

By: Guillen

H.B. No. 4404

A BILL TO BE ENTITLED

AN ACT

relating to the Advanced Practice Registered Nurse Compact.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subtitle E, Title 3, Occupations Code, is amended by adding Chapter 305 to read as follows:

CHAPTER 305. ADVANCED PRACTICE REGISTERED NURSE COMPACT

Sec. 305.001. ADVANCED PRACTICE REGISTERED NURSE COMPACT.

The Advanced Practice Registered Nurse Compact is enacted and entered into with all other jurisdictions that legally join in the compact, which reads as follows:

Advanced Practice Registered Nurse Compact

ARTICLE I

Findings and Declaration of Purpose

a. The party states find that:

1. The health and safety of the public are affected by the degree of compliance with APRN licensure requirements and the effectiveness of enforcement activities related to state APRN licensure laws;

2. Violations of APRN licensure and other laws regulating the practice of nursing may result in injury or harm to the public;

3. The expanded mobility of APRNs and the use of advanced communication and intervention technologies as part of our nation's health care delivery system require greater coordination

1 and cooperation among states in the areas of APRN licensure and
2 regulation;

3 4. New practice modalities and technology make
4 compliance with individual state APRN licensure laws difficult and
5 complex;

6 5. The current system of duplicative APRN licensure
7 for APRNs practicing in multiple states is cumbersome and redundant
8 for healthcare delivery systems, payors, state licensing boards,
9 regulators and APRNs;

10 6. Uniformity of APRN licensure requirements
11 throughout the states promotes public safety and public health
12 benefits as well as providing a mechanism to increase access to
13 care.

14 b. The general purposes of this Compact are to:

15 1. Facilitate the states' responsibility to protect
16 the public's health and safety;

17 2. Ensure and encourage the cooperation of party
18 states in the areas of APRN licensure and regulation, including
19 promotion of uniform licensure requirements;

20 3. Facilitate the exchange of information between
21 party states in the areas of APRN regulation, investigation and
22 adverse actions;

23 4. Promote compliance with the laws governing APRN
24 practice in each jurisdiction;

25 5. Invest all party states with the authority to hold
26 an APRN accountable for meeting all state practice laws in the state
27 in which the patient is located at the time care is rendered through

1 the mutual recognition of party state privileges to practice;

2 6. Decrease redundancies in the consideration and
3 issuance of APRN licenses; and

4 7. Provide opportunities for interstate practice by
5 APRNs who meet uniform licensure requirements.

6 ARTICLE II

7 Definitions

8 As used in this Compact:

9 a. "Advanced practice registered nurse" or "APRN" means a
10 registered nurse who has gained additional specialized knowledge,
11 skills and experience through a program of study recognized or
12 defined by the Interstate Commission of APRN Compact Administrators
13 ("Commission"), and who is licensed to perform advanced nursing
14 practice. An advanced practice registered nurse is licensed in an
15 APRN role that is congruent with an APRN educational program,
16 certification, and Commission rules.

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

26 c. "Alternative program" means a, non-disciplinary
27 monitoring program approved by a licensing board.

1 d. "APRN licensure" means the regulatory mechanism used by a
2 party state to grant legal authority to practice as an APRN.

3 e. "APRN uniform licensure requirements" means the minimum
4 uniform licensure, education and examination requirements set
5 forth in Article III.b of this Compact.

6 f. "Coordinated licensure information system" means an
7 integrated process for collecting, storing and sharing information
8 on APRN licensure and enforcement activities related to APRN
9 licensure laws that is administered by a nonprofit organization
10 composed of and controlled by licensing boards.

11 g. "Current significant investigatory information" means:

12 1. Investigative information that a licensing board,
13 after a preliminary inquiry that includes notification and an
14 opportunity for the APRN to respond, if required by state law, has
15 reason to believe is not groundless and, if proved true, would
16 indicate more than a minor infraction; or

17 2. Investigative information that indicates that the
18 APRN represents an immediate threat to public health and safety
19 regardless of whether the APRN has been notified and had an
20 opportunity to respond.

21 h. "Encumbrance" means a revocation or suspension of, or any
22 limitation on, the full and unrestricted practice of nursing
23 imposed by a licensing board in connection with a disciplinary
24 proceeding.

25 i. "Home state" means the party state that is the APRN's
26 primary state of residence.

27 j. "Licensing board" means a party state's regulatory body

1 responsible for regulating the practice of advanced practice
2 registered nursing.

3 k. "Multistate license" means an APRN license to practice as
4 an APRN issued by a home state licensing board that authorizes the
5 APRN to practice as an APRN in all party states under a multistate
6 licensure privilege, in the same role and population focus as the
7 APRN is licensed in the home state.

8 l. "Multistate licensure privilege" means a legal
9 authorization associated with an APRN multistate license that
10 permits an APRN to practice as an APRN in a remote state, in the same
11 role and population focus as the APRN is licensed in the home state.

12 m. "Non-controlled prescription drug" means a device or drug that
13 is not a controlled substance and is prohibited under state or
14 federal law from being dispensed without a prescription. The term
15 includes a device or drug that bears or is required to bear the
16 legend "Caution: federal law prohibits dispensing without
17 prescription" or "prescription only" or other legend that complies
18 with federal law.

19 n. "Party state" means any state that has adopted this
20 Compact.

21 o. "Population focus" means one of the six population foci
22 of family/individual across the lifespan, adult-gerontology,
23 pediatrics, neonatal, women's health/gender-related and
24 psych/mental health.

25 p. "Prescriptive authority" means the legal authority to
26 prescribe medications and devices as defined by party state laws.

27 q. "Remote state" means a party state that is not the home

1 state.

2 r. "Role" means one of the four recognized roles of
3 certified registered nurse anesthetists (CRNA), certified
4 nurse-midwives (CNM), clinical nurse specialists (CNS) and
5 certified nurse practitioners (CNP).

6 s. "Single-state license" means an APRN license issued by a
7 party state that authorizes practice only within the issuing state
8 and does not include a multistate licensure privilege to practice
9 in any other party state.

10 t. "State" means a state, territory or possession of the
11 United States and the District of Columbia.

12 u. "State practice laws" means a party state's laws, rules,
13 and regulations that govern APRN practice, define the scope of
14 advanced nursing practice and create the methods and grounds for
15 imposing discipline except that prescriptive authority shall be
16 treated in accordance with Article III.f and g of this Compact.

17 "State practice laws" does not include:

18 1. A party state's laws, rules, and regulations
19 requiring supervision or collaboration with a healthcare
20 professional, except for laws, rules, and regulations regarding
21 prescribing controlled substances;

22 2. the requirements necessary to obtain and retain an
23 APRN license, except for qualifications or requirements of the home
24 state.

25 ARTICLE III

26 General Provisions and Jurisdiction

27 a. A state must implement procedures for considering the

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

8 b. Each party state shall require an applicant to satisfy
9 the following APRN uniform licensure requirements to obtain or
10 retain a multistate license in the home state:

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

14 2. i. Has completed an accredited graduate-level
15 education program that prepares the applicant for one of the four
16 recognized roles and population foci; or

17 ii. Has completed a foreign APRN education
18 program for one of the four recognized roles and population foci
19 that (a) has been approved by the authorized accrediting body in the
20 applicable country and (b) has been verified by an independent
21 credentials review agency to be comparable to a licensing
22 board-approved APRN education program;

23 3. Has, if a graduate of a foreign APRN education
24 program not taught in English or if English is not the individual's
25 native language, successfully passed an English proficiency
26 examination that includes the components of reading, speaking,
27 writing and listening;

1 4. Has successfully passed a national certification
2 examination that measures APRN, role and population-focused
3 competencies and maintains continued competence as evidenced by
4 recertification in the role and population focus through the
5 national certification program;

6 5. Holds an active, unencumbered license as a
7 registered nurse and an active, unencumbered authorization to
8 practice as an APRN;

9 6. Has successfully passed an NCLEX-RN® examination
10 or recognized predecessor, as applicable;

11 7. Has practiced for at least 2,080 hours as an APRN in
12 a role and population focus congruent with the applicant's
13 education and training. For purposes of this section, practice
14 shall not include hours obtained as part of enrollment in an APRN
15 education program;

16 8. Has submitted, in connection with an application
17 for initial licensure or licensure by endorsement, fingerprints or
18 other biometric data for the purpose of obtaining criminal history
19 record information from the Federal Bureau of Investigation and the
20 agency responsible for retaining that state or, if applicable,
21 foreign country's criminal records;

22 9. Has not been convicted or found guilty, or has
23 entered into an agreed disposition, of a felony offense under
24 applicable state, federal or foreign criminal law.

25 10. Has not been convicted or found guilty, or has
26 entered into an agreed disposition, of a misdemeanor offense
27 related to the practice of nursing as determined by factors set

1 forth in rules adopted by the Commission;

2 11. Is not currently enrolled in an alternative
3 program;

4 12. Is subject to self-disclosure requirements
5 regarding current participation in an alternative program; and

6 13. Has a valid United States Social Security number.

7 c. An APRN issued a multistate license shall be licensed in
8 an approved role and at least one approved population focus.

9 d. An APRN multistate license issued by a home state to a
10 resident in that state will be recognized by each party state as
11 authorizing the APRN to practice as an APRN in each party state,
12 under a multistate licensure privilege, in the same role and
13 population focus as the APRN is licensed in the home state.

14 e. Nothing in this Compact shall affect the requirements
15 established by a party state for the issuance of a single-state
16 license, except that an individual may apply for a single-state
17 license, instead of a multistate license, even if otherwise
18 qualified for the multistate license. However, the failure of such
19 an individual to affirmatively opt for a single state license may
20 result in the issuance of a multistate license.

21 f. Issuance of an APRN multistate license shall include
22 prescriptive authority for noncontrolled prescription drugs.

23 g. For each state in which an APRN seeks authority to
24 prescribe controlled substances, the APRN shall satisfy all
25 requirements imposed by such state in granting and/or renewing such
26 authority.

27 h. An APRN issued a multistate license is authorized to

1 assume responsibility and accountability for patient care
2 independent of any supervisory or collaborative relationship. This
3 authority may be exercised in the home state and in any remote state
4 in which the APRN exercises a multistate licensure privilege.

5 i. All party states shall be authorized, in accordance with
6 state due process laws, to take adverse action against an APRN's
7 multistate licensure privilege such as revocation, suspension,
8 probation or any other action that affects an APRN's authorization
9 to practice under a multistate licensure privilege, including cease
10 and desist actions. If a party state takes such action, it shall
11 promptly notify the administrator of the coordinated licensure
12 information system. The administrator of the coordinated licensure
13 information system shall promptly notify the home state of any such
14 actions by remote states.

15 j. Except as otherwise expressly provided in this Compact,
16 an APRN practicing in a party state must comply with the state
17 practice laws of the state in which the client is located at the
18 time service is provided. APRN practice is not limited to patient
19 care, but shall include all advanced nursing practice as defined by
20 the state practice laws of the party state in which the client is
21 located. APRN practice in a party state under a multistate
22 licensure privilege will subject the APRN to the jurisdiction of
23 the licensing board, the courts, and the laws of the party state in
24 which the client is located at the time service is provided.

25 k. Except as otherwise expressly provided in this Compact,
26 this Compact does not affect additional requirements imposed by
27 states for advanced practice registered nursing. However, a

1 multistate licensure privilege to practice registered nursing
2 granted by a party state shall be recognized by other party states
3 as satisfying any state law requirement for registered nurse
4 licensure as a precondition for authorization to practice as an
5 APRN in that state.

6 1. Individuals not residing in a party state shall continue
7 to be able to apply for a party state's single- state APRN license
8 as provided under the laws of each party state. However, the
9 single-state license granted to these individuals will not be
10 recognized as granting the privilege to practice as an APRN in any
11 other party state.

12 ARTICLE IV

13 Applications for APRN Licensure in a Party State

14 a. Upon application for an APRN multistate license, the
15 licensing board in the issuing party state shall ascertain, through
16 the coordinated licensure information system, whether the
17 applicant has ever held or is the holder of a licensed
18 practical/vocational nursing license, a registered nursing license
19 or an advanced practice registered nurse license issued by any
20 other state, whether there are any encumbrances on any license or
21 multistate licensure privilege held by the applicant, whether any
22 adverse action has been taken against any license or multistate
23 licensure privilege held by the applicant and whether the applicant
24 is currently participating in an alternative program.

25 b. An APRN may hold a multistate APRN license, issued by the
26 home state, in only one party state at a time.

27 c. If an APRN changes primary state of residence by moving

1 between two party states, the APRN must apply for APRN licensure in
2 the new home state, and the multistate license issued by the prior
3 home state shall be deactivated in accordance with applicable
4 Commission rules.

5 1. The APRN may apply for licensure in advance of a
6 change in primary state of residence.

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

12 d. If an APRN changes primary state of residence by moving
13 from a party state to a non-party state, the APRN multistate license
14 issued by the prior home state will convert to a single-state
15 license, valid only in the former home state.

16 ARTICLE V

17 Additional Authorities Invested in Party State Licensing Boards

18 a. In addition to the other powers conferred by state law, a
19 licensing board shall have the authority to:

20 1. Take adverse action against an APRN's multistate
21 licensure privilege to practice within that party state.

22 i. Only the home state shall have power to take
23 adverse action against an APRN's license issued by the home state.

24 ii. For purposes of taking adverse action, the
25 home state licensing board shall give the same priority and effect
26 to reported conduct that occurred outside of the home state as it
27 would if such conduct had occurred within the home state. In so

1 doing, the home state shall apply its own state laws to determine
2 appropriate action.

3 2. Issue cease and desist orders or impose an
4 encumbrance on an APRN's authority to practice within that party
5 state.

6 3. Complete any pending investigations of an APRN who
7 changes primary state of residence during the course of such
8 investigations. The licensing board shall also have the authority
9 to take appropriate action(s) and shall promptly report the
10 conclusions of such investigations to the administrator of the
11 coordinated licensure information system. The administrator of the
12 coordinated licensure information system shall promptly notify the
13 new home state of any such actions.

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

26 5. Obtain and submit, for an APRN licensure applicant,
27 fingerprints or other biometric-based information to the Federal

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

5 6. If otherwise permitted by state law, recover from
6 the affected APRN the costs of investigations and disposition of
7 cases resulting from any adverse action taken against that APRN.

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

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

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

1 ARTICLE VI

2 Coordinated Licensure Information System and Exchange of
3 Information

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

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

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

22 d. Notwithstanding any other provision of law, all party
23 state licensing boards contributing information to the coordinated
24 licensure information system may designate information that may not
25 be shared with non-party states or disclosed to other entities or
26 individuals without the express permission of the contributing
27 state.

1 e. Any personally identifiable information obtained from
2 the coordinated licensure information system by a party state
3 licensing board shall not be shared with non-party states or
4 disclosed to other entities or individuals except to the extent
5 permitted by the laws of the party state contributing the
6 information.

7 f. Any information contributed to the coordinated licensure
8 information system that is subsequently required to be expunged by
9 the laws of the party state contributing the information shall be
10 removed from the coordinated licensure information system.

11 g. The Compact administrator of each party state shall
12 furnish a uniform data set to the Compact administrator of each
13 other party state, which shall include, at a minimum:

14 1. Identifying information;
15 2. Licensure data;
16 3. Information related to alternative program
17 participation information; and

18 4. Other information that may facilitate the
19 administration of this Compact, as determined by Commission rules.

20 h. The Compact administrator of a party state shall provide
21 all investigative documents and information requested by another
22 party state.

23 ARTICLE VII

24 Establishment of the Interstate Commission of APRN Compact
25 Administrators

26 a. The party states hereby create and establish a joint
27 public agency known as the Interstate Commission of APRN Compact

1 Administrators.

2 1. The Commission is an instrumentality of the party
3 states.

4 2. Venue is proper, and judicial proceedings by or
5 against the Commission shall be brought solely and exclusively, in
6 a court of competent jurisdiction where the principal office of the
7 Commission is located. The Commission may waive venue and
8 jurisdictional defenses to the extent it adopts or consents to
9 participate in alternative dispute resolution proceedings.

10 3. Nothing in this Compact shall be construed to be a
11 waiver of sovereign immunity.

12 b. Membership, Voting and Meetings

13 1. Each party state shall have and be limited to one
14 administrator. The head of the state licensing board or designee
15 shall be the administrator of this Compact for each party state.
16 Any administrator may be removed or suspended from office as
17 provided by the law of the state from which the Administrator is
18 appointed. Any vacancy occurring in the Commission shall be filled
19 in accordance with the laws of the party state in which the vacancy
20 exists.

21 2. Each administrator shall be entitled to one (1)
22 vote with regard to the promulgation of rules and creation of bylaws
23 and shall otherwise have an opportunity to participate in the
24 business and affairs of the Commission. An administrator shall
25 vote in person or by such other means as provided in the bylaws. The
26 bylaws may provide for an administrator's participation in meetings
27 by telephone or other means of communication.

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

4 4. All meetings shall be open to the public, and public
5 notice of meetings shall be given in the same manner as required
6 under the rulemaking provisions in Article VIII.

7 5. The Commission may convene in a closed, nonpublic
8 meeting if the Commission must discuss:

9 i. Noncompliance of a party state with its
10 obligations under this Compact;

11 ii. The employment, compensation, discipline or
12 other personnel matters, practices or procedures related to
13 specific employees or other matters related to the Commission's
14 internal personnel practices and procedures;

15 iii. Current, threatened, or reasonably
16 anticipated litigation;

17 iv. Negotiation of contracts for the purchase or
18 sale of goods, services or real estate;

19 v. Accusing any person of a crime or formally
20 censuring any person;

21 vi. Disclosure of trade secrets or commercial or
22 financial information that is privileged or confidential;

23 vii. Disclosure of information of a personal
24 nature where disclosure would constitute a clearly unwarranted
25 invasion of personal privacy;

26 viii. Disclosure of investigatory records
27 compiled for law enforcement purposes;

1 ix. Disclosure of information related to any
2 reports prepared by or on behalf of the Commission for the purpose
3 of investigation of compliance with this Compact; or

4 x. Matters specifically exempted from disclosure
5 by federal or state statute.

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

18 c. The Commission shall, by a majority vote of the
19 administrators, prescribe bylaws or rules to govern its conduct as
20 may be necessary or appropriate to carry out the purposes and
21 exercise the powers of this Compact, including but not limited to:

22 1. Establishing the fiscal year of the Commission;

23 2. Providing reasonable standards and procedures:

24 i. For the establishment and meetings of other
25 committees; and

26 ii. Governing any general or specific delegation
27 of any authority or function of the Commission.

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

12 4. Establishing the titles, duties and authority and
13 reasonable procedures for the election of the officers of the
14 Commission;

15 5. Providing reasonable standards and procedures for
16 the establishment of the personnel policies and programs of the
17 Commission. Notwithstanding any civil service or other similar
18 laws of any party state, the bylaws shall exclusively govern the
19 personnel policies and programs of the Commission;

20 6. Providing a mechanism for winding up the operations
21 of the Commission and the equitable disposition of any surplus
22 funds that may exist after the termination of this Compact after the
23 payment and/or reserving of all of its debts and obligations;

24 d. The Commission shall publish its bylaws and rules, and
25 any amendments thereto, in a convenient form on the website of the
26 Commission;

27 e. The Commission shall maintain its financial records in

1 accordance with the bylaws; and

2 f. The Commission shall meet and take such actions as are
3 consistent with the provisions of this Compact and the bylaws.

4 g. The Commission shall have the following powers:

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

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

13 3. To purchase and maintain insurance and bonds;

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

17 5. To cooperate with other organizations that
18 administer state compacts related to the regulation of nursing,
19 including but not limited to sharing administrative or staff
20 expenses, office space or other resources;

21 6. To hire employees, elect or appoint officers, fix
22 compensation, define duties, grant such individuals appropriate
23 authority to carry out the purposes of this Compact, and to
24 establish the Commission's personnel policies and programs
25 relating to conflicts of interest, qualifications of personnel and
26 other related personnel matters;

27 7. To accept any and all appropriate donations, grants

1 and gifts of money, equipment, supplies, materials and services,
2 and to receive, utilize and dispose of the same; provided that at
3 all times the Commission shall strive to avoid any appearance of
4 impropriety and/or conflict of interest;

5 8. To lease, purchase, accept appropriate gifts or
6 donations of, or otherwise to own, hold, improve or use, any
7 property, whether real, personal or mixed; provided that at all
8 times the Commission shall strive to avoid any appearance of
9 impropriety;

10 9. To sell convey, mortgage, pledge, lease, exchange,
11 abandon or otherwise dispose of any property, whether real,
12 personal or mixed;

13 10. To establish a budget and make expenditures;

14 11. To borrow money;

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

19 13. To issue advisory opinions;

20 14. To provide and receive information from, and to
21 cooperate with, law enforcement agencies;

22 15. To adopt and use an official seal; and

23 16. To perform such other functions as may be
24 necessary or appropriate to achieve the purposes of this Compact
25 consistent with the state regulation of APRN 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 its
6 operations, activities and staff in its annual budget as approved
7 each year. The aggregate annual assessment amount, if any, shall be
8 allocated based upon a formula to be determined by the Commission,
9 which shall promulgate a rule that is binding upon all party states.

10 3. The Commission shall not incur obligations of any
11 kind prior to securing the funds adequate to meet the same; nor
12 shall the Commission pledge the credit of any of the party states,
13 except by, and with the authority of, such party state.

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

22 i. Qualified Immunity, Defense, and Indemnification

23 1. The administrators, officers, executive director,
24 employees and representatives of the Commission shall be immune
25 from suit and liability, either personally or in their official
26 capacity, for any claim for damage to or loss of property or
27 personal injury or other civil liability caused by or arising out of

1 any actual or alleged act, error or omission that occurred, or that
2 the person against whom the claim is made had a reasonable basis for
3 believing occurred, within the scope of Commission employment,
4 duties or responsibilities; provided that nothing in this paragraph
5 shall be construed to protect any such person from suit and/or
6 liability for any damage, loss, injury or liability caused by the
7 intentional, willful or wanton misconduct of that person.

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

20 3. The Commission shall indemnify and hold harmless
21 any administrator, officer, executive director, employee or
22 representative of the Commission for the amount of any settlement
23 or judgment obtained against that person arising out of any actual
24 or alleged act, error or omission that occurred within the scope of
25 Commission employment, duties or responsibilities, or that such
26 person had a reasonable basis for believing occurred within the
27 scope of Commission employment, duties or responsibilities,

1 provided that the actual or alleged act, error or omission did not
2 result from the intentional, willful or wanton misconduct of that
3 person.

4 ARTICLE VIII

5 Rulemaking

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

11 b. Rules or amendments to the rules shall be adopted at a
12 regular or special meeting of the Commission.

13 c. Prior to promulgation and adoption of a final rule or
14 rules by the Commission, and at least sixty (60) days in advance of
15 the meeting at which the rule will be considered and voted upon, the
16 Commission shall file a notice of proposed rulemaking:

- 17 1. On the website of the Commission; and
18 2. On the website of each licensing board or the
19 publication in which each state would otherwise publish proposed
20 rules.

21 d. The notice of proposed rulemaking shall include:

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

24 2. The text of the proposed rule or amendment, and the
25 reason for the proposed rule;

26 3. A request for comments on the proposed rule from any
27 interested person; and

1 4. The manner in which interested persons may submit
2 notice to the Commission of their intention to attend the public
3 hearing and any written comments.

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

7 f. The Commission shall grant an opportunity for a public
8 hearing before it adopts a rule or amendment.

9 g. The Commission shall publish the place, time, and date of
10 the scheduled public hearing.

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

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

19 h. If no one appears at the public hearing, the Commission
20 may proceed with promulgation of the proposed rule.

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

25 j. The Commission shall, by majority vote of all
26 administrators, take final action on the proposed rule and shall
27 determine the effective date of the rule, if any, based on the

1 rulemaking record and the full text of the rule.

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

11 1. Meet an imminent threat to public health, safety or
12 welfare;

13 2. Prevent a loss of Commission or party state funds;

14 or

15 3. Meet a deadline for the promulgation of an
16 administrative rule that is established by federal law or rule.

17 1. The Commission may direct revisions to a previously
18 adopted rule or amendment for purposes of correcting typographical
19 errors, errors in format, errors in consistency or grammatical
20 errors. Public notice of any revisions shall be posted on the
21 website of the Commission. The revision shall be subject to
22 challenge by any person for a period of thirty (30) days after
23 posting. The revision may be challenged only on grounds that the
24 revision results in a material change to a rule. A challenge shall
25 be made in writing, and delivered to the Commission, prior to the
26 end of the notice period. If no challenge is made, the revision
27 will take effect without further action. If the revision is

1 challenged, the revision may not take effect without the approval
2 of the Commission.

3 ARTICLE IX

4 Oversight, Dispute Resolution and Enforcement

5 a. Oversight

6 1. Each party state shall enforce this Compact and
7 take all actions necessary and appropriate to effectuate this
8 Compact's purposes and intent.

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

16 b. Default, Technical Assistance and Termination

17 1. If the Commission determines that a party state has
18 defaulted in the performance of its obligations or responsibilities
19 under this Compact or the promulgated rules, the Commission shall:

20 i. Provide written notice to the defaulting state
21 and other party states of the nature of the default, the proposed
22 means of curing the default and/or any other action to be taken by
23 the Commission; and

24 ii. Provide remedial training and specific
25 technical assistance regarding the default.

26 2. If a state in default fails to cure the default, the
27 defaulting state's membership in this Compact may be terminated

1 upon an affirmative vote of a majority of the administrators, and
2 all rights, privileges and benefits conferred by this Compact may
3 be terminated on the effective date of termination. A cure of the
4 default does not relieve the offending state of obligations or
5 liabilities incurred during the period of default.

6 3. Termination of membership in this Compact shall be
7 imposed only after all other means of securing compliance have been
8 exhausted. Notice of intent to suspend or terminate shall be given
9 by the Commission to the governor of the defaulting state and to the
10 executive officer of the defaulting state's licensing board, the
11 defaulting state's licensing board, and each of the party states.

12 4. A state whose membership in this Compact has been
13 terminated is responsible for all assessments, obligations and
14 liabilities incurred through the effective date of termination,
15 including obligations that extend beyond the effective date of
16 termination.

17 5. The Commission shall not bear any costs related to a
18 state that is found to be in default or whose membership in this
19 Compact has been terminated, unless agreed upon in writing between
20 the Commission and the defaulting state.

21 6. The defaulting state may appeal the action of the
22 Commission by petitioning the U.S. District Court for the District
23 of Columbia or the federal district in which the Commission has its
24 principal offices. The prevailing party shall be awarded all costs
25 of such litigation, including reasonable attorneys' fees.

26 c. Dispute Resolution

27 1. Upon request by a party state, the Commission shall

1 attempt to resolve disputes related to the Compact that arise among
2 party states and between party and non-party states.

3 2. The Commission shall promulgate a rule providing
4 for both mediation and binding dispute resolution for disputes, as
5 appropriate.

6 3. In the event the Commission cannot resolve disputes
7 among party states arising under this Compact:

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

14 ii. The decision of a majority of the arbitrators
15 shall be final and binding.

16 d. Enforcement

17 1. The Commission, in the reasonable exercise of its
18 discretion, shall enforce the provisions and rules of this Compact.

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

1 3. The remedies herein shall not be the exclusive
2 remedies of the Commission. The Commission may pursue any other
3 remedies available under federal or state law.

4 ARTICLE X

5 Effective Date, Withdrawal and Amendment

6 a. This Compact shall come into limited effect at such time
7 as this Compact has been enacted into law in seven (7) party states
8 for the sole purpose of establishing and convening the Commission
9 to adopt rules relating to its operation.

10 b. Any state that joins this Compact subsequent to the
11 Commission's initial adoption of the APRN uniform licensure
12 requirements shall be subject to all rules that have been
13 previously adopted by the Commission.

14 c. Any party state may withdraw from this Compact by
15 enacting a statute repealing the same. A party state's withdrawal
16 shall not take effect until six (6) months after enactment of the
17 repealing statute.

18 d. A party state's withdrawal or termination shall not
19 affect the continuing requirement of the withdrawing or terminated
20 state's licensing board to report adverse actions and significant
21 investigations occurring prior to the effective date of such
22 withdrawal or termination.

23 e. Nothing contained in this Compact shall be construed to
24 invalidate or prevent any APRN licensure agreement or other
25 cooperative arrangement between a party state and a non-party state
26 that does not conflict with the provisions of this Compact.

27 f. This Compact may be amended by the party states. No

1 amendment to this Compact shall become effective and binding upon
2 any party state until it is enacted into the laws of all party
3 states.

4 g. Representatives of non-party states to this Compact
5 shall be invited to participate in the activities of the
6 Commission, on a nonvoting basis, prior to the adoption of this
7 Compact by all states.

8 ARTICLE XI

9 Construction and Severability

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

23 Sec. 305.002. ADMINISTRATION OF COMPACT. The Texas Board
24 of Nursing is the Advanced Practice Registered Nurse Compact
25 administrator for this state.

26 Sec. 305.003. RULES. The Texas Board of Nursing may adopt
27 rules necessary to implement this chapter.

1 SECTION 2. This Act takes effect September 1, 2023.