

COMMITTEE ON HEALTH, HOSPITALS
AND HUMAN SERVICES

09/07/2021-REPORTED OUT TO THE FLOOR

08/17/2021-REPORTED OUT TO THE COMMITTEE ON RULES AND JUDICIARY

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04/13/2021-REPORTED OUT TO THE COMMITTEE ON RULES AND JUDICIARY

BILL NO. 34-0040

Thirty-Fourth Legislature of the Virgin Islands

April 9, 2021

An Act amending title 27, chapter 1 of the Virgin Islands Code by adding a new subchapter Va.
establishing the Nurse Licensure Compact to create a multistate nursing license

PROPOSED BY: Senator Kurt A. Vialet
Co-Sponsors: Kenneth L. Gittens, Samuel Carrión,
Donna A. Frett-Gregory, Carla J. Joseph
and Milton E. Potter

1 *Be it enacted by the Legislature of the Virgin Islands:*

2 **SECTION 1.** Title 27 of the Virgin Islands Code is amended by adding a subchapter
3 Va. to read as follows:

4 **“Subchapter Va. Nurse Licensure Compact**

5 **§111. ARTICLE 1 Findings and declaration of purpose**

6 The Nurse Licensure Compact is enacted and entered into with all other jurisdictions
7 that legally join in the Compact in the form substantially as the Compact appears in this section
8 as follows.

9 The party states find:

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

3 (b) Violations of nurse licensure and other laws regulating the practice of nursing
4 may result in injury or harm to the public;

5 (c) The expanded mobility of nurses and the use of advanced communication
6 technologies as part of our nation's health care delivery system require greater coordination and
7 cooperation among states in the areas of nurse licensure and regulation;

8 (d) New practice modalities and technology make compliance with individual state
9 nurse licensure laws difficult and complex;

10 (e) The current system of duplicative licensure for nurses practicing in multiple
11 states is cumbersome and redundant for both nurses and states; and

12 (f) Uniformity of nurse licensure requirements throughout the states promotes
13 public safety and public health benefits;

14 (g) The general purposes of this Compact are to:

15 (1) Facilitate the states' responsibility to protect the health and safety of the
16 public;

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

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

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

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

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

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

8 **§ 112. ARTICLE 2. Definitions**

9 As used in this Compact:

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

16 (b) “Alternative program” means a non-disciplinary monitoring program approved
17 by a licensing board.

18 (c) “Commission” means the Interstate Commission of Nurse Licensure Compact
19 Administrators established by this compact.

20 (d) “Compact” means the Nurse Licensure Compact recognized, established, and
21 entered into by the state under this compact.

22 (e) “Coordinated licensure information system” means an integrated process for
23 collecting, storing and sharing information on nurse licensure and enforcement activities related

1 to nurse licensure laws that is administered by a nonprofit organization composed of and
2 controlled by licensing boards.

3 (f) “Current significant investigative information” means either:

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

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

11 (g) “Encumbrance” means a revocation or suspension of, or any limitation on, the full
12 and unrestricted practice of nursing imposed by a licensing board.

13 (h) “Home state” means the party state which is the nurse’s primary state of residence.

14 (i) “Licensing board” means the party state’s regulatory body responsible for issuing
15 nurse licenses.

16 (j) “Multistate license” means a license to practice as a registered or a licensed
17 practical/vocational nurse (LPN/VN) issued by a home state licensing board that authorizes the
18 licensed nurse to practice in all party states under a multistate licensure privilege.

19 (k) “Multistate licensure privilege” means a legal authorization associated with a
20 multistate license permitting the practice of nursing as either a registered nurse (RN) or licensed
21 practical/vocational nurse LPN/VN in a remote state.

22 (l) “Nurse” means RN or LPN/VN, as those terms are defined by each party state’s
23 practice laws.

24 (m) “Party state” means any state that has adopted this Compact.

1 (n) “Remote state” means a party state, other than the home state.

2 (o) “Single state license” means a nurse license issued by a party state that authorizes
3 practice only within the issuing state and does not include a multistate licensure privilege to
4 practice in any other party state.

5 (p) “State” means a state, territory or possession of the United States and the District
6 of Columbia.

7 (q) “State practice laws” means a party state’s laws, rules and regulations that govern
8 the practice of nursing, define the scope of nursing practice, and create the methods and grounds
9 for imposing discipline. “State practice laws” do not include requirements necessary to obtain
10 and retain a license, except for qualifications or requirements of the home state.

11 **§113. ARTICLE 3 General provisions and jurisdiction**

12 (a) A multistate license to practice registered or licensed practical/vocational
13 nursing issued by a home state to a resident in the state is recognized by each party state as
14 authorizing a nurse to practice as a RN or as a LPN/VN, under a multistate licensure privilege,
15 in each party state.

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

21 (c) To obtain or retain an multistate license in the home state, the home state shall
22 require that the applicant:

23 (1) Meets the home state’s qualifications for licensure or renewal of
24 licensure, as well as, all other applicable state laws;

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

3 (B) Has graduated from a foreign RN or LPN/VN prelicensure
4 education program that:

5 (i) has been approved by the authorized accrediting body in
6 the applicable country; and

7 (ii) has been verified by an independent credentials review
8 agency to be comparable to a licensing board-approved prelicensure
9 education program;

10 (3) Has graduated from a foreign prelicensure education program, if not
11 taught in English, or if English is not the individual's native language, successfully
12 passed an English proficiency examination that includes the components of reading,
13 speaking, writing and listening;

14 (4) Has successfully passed an NCLEX-RN or NCLEX-PN Examination or
15 recognized predecessor, as applicable;

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

17 (6) Has submitted, in connection with an application for initial licensure or
18 licensure by endorsement, fingerprints or other biometric data for the purpose of
19 obtaining criminal history record information from the Federal Bureau of Investigation
20 and the agency responsible for retaining the state's criminal records;

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

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

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

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

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

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

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

21 (f) Individuals not residing in a party state may apply for a party state's single-state
22 license as provided under the laws of each party state. However, the single-state license granted
23 to these individuals does not grant the privilege to practice nursing in any other party state.

1 Nothing in this Compact affects the requirements established by a party state for the issuance of
2 a single-state license.

3 (g) Any nurse holding a home state multistate license, on the effective date of this
4 Compact, may retain and renew the multistate license issued by the nurse's then-current home
5 state, if:

6 (1) A nurse, who changes primary state of residence after this Compact's
7 effective date, meets all section 113 (c), Article 3 (c) requirements to obtain a multistate
8 license from a new home state.

9 (2) A nurse who fails to satisfy the multistate licensure requirements in
10 section 113 (c), Article 3 (c) due to a disqualifying event occurring after this Compact's
11 effective date, the nurse is ineligible to retain or renew a multistate license, and the
12 nurse's multistate license must be revoked or deactivated in accordance with applicable
13 rules adopted by the Interstate Commission of Nurse Licensure Compact Administrators
14 ("Commission").

15 **§ 114. ARTICLE 4 Applications for Licensure in a Party State**

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

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

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

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

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

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

14 **§115. ARTICLE 5 Additional authorities invested in Party State licensing boards**

15 (a) In addition to other powers conferred by state law, a licensing board may:

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

18 (A) Only the home state may take adverse action against a nurse's
19 license issued by the home state.

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

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

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

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

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

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

1 (7) Take adverse action based on the factual findings of the remote state if
2 the licensing board follows its own procedures for taking such adverse action.

3 (b) If adverse action is taken by home state against a nurse's multistate license, the
4 nurse's multistate licensure privilege to practice in all other party states must be deactivated
5 until all encumbrances have been removed from the multistate license. All home state
6 disciplinary orders that impose adverse action against a nurse's multistate license must include
7 a statement that the nurse's multistate licensure privilege is deactivated in all party states during
8 the pendency of the order.

9 (c) Nothing in this Compact overrides a party state's decision that participation in
10 an alternative program may be used in lieu of adverse action. The home state licensing board
11 shall deactivate the multistate licensure privilege under the multistate license of any nurse for
12 the duration of the nurse's participation in an alternative program.

13 **§ 116. ARTICLE 6 Coordinated Licensure Information System and Exchange of**
14 **Information**

15 (a) All party states shall participate in a coordinated licensure information system of
16 all licensed RNs and LPNs/VNs. This system must include information on the licensure and
17 disciplinary history of each nurse, as submitted by party states, to assist in the coordination of
18 nurse licensure and enforcement efforts.

19 (b) The Commission, in consultation with the administrator of the coordinated
20 licensure information system, shall formulate necessary and proper procedures for the
21 identification, collection and exchange of information under this Compact.

22 (c) All licensing boards shall promptly report to the coordinated licensure
23 information system any adverse action, any current significant investigative information, denials
24 of applications, with the reasons for such denials, and nurse participation in alternative programs

1 known to the licensing board regardless of whether such participation is deemed nonpublic or
2 confidential under state law.

3 (d) Current significant investigative information and participation in nonpublic or
4 confidential alternative programs must be transmitted through the coordinated licensure
5 information system only to party state licensing boards.

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

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

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

17 (h) The Compact administrator of each party state shall furnish a uniform data set to
18 the Compact administrator of each other party state which must include, at a minimum:

19 (1) Identifying information;

20 (2) Licensure data;

21 (3) Information related to alternative program participation; and

22 (4) Other information that may facilitate the administration of this Compact,
23 as determined by Commission rules.

1 (i) The Compact administrator of a party state shall provide all investigative
2 documents and information requested by another party state.

3 **§117. ARTICLE 7 Establishment of the Interstate Commission of Nurse Licensure**
4 **Compact Administrators**

5 (a) There is created and established by the party states a joint public entity known
6 as the Interstate Commission of Nurse Licensure Compact Administrators.

7 (1) The Commission is an instrumentality of the party states.

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

13 (3) Nothing in this Compact may be construed to be a waiver of sovereign
14 immunity.

15 (b) Membership, Voting and Meetings

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

22 (2) Each administrator is entitled to one vote with regard to the promulgation
23 of rules and creation of bylaws and shall otherwise have an opportunity to participate in
24 the business and affairs of the Commission. An administrator shall vote in person or by

1 such other means as provided in the bylaws. The bylaws may provide for an
2 administrator's participation in meetings by telephone or other means of
3 communication.

4 (3) The Commission shall meet at least once during each calendar year.
5 Additional meetings must be held as set forth in the bylaws or rules of the Commission.

6 (4) All meetings must be open to the public, and public notice of meetings
7 must be given in the same manner as required under the rulemaking provisions in section
8 118, article 8.

9 (5) The Commission may convene in a closed, nonpublic meeting if the
10 Commission must discuss:

11 (A) Noncompliance of a party state with its obligations under this
12 Compact;

13 (B) The employment, compensation, discipline or other personnel
14 matters, practices or procedures related to specific employees or other matters
15 related to the Commission's internal personnel practices and procedures;

16 (C) Current, threatened or reasonably anticipated litigation;

17 (D) Negotiation of contracts for the purchase or sale of goods,
18 services or real estate;

19 (E) Accusing any person of a crime or formally censuring any person;

20 (F) Disclosure of trade secrets or commercial or financial information
21 that is privileged or confidential;

22 (G) Disclosure of information of a personal nature where disclosure
23 would constitute a clearly unwarranted invasion of personal privacy;

1 (H) Disclosure of investigatory records compiled for law enforcement
2 purposes;

3 (I) Disclosure of information related to any reports prepared by or on
4 behalf of the Commission for the purpose of investigation of compliance with
5 this Compact; or

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

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

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

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

21 (2) Providing reasonable standards and procedures:

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

23 (B) Governing any general or specific delegation of any authority or
24 function of the Commission;

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

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

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

15 (6) Providing a mechanism for winding up the operations of the Commission
16 and the equitable disposition of any surplus funds that may exist after the termination of
17 this Compact after the payment or reserving of all of its debts and obligations;

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

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

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

24 (g) The Commission has the following powers:

1 (1) To promulgate uniform rules to facilitate and coordinate implementation
2 and administration of this Compact. The rules have the force of law and are binding in
3 all party states;

4 (2) To bring and prosecute legal proceedings or actions in the name of the
5 Commission, but the standing of any licensing board to sue or be sued under applicable
6 law is not affected;

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

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

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

13 (6) To hire employees, elect or appoint officers, fix compensation, define
14 duties, grant such individuals appropriate authority to carry out the purposes of this
15 Compact, and to establish the Commission's personnel policies and programs relating
16 to conflicts of interest, qualifications of personnel and other related personnel matters;

17 (7) To accept any and all appropriate donations, grants and gifts of money,
18 equipment, supplies materials and services, and to receive, utilize and dispose of them,
19 but at all times the Commission shall avoid any appearance of impropriety or conflict of
20 interest;

21 (8) To lease, purchase, accept appropriate gifts or donations of, or otherwise
22 to own, hold improve or use, any property, whether real, personal or mixed; but at all
23 times the Commission shall avoid any appearance of impropriety;

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

3 (10) To establish a budget and make expenditures;

4 (11) To borrow money;

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

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

10 (14) To adopt and use an official seal; and

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

14 (h) Financing of the Commission:

15 (1) The Commission shall pay, or provide for the payment of, the reasonable
16 expenses of its establishment, organization and ongoing activities.

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

22 (3) The Commission may not incur obligations of any kind prior to securing
23 the funds adequate to meet the obligations; nor may the Commission pledge the credit
24 of any of the party states, except by, and with the authority of, such party state.

1 (4) The Commission shall keep accurate accounts of all receipts and
2 disbursements. The receipts and disbursements of the Commission are subject to the
3 audit and accounting procedures established under its bylaws. However, all receipts and
4 disbursements of funds handled by the Commission must be audited yearly by a certified
5 or licensed public accountant, and the report of the audit must be included in and become
6 part of the annual report of the Commission.

7 (i) Qualified Immunity, Defense and indemnification:

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

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

1 counsel; and except that the actual or alleged act, error or omission must not have
2 resulted from that person's intentional, willful or wanton misconduct.

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

11 **§ 118. ARTICLE 8 Rulemaking**

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

16 (b) Rules or amendments to the rules must be adopted at a regular or special
17 meetings of the Commission.

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

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

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

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

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

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

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

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

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

11 (f) The Commission shall grant an opportunity for a public hearing before it adopts
12 a rule or amendment.

13 (g) The Commission shall publish the place, time and date of the scheduled public
14 hearing.

15 (1) Hearings must be conducted in a manner providing each person who
16 wishes to comment a fair and reasonable opportunity to comment orally or in writing.
17 All hearings must be recorded, and a copy must be made available upon request.

18 (2) Nothing in this section may be construed as requiring a separate hearing
19 on each rule. Rules may be grouped for the convenience of the Commission at hearings
20 required by this section.

21 (h) If no one appears at the public hearing, the Commission may proceed with
22 promulgation of the proposed rule.

1 (i) Following the scheduled hearing date, or by the close of business on the
2 scheduled hearing date if the hearing was not held, the Commission shall consider all written
3 and oral comments received.

4 (j) The Commission shall, by majority vote of all administrators, take final action
5 on the proposed rule and shall determine the effective date of the rule, if any, based on the
6 rulemaking record and the full text of the rule.

7 (k) Upon determination that an emergency exists, the Commission may consider and
8 adopt an emergency rule without prior notice and opportunity for comment or hearing, but the
9 usual rulemaking procedures provided in this Compact and in this section must be retroactively
10 applied to the rule as soon as reasonably possible, but not later than 90 days after the effective
11 date of the rule. For the purposes of this subsection, an emergency rule is one that must be
12 adopted immediately in order to:

- 13 (1) Meet an imminent threat to public health, safety or welfare;
- 14 (2) Prevent a loss of Commission or party state funds; or
- 15 (3) Meet a deadline for the promulgation of an administrative rule that is
16 required by federal law or rule.

17 (l) The Commission may direct revisions to a previously adopted rule or amendment
18 for purposes of correcting typographical errors, errors in format, errors in consistency or
19 grammatical errors. Public notice of any revisions must be posted on the website of the
20 Commission. The revision is subject to challenge by any person for a period of thirty (30) days
21 after posting. The revision may be challenged only on grounds that the revision results in a
22 material change to a rule. A challenge must be made in writing, and delivered to the
23 Commission, prior to the end of the notice period. If no challenge is made, the revision must

1 take effect without further action. If the revision is challenged, the revision may not take effect
2 without the approval of the Commission.

3 **§119. ARTICLE 9 Oversight, dispute resolution and enforcement**

4 (a) Oversight:

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

7 (2) The Commission is entitled to receive service of process in any
8 proceeding that may affect the powers, responsibilities or actions of the Commission,
9 and has standing to intervene in such a proceeding for all purposes. Failure to provide
10 service of process in such proceeding to the Commission renders a judgement or order
11 void as to the Commission, this Compact or promulgated rules.

12 (b) Default, technical assistance and termination:

13 (1) If the Commission determines that a party state has defaulted in the
14 performance of its obligations or responsibilities under this Compact or the promulgated
15 rules, the Commission shall:

16 (A) Provide written notice to the defaulting state and other party states
17 of the nature of the default, the proposed means of curing the default or any other
18 action to be taken by the Commission; and

19 (B) Provide remedial training and specific technical assistance
20 regarding the default.

21 (2) If a state in default fails to cure the default, the defaulting state's
22 membership in this Compact may be terminated upon an affirmative vote of a majority
23 of the administrators, and all rights, privileges and benefits conferred by this Compact
24 may be terminated on the effective date of termination. A cure of the default does not

1 relieve the offending state of obligations or liabilities incurred during the period of
2 default.

3 (3) Termination of membership in this Compact must be imposed only after
4 all other means of securing compliance have been exhausted. Notice of suspension or
5 termination must be given by the Commission to the governor of the defaulting state and
6 to the executive officer of the defaulting state's licensing board and each of the party
7 states.

8 (4) A state whose membership in this Compact has been terminated is
9 responsible for all assessments, obligations and liabilities incurred through the effective
10 date of termination, including obligations that extend beyond the effective date of
11 termination.

12 (5) The Commission does not bear any costs related to a state that is found
13 to be in default or whose membership in this Compact has been terminated unless agreed
14 upon in writing between the Commission and the defaulting state.

15 (6) The defaulting state may appeal the action of the Commission by
16 petitioning the U.S. District Court for the District of Columbia or the federal district in
17 which the Commission has its principal offices. The prevailing party must be awarded
18 all costs of such litigation, including reasonable attorney's fees.

19 (c) Dispute Resolution:

20 (1) Upon request by a party state, the Commission shall attempt to resolve
21 disputes related to the Compact that arise among party states and between party and non-
22 party states.

23 (2) The Commission shall promulgate a rule providing for both mediation
24 and binding dispute resolution for disputes, as appropriate.

1 (3) In the event the Commission cannot resolve disputes among party states
2 arising under this Compact:

3 (A) The party states may submit the issues in dispute to an arbitration
4 panel, which must be comprised of individuals appointed by the Compact
5 administrator in each of the affected party states and an individual mutually
6 agreed upon by the Compact administrators of all the party states involved in the
7 dispute.

8 (B) The decision of a majority of the arbitrators is final and binding.

9 (d) Enforcement:

10 (1) The Commission, in the reasonable exercise of its discretion, shall
11 enforce the provisions and rules of this Compact.

12 (2) By majority vote, the Commission may initiate legal action in the U.S.
13 District Court for the District of Columbia or the federal district in which the
14 Commission has its principal offices against a party state that is in default to enforce
15 compliance with the provisions of this Compact and its promulgated rules and bylaws.
16 The relief sought may include both injunctive relief and damages. If judicial
17 enforcement is necessary, the prevailing party must be awarded all costs of such
18 litigation, including reasonable attorneys' fees.

19 (3) The remedies herein are the exclusive remedies of the Commission. The
20 Commission may pursue any other remedies available under federal or state law.

21 **§ 120. ARTICLE 10 Effective date, withdrawal and amendment**

22 (a) This Compact becomes effective and binding on the earlier of the date of
23 legislative enactment of this Compact into law by no less than 26 states or December 31, 2019.

24 All party states to this Compact, that also were parties to the prior Nurse Licensure Compact,

1 superseded by this Compact, (Prior Compact), are deemed to have withdrawn from the Prior
2 Compact within six months after the effective date of this Compact.

3 (b) Each party state to this Compact shall continue to recognize a nurse's multistate
4 licensure privilege to practice in that party state issued under the Prior Compact until such party
5 state has withdrawn from the Prior Compact.

6 (c) Any party state may withdraw from this Compact by enacting a statute repealing
7 the Compact. A party state's withdrawal does not take effect until six months after enactment
8 of the repealing statute.

9 (d) A party state's withdrawal or termination does not affect the continuing
10 requirement of the withdrawing or terminated state's licensing board to report adverse actions
11 and significant investigations occurring prior to the effective date of such withdrawal or
12 termination.

13 (e) Nothing contained in this Compact may be construed to invalidate or prevent any
14 nurse licensure agreement or other cooperative arrangement between a party state and a non-
15 party state that is made in accordance with the other provisions of this Compact.

16 (f) This Compact may be amended by the party states. No amendment to this
17 Compact becomes effective and binding upon the party states unless and until it is enacted into
18 laws of all party states.

19 (g) Representatives of non-party states to this Compact may be invited to participate
20 in the activities of the Commission, on a nonvoting basis, prior to the adoption of the Compact
21 by all states.

22 **§121. ARTICLE 11 Construction and severability**

23 (a) The Compact must be liberally construed so as to effectuate its purposes. The
24 provisions of this Compact are severable, and if any article, section, subsection, phrase, clause,

1 sentence or provision of this Compact is declared to be contrary to the constitution of any party
2 state or of the United States, or if the applicability thereof to any government, agency, person
3 or circumstance is held invalid, the validity of the remainder of this Compact and the
4 applicability of this Compact to any government, agency, person or circumstance is not affected
5 thereby.

6 (b) If this Compact is contrary to the constitution of any party state, this Compact
7 remains in full force as to the remaining party states and in full force and effect as to the party
8 state affected as to all severable matters.

9 **BILL SUMMARY**

10 This bill adopts the Nurse Licensure Compact in the Virgin Islands thereby creating a
11 multistate nursing license. Section 111 sets forth the purpose of the Compact. The Nursing
12 Licensure Compact removes complications for nurses practicing in multiple states. Nurses from
13 Compact states may work in multiple states without having to spend time in applying for
14 licensure in each state or being burdened by multiple renewal requirements and fees. Section
15 112 defines terms as used in the subchapter. Section 113 details the general provisions and
16 jurisdiction of the Compact, and Section 114 provides for Licensure in Home States. Section
17 115 provides additional authorities invested in party state licensing boards. Section 116
18 provides for a coordinated licensure information system and for the exchange of information.
19 Section 117 establishes the Interstate Commission of Nurse Licensure Compact Administrators.
20 §118 sets forth rulemaking powers of the Commission. §119 provides for oversight, dispute
21 resolution, and enforcement of the Compact. §120 outlines the effective date and provisions for
22 amendment of the Compact, and the requirements for withdrawal from the Compact. Section
23 121 addresses construction and severability.

24 **BR21-0134/April 9, 2021/**