

HOUSE BILL No. 2266

By Committee on Health and Human Services

Requested by Representative Beuhler on behalf of the Kansas Chamber of
Commerce

2-4

1 AN ACT concerning health and healthcare; relating to advanced practice
2 registered nurses; enacting the advanced practice registered nurses
3 compact to provide interstate practice privileges.
4

5 *Be it enacted by the Legislature of the State of Kansas:*

6 Section 1. This section shall be known and may be cited as the
7 advanced practice registered nurse compact.

8 ARTICLE 1—FINDINGS AND DECLARATION OF PURPOSE

9 (a) The party states find that:

10 (1) The health and safety of the public are affected by the degree of
11 compliance with advanced practice registered nurse (APRN) licensure
12 requirements and the effectiveness of enforcement activities related to
13 state APRN licensure laws;

14 (2) violations of APRN licensure and other laws regulating the
15 practice of nursing may result in injury or harm to the public;

16 (3) the expanded mobility of APRNs and the use of advanced
17 communication and intervention technologies as part of our nation's
18 healthcare delivery system require greater coordination and cooperation
19 among states in the areas of APRN licensure and regulation;

20 (4) new practice modalities and technology make compliance with
21 individual state APRN licensure laws difficult and complex;

22 (5) the current system of duplicative APRN licensure for APRNs
23 practicing in multiple states is cumbersome and redundant for healthcare
24 delivery systems, payors, state licensing boards, regulators and APRNs;
25 and

26 (6) uniformity of APRN licensure requirements throughout the states
27 promotes public safety and public health benefits and provides a
28 mechanism to increase access to care.

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

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

32 (2) ensure and encourage the cooperation of party states in the areas
33 of APRN licensure and regulation, including promotion of uniform
34 licensure requirements;

1 (3) facilitate the exchange of information between party states in the
2 areas of APRN regulation, investigation and adverse actions;

3 (4) promote compliance with laws governing APRN practice in each
4 jurisdiction;

5 (5) invest all party states with the authority to hold an APRN
6 accountable for meeting all state practice laws in the state in which the
7 patient is located at the time care is rendered through the mutual
8 recognition of party state privileges to practice;

9 (6) decrease redundancies in the consideration and issuance of APRN
10 licenses; and

11 (7) provide opportunities for interstate practice by APRNs who meet
12 uniform licensure requirements.

13 ARTICLE 2—DEFINITIONS

14 As used in this compact:

15 (a) "Advanced practice registered nurse" or "APRN" means a
16 registered nurse who has gained additional specialized knowledge, skills
17 and experience through a program of study recognized or defined by the
18 interstate commission of APRN compact administrators (commission), and
19 who is licensed to perform advanced nursing practice. An advanced
20 practice registered nurse is licensed in an APRN role that is congruent with
21 an APRN educational program, certification and commission rules.

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

30 (c) "Alternative program" means a non-disciplinary monitoring
31 program approved by a licensing board.

32 (d) "APRN licensure" means the regulatory mechanism used by a
33 party state to grant legal authority to practice as an APRN.

34 (e) "APRN uniform licensure requirements" means the minimum
35 uniform licensure, education and examination requirements set forth in
36 article 3(b) of this compact.

37 (f) "Coordinated licensure information system" means an integrated
38 process for collecting, storing and sharing information on APRN licensure
39 and enforcement activities related to APRN licensure laws that is
40 administered by a nonprofit organization, composed of and controlled by
41 licensing boards.

42 (g) "Current significant investigatory information" means
43 investigative information that:

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

5 (2) indicates that the APRN represents an immediate threat to public
6 health and safety regardless of whether the APRN has been notified and
7 had an opportunity to respond.

8 (h) "Encumbrance" means a revocation or suspension of, or any
9 limitation on, the full and unrestricted practice of nursing imposed by a
10 licensing board in connection with a disciplinary proceeding.

11 (i) "Home state" means the party state that is the APRN's primary
12 state of residence.

13 (j) "Licensing board" means a party state's regulatory body
14 responsible for regulating the practice of advanced practice registered
15 nursing.

16 (k) "Multistate license" means an APRN license to practice as an
17 APRN issued by a home state licensing board that authorizes the APRN to
18 practice as an APRN in all party states under a multistate licensure
19 privilege, in the same role and population focus as the APRN is licensed in
20 the home state.

21 (l) "Multistate licensure privilege" means a legal authorization
22 associated with an APRN multistate license that permits an APRN to
23 practice as an APRN in a remote state, in the same role and population
24 focus as the APRN is licensed in the home state.

25 (m) "Non-controlled prescription drug" means a device or drug that is
26 not a controlled substance and is prohibited under state or federal law from
27 being dispensed without a prescription. The term includes a device or drug
28 that bears or is required to bear the legend "Caution: federal law prohibits
29 dispensing without prescription" or "prescription only" or other legend that
30 complies with federal law.

31 (n) "Party state" means any state that has adopted this compact.

32 (o) "Population focus" means one of the six population foci of family
33 and individual across the lifespan, adult-gerontology, pediatrics, neonatal,
34 women's health and gender-related and psychiatric-mental health.

35 (p) "Prescriptive authority" means the legal authority to prescribe
36 medications and devices as defined by party state laws.

37 (q) "Remote state" means a party state that is not the home state.

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

41 (s) "Single-state license" means an APRN license issued by a party
42 state that authorizes practice only within the issuing state and does not
43 include a multistate licensure privilege to practice in any other party state.

1 (t) "State" means a state, territory or possession of the United States
2 and the District of Columbia.

3 (u) "State practice laws" means a party state's laws, rules and
4 regulations that govern APRN practice, define the scope of advanced
5 nursing practice and create the methods and grounds for imposing
6 discipline except that prescriptive authority shall be treated in accordance
7 with article 3(f) and article 3(g) of this compact. "State practice laws"
8 does not include:

9 (1) A party state's laws, rules and regulations requiring supervision or
10 collaboration with a healthcare professional, except for laws, rules and
11 regulations regarding prescribing controlled substances; or

12 (2) the requirements necessary to obtain and retain an APRN license,
13 except for qualifications or requirements of the home state.

14 ARTICLE 3—GENERAL PROVISIONS AND JURISDICTION

15 (a) A state shall implement procedures for considering the criminal
16 history records of applicants for initial APRN licensure or APRN licensure
17 by endorsement. Such procedures shall include the submission of
18 fingerprints or other biometric-based information by APRN applicants for
19 the purpose of obtaining an applicant's criminal history record information
20 from the federal bureau of investigation and the agency responsible for
21 retaining that state's criminal records.

22 (b) Each party state shall require an applicant to satisfy the following
23 APRN uniform licensure requirements to obtain or retain a multistate
24 license in the home state:

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

27 (2)(A) has completed an accredited graduate-level education program
28 that prepares the applicant for one of the four recognized roles and
29 population foci; or

30 (B) has completed a foreign APRN education program for one of the
31 four recognized roles and population foci that:

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

34 (ii) has been verified by an independent credentials review agency to
35 be comparable to a licensing board-approved APRN education program;

36 (3) has, if a graduate of a foreign APRN education program not
37 taught in English or if English is not the individual's native language,
38 successfully passed an English proficiency examination that includes the
39 components of reading, speaking, writing and listening;

40 (4) has successfully passed a national certification examination that
41 measures APRN, role and population-focused competencies and maintains
42 continued competence as evidenced by recertification in the role and
43 population focus through the national certification program;

1 (5) holds an active, unencumbered license as a registered nurse and
2 an active, unencumbered authorization to practice as an APRN;

3 (6) has successfully passed an NCLEX-RN examination or
4 recognized predecessor, as applicable;

5 (7) has practiced for at least 2,080 hours as an APRN in a role and
6 population focus congruent with the applicant's education and training. For
7 purposes of this section, practice shall not include hours obtained as part of
8 enrollment in an APRN education program;

9 (8) has submitted, in connection with an application for initial
10 licensure or licensure by endorsement, fingerprints or other biometric data
11 for the purpose of obtaining criminal history record information from the
12 federal bureau of investigation and the agency responsible for retaining
13 that state or, if applicable, foreign country's criminal records;

14 (9) has not been convicted or found guilty, or has entered into an
15 agreed disposition, of a felony offense under applicable state, federal or
16 foreign criminal law;

17 (10) has not been convicted or found guilty, or has entered into an
18 agreed disposition, of a misdemeanor offense related to the practice of
19 nursing as determined by factors set forth in rules adopted by the
20 commission;

21 (11) is not currently enrolled in an alternative program;

22 (12) is subject to self-disclosure requirements regarding current
23 participation in an alternative program; and

24 (13) has a valid United States social security number.

25 (c) An APRN issued a multistate license shall be licensed in an
26 approved role and at least one approved population focus.

27 (d) An APRN multistate license issued by a home state to a resident
28 in that state will be recognized by each party state as authorizing the
29 APRN to practice as an APRN in each party state, under a multistate
30 licensure privilege, in the same role and population focus as the APRN is
31 licensed in the home state.

32 (e) Nothing in this compact shall affect the requirements established
33 by a party state for the issuance of a single-state license, except that an
34 individual may apply for a single-state license, instead of a multistate
35 license, even if otherwise qualified for the multistate license. However, the
36 failure of such an individual to affirmatively opt for a single state license
37 may result in the issuance of a multistate license.

38 (f) Issuance of an APRN multistate license shall include prescriptive
39 authority for noncontrolled prescription drugs.

40 (g) For each state in which an APRN seeks authority to prescribe
41 controlled substances, the APRN shall satisfy all requirements imposed by
42 such state in granting or renewing such authority.

43 (h) An APRN issued a multistate license is authorized to assume

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

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

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

23 (k) Except as otherwise expressly provided in this compact, this
24 compact does not affect additional requirements imposed by states for
25 advanced practice registered nursing. However, a multistate licensure
26 privilege to practice registered nursing granted by a party state shall be
27 recognized by other party states as satisfying any state law requirement for
28 registered nurse licensure as a precondition for authorization to practice as
29 an APRN in that state.

30 (l) Individuals not residing in a party state shall continue to be able to
31 apply for a party state's single-state APRN license as provided under the
32 laws of each party state. However, the single-state license granted to these
33 individuals will not be recognized as granting the privilege to practice as
34 an APRN in any other party state.

35 ARTICLE 4—APPLICATIONS FOR APRN LICENSURE IN A PARTY
36 STATE

37 (a) Upon application for an APRN multistate license, the licensing
38 board in the issuing party state shall ascertain, through the coordinated
39 licensure information system, whether the applicant has ever held or is the
40 holder of a licensed practical or vocational nursing license, a registered
41 nursing license or an advanced practice registered nursing license issued
42 by any other state, whether there are any encumbrances on any license or
43 multistate licensure privilege held by the applicant, whether any adverse

1 action has been taken against any license or multistate licensure privilege
 2 held by the applicant and whether the applicant is currently participating in
 3 an alternative program.

4 (b) An APRN may hold a multistate APRN license, issued by the
 5 home state, in only one party state at a time.

6 (c) If an APRN changes primary state of residence by moving
 7 between two party states, the APRN shall apply for APRN licensure in the
 8 new home state, and the multistate license issued by the prior home state
 9 shall be deactivated in accordance with applicable commission rules.

10 (1) The APRN may apply for licensure in advance of a change in
 11 primary state of residence.

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

17 (d) If an APRN changes primary state of residence by moving from a
 18 party state to a non-party state, the APRN multistate license issued by the
 19 prior home state will convert to a single-state license, valid only in the
 20 former home state.

21 ARTICLE 5—ADDITIONAL AUTHORITIES INVESTED IN PARTY
 22 STATE LICENSING BOARDS

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

25 (1) Take adverse action against an APRN's multistate licensure
 26 privilege to practice within that party state.

27 (A) Only the home state shall have power to take adverse action
 28 against an APRN's license issued by the home state.

29 (B) For purposes of taking adverse action, the home state licensing
 30 board shall give the same priority and effect to reported conduct that
 31 occurred outside of the home state as it would if such conduct had
 32 occurred within the home state. In so doing, the home state shall apply its
 33 own state laws to determine appropriate action.

34 (2) Issue cease and desist orders or impose an encumbrance on an
 35 APRN's authority to practice within that party state.

36 (3) Complete any pending investigations of an APRN who changes
 37 primary state of residence during the course of such investigations. The
 38 licensing board shall also have the authority to take appropriate action and
 39 shall promptly report the conclusions of such investigations to the
 40 administrator of the coordinated licensure information system. The
 41 administrator of the coordinated licensure information system shall
 42 promptly notify the new home state of any such actions.

43 (4) Issue subpoenas for both hearings and investigations that require

1 the attendance and testimony of witnesses, as well as, the production of
2 evidence. Subpoenas issued by a party state licensing board for the
3 attendance and testimony of witnesses or the production of evidence from
4 another party state shall be enforced in the latter state by any court of
5 competent jurisdiction, according to that court's practice and procedure in
6 considering subpoenas issued in its own proceedings. The issuing licensing
7 board shall pay any witness fees, travel expenses, mileage and other fees
8 required by the service statutes of the state where the witnesses or
9 evidence are located.

10 (5) Obtain and submit, for an APRN licensure applicant, fingerprints
11 or other biometric-based information to the federal bureau of investigation
12 for criminal background checks, receive the results of the federal bureau of
13 investigation record search on criminal background checks and use the
14 results in making licensure decisions.

15 (6) If otherwise permitted by state law, recover from the affected
16 APRN the costs of investigations and disposition of cases resulting from
17 any adverse action taken against that APRN.

18 (7) Take adverse action based on the factual findings of another party
19 state, provided that the licensing board follows its own procedures for
20 taking such adverse action.

21 (b) If adverse action is taken by a home state against an APRN's
22 multistate licensure, the privilege to practice in all other party states under
23 a multistate licensure privilege shall be deactivated until all encumbrances
24 have been removed from the APRN's multistate license. All home state
25 disciplinary orders that impose adverse action against an APRN's
26 multistate license shall include a statement that the APRN's multistate
27 licensure privilege is deactivated in all party states during the pendency of
28 the order.

29 (c) Nothing in this compact shall override a party state's decision that
30 participation in an alternative program may be used in lieu of adverse
31 action. The home state licensing board shall deactivate the multistate
32 licensure privilege under the multistate license of any APRN for the
33 duration of the APRN's participation in an alternative program.

34 ARTICLE 6—COORDIANATED LICENSURE INFORMATION
35 SYSTEM AND EXCHANGE OF INFORMATION

36 (a) All party states shall participate in a coordinated licensure
37 information system of all APRNs, licensed registered nurses, licensed
38 practical nurses and vocational nurses. This system shall include
39 information on the licensure and disciplinary history of each APRN, as
40 submitted by party states, to assist in the coordinated administration of
41 APRN licensure and enforcement efforts.

42 (b) The commission, in consultation with the administrator of the
43 coordinated licensure information system, shall formulate necessary and

1 proper procedures for the identification, collection and exchange of
2 information under this compact.

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

9 (d) Notwithstanding any other provision of law, all party state
10 licensing boards contributing information to the coordinated licensure
11 information system shall designate information that shall not be shared
12 with non-party states or disclosed to other entities or individuals without
13 the express permission of the contributing state.

14 (e) Any personally identifiable information obtained from the
15 coordinated licensure information system by a party state licensing board
16 shall not be shared with non-party states or disclosed to other entities or
17 individuals except to the extent permitted by the laws of the party state
18 contributing the information.

19 (f) Any information contributed to the coordinated licensure
20 information system that is subsequently required to be expunged by the
21 laws of the party state contributing the information shall be removed from
22 the coordinated licensure information system.

23 (g) The compact administrator of each party state shall furnish a
24 uniform data set to the compact administrator of each other party state,
25 which shall include, at a minimum:

26 (1) Identifying information;

27 (2) licensure data;

28 (3) information related to alternative program participation
29 information; and

30 (4) other information that may facilitate the administration of this
31 compact, as determined by commission rules.

32 (h) The compact administrator of a party state shall provide all
33 investigative documents and information requested by another party state.

34 ARTICLE 7—ESTABLISHMENT OF THE INTERSTATE
35 COMMISSION OF APRN COMPACT ADMINISTRATORS

36 (a) The party states hereby create and establish a joint public agency
37 known as the interstate commission of APRN compact administrators.

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

39 (2) Venue is proper and judicial proceedings by or against the
40 commission shall be brought solely and exclusively in a court of
41 competent jurisdiction where the principal office of the commission is
42 located. The commission may waive venue and jurisdictional defenses to
43 the extent it adopts or consents to participate in alternative dispute

1 resolution proceedings.

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

4 (b) Membership, voting and meetings.

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

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

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

21 (4) All meetings shall be open to the public, and public notice of
22 meetings shall be given in the same manner as required under the
23 rulemaking provisions in article 8.

24 (5) The commission may convene in a closed, non-public meeting if
25 the commission shall discuss:

26 (A) Noncompliance of a party state with its obligations under this
27 compact;

28 (B) the employment, compensation, discipline or other personnel
29 matters, practices or procedures related to specific employees or other
30 matters related to the commission's internal personnel practices and
31 procedures;

32 (C) current, threatened or reasonably anticipated litigation;

33 (D) negotiation of contracts for the purchase or sale of goods,
34 services or real estate;

35 (E) accusing any person of a crime or formally censuring any person;

36 (F) disclosure of trade secrets or commercial or financial information
37 that is privileged or confidential;

38 (G) disclosure of information of a personal nature where disclosure
39 would constitute a clearly unwarranted invasion of personal privacy;

40 (H) disclosure of investigatory records compiled for law enforcement
41 purposes;

42 (I) disclosure of information related to any reports prepared by or on
43 behalf of the commission for the purpose of investigation of compliance

1 with this compact; or

2 (J) matters specifically exempted from disclosure by federal or state
3 statute.

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

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

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

20 (2) providing reasonable standards and procedures:

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

22 (B) governing any general or specific delegation of any authority or
23 function of the commission;

24 (3) providing reasonable procedures for calling and conducting
25 meetings of the commission, ensuring reasonable advance notice of all
26 meetings and providing an opportunity for attendance of such meetings by
27 interested parties, with enumerated exceptions designed to protect the
28 public's interest, the privacy of individuals, and proprietary information,
29 including trade secrets. The commission may meet in closed session only
30 after a majority of the administrators vote to close a meeting in whole or in
31 part. As soon as practicable, the commission shall make public a copy of
32 the vote to close the meeting revealing the vote of each administrator, with
33 no proxy votes allowed;

34 (4) establishing the titles, duties and authority and reasonable
35 procedures for the election of the officers of the commission;

36 (5) providing reasonable standards and procedures for the
37 establishment of the personnel policies and programs of the commission.
38 Notwithstanding any civil service or other similar laws of any party state,
39 the bylaws shall exclusively govern the personnel policies and programs of
40 the commission; and

41 (6) providing a mechanism for winding up the operations of the
42 commission and the equitable disposition of any surplus funds that may
43 exist after the termination of this compact after the payment or reserving

1 of all of its debts and obligations.

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

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

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

9 (g) The commission shall have the following powers to:

10 (1) Promulgate uniform rules to facilitate and coordinate
11 implementation and administration of this compact. The rules shall have
12 the force and effect of law and shall be binding in all party states;

13 (2) bring and prosecute legal proceedings or actions in the name of
14 the commission, provided that the standing of any licensing board to sue or
15 be sued under applicable law shall not be affected;

16 (3) purchase and maintain insurance and bonds;

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

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

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

27 (7) accept any and all appropriate donations, grants and gifts of
28 money, equipment, supplies, materials and services, and to receive, utilize
29 and dispose of the same. At all times the commission shall strive to avoid
30 any appearance of impropriety or conflict of interest;

31 (8) lease, purchase, accept appropriate gifts or donations of, or
32 otherwise to own, hold, improve or use, any property, whether real,
33 personal or mixed. At all times the commission shall strive to avoid any
34 appearance of impropriety;

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

37 (10) establish a budget and make expenditures;

38 (11) borrow money;

39 (12) appoint committees, including advisory committees comprised
40 of administrators, state nursing regulators, state legislators or their
41 representatives, and consumer representatives, and other such interested
42 persons;

43 (13) issue advisory opinions;

1 (14) provide and receive information from, and to cooperate with, law
2 enforcement agencies;

3 (15) adopt and use an official seal; and

4 (16) perform such other functions as may be necessary or appropriate
5 to achieve the purposes of this compact consistent with the state regulation
6 of APRN licensure and practice.

7 (h) Financing of the commission.

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

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

17 (3) The commission shall not incur obligations of any kind prior to
18 securing the funds adequate to meet the same; nor shall the commission
19 pledge the credit of any of the party states, except by, and with the
20 authority of, such party state.

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

28 (i) Qualified immunity, defense and indemnification.

29 (1) The administrators, officers, executive director, employees and
30 representatives of the commission shall be immune from suit and liability,
31 either personally or in their official capacity, for any claim for damage to
32 or loss of property or personal injury or other civil liability caused by or
33 arising out of any actual or alleged act, error or omission that occurred, or
34 that the person against whom the claim is made had a reasonable basis for
35 believing occurred, within the scope of commission employment, duties or
36 responsibilities. Nothing in this paragraph shall be construed to protect any
37 such person from suit or liability for any damage, loss, injury or liability
38 caused by the intentional, willful or wanton misconduct of that person.

39 (2) The commission shall defend any administrator, officer, executive
40 director, employee or representative of the commission in any civil action
41 seeking to impose liability arising out of any actual or alleged act, error or
42 omission that occurred within the scope of commission employment,
43 duties or responsibilities, or that the person against whom the claim is

1 made had a reasonable basis for believing occurred within the scope of
2 commission employment, duties or responsibilities. Nothing in this
3 paragraph shall be construed to prohibit that person from retaining their
4 own counsel, provided that the actual or alleged act, error or omission did
5 not result from that person's intentional, willful or wanton misconduct.

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

16 ARTICLE 8—RULEMAKING

17 (a) The commission shall exercise its rulemaking powers pursuant to
18 the criteria set forth in this article and the rules adopted thereunder. Rules
19 and amendments shall become binding as of the date specified in each rule
20 or amendment and shall have the same force and effect as provisions of
21 this compact.

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

24 (c) Prior to promulgation and adoption of a final rule or rules by the
25 commission, and at least 60 days in advance of the meeting at which the
26 rule will be considered and voted upon, the commission shall file a notice
27 of proposed rulemaking on the website of:

28 (1) The commission; and

29 (2) each licensing board or the publication where each state would
30 otherwise publish proposed rules.

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

32 (1) The proposed time, date and location of the meeting where the
33 rule will be considered and voted upon;

34 (2) the text of the proposed rule or amendment and the reason for the
35 proposed rule;

36 (3) a request for comments on the proposed rule from any interested
37 person; and

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

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

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

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

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

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

12 (h) If no one appears at the public hearing, the commission may
13 proceed with promulgation of the proposed rule.

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

17 (j) The commission shall, by majority vote of all administrators, take
18 final action on the proposed rule and shall determine the effective date of
19 the rule, if any, based on the rulemaking record and the full text of the rule.

20 (k) Upon determination that an emergency exists, the commission
21 may consider and adopt an emergency rule without prior notice,
22 opportunity for comment or hearing, provided that the usual rulemaking
23 procedures provided in this compact and in this section shall be
24 retroactively applied to the rule as soon as reasonably possible, in no event
25 later than 90 days after the effective date of the rule. For the purposes of
26 this provision, an emergency rule is one that shall be adopted immediately
27 in order to:

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

29 (2) prevent a loss of commission or party state funds; or

30 (3) meet a deadline for the promulgation of an administrative rule that
31 is established by federal law or rule.

32 (l) The commission may direct revisions to a previously adopted rule
33 or amendment for purposes of correcting typographical errors, errors in
34 format, errors in consistency or grammatical errors. Public notice of any
35 revisions shall be posted on the website of the commission. The revision
36 shall be subject to challenge by any person for a period of 30 days after
37 posting. The revision may be challenged only on grounds that the revision
38 results in a material change to a rule. A challenge shall be made in writing,
39 and delivered to the commission, prior to the end of the notice period. If
40 no challenge is made, the revision shall take effect without further action.
41 If the revision is challenged, the revision may not take effect without the
42 approval of the commission.

43 ARTICLE 9—OVERSIGHT, DISPUTE RESOLUTION AND

1 ENFORCEMENT

2 (a) Oversight.

3 (1) Each party state shall enforce this compact and take all actions
4 necessary and appropriate to effectuate this compact's purposes and intent.

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

11 (b) Default, technical assistance and termination.

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

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

18 (B) provide remedial training and specific technical assistance
19 regarding the default.

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

26 (3) Termination of membership in this compact shall be imposed only
27 after all other means of securing compliance have been exhausted. Notice
28 of intent to suspend or terminate shall be given by the commission to the
29 governor of the defaulting state and to the executive officer of the
30 defaulting state's licensing board, the defaulting state's licensing board,
31 and each of the party states.

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

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

40 (6) The defaulting state may appeal the action of the commission by
41 petitioning the United States district court for the District of Columbia or
42 the federal district where the commission has its principal offices. The
43 prevailing party shall be awarded all costs of such litigation, including

1 reasonable attorney fees.

2 (c) Dispute resolution.

3 (1) Upon request by a party state, the commission shall attempt to
 4 resolve disputes related to the compact that arise among party states and
 5 between party and non-party states.

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

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

10 (A) The party states may submit the issues in dispute to an arbitration
 11 panel, which shall be comprised of individuals appointed by the compact
 12 administrator in each of the affected party states and an individual
 13 mutually agreed upon by the compact administrators of all the party states
 14 involved in the dispute.

15 (B) The decision of a majority of the arbitrators shall be final and
 16 binding.

17 (d) Enforcement.

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

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

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

31 ARTICLE 10—EFFECTIVE DATE, WITHDRAWAL AND
 32 AMENDMENT

33 (a) This compact shall come into limited effect at such time as this
 34 compact has been enacted into law in seven party states for the sole
 35 purpose of establishing and convening the commission to adopt rules
 36 relating to its operation.

37 (b) Any state that joins this compact subsequent to the commission's
 38 initial adoption of the APRN uniform licensure requirements shall be
 39 subject to all rules that have been previously adopted by the commission.

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

43 (d) A party state's withdrawal or termination shall not affect the

1 continuing requirement of the withdrawing or terminated state's licensing
2 board to report adverse actions and significant investigations occurring
3 prior to the effective date of such withdrawal or termination.

4 (e) Nothing contained in this compact shall be construed to invalidate
5 or prevent any APRN licensure agreement or other cooperative
6 arrangement between a party state and a non-party state that does not
7 conflict with the provisions of this compact.

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

11 (g) Representatives of non-party states to this compact shall be
12 invited to participate in the activities of the commission, on a nonvoting
13 basis, prior to the adoption of this compact by all states.

14 ARTICLE 11—CONSTRUCTION AND SEVERABILITY

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

26 Sec. 2. This act shall take effect and be in force from and after its
27 publication in the statute book.