertise necessary to fulfill the statutory responsibilities of the board.~~

2 Section 7. That § 36-9-8 be amended to read:

3 36-9-8. ~~Licensed~~ Each licensed practical nurse ~~members~~ member of the board shall be  
4 licensed in good standing as a practical ~~nurses~~ nurse in this state, shall be ~~graduates~~ a graduate  
5 of an approved program for the preparation of licensed practical nurses, shall have ~~had~~ at least  
6 five ~~years'~~ successful years experience since graduation as a licensed practical nurse, and shall  
7 have been actively engaged in practical nursing for at least three of the last four years preceding  
8 appointment.

9 Section 8. That § 36-9-8.1 be amended to read:

10 36-9-8.1. No person may qualify for appointment as a public member if that person ~~or any~~  
11 ~~member of her immediate family is then serving~~ serves as a member of any other state licensing  
12 board or is engaged for compensation in the provision of health services or the provision of  
13 health research, instruction, or insurance.

14 Section 9. That § 36-9-9 be amended to read:

15 36-9-9. The term of office for ~~the members of the Board of Nursing~~ each member of the  
16 board is three years and expires on October thirtieth. Each member shall serve until a successor  
17 has been appointed and qualified. No member may be appointed to more than three consecutive  
18 full terms. However, appointment of a person to an unexpired term is not considered a full term  
19 for this purpose.

20 At the expiration of a term, or if a vacancy occurs, the Governor shall appoint a new board  
21 member. The Governor may stagger terms to enable the board to have different terms expire  
22 each year.

23 The appointee's term expires on October thirtieth in the third year of appointment.

24 ~~Any member's term ending June 30, 2013, or thereafter is extended to October thirtieth in~~

1 ~~the year the term is to expire.~~

2 Section 10. That § 36-9-12 be amended to read:

3 36-9-12. The board may determine the qualifications, and employ in accordance with  
4 chapter ~~3-6A~~ 3-6D, a person who is not a member of the board to serve as executive ~~secretary~~  
5 director.

6 Section 11. That § 36-9-14 be amended to read:

7 36-9-14. The board may, in conformity with chapter ~~3-6A~~ 3-6D, define the duties of, and  
8 fix the compensation for, the executive ~~secretary~~ director.

9 Section 12. That § 36-9-15 be amended to read:

10 36-9-15. The board may delegate to the executive ~~secretary~~ director those activities that will  
11 expedite the functions of the board.

12 Section 13. That § 36-9-21 be amended to read:

13 36-9-21. The ~~Board of Nursing~~ board shall promulgate rules pursuant to chapter 1-26  
14 pertaining to:

- 15 (1) Licensing and licenses;
- 16 (2) The practice of nursing;
- 17 (3) Scope of nursing practice;
- 18 (4) Except as otherwise provided in § 36-9-28, the delegation of nursing functions to  
19 unlicensed assistive personnel under the supervision of a licensed nurse;
- 20 (5) Except as otherwise provided in § 36-9-28, the training, registration, and supervisory  
21 requirements for unlicensed personnel performing delegated nursing functions under  
22 the supervision of a licensed nurse;
- 23 (6) Disciplinary proceedings;
- 24 (7) ~~Certification of nurse anesthetists;~~

1     ~~(8)~~ Fees; and

2     ~~(9)~~(8) Approval of nursing education and clinical enrichment programs.

3     Section 14. That § 36-9-24 be amended to read:

4     36-9-24. All fees received by the ~~Board of Nursing~~ board, and money collected under this  
5 chapter, shall be deposited in the bank as authorized by the board. However, the board may  
6 require any applicant who is taking a nationally administered examination to remit the portion  
7 of the licensing fee covering the cost of ~~such~~ examination directly to the organization  
8 administering the examination. The funds may be withdrawn by the executive ~~secretary~~ director  
9 as authorized by the board. ~~A report of all receipts and expenditures of the funds shall be made~~  
10 ~~at the close of each fiscal year to the state auditor and filed in his office.~~ All compensation and  
11 expenditures made by the board shall be paid from the fees received under the provisions of this  
12 chapter.

13     Section 15. That § 36-9-28 be amended to read:

14     36-9-28. This chapter does not prohibit:

- 15     (1) Any nursing assistance in an emergency;
- 16     (2) The practice of nursing included in a program of study by a student enrolled in an  
17 approved prelicensure program for the preparation of registered nurses or licensed  
18 practical nurses;
- 19     (3) The practice of a legally qualified nurse from another state employed by the United  
20 States government and performing ~~her~~ the nurse's official duty in this state;
- 21     (4) Gratuitous care of friends or members of the family;
- 22     (5) Domestic administration of family remedies, or care of the sick by domestic servants,  
23 housekeepers, companions, or household aides of any type, whether employed  
24 regularly or because of an emergency or illness, but who ~~shall~~ may not in any way

- 1 assume to practice nursing as defined in this chapter;
- 2 (6) The nursing or care of the sick, with or without compensation, when done in  
3 connection with the practice of the religious tenets of any church by adherents  
4 thereof, so long as ~~they do~~ the person does not engage in the practice of nursing as  
5 defined in this chapter;
- 6 (7) The practice of nursing in this state by a nurse currently licensed in another state or  
7 territory whose employment requires ~~her~~ the nurse to accompany and care for a  
8 patient in South Dakota during one such employment not to exceed three months in  
9 length; ~~provided, however, that such person shall.~~ However, the nurse may not hold  
10 herself or himself out to be licensed in this state;
- 11 (8) The practice of the functions of a certified registered nurse anesthetist by a registered  
12 nurse enrolled as a student in an approved program for the preparation of certified  
13 registered nurse anesthetists;
- 14 (9) The practice of nursing in this state by a nurse currently licensed in another state,  
15 territory, or foreign country who is present in this state to ~~lecture~~ provide education  
16 relative to the practice of nursing for a period of not more than five days;
- 17 (10) The administration of medications, other than by the parenteral route, by staff of  
18 community support providers, group homes, and supervised apartments certified or  
19 approved by the Department of Human Services, when under the supervision of a  
20 licensed registered nurse. The Department of Human Services, in consultation with  
21 the ~~South Dakota Board of Nursing~~ board, shall promulgate rules pursuant to chapter  
22 1-26 for administration of medications by such staff;
- 23 (11) The assistance with or performance of bowel and bladder care, other than the  
24 insertion or removal of suprapubic ~~and foley~~ catheters, by domestic servants,

1 housekeepers, companions, or household aides, at the direction of a person needing  
2 such care who resides independently outside of any hospital, nursing or health care  
3 facility, or other similar institutional setting;

4 (12) The administration of medications, other than by the parenteral route, by staff of  
5 community mental health centers, community mental health residential facilities, and  
6 community support services programs certified or approved by the Department of  
7 Social Services. The administration of medications shall be under the direct or  
8 indirect supervision of a registered nurse. The Department of Social Services and the  
9 ~~South Dakota Board of Nursing~~ board shall promulgate rules pursuant to chapter 1-  
10 26 for administration of medications by such staff;

11 (13) The services performed in accordance with § 28-8A-10 by a personal attendant when  
12 acting at the direction of a person with a disability; and

13 (14) The practice of nursing included in a program of study by a registered nurse enrolled  
14 in an approved program for the preparation of a clinical nurse specialist.

15 Section 16. That § 36-9-29 be amended to read:

16 36-9-29. The ~~Board of Nursing~~ board may examine, license, and renew the licenses of ~~duly~~  
17 ~~qualified applicants. The board may certify and renew the certification of qualified applicants.~~

18 Section 17. That § 36-9-30.1 be amended to read:

19 36-9-30.1. An applicant for ~~certification~~ licensure as a certified registered nurse anesthetist  
20 shall submit to the ~~Board of Nursing~~ board written evidence, verified by oath, that ~~said~~ the  
21 applicant:

22 (1) Is currently licensed ~~by the board~~ or has a privilege to practice in this state as a  
23 registered nurse;

24 (2) Has completed an approved program for the preparation of registered nurse

1           anesthetists; and

2           (3) Has ~~passed any examination, written or oral, or both, which the board in its discretion~~  
3           ~~may require~~ current certification from a national certifying body recognized by the  
4           board; and

5           (4) Is otherwise qualified under § 36-9-49.

6           Section 18. That § 36-9-31 be amended to read:

7           36-9-31. Upon application and payment of the required fee, the applicant for a license to  
8           practice as a registered nurse shall pass a written examination approved by the board. Upon  
9           achieving the passing ~~score~~ standard as determined by the board and if otherwise qualified under  
10          § 36-9-49, the board shall issue to the applicant a license to practice as a registered nurse.

11          Section 19. That § 36-9-32 be amended to read:

12          36-9-32. Upon application and payment of the required fee, the ~~Board of Nursing~~ board may  
13          issue a license to practice as a registered nurse by endorsement to an applicant who has been  
14          licensed as a registered nurse under the laws of another state, territory, or foreign country, if, in  
15          the opinion of the board, the applicant meets the qualifications required of registered nurses in  
16          this state at the time of original licensure. However, if any applicant for licensure by  
17          endorsement has not been ~~employed as a nurse for more than~~ engaged in the practice of nursing  
18          in the past six years, the board may establish reentry standards, by rules promulgated pursuant  
19          to chapter 1-26, and may require ~~such~~ written evidence, verified by oath, as may be ~~deemed~~  
20          necessary to determine compliance with ~~such~~ the standards.

21          Section 20. That § 36-9-35 be amended to read:

22          36-9-35. The ~~Board of Nursing~~ board shall promulgate by rule, pursuant to chapter 1-26, the  
23          following nonrefundable registered nurse fees which the board shall collect in advance from  
24          applicants:

- 1 (1) For initial licensure by examination or endorsement, not more than two hundred  
2 dollars, exclusive of any fee which may be required for a nationally administered  
3 examination;
- 4 (2) For reexamination, not more than the amount then required for licensure by  
5 examination;
- 6 (3) For ~~endorsement~~ verification of licensure to another state, territory, or foreign  
7 country, not more than thirty dollars;
- 8 (4) For initial certified registered nurse anesthetist ~~certification~~ licensure, not more than  
9 two hundred dollars;
- 10 (5) For issuance of any temporary or limited permit, not more than fifty dollars;
- 11 (6) For biennial renewal of license, not more than one hundred fifty dollars;
- 12 (7) For reinstatement of a lapsed license ~~or certified registered nurse anesthetist~~  
13 ~~certification~~, the current renewal fee plus not more than one hundred dollars;
- 14 (8) For providing a transcript, not more than five dollars;
- 15 (9) For effecting a name change upon the records of a licensee ~~or certified registered~~  
16 ~~nurse anesthetist certificate holder~~, not more than twenty dollars;
- 17 (10) For issuing a duplicate license ~~or certified registered nurse anesthetist certificate~~, not  
18 more than thirty dollars;
- 19 (11) For biennial renewal of certified registered nurse anesthetist ~~certification~~ license, not  
20 more than one hundred fifty dollars;
- 21 (12) For placing a license ~~or certified registered nurse anesthetist certification~~ on inactive  
22 status, not more than twenty dollars;
- 23 (13) For issuance of any limited license, not more than thirty dollars.

24 Section 21. That § 36-9-38 be amended to read:

1       36-9-38. Upon application and payment of the required fee, the applicant for a license to  
2 practice as a licensed practical nurse shall pass a written examination approved by the board.  
3 Upon achieving the passing ~~score~~ standard as determined by the board and if otherwise qualified  
4 under § 36-9-49, the board shall issue to the applicant a license to practice as a licensed practical  
5 nurse.

6       Section 22. That § 36-9-39 be amended to read:

7       36-9-39. Upon application and payment of the required fee, the ~~Board of Nursing~~ board may  
8 issue a license to practice as a licensed practical nurse by endorsement to any applicant who is  
9 a graduate of an approved program or has met the requirements by equivalency and has been  
10 licensed as a licensed practical nurse or licensed vocational nurse under the laws of another  
11 state, territory, or foreign country, if, in the opinion of the board, the applicant meets the  
12 qualifications required of licensed practical nurses in this state at the time of original licensure.  
13 However, if any applicant for licensure by endorsement has not been ~~employed as a nurse for~~  
14 ~~more than~~ engaged in the practice of nursing in the past six years, the board may establish  
15 reentry standards, by rules promulgated pursuant to chapter 1-26, and may require ~~such~~ written  
16 evidence, verified by oath, as may be ~~deemed~~ necessary to determine compliance with ~~such~~ the  
17 standards.

18       Section 23. That § 36-9-43 be amended to read:

19       36-9-43. The ~~Board of Nursing~~ board shall promulgate by rule, pursuant to chapter 1-26, the  
20 following nonrefundable licensed practical nurse fees which the board shall collect in advance  
21 from applicants:

- 22       (1) For initial licensure by examination or endorsement, not more than two hundred  
23 dollars, exclusive of any fee which may be required for a nationally administered  
24 examination;

- 1 (2) For reexamination, not more than the amount then required for licensure by  
2 examination;
- 3 (3) For ~~endorsement~~ verification of licensure to another state, territory, or foreign  
4 country, not more than thirty dollars;
- 5 (4) For issuance of any temporary or limited permit, not more than fifty dollars;
- 6 (5) For biennial renewal of license, not more than one hundred fifty dollars;
- 7 (6) For reinstatement of a lapsed license, the current renewal fee plus not more than one  
8 hundred dollars;
- 9 (7) For providing a transcript, not more than five dollars;
- 10 (8) For effecting a name change upon the records of a licensee, not more than twenty  
11 dollars;
- 12 (9) For issuing a duplicate license, not more than thirty dollars;
- 13 (10) For placing a license on inactive status, not more than twenty dollars.

14 Section 24. That § 36-9-45 be amended to read:

15 36-9-45. The license of any person licensed under the provisions of this chapter shall be  
16 renewed biennially, except as provided in § 36-9-46. The expiration date shall be established  
17 by the rules of the board pursuant to chapter 1-26. The board shall ~~mail~~ provide a notice for  
18 renewal of license to each licensee at least ninety days prior to the expiration date of the person's  
19 license. The licensee shall ~~return~~ submit the required fee to the board before the expiration date.  
20 Upon receipt of the fee, the board shall ~~issue to the licensee a certificate of renewal~~ renew the  
21 license. The renewal shall render the license holder ~~thereof~~ a legal practitioner of nursing as  
22 designated ~~thereon~~ for the period stated on the ~~renewal certificate~~ renewed license. However,  
23 if any applicant for renewal of a license has not ~~been employed as a nurse for more than~~ engaged  
24 in the practice of nursing in the past six years, the board may establish reentry standards, by

1 rules promulgated pursuant to chapter 1-26, and may require ~~such~~ written evidence, verified by  
2 oath, as may be ~~deemed~~ necessary to determine compliance with ~~such~~ the standards.

3 Section 25. That § 36-9-45.1 be repealed.

4 ~~— 36-9-45.1. The certification of each person certified under the provisions of this chapter~~  
5 ~~shall be renewed biennially, except as provided in § 36-9-46. The expiration date shall coincide~~  
6 ~~with the expiration date of that person's registered nursing license. The procedure to be followed~~  
7 ~~by the board and the applicant for renewal of certification shall be the same as provided in § 36-~~  
8 ~~9-45.~~

9 Section 26. That § 36-9-46 be amended to read:

10 36-9-46. A licensee ~~or certificate holder at any time the licensee or certification is current~~  
11 may file written application with the ~~Board of Nursing~~ board, accompanied by the required fee,  
12 requesting inactive status ~~and stating the reasons therefor. Upon receipt of the fee, the board~~  
13 shall place the license on inactive status.

14 Section 27. That § 36-9-47 be amended to read:

15 36-9-47. Any licensee ~~or certificate holder~~ who allows ~~her~~ a license ~~or certification~~ to lapse  
16 by failure to renew the ~~same~~ license as provided in §§ 36-9-45 and 36-9-45.1 may be reinstated  
17 by the ~~Board of Nursing~~ board on satisfactory explanation for such failure to renew and payment  
18 of the required fee.

19 Section 28. That § 36-9-47.1 be amended to read:

20 36-9-47.1. After a license has been lapsed or inactive for ~~at least six years~~ and the licensee  
21 has not engaged in the practice of nursing for the past six years, the ~~Board of Nursing~~ board may  
22 require written evidence, verified by oath, of the licensee's successful completion of ~~such~~ the  
23 reentry requirements as the board may, ~~by rule~~ establish by rules promulgated pursuant to  
24 chapter 1-26, ~~establish. At any time after certification has been lapsed or inactive, the board may~~

1 ~~require evidence of the certificate holder's current nursing knowledge and skill before reinstating~~  
2 ~~the certificate holder to the status of active practice.~~

3 Section 29. That § 36-9-47.2 be amended to read:

4 36-9-47.2. Upon application and payment of the required fee, the ~~Board of Nursing~~ board  
5 may issue a limited license to any nurse enrolled in a reentry program to practice only under the  
6 direct, personal supervision of a licensed registered nurse. Each limited license shall bear an  
7 issuance date and a termination date and may not be valid for more than ninety days. Upon  
8 successful completion of a reentry program, the nurse may apply for a license or ~~current renewal~~  
9 ~~certificate~~ renewal of a license.

10 Section 30. That § 36-9-49 be amended to read:

11 36-9-49. In compliance with chapter 1-26, the ~~Board of Nursing~~ board may deny an  
12 application for licensure ~~or certification~~ or may deny, revoke, or suspend a license ~~or certificate~~  
13 and may take other disciplinary or corrective action ~~it~~ the board considers appropriate in  
14 addition to or in lieu of such an action upon proof that the applicant; ~~or licensee; or certificate~~  
15 ~~holder~~ has:

- 16 (1) Committed fraud, deceit, or misrepresentation in procuring or attempting to procure  
17 licensure ~~or certification~~;
- 18 (2) Been convicted of a felony. The conviction of a felony means the conviction of any  
19 offense which, if committed within the State of South Dakota, would constitute a  
20 felony under its laws;
- 21 (3) Engaged in the practice of nursing under a false or incorrect name or under a  
22 fictitious or assumed business name which has not been registered pursuant to  
23 chapter 37-11 or impersonated another licensee ~~or certificate holder~~ of a like or  
24 different name;

- 1 (4) ~~Become addicted to the habitual use of intoxicating liquors or controlled drugs as~~  
2 ~~defined by chapter 34-20B to such an extent as to result in incapacitation from the~~  
3 ~~performance of professional duties~~ Committed an alcohol or drug related act or  
4 offense that interferes with the ability to practice nursing safely;
- 5 (5) Negligently, willfully, or intentionally acted in a manner inconsistent with the health  
6 or safety of ~~persons~~ a person entrusted to ~~his or her~~ the applicant's or licensee's care;
- 7 (6) Had a license, ~~certificate~~, or privilege to practice as a registered nurse, licensed  
8 practical nurse, certified registered nurse anesthetist, or clinical nurse specialist  
9 denied, revoked, or suspended or had other disciplinary action taken in another state,  
10 territory, or foreign country;
- 11 (7) Violated any provisions of this chapter or the rules promulgated under it;
- 12 (8) Aided or abetted an unlicensed or uncertified person to practice nursing;
- 13 (9) Engaged in the practice of nursing during a time ~~his or her~~ the applicant's or  
14 licensee's license ~~or certificate~~ is lapsed, on inactive status, suspended, or revoked;
- 15 (10) ~~Been guilty of incompetence~~ Engaged in unsafe nursing practice, substandard care,  
16 or unprofessional or dishonorable conduct;
- 17 (11) Exercised influence within the nurse-patient relationship for the purpose of engaging  
18 a patient in sexual activity. For the purpose of this subdivision, the patient is  
19 presumed incapable of giving free, full, and informed consent to sexual activity with  
20 the nurse; or
- 21 (12) Engaged in gross sexual harassment or sexual contact.

22 Section 31. That § 36-9-49.1 be amended to read:

23 36-9-49.1. In addition to the provisions for summary suspension in § 1-26-29, the board may  
24 take action pursuant to § 36-9-49 upon a showing that the physical or mental condition of the

1 licensee, ~~certificate holder~~ or applicant endangers the health or safety of ~~those persons~~ a person  
2 who ~~are~~ is or will be entrusted to ~~her~~ the licensee's or applicant's care. A majority of the board  
3 may demand an examination of the licensee, ~~certificate holder~~ or applicant by a competent  
4 medical or psychological examiner selected by the board at the board's expense. If the licensee,  
5 ~~certificate holder~~ or applicant fails to submit to the examination, the board may immediately  
6 suspend ~~her~~ the license ~~or certification~~ or deny ~~her~~ the application.

7 Section 32. That § 36-9-51.1 be amended to read:

8 36-9-51.1. Any license ~~or certification~~ may be suspended, revoked, or reissued only after a  
9 hearing conducted by a hearing examiner appointed by the board or by a majority of the  
10 members of the board.

11 Section 33. That § 36-9-51.2 be amended to read:

12 36-9-51.2. Any proceeding relative to the revocation or suspension of a license ~~or~~  
13 ~~certification~~ shall otherwise conform to the procedure set forth in chapter 1-26.

14 Section 34. That § 36-9-51.3 be amended to read:

15 36-9-51.3. Any decision of the board to suspend, revoke, or reissue a license ~~or certification~~  
16 requires a majority vote of the board ~~membership~~.

17 Section 35. That § 36-9-51.4 be amended to read:

18 36-9-51.4. Any party aggrieved by any act, ruling, or decision of the board relating to the  
19 refusal to grant, the denial, revocation, suspension, or reissuance of a license ~~or certification~~ may  
20 appeal pursuant to chapter 1-26.

21 Section 36. That § 36-9-57 be amended to read:

22 36-9-57. Any revoked or suspended license ~~or certification~~ may be reissued at the discretion  
23 of the board upon a finding of good cause.

24 Section 37. That § 36-9-58 be amended to read:

1       36-9-58. The board may approve curricula and standards for educational programs preparing  
2 persons for licensure ~~and certification~~ under this chapter.

3       Section 38. That § 36-9-68 be amended to read:

4       36-9-68. No person may:

5       (1)    Sell or fraudulently obtain or furnish a diploma, license, ~~certificate~~, renewal of  
6            license ~~or certificate~~, or any other record necessary to practice nursing under this  
7            chapter or aid or abet in such actions;

8       (2)    Practice nursing as defined in this chapter under cover of any diploma, license,  
9            renewal of license ~~or certificate~~, or other record necessary to practice nursing under  
10           this chapter that was illegally or fraudulently obtained or signed or ~~that~~ was issued  
11           unlawfully or under fraudulent representation;

12       (3)    Practice or offer to practice as a registered nurse, licensed practical nurse, registered  
13            nurse anesthetist, or clinical nurse specialist without being licensed ~~or certified~~ under  
14            this chapter;

15       (4)    Use in connection with the person's name a sign, card, device, or other designation  
16            tending to imply that the person is a registered nurse, a licensed practical nurse, a  
17            certified registered nurse anesthetist, or a clinical nurse specialist without being  
18            licensed ~~or certified~~ under this chapter;

19       (5)    Practice nursing as defined in this chapter during any time that the person's license  
20            ~~or certificate~~ is lapsed, on inactive status, suspended, or revoked;

21       (6)    Conduct a nursing education program for the preparation of registered nurses,  
22            licensed practical nurses, certified registered nurse anesthetists, or clinical nurse  
23            specialists unless the program has been approved by the ~~Board of Nursing~~ board; or

24       (7)    Otherwise violate any of the provisions of this chapter.

1 A violation of this section is a Class 1 misdemeanor.

2 Section 39. That § 36-9-72 be amended to read:

3 36-9-72. The ~~Board of Nursing~~ board may in the name of the people of the State of South  
4 Dakota, through the attorney general of the State of South Dakota, or in ~~its~~ the board's own  
5 name apply for an injunction in the circuit court for the county of the person's residence to  
6 enjoin any person who:

- 7 (1) Is unlawfully practicing nursing as defined in this chapter without a license ~~or~~  
8 ~~certification~~ issued by the board;
- 9 (2) Is practicing nursing as defined in this chapter under a license ~~or certification~~ that is  
10 lapsed, on inactive status, suspended, or revoked;
- 11 (3) Is endangering, or threatening to endanger, the health or safety of those entrusted to  
12 ~~that person's~~ the licensee's or applicant's care in the practice of nursing as defined in  
13 this chapter.

14 An action for injunction is an alternate to criminal proceedings, and the commencement of  
15 one proceeding by the board constitutes an election. Upon the filing of a verified complaint, the  
16 court, if satisfied by affidavit or otherwise, that the person is or has been engaging in unlawful  
17 or dangerous practice as ~~above~~ described in this section, may issue a temporary injunction,  
18 without notice or bond, enjoining the defendant from further practice as a registered nurse,  
19 licensed practical nurse, certified registered nurse anesthetist, or clinical nurse specialist.

20 Section 40. That § 36-9-86 be amended to read:

21 36-9-86. An applicant for licensure as a clinical nurse specialist shall submit to the ~~Board~~  
22 ~~of Nursing~~ board written evidence, verified by oath, that the applicant:

- 23 (1) Is currently licensed by the board as a registered nurse or has a privilege to practice  
24 in this state;

- 1       (2)  ~~Holds a masters degree in nursing by completion of an approved program; and~~ Has  
2              ~~completed an accredited graduate or post-graduate level advanced practice registered~~  
3              ~~nurse program in the clinical nurse specialist role;~~
- 4       (3)  ~~Has completed an examination approved by the board~~ Is currently certified by a  
5              ~~national certifying body recognized by the board in the clinical nurse specialist role;~~  
6             and
- 7       (4) Is otherwise qualified under § 36-9-49.

8       Any person licensed pursuant to §§ 36-9-85 to 36-9-91, inclusive, prior to July 1, 1996, is  
9       exempt from subdivision (3) of this section. The ~~Board of Nursing~~ board may ~~adopt~~ promulgate  
10       rules, pursuant to chapter 1-26, regarding the application and examination process for licensure  
11       as a clinical nurse specialist.

12       Section 41. That § 36-9-91 be amended to read:

13       36-9-91. The ~~Board of Nursing~~ board shall promulgate rules, pursuant to chapter 1-26, to  
14       establish the following fees for clinical nurse specialists:

- 15       (1) For initial licensure by examination or endorsement, not more than two hundred  
16             dollars, exclusive of any fee which may be required for a nationally administered  
17             examination;
- 18       (2) For ~~endorsement~~ verification of licensure to another state, territory, or foreign  
19             country, not more than thirty dollars;
- 20       (3) For issuance of a temporary permit, not more than fifty dollars;
- 21       (4) For biennial renewal of license, not more than one hundred fifty dollars;
- 22       (5) For reinstatement of a lapsed license, the current renewal fee plus not more than one  
23             hundred dollars;
- 24       (6) For providing a transcript, not more than five dollars;

- 1 (7) For issuing a duplicate license, not more than thirty dollars;
- 2 (8) For placing a license on inactive status, not more than twenty dollars; and
- 3 (9) For effecting a name change upon the records of a license, not more than twenty
- 4 dollars.

5 The fees shall be paid in advance and are not refundable.

6 Section 42. That chapter 36-9 be amended by adding a NEW SECTION to read:

7 The Nurse Licensure Compact is enacted into law and entered into with all other  
8 jurisdictions that legally join the compact, which is substantially as follows:

9 ARTICLE I

10 Finding and Declaration of Purpose

11 (a) The party states find that:

- 12 (1) The health and safety of the public are affected by the degree of compliance with and
- 13 the effectiveness of enforcement activities related to state nurse licensure laws;
- 14 (2) Violations of nurse licensure and other laws regulating the practice of nursing may
- 15 result in injury or harm to the public;
- 16 (3) The expanded mobility of nurses and the use of advanced communication
- 17 technologies as part of our nation's health care delivery system require greater
- 18 coordination and cooperation among states in the areas of nurse licensure and
- 19 regulation;
- 20 (4) New practice modalities and technology make compliance with individual state nurse
- 21 licensure laws difficult and complex;
- 22 (5) The current system of duplicative licensure for nurses practicing in multiple states
- 23 is cumbersome and redundant for both nurses and states; and
- 24 (6) Uniformity of nurse licensure requirements throughout the states promotes public

1 safety and public health benefits.

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

3 (1) Facilitate the states' responsibility to protect the public's health and safety;

4 (2) Ensure and encourage the cooperation of party states in the areas of nurse licensure  
5 and regulation;

6 (3) Facilitate the exchange of information between party states in the areas of nurse  
7 regulation, investigation, and adverse actions;

8 (4) Promote compliance with the laws governing the practice of nursing in each  
9 jurisdiction;

10 (5) Invest all party states with the authority to hold a nurse accountable for meeting all  
11 state practice laws in the state in which the patient is located at the time care is  
12 rendered through the mutual recognition of party state licenses;

13 (6) Decrease redundancies in the consideration and issuance of nurse licenses; and

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

16 ARTICLE II

17 Definitions

18 As used in this Compact:

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

1 action.

2 (b) "Alternative program," means a nondisciplinary monitoring program approved by a  
3 licensing board.

4 (c) "Coordinated licensure information system," means an integrated process for  
5 collecting, storing, and sharing information on nurse licensure and enforcement  
6 activities related to nurse licensure laws that is administered by a nonprofit  
7 organization composed of and controlled by licensing bodies.

8 (d) "Current significant investigative information," means:

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

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

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

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

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

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

- 1 (i) "Multistate licensure privilege," means a legal authorization associated with a  
2 multistate license permitting the practice of nursing as either a registered nurse (RN)  
3 or LPN/VN in a remote state.
- 4 (j) "Nurse," means RN or LPN/VN, as those terms are defined by each party state's  
5 practice laws.
- 6 (k) "Party state," means any state that has adopted this compact.
- 7 (l) "Remote state," means a party state, other than the home state.
- 8 (m) "Single-state license," means a nurse license issued by a party state that authorizes  
9 practice only within the issuing state and does not include a multistate licensure  
10 privilege to practice in any other party state.
- 11 (n) "State," means a state, territory, or possession of the United States and the District  
12 of Columbia.
- 13 (o) "State practice laws," means a party state's laws, rules, and regulations that govern  
14 the practice of nursing, define the scope of nursing practice, and create the methods  
15 and grounds for imposing discipline. State practice laws do not include requirements  
16 necessary to obtain and retain a license, except for qualifications or requirements of  
17 the home state.

18 ARTICLE III

19 General Provisions and Jurisdiction

- 20 (a) A multistate license to practice registered or licensed practical/vocational nursing issued  
21 by a home state to a resident in that state will be recognized by each party state as authorizing  
22 a nurse to practice as a registered nurse (RN) or as a licensed practical/vocational nurse  
23 (LPN/VN), under a multistate licensure privilege, in each party state.
- 24 (b) A state must implement procedures for considering the criminal history records of

1 applicants for initial multistate license or licensure by endorsement. Such procedures shall  
2 include the submission of fingerprints or other biometric-based information by applicants for  
3 the purpose of obtaining an applicant's criminal history record information from the Federal  
4 Bureau of Investigation and the agency responsible for retaining the state's criminal records.

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

7 (1) Meets the home state's qualifications for licensure or renewal of licensure, as well as  
8 all other applicable state laws;

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

11 (ii) Has graduated from a foreign RN or LPN/VN prelicensure education program  
12 that (a) has been approved by the authorized accrediting body in the applicable  
13 country and (b) has been verified by an independent credentials review agency  
14 to be comparable to a licensing board-approved prelicensure education  
15 program;

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

20 (4) Has successfully passed an NCLEX-RN® or NCLEX-PN® Examination or  
21 recognized predecessor, as applicable;

22 (5) Is eligible for or holds an active, unencumbered license;

23 (6) Has submitted, in connection with an application for initial licensure or licensure by  
24 endorsement, fingerprints or other biometric data for the purpose of obtaining

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

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

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

8 (9) Is not currently enrolled in an alternative program;

9 (10) Is subject to self-disclosure requirements regarding current participation in an  
10 alternative program; and

11 (11) Has a valid United States social security number.

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

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

1 provided.

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

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

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

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

18 ARTICLE IV

19 Application for Licensure in a Party State

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

1 applicant and whether the applicant is currently participating in an alternative program.

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

4 (c) If a nurse changes primary state of residence by moving between two party states, the  
5 nurse must apply for licensure in the new home state, and the multistate license issued by the  
6 prior home state will be deactivated in accordance with applicable rules adopted by the  
7 commission.

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

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

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

17 ARTICLE V

18 Additional Authorities Invested in Party State Licensing Boards

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

21 (1) Take adverse action against a nurse's multistate licensure privilege to practice within  
22 that party state;

23 (i) Only the home state shall have the power to take adverse action against a  
24 nurse's license issued by the home state;

- 1 (ii) For purposes of taking adverse action, the home state licensing board shall  
2 give the same priority and effect to reported conduct received from a remote  
3 state as it would if such conduct had occurred within the home state. In so  
4 doing, the home state shall apply its own state laws to determine appropriate  
5 action;
- 6 (2) Issue cease and desist orders or impose an encumbrance on a nurse's authority to  
7 practice within that party state;
- 8 (3) Complete any pending investigations of a nurse who changes primary state of  
9 residence during the course of such investigations. The licensing board shall also  
10 have the authority to take appropriate action and shall promptly report the  
11 conclusions of such investigations to the administrator of the coordinated licensure  
12 information system. The administrator of the coordinated licensure information  
13 system shall promptly notify the home state of any such actions;
- 14 (4) Issue subpoenas for both hearings and investigations that require the attendance and  
15 testimony of witnesses, as well as the production of evidence. Subpoenas issued by  
16 a licensing board in a party state for the attendance and testimony of witnesses or the  
17 production of evidence from another party state shall be enforced in the latter state  
18 by any court of competent jurisdiction, according to the practice and procedure of  
19 that court applicable to subpoenas issued in proceedings pending before it. The  
20 issuing authority shall pay any witness fees, travel expenses, mileage, and other fees  
21 required by the service statutes of the state in which the witnesses or evidence are  
22 located;
- 23 (5) Obtain and submit, for each nurse licensure applicant, fingerprint or other  
24 biometric-based information to the Federal Bureau of Investigation for criminal

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

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

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

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

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

19 ARTICLE VI

20 Coordinated Licensure Information System and Exchange of Information

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

1 efforts.

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

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

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

13 (e) Notwithstanding any other provision of law, all party state licensing boards contributing  
14 information to the coordinated licensure information system may designate information that may  
15 not be shared with nonparty states or disclosed to other entities or individuals without the  
16 express permission of the contributing state.

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

21 (g) Any information contributed to the coordinated licensure information system that is  
22 subsequently required to be expunged by the laws of the party state contributing that information  
23 shall also be expunged from the coordinated licensure information system.

24 (h) The compact administrator of each party state shall furnish a uniform data set to the

1 compact administrator of each other party state, which shall include, at a minimum:

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

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

9 ARTICLE VII

10 Establishment of the Interstate Commission of Nurse Licensure Compact Administration

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

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

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

20 (b) Membership, voting, and meetings:

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

1 occurring in the commission shall be filled in accordance with the laws of the party  
2 state in which the vacancy exists.

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

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

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

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

- 15 (i) Noncompliance of a party state with its obligations under this compact;
- 16 (ii) The employment, compensation, discipline, or other personnel matters,  
17 practices or procedures related to specific employees or other matters related  
18 to the commission's internal personnel practices and procedures;
- 19 (iii) Current, threatened, or reasonably anticipated litigation;
- 20 (iv) Negotiation of contracts for the purchase or sale of goods, services, or real  
21 estate;
- 22 (v) Accusing any person of a crime or formally censuring any person;
- 23 (vi) Disclosure of trade secrets or commercial or financial information that is  
24 privileged or confidential;

1 (vii) Disclosure of information of a personal nature where disclosure would  
2 constitute a clearly unwarranted invasion of personal privacy;

3 (viii) Disclosure of investigatory records compiled for law enforcement purposes;

4 (ix) Disclosure of information related to any reports prepared by or on behalf of the  
5 commission for the purpose of investigation of compliance with this compact;

6 or

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

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

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

20 (1) Establishing the fiscal year of the commission;

21 (2) Providing reasonable standards and procedures;

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

23 (ii) Governing any general or specific delegation of any authority or function of  
24 the commission;

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

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

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

16       (6) Providing a mechanism for winding up the operations of the commission and the  
17           equitable disposition of any surplus funds that may exist after the termination of this  
18           compact after the payment or reserving of all of its debts and obligation.

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

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

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

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

- 1       (1)    To promulgate uniform rules to facilitate and coordinate implementation and  
2           administration of this compact. The rules shall have the force and effect of law and  
3           shall be binding in all party states;
- 4       (2)    To bring and prosecute legal proceedings or actions in the name of the commission,  
5           provided that the standing of any licensing board to sue or be sued under applicable  
6           law shall not be affected;
- 7       (3)    To purchase and maintain insurance and bonds;
- 8       (4)    To borrow, accept, or contract for services of personnel, including, but not limited  
9           to, employees of a party state or nonprofit organizations;
- 10      (5)    To cooperate with other organizations that administer state compacts related to the  
11           regulation of nursing, including but not limited to sharing administrative or staff  
12           expenses, office space, or other resources;
- 13      (6)    To hire employees, elect or appoint officers, fix compensation, define duties, grant  
14           such individuals appropriate authority to carry out the purposes of this compact, and  
15           to establish the commission's personnel policies and programs relating to conflicts  
16           of interest, qualifications of personnel, and other related personnel matters;
- 17      (7)    To accept any and all appropriate donations, grants and gifts of money, equipment,  
18           supplies, materials and services, and to receive, utilize, and dispose of the same,  
19           provided that at all times the commission shall avoid any appearance of impropriety  
20           or conflict of interest;
- 21      (8)    To lease, purchase, accept appropriate gifts or donations of, or otherwise to own,  
22           hold, improve, or use, any property, whether real, personal or mixed, provided that  
23           at all times the commission shall avoid any appearance of impropriety;
- 24      (9)    To sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose

- 1 of any property, whether real, personal, or mixed;
- 2 (10) To establish a budget and make expenditures;
- 3 (11) To borrow money;
- 4 (12) To appoint committees, including advisory committees comprised of administrators,  
5 state nursing regulators, state legislators or their representatives, consumer  
6 representatives, and other such interested parties;
- 7 (13) To provide and receive information from, and to cooperate with, law enforcement  
8 agencies;
- 9 (14) To adopt and use an official seal; and
- 10 (15) To perform such other functions as may be necessary or appropriate to achieve the  
11 purposes of this compact consistent with the state regulation of nurse licensure and  
12 practice.
- 13 (h) Financing of the commission:
- 14 (1) The commission shall pay, or provide for the payment of, the reasonable expenses  
15 of its establishment, organization, and ongoing activities.
- 16 (2) The commission may also levy on and collect an annual assessment from each party  
17 state to cover the cost of its operation, activities, and staff in its annual budget as  
18 approved each year. The aggregate annual assessment amount, if any, shall be  
19 allocated based upon a formula to be determined by the commission, which shall  
20 promulgate a rule that is binding upon all party states.
- 21 (3) The commission shall not incur obligations of any kind prior to securing the funds  
22 to adequately meet the same, nor shall the commission pledge the credit of any of the  
23 party states, except by, and with the authority of, such party state.
- 24 (4) The commission shall keep accurate accounts of all receipts and disbursements. The

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

6 (i) Qualified immunity, defense, and indemnification:

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

17 (2) The commission shall defend any administrator, officer, executive director,  
18 employee, or representative of the commission in any civil action seeking to impose  
19 liability arising out of any actual or alleged act, error, or omission that occurred  
20 within the scope of commission employment, duties, or responsibilities, or that the  
21 person against whom the claim is made had a reasonable basis for believing occurred  
22 within the scope of commission employment, duties, or responsibilities, provided that  
23 nothing herein shall be construed to prohibit that person from retaining his or her  
24 own counsel, and provided further that the actual or alleged act, error, or omission

1 did not result from that person's intentional, willful, or wanton misconduct.

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

10 ARTICLE VIII

11 Rulemaking

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

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

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

21 (1) On the website of the commission; and

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

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

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

3 (2) The text of the proposed rule or amendment and the reason for the proposed rule;

4 (3) A request for comments on the proposed rule from any interested person; and

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

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

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

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

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

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

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

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

23 (j) The commission shall, by majority vote of all administrators, take final action on the  
24 proposed rule and shall determine the effective date of the rule, if any, based on the rule-making

1 record and the full text of the rule.

2 (k) Upon determination that an emergency exists, the commission may consider and adopt  
3 an emergency rule without prior notice, opportunity for comment, or hearing, provided that the  
4 usual rule-making procedures provided in this compact and in this section shall be retroactively  
5 applied to the rule as soon as reasonably possible, in no event later than ninety days after the  
6 effective date of the rule. For the purpose of this provision, an emergency rule is one that must  
7 be adopted immediately in order to:

8 (1) Meet an imminent threat to public health, safety, or welfare;

9 (2) Prevent a loss of commission or party state funds; or

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

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

21 ARTICLE IX

22 Oversight, Dispute Resolution, and Enforcement

23 (a) Oversight:

24 (1) Each party state shall enforce this compact and take all actions necessary and

1 appropriate to effectuate this compact's purposes and intent.

2 (2) The commission shall be entitled to receive service of process in any proceeding that  
3 may affect the powers, responsibilities, or actions of the commission, and shall have  
4 standing to intervene in such a proceeding for all purposes. Failure to provide service  
5 of process in such proceedings to the commission shall render a judgement or order  
6 void as to the commission, this compact, or promulgated rules.

7 (b) Default, technical assistance, and termination:

8 (1) If the commission determines that a party state has defaulted in the performance of  
9 its obligations or responsibilities under this compact or the promulgated rules, the  
10 commission shall:

11 (i) Provide written notice to the defaulting state and other party states of the  
12 nature of the default, the proposed means of curing the default, or any other  
13 action to be taken by the commission; and

14 (ii) Provide remedial training and specific technical assistance regarding the  
15 default.

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

22 (3) Termination of membership in this compact shall be imposed only after all other  
23 means of securing compliance have been exhausted. Notice of intent to suspend or  
24 terminate shall be given by the commission to the Governor of the defaulting state

1 and to the executive officer of the defaulting state's licensing board and each of the  
2 party states.

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

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

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

14 (c) Dispute resolution:

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

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

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

22 (i) The party states may submit the issues in dispute to an arbitration panel, which  
23 will be comprised of individuals appointed by the compact administrator in  
24 each of the affected party states and an individual mutually agreed upon by the

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

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

3 (d) Enforcement:

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

6 (2) By majority vote, the commission may initiate legal action in the U.S. District Court  
7 for the District of Columbia or the federal district in which the commission has its  
8 principal offices against a party state that is in default to enforce compliance with the  
9 provisions of this compact and its promulgated rules and bylaws. The relief sought  
10 may include both injunctive relief and damages. In the event judicial enforcement is  
11 necessary, the prevailing party shall be awarded the costs of such litigation, including  
12 reasonable attorneys' fees.

13 (3) The remedies herein shall not be the exclusive remedies of the commission. The  
14 commission may pursue any other remedies available under federal or state law.

15 ARTICLE X

16 Effective Date, Withdrawal, and Amendment

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

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

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

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

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

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

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

16 ARTICLE XI

17 Construction and Severability

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

1 force and effect as to the remaining party states and in full force and effect as to the party state  
2 affected as to all severable matters.

3 Section 43. That chapter 36-9 be amended by adding a NEW SECTION to read:

4 No state general funds shall be used to support the Nurse Licensure Compact.