

1 SB38
2 196073-4
3 By Senator Reed
4 RFD: Healthcare
5 First Read: 05-MAR-19
6 PFD: 02/26/2019

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4 ENGROSSED

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7 A BILL
8 TO BE ENTITLED
9 AN ACT

10
11 Relating to the Board of Nursing; to amend Sections
12 34-21-1, 34-21-2, 34-21-21, 34-21-22, and 34-21-25, Code of
13 Alabama 1975, and to add Section 34-21-20.01 and Article 7,
14 commencing with Section 34-21-120, to the Code of Alabama
15 1975, to allow the board to enter into the Enhanced Nurse
16 Licensure Compact as a means of providing uniformity in
17 licensing requirements and interstate practice throughout
18 party states; and to make technical changes relating to the
19 multistate licensure of nurses.

20 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

24 "§34-21-1.

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

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

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

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

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

12 "~~(3)~~ (5) PRACTICE OF PROFESSIONAL AND PRACTICAL
13 NURSING. Nursing is a profession the practice of which is
14 defined as:

15 "a. Practice of Professional Nursing. The
16 performance, for compensation, of any act in the care and
17 counselling of persons or in the promotion and maintenance of
18 health and prevention of illness and injury based upon the
19 nursing process which includes systematic data gathering,
20 assessment, appropriate nursing judgment and evaluation of
21 human responses to actual or potential health problems through
22 such services as case finding, health teaching, health
23 counselling; and provision of care supportive to or
24 restorative of life and well-being, and executing medical
25 regimens including administering medications and treatments
26 prescribed by a licensed or otherwise legally authorized
27 physician or dentist. A nursing regimen shall be consistent

1 with and shall not vary any existing medical regimen.
2 Additional acts requiring appropriate education and training
3 designed to maintain access to a level of health care for the
4 consumer may be performed under emergency or other conditions
5 which are recognized by the nursing and medical professions as
6 proper to be performed by a registered nurse.

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

22 "~~(4)~~ (6) LICENSED PROFESSIONAL NURSE. A person who is
23 currently licensed to practice professional nursing.

24 "~~(5)~~ (7) LICENSED PRACTICAL NURSE. A person who is
25 currently licensed to practice practical nursing. For the
26 purposes of the Enhanced Nurse Licensure Compact, practical
27 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,
26 Regular Session 1975, shall continue to serve to the
27 completion of the term for which they are serving. The

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

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

1 nursing administration, clinical nursing, and advanced
2 practice nursing.

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

17 "(3) The Governor shall appoint two members on the
18 board who are to be licensed practical nurses from a list of
19 nominees furnished him or her by the Board of Directors of the
20 Alabama Federation of Licensed Practical Nurses, Incorporated,
21 or its successor organization, and such list, when furnished,
22 shall contain at least twice the number of nominees for the
23 vacancies to be filled. The Board of Directors of the Alabama
24 Federation of Licensed Practical Nurses, Incorporated, or its
25 successor organization, on or before December 1 of each year
26 in which the term of office of the board member filled by the
27 nominee of such board of directors shall expire, or at such

1 other times as necessary, shall furnish the Governor with a
2 list of licensed practical nurses qualified for appointment to
3 the board.

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

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

11 "(1) Be a graduate of a state-approved educational
12 program for the preparation of practitioners of professional
13 nursing.

14 "(2) Be a currently licensed professional nurse in
15 Alabama.

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

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

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

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

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

4 "(3) Be a currently licensed practical nurse in
5 Alabama.

6 "(4) Have a minimum of five years' successful
7 nursing experience.

8 "(5) Be actively engaged in licensed practical
9 nursing in this state immediately preceding and during
10 appointment.

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

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

1 position shall serve an initial four-year term and successors
2 shall serve four-year terms.

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

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

15 "(j) The board may:

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

19 "(2) Prescribe standards and approve curricula for
20 nursing educational programs preparing persons for licensure
21 under this chapter.

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

24 "(4) Approve such nursing educational programs as
25 meet the requirements of this chapter and the board. Nothing
26 in this chapter shall be construed to diminish the power of
27 the State Board of Education or other constitutionally or

1 legislatively established state agencies to govern the schools
2 under their respective jurisdictions.

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

7 "(6) Examine, license, and renew the licenses of
8 duly qualified applicants and require employers to submit
9 listings of personnel covered by this chapter to the board
10 upon request including, but not limited to, personnel
11 practicing nursing in Alabama under a multistate license, a
12 single state license, or a multistate licensure privilege. The
13 board may issue qualified applicants either a single state
14 license or a multistate license.

15 "(7) Conduct investigations, hearings, and
16 proceedings concerning alleged violations of this section or
17 of the rules and regulations of the board.

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

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

23 "(10) Keep a public record of all of its
24 proceedings.

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

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

1 "(13) Appoint and employ a qualified person, not
2 subject to the state Merit System, who shall not be a member
3 of the board, to serve as executive officer and administrator
4 and commissioner of the Enhanced Nurse Licensure Compact for
5 Alabama.

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

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

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

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

23 "(18) Perform such other duties, not inconsistent
24 with law, as required by this chapter to foster and improve
25 nursing and the regulation thereof and the public health of
26 this state.

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

3 "(20) Determine and collect reasonable fees.

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

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

10 "(k) The executive officer employed by the board
11 shall be a citizen of the United States, a person of the
12 highest integrity, and possess these additional
13 qualifications: Be a licensed professional nurse in Alabama or
14 eligible for licensure, be a graduate of a professional
15 nursing program approved by the state in which the program was
16 completed, hold a master's degree, and have had a varied
17 experience in nursing, including at least five years'
18 experience in an administrative or teaching capacity.

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

23 "(m) Each member of the board shall receive the same
24 per diem and travel allowance as is paid by law to state
25 employees for each day's attendance at the board meetings
26 incurred in the discharge of his or her duties as a board
27 member in addition to any daily compensation or allowance, if

1 any, as may be provided by the board, in such amount as may be
2 determined by the board. Any member of the board engaged in
3 duties under the direction of the board shall receive the per
4 diem and travel expenses and daily compensation or allowance
5 authorized by the board.

6 "(n) Nothing in this chapter shall limit the rights
7 of affected parties to appeal decisions of the board with
8 regard to rules and regulations promulgated pursuant to this
9 chapter.

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

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

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

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

4 "§34-21-21.

5 "(a) An applicant for a license to practice
6 professional nursing as a registered nurse shall submit to the
7 board written evidence of qualification, verified by oath,
8 that such applicant is of good moral character, holds a
9 diploma from an accredited high school or, in the opinion of
10 the board, the equivalent thereof, has successfully completed
11 an educational program in a school of nursing approved by the
12 board, and is a citizen of the United States or, if not a
13 citizen of the United States, a person who is legally present
14 in the United States with appropriate documentation from the
15 federal government.

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

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

22 "(2) BY ENDORSEMENT. The board may issue a license
23 to practice professional nursing as a registered nurse to an
24 applicant who has been duly licensed as a registered nurse
25 under the laws of another state, territory, or foreign
26 country, if, in the opinion of the board, such applicant meets
27 the qualifications required of registered nurses in this state

1 at the time of his or her graduation. There shall be no
2 license to practice professional nursing granted by the
3 previously known waiver method.

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

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

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

25 "(e) An applicant for a license to practice
26 professional nursing in Alabama may apply for either a single
27 state license or a multistate license.

1 "§34-21-22.

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

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

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

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

1 or her graduation. There shall be no license to practice
2 practical nursing granted by the previously known waiver
3 method.

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

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

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

25 "(e) An applicant for a license to practice
26 practical nursing in Alabama may apply for either a single
27 state license or a multistate license.

1 "§34-21-25.

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

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

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

13 "b. Has been convicted of a felony.

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

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

21 "e. Is unable to practice nursing with reasonable
22 skill and safety to patients by reason of illness,
23 inebriation, excessive use of drugs, narcotics, alcohol,
24 chemicals, or any other substance, or as a result of any
25 mental or physical condition.

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

1 "g. Is guilty of unprofessional conduct of a
2 character likely to deceive, defraud, or injure the public in
3 matters pertaining to health.

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

6 "i. Has been sentenced to a period of continuous
7 incarceration serving a penal sentence for the commission of a
8 misdemeanor or felony. The disciplinary action shall remain in
9 effect until the board acts upon the application of the
10 licensee for reinstatement of the license.

11 "(2) The board may refrain from or delay taking
12 disciplinary action under this subsection if a licensee can be
13 voluntarily treated or rehabilitated pursuant to subsection
14 (j).

15 "(c) Whenever a written complaint is made to the
16 board that a person has committed any of the acts or has come
17 within any of the provisions enumerated in subsection (b), the
18 board shall investigate the complaint and may bring an action
19 in its own name to hear and determine the complaint. The
20 hearing shall be held in Montgomery. The person whose
21 qualification is under consideration shall have not less than
22 20 days' written notice of the time and place of the initial
23 hearing, and the notice shall be accompanied by a copy of the
24 complaint. The notice may be served upon the accused person by
25 any sheriff of the State of Alabama. If the accused person is
26 out of the state, evades service, or cannot be served in
27 person, then service may be made by mailing, by registered or

1 certified mail, the notice and a copy of the complaint to the
2 accused person at his or her last known post-office address in
3 this state, and the return shall show that service has been
4 made in this manner.

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

19 "(e) Any accused person, complainant, or other party
20 and the board may subpoena witnesses or pertinent records for
21 the hearing, and those subpoenas may be served by any sheriff
22 of the State of Alabama. Witnesses may be sworn by the
23 president of the board or by the person discharging the duties
24 of the president. Witnesses testifying at a hearing shall upon
25 discharge as a witness be paid by the party requesting the
26 subpoena an amount not to exceed the per diem expense allowed
27 to Alabama state employees for in-state travel and the actual

1 cost of transportation to and from the place of the hearing,
2 not to exceed the mileage rate allowed to Alabama state
3 employees for in-state travel.

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

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

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

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

26 "(j) Not later than October 1, 1994, the board shall
27 establish a voluntary Disciplinary Alternative Program to

1 promote early identification, intervention, treatment, and
2 rehabilitation of any licensed nurse whose competence is found
3 to be impaired or compromised because of the use or abuse of
4 drugs, alcohol, controlled substances, chemicals, or other
5 substances or as a result of a physical or mental condition
6 rendering the person unable to meet the standards of the
7 nursing profession. The intent of the program is to provide a
8 voluntary alternative to traditional disciplinary actions.

9 "(1) When a registered nurse or licensed practical
10 nurse voluntarily seeks treatment for use or abuse of drugs,
11 controlled substances, alcohol, chemicals, or other
12 substances, or has a physical or mental condition that would
13 render the individual unable to meet the standards of the
14 nursing profession, the board may refrain from taking
15 disciplinary action under subsection (b) if it determines that
16 the licensee can be treated or rehabilitated effectively and
17 that there is no danger to the public. Upon voluntarily
18 seeking treatment, the licensee is subject to the requirements
19 of the Disciplinary Alternative Program established by the
20 board.

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

24 "(3) The board may appoint an Advisory Council for
25 the Disciplinary Alternative Program pursuant to Section
26 34-21-3.

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

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

8 "(6) ~~All~~ Subject to Section 34-21-125, all records
9 of a licensee who successfully completes the Disciplinary
10 Alternative Program shall be confidential, not subject to
11 public disclosure, and not available for court subpoena or for
12 discovery proceedings. The records of a licensee who fails to
13 comply with the program agreement or who leaves the state
14 prior to the successful completion of the program are not
15 confidential. Information regarding the participation of a
16 licensee in the Disciplinary Alternative Program reported to
17 the coordinated licensure information system pursuant to
18 Section 34-21-125 shall be made available solely to other
19 state boards of nursing and shall not be disclosed to the
20 public by the coordinated licensure information system. Upon
21 successful completion of the Disciplinary Alternative Program,
22 all information regarding participation of the licensee in the
23 Disciplinary Alternative Program shall be expunged from the
24 coordinated licensure information system.

25 "(7) Nonpublic or confidential data submitted to the
26 coordinated licensure information system by the board may not
27 be distributed to any nonparty state, organization, person, or

1 entity, or any foreign government or an agent, entity, or
2 representative of a foreign government, without the express
3 written approval of the board.

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

9 "(9) The board is not obligated to provide
10 information that is not otherwise available to the board or
11 information that is not available to the nurse under the laws
12 of the state contributing the information to the coordinated
13 licensure information system or which has been designated as
14 available only to other boards of nursing by the state
15 contributing the information to the coordinated licensure
16 information system.

17 ~~"(7)(10)~~ Nothing in this subsection shall limit the
18 authority of the board to discipline an impaired individual
19 subject to its jurisdiction.

20 "(k) The board may adopt rules imposing a
21 nondisciplinary administrative penalty for designated
22 violations of this chapter."

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

25 §34-21-20.01.

26 (a) Each applicant for a multistate license as a
27 registered nurse or licensed practical nurse, and each

1 applicant for initial licensure by endorsement as a registered
2 nurse or licensed practical nurse, shall submit a full set of
3 fingerprints to the board for the purpose of obtaining a state
4 and national criminal history background check.

5 (b) Fingerprints obtained pursuant to subsection (a)
6 may be exchanged by the board, the Alabama State Law
7 Enforcement Agency or any successor entity thereof, or any
8 channeler approved by the board, with the Federal Bureau of
9 Investigation for the purpose of obtaining a state and
10 national criminal history background check.

11 (c) The applicant or licensee shall be responsible
12 for all costs associated with the submission of his or her
13 fingerprints and obtaining a state and national criminal
14 history background check. The board may incorporate those
15 costs into the cost of licensure or may charge the applicant
16 or licensee a separate fee, which may be payable to the board,
17 the Alabama State Law Enforcement Agency or any successor
18 entity thereof, or the approved channeler, as appropriate.

19 (d) Information received by the board pursuant to a
20 state and national criminal history background check shall be
21 confidential and shall not be a public record, except that any
22 information received by and relied upon by the board in
23 denying the issuance of a license or revoking, suspending, or
24 disciplining a license or licensee may be disclosed as
25 necessary to support the denial or revocation, suspension, or
26 other disciplinary action.

1 Section 3. Article 7, commencing with Section
2 34-21-120, is added to Chapter 21 of Title 34, Code of Alabama
3 1975, to read as follows:

4 ARTICLE 7. Enhanced Nurse Licensure Compact.

5 §34-21-120.

6 (a) The party states find and declare all of the
7 following:

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

11 (2) Violations of nurse licensure and other laws
12 regulating the practice of nursing may result in injury or
13 harm to the public.

14 (3) The expanded mobility of nurses and the use of
15 advanced communication technologies as part of a national
16 health care delivery system requires greater coordination and
17 cooperation among states in the areas of nurse licensure and
18 regulation.

19 (4) New practice modalities and technology make
20 compliance with individual state nurse licensure laws
21 difficult and complex.

22 (5) Uniformity of nurse licensure requirements
23 throughout the states promotes public safety and public health
24 benefits.

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

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

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

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

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

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

15 (6) Decrease redundancies in the consideration and
16 issuance of nurse licenses.

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

19 §34-21-121.

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

22 (1) ADVERSE ACTION. Any administrative, civil,
23 equitable, or criminal action permitted by the law of a state
24 which is imposed by a licensing board or other authority
25 against a nurse, including actions against the license or
26 multistate licensure privilege of an individual, including
27 revocation, suspension, probation, monitoring of a licensee,

1 limitations on the practice of the licensee, the bringing of a
2 cease and desist action against the licensee, or any other
3 encumbrance on licensure affecting the authorization of a
4 nurse to practice.

5 (2) ALTERNATIVE PROGRAM. A nondisciplinary
6 monitoring program approved by a licensing board.

7 (3) COMMISSION. The Interstate Commission of Nurse
8 Licensure Compact Administrators.

9 (4) COMPACT. The Enhanced Nurse Licensure Compact
10 created by this article.

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

17 (6) CURRENT SIGNIFICANT INVESTIGATIVE INFORMATION.
18 Includes any of the following:

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

24 b. Investigative information indicating that a nurse
25 represents an immediate threat to public health and safety,
26 regardless of whether the nurse has been notified and has had
27 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
26 only within the issuing state and does not include a
27 multistate licensure privilege to practice in any other state.

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

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

9 §34-21-122.

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

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

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

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

4 (2) Satisfies either of the following:

5 a. Has graduated or is eligible to graduate from a
6 licensing board-approved registered nurse or licensed
7 practical nurse prelicensure education program.

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

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

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

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

24 (6) Has submitted, in connection with an application
25 for initial multistate licensure or licensure by endorsement,
26 fingerprints, or other biometric data for the purpose of
27 obtaining criminal history record information from the Federal

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

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

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

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

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

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

16 (d) A party state, in accordance with existing state
17 due process law, may take adverse action against the
18 multistate licensure privilege of a nurse including
19 revocation, suspension, probation, or any other action that
20 affects the authorization of the nurse to practice under a
21 multistate licensure privilege, including a cease and desist
22 action. If a party state takes adverse action, the state shall
23 promptly notify the administrator of the coordinated licensure
24 information system. The administrator of the coordinated
25 licensure information system shall promptly notify the home
26 state of any adverse action by a remote state.

1 (e) A nurse practicing in a party state shall comply
2 with the state practice laws of the state in which the client
3 is located at the time service is provided. The practice of
4 nursing is not limited to patient care, and shall include all
5 nursing practice as defined by the practice laws of the party
6 state in which the client is located. The practice of nursing
7 in a party state under a multistate licensure privilege shall
8 subject a nurse to the jurisdiction of the licensing board,
9 the courts, and the laws of the party state in which the
10 client is located at the time service is provided.

11 (f) Individuals not residing in a party state shall
12 continue to be able to apply for a single state license in a
13 party state as provided under the laws of the party state. A
14 single state license granted to these individuals will not be
15 recognized as granting the privilege to practice nursing in
16 any other party state. Nothing in this compact shall affect
17 the requirements established by a party state for the issuance
18 of a single state license.

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

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

1 (2) A nurse who fails to satisfy the multistate
2 licensure requirements in Section 34-21-122 due to a
3 disqualifying event occurring after the effective date of this
4 compact shall be ineligible to retain or renew a multistate
5 license, and the multistate license of that nurse shall be
6 revoked or deactivated in accordance with applicable rules
7 adopted by the Interstate Commission of Nurse Licensure
8 Compact Administrators.

9 §34-21-123.

10 (a) Upon application for a multistate license, the
11 licensing board in the issuing party state shall ascertain,
12 through the coordinated licensure information system, all of
13 the following:

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

16 (2) Whether there are any encumbrances on any
17 license or multistate licensure privilege held by the
18 applicant.

19 (3) Whether any adverse action has been taken
20 against any license or multistate licensure privilege held by
21 the applicant.

22 (4) Whether the applicant is currently participating
23 in an alternative program.

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

26 (c) If a nurse changes his or her primary state of
27 residence by moving between two party states, the nurse shall

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

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

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

11 (d) If a nurse changes his or her primary state of
12 residence by moving from a party state to a nonparty state,
13 the multistate license issued by the prior home state shall
14 convert to a single state license, valid only in the former
15 home state.

16 §34-21-124.

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

20 (1) Take adverse action against the multistate
21 licensure privilege of a nurse to practice within that party
22 state.

23 a. Only the home state shall have the power to take
24 adverse action against the license of a nurse issued by the
25 home state.

26 b. For purposes of taking adverse action, the home
27 state licensing board shall give the same priority and effect

1 to reported conduct received from a remote state as it would
2 if such conduct had occurred within the home state. In so
3 doing, the home state shall apply its own state laws to
4 determine appropriate action.

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

8 (3) Complete any pending investigations of a nurse
9 who changes his or her primary state of residence during the
10 course of such investigations. The licensing board may also
11 take any appropriate actions and shall promptly report the
12 conclusions of any investigations to the administrator of the
13 coordinated licensure information system. The administrator of
14 the coordinated licensure information system shall promptly
15 notify the new home state of any actions.

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

1 (5) Obtain and submit, for each applicant for a
2 multistate license, fingerprint or other biometric-based
3 information to the Federal Bureau of Investigation for
4 criminal background checks, receive the results of the Federal
5 Bureau of Investigation record search on criminal background
6 checks, and use the results in making licensure decisions.

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

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

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

24 (c) Nothing in this compact shall override the
25 decision of a party state that participation in an alternative
26 program may be used in lieu of adverse action. The home state
27 licensing board shall deactivate the multistate licensure

1 privilege under the multistate license of any nurse for the
2 duration of his or her participation in an alternative
3 program.

4 §34-21-125.

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

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

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

24 (d) Current significant investigative information
25 and participation in nonpublic or confidential alternative
26 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.

26 (3) Information related to alternative program
27 participation.

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

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

7 §34-21-126.

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

11 (1) The commission is an instrumentality of the
12 party states.

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

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

22 (b) Membership, voting, and meetings.

23 (1) Each party state shall have and be limited to
24 one administrator. The head of the state licensing board for
25 each party state, or his or her designee, shall be the
26 administrator of this compact for that state. An administrator
27 may be removed or suspended from office as provided by the law

1 of the state from which the administrator is appointed. Any
2 vacancy occurring in the commission shall be filled in
3 accordance with the laws of the party state in which the
4 vacancy exists.

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

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

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

20 (5) The commission may convene in a closed,
21 nonpublic meeting if the commission must discuss any of the
22 following:

23 a. Noncompliance of a party state with its
24 obligations under this compact.

25 b. The employment, compensation, discipline, or
26 other personnel matters, practices, or procedures related to

1 specific employees or other matters related to the internal
2 personnel practices and procedures of the commission.

3 c. Current, threatened, or reasonably anticipated
4 litigation.

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

7 e. Accusing any person of a crime or formally
8 censuring any person.

9 f. Disclosure of trade secrets or commercial or
10 financial information that is privileged or confidential.

11 g. Disclosure of information of a personal nature
12 where disclosure would constitute a clearly unwarranted
13 invasion of personal privacy.

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

16 i. Disclosure of information related to any reports
17 prepared by or on behalf of the commission for the purpose of
18 investigation of compliance with this compact.

19 j. Matters specifically exempted from disclosure by
20 federal or state statute.

21 (6) If a meeting, or portion of a meeting, is closed
22 pursuant to this subsection, the legal counsel of the
23 commission, or his or her designee, shall certify that the
24 meeting may be closed and shall reference each relevant
25 exempting provision. The commission shall keep minutes that
26 fully and clearly describe all matters discussed in a meeting
27 and shall provide a full and accurate summary of actions

1 taken, and the reasons therefor, including a description of
2 the views expressed. All documents considered in connection
3 with an action shall be identified in the minutes. All minutes
4 and documents of a closed meeting shall remain under seal,
5 subject to release by a majority vote of the administrators or
6 order of a court of competent jurisdiction.

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

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

13 (2) Providing reasonable standards and procedures
14 for all of the following:

15 a. For the establishment and meetings of other
16 committees.

17 b. Governing any general or specific delegation of
18 any authority or function of the commission.

19 (3) Providing reasonable procedures for calling and
20 conducting meetings of the commission, ensuring reasonable
21 advance notice of all meetings, and providing an opportunity
22 for attendance of the meetings by interested parties, with
23 enumerated exceptions designed to protect the interest of the
24 public, the privacy of individuals, and proprietary
25 information, including trade secrets. The commission may meet
26 in closed session only after a majority of the administrators
27 vote to close a meeting, in whole or in part. As soon as

1 practicable, the commission shall make public a copy of the
2 vote to close the meeting revealing the vote of each
3 administrator, with no proxy votes allowed.

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

7 (5) Providing reasonable standards and procedures
8 for the establishment of personnel policies and programs for
9 the commission. Notwithstanding any civil service or other
10 similar laws of any party state, the bylaws shall exclusively
11 govern the personnel policies and programs of the commission.

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

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

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

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

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

26 (1) To promulgate uniform rules to facilitate and
27 coordinate implementation and administration of this compact.

1 The rules shall have the force and effect of law and shall be
2 binding in all party states.

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

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

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

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

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

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

1 (8) To lease, purchase, accept appropriate gifts or
2 donations of, or otherwise to own, hold, improve, or use, any
3 property, whether real, personal, or mixed; provided that at
4 all times the commission shall avoid any appearance of
5 impropriety.

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

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

10 (11) To borrow money; provided that the borrowing of
11 money shall not be constituted as a debt of the State of
12 Alabama in violation of Section 213 of the Constitution of
13 Alabama of 1901, as amended by Amendment 26, now appearing as
14 Section 213 of the Official Recompilation of the Constitution
15 of Alabama of 1901, as amended.

16 (12) To appoint committees, including advisory
17 committees comprised of administrators, state nursing
18 regulators, state legislators or their representatives, and
19 consumer representatives, and other interested persons.

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

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

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

27 (h) Financing of the commission

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

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

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

15 (4) The commission shall keep accurate accounts of
16 all receipts and disbursements. The receipts and disbursements
17 of the commission shall be subject to the audit and accounting
18 procedures established under its bylaws. However, all receipts
19 and disbursements of funds handled by the commission shall be
20 audited yearly by a certified or licensed public accountant,
21 and the report of the audit shall be included in and become
22 part of the annual report of the commission.

23 (i) Qualified immunity, defense, and
24 indemnification.

25 (1) In accordance with Section 36-1-12, the
26 administrators, officers, executive director, employees, and

1 representatives of the commission shall be immune from suit
2 and liability.

3 (2) The commission shall defend any administrator,
4 officer, executive director, employee, or representative of
5 the commission in any civil action seeking to impose liability
6 arising out of any actual or alleged act, error, or omission
7 that occurred within the scope of commission employment,
8 duties, or responsibilities, or that the person against whom
9 the claim is made had a reasonable basis for believing
10 occurred within the scope of commission employment, duties, or
11 responsibilities; provided that nothing in this compact shall
12 be construed to prohibit that person from retaining his or her
13 own counsel; and provided further that the actual or alleged
14 act, error, or omission did not result from his or her
15 intentional, willful, or wanton misconduct.

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

27 §34-21-127.

1 (a) The commission shall exercise its rulemaking
2 powers pursuant to the criteria set forth in this compact and
3 the rules adopted under this compact. Rules and amendments
4 shall become binding as of the date specified in each rule or
5 amendment and shall have the same force and effect as this
6 compact.

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

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

16 (d) The notice of proposed rulemaking shall include
17 all of the following:

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

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

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

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

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

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

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

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

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

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

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

25 (j) The commission, by majority vote of all
26 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
26 material change to a rule. A challenge shall be made in
27 writing, and delivered to the commission, before the end of

1 the notice period. If no challenge is made, the revision shall
2 take effect without further action. If the revision is
3 challenged, the revision may not take effect without the
4 approval of the commission.

5 §34-21-128.

6 (a) Oversight.

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

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

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

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

22 a. Provide written notice to the defaulting state
23 and other party states of the nature of the default, the
24 proposed means of curing the default, or any other action to
25 be taken by the commission.

26 b. Provide remedial training and specific technical
27 assistance regarding the default.

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

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

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

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

25 (6) The defaulting state may appeal the action of
26 the commission by petitioning the United States District Court
27 for the District of Columbia or the federal district in which

1 the commission has its principal offices. The prevailing party
2 shall be awarded all costs of litigation, including reasonable
3 attorneys fees.

4 (c) Dispute resolution.

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

9 (2) The commission shall adopt a rule providing for
10 both mediation and binding dispute resolution for disputes, as
11 appropriate.

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

14 a. The party states may submit the issues in dispute
15 to an arbitration panel, which shall be comprised of
16 individuals appointed by the compact administrator in each of
17 the affected party states and an individual mutually agreed
18 upon by the compact administrators of all the party states
19 involved in the dispute.

20 b. The decision of a majority of the arbitrators
21 shall be final and binding.

22 (d) Enforcement.

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

26 (2) By majority vote of the administrators, the
27 commission may initiate legal action in the federal district

1 in which the commission has its principal offices against a
2 party state that is in default to enforce compliance with this
3 compact and rules or bylaws adopted pursuant to this compact.
4 The relief sought may include both injunctive relief and
5 damages. In the event judicial enforcement is necessary, the
6 prevailing party shall be awarded all costs of the litigation,
7 including reasonable attorneys fees.

8 (3) The remedies provided in this article shall not
9 be the exclusive remedies of the commission. The commission
10 may pursue other remedies available under federal or state
11 law.

12 §34-21-129.

13 (a) This compact shall become effective and binding
14 on the earlier of the date of legislative enactment of this
15 compact into law by not less than 26 states or December 31,
16 2019. All party states, that also participated in the prior
17 Nurse Licensure Compact, which is superseded by this compact,
18 shall be deemed to have withdrawn from the Nurse Licensure
19 Compact on the first day of the sixth month after the
20 effective date of this compact.

21 (b) Each party state shall continue to recognize the
22 multistate licensure privilege of a nurse to practice in that
23 party state issued under the Nurse Licensure Compact until the
24 party state has withdrawn from the Nurse Licensure Compact.

25 (c) A party state may withdraw from this compact by
26 enacting a general law repealing this compact. Withdrawal by a

1 party state may not take effect until six months after the
2 effective date of the repeal.

3 (d) The withdrawal or termination of a party state
4 shall not affect the continuing requirement of the state
5 licensing board of that state to report adverse actions and
6 significant investigations occurring before the effective date
7 of the withdrawal or termination.

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

13 (f) This compact may be amended by the party states.
14 No amendment to this compact shall become effective and
15 binding upon the party states until it is enacted by all party
16 states.

17 (g) Representatives of nonparty states shall be
18 invited to participate in the activities of the commission, on
19 a nonvoting basis, before the adoption of this compact by all
20 states.

21 §34-21-130.

22 This compact shall be liberally construed so as to
23 effectuate the purposes thereof. The provisions of this
24 compact shall be severable, and if any phrase, clause,
25 sentence, or provision of this compact is declared to be
26 contrary to the constitution of any party state or of the
27 United States, or if the applicability thereof to any

1 government, agency, person, or circumstance is held invalid,
2 the validity of the remainder of this compact and the
3 applicability thereof to any government, agency, person, or
4 circumstance shall not be affected thereby. If this compact
5 shall be held to be contrary to the constitution of any party
6 state, this compact shall remain in full force and effect as
7 to the remaining party states and in full force and effect as
8 to the party state affected as to all severable matters.

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

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Senate

Read for the first time and referred to the Senate
committee on Healthcare..... 05-MAR-19

Read for the second time and placed on the calen-
dar 2 amendments..... 20-MAR-19

Read for the third time and passed as amended 02-APR-19

Yeas 29
Nays 0

Patrick Harris,
Secretary.