AN ACT relating to the Advanced Practice Registered Nurse Compact.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 314 IS CREATED TO READ AS FOLLOWS:

ARTICLE I

Findings and Declaration of Purpose

(a) The party states find that:

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

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

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

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

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

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

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

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

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

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

(4) Promote compliance with the laws governing APRN practice in each jurisdiction;

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

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

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

ARTICLE II

Definitions

As used in this compact:

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

(b) "Adverse action" means any administrative, civil, equitable, or criminal action permitted by a state’s laws which is imposed by a licensing board or other authority against an APRN, including actions against an individual’s license or
multistate licensure privilege such as revocation, suspension, probation,
monitoring of the licensee, limitation on the licensee’s practice, or any other
encumbrance on licensure affecting an APRN’s authorization to practice,
including the issuance of a cease and desist action;
(c) "Alternative program" means a nondisciplinary monitoring program approved
by a licensing board;
(d) "APRN licensure" means the regulatory mechanism used by a party state to
grant legal authority to practice as an APRN;
(e) "APRN uniform licensure requirements" means the minimum uniform
licensure, education and examination requirements set forth in this compact;
(f) "Coordinated licensure information system" means an integrated process for
collecting, storing, and sharing information on APRN licensure and enforcement
activities related to APRN licensure laws that is administered by a nonprofit
organization composed of and controlled by licensing boards;
(g) "Current significant investigatory information" means:
(1) Investigative information that a licensing board, after a preliminary inquiry
that includes notification and an opportunity for the APRN to respond, if
required by state law, has reason to believe is not groundless and, if proved
true, would indicate more than a minor infraction; or
(2) Investigative information that indicates that the APRN represents an
immediate threat to public health and safety regardless of whether the
APRN has been notified and had an opportunity to respond;
(h) "Encumbrance" means a revocation or suspension of, or any limitation on, the
full and unrestricted practice of nursing imposed by a licensing board in
connection with a disciplinary proceeding;
(i) "Home state" means the party state that is the APRN’s primary state of
residence;
(j) "Licensing board" means a party state’s regulatory body responsible for regulating the practice of advanced practice registered nursing;

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

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

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

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

(o) "Population focus" means one (1) of the six (6) population foci of the family or individual across the lifespan, adult-gerontology, pediatrics, neonatal, women’s health, gender-related health, psychological health, or mental health;

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

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

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

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

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

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

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

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

ARTICLE III
General Provisions and Jurisdiction

(a) A state shall implement procedures for considering the criminal history records
of applicants for initial APRN licensure or APRN licensure by endorsement.
Such procedures shall include the submission of fingerprints or other biometric-
based information by APRN applicants for the purpose of obtaining an
applicant’s criminal history record information from the Federal Bureau of
Investigation and the agency responsible for retaining that state’s criminal
records.

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

(1) Meets the home state’s qualifications for licensure or renewal of licensure
as well as all other applicable state laws;
(2) i. Has completed an accredited graduate-level education program that prepares the applicant for one (1) of the four (4) recognized roles and population foci; or

ii. Has completed a foreign APRN education program for one (1) of the four (4) recognized roles and population foci that:

a. Has been approved by the authorized accrediting body in the applicable country; and

b. Has been verified by an independent credentials review agency to be comparable to a licensing board-approved APRN education program;

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

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

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

(6) Has successfully passed an NCLEX-RN® examination or recognized predecessor, as applicable;

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

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

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

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

(11) Is not currently enrolled in an alternative program;

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

(13) Has a valid United States Social Security number.

(c) An APRN issued a multistate license shall be licensed in an approved role and at
least one (1) approved population focus.

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

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

(f) Issuance of an APRN multistate license shall include prescriptive authority for
noncontrolled prescription drugs.
(g) For each state in which an APRN seeks authority to prescribe controlled substances, the APRN shall satisfy all requirements imposed by such state in granting or renewing such authority.

(h) An APRN issued a multistate license is authorized to assume responsibility and accountability for patient care independent of any supervisory or collaborative relationship. This authority may be exercised in the home state and in any remote state in which the APRN exercises a multistate licensure privilege.

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

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

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

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

ARTICLE IV

Applications for APRN Licensure in a Party State

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

(b) An APRN may hold a multistate APRN license issued by the home state in only
one (1) party state at a time.

(c) If an APRN changes primary state of residence by moving between two (2) party
states, the APRN shall apply for APRN licensure in the new home state, and the
multistate license issued by the prior home state shall be deactivated in
accordance with applicable commission rules.

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

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

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

ARTICLE V

Additional Authorities Invested in Party State Licensing Boards

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

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

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

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

(2) Issue cease and desist orders or impose an encumbrance on an APRN’s
authority to practice within that party state;

(3) Complete any pending investigations of an APRN who changes primary
state of residence during the course of such investigations. The licensing
board may also take appropriate actions and shall promptly report the
conclusions of such investigations to the administrator of the coordinated
licensure information system. The administrator of the coordinated
licensure information system shall promptly notify the new home state of
any such actions;
(4) Issue subpoenas for both hearings and investigations that require the attendance and testimony of witnesses as well as the production of evidence. Subpoenas issued by a party state licensing board for the attendance and testimony of witnesses and the production of evidence from another party state shall be enforced in the latter state by any court of competent jurisdiction, according to that court’s practice and procedure in considering subpoenas issued in its own proceedings. The issuing licensing board shall pay any witness fees, travel expenses, mileage, and other fees required by the service statutes of the state in which the witnesses and evidence are located;

(5) Obtain and submit, for an APRN licensure applicant, fingerprints or other biometric-based information to the Federal Bureau of Investigation for criminal background checks, receive the results of the Federal Bureau of Investigation record search on criminal background checks, and use the results in making licensure decisions;

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

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

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

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

ARTICLE VI
Coordinated Licensure Information System and Exchange of Information

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

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

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

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

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

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

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

(1) Identifying information;

(2) Licensure data;

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

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

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

ARTICLE VII

Establishment of the Interstate Commission of APRN Compact Administrators

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

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

(2) Venue is proper, and judicial proceedings by or against the commission shall be brought solely and exclusively, in a court of competent jurisdiction where the principal office of the commission is located. The commission may waive venue and jurisdictional defenses to the extent it adopts or consents to participate in alternative dispute resolution proceedings.
(3) Nothing in this compact shall be construed to be a waiver of sovereign
immunity.

(b) Membership, Voting, and Meetings

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

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

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

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

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

i. Noncompliance of a party state with its obligations under this
   compact;

ii. The employment, compensation, discipline or other personnel matters,
practices or procedures related to specific employees, or other matters related to the commission’s internal personnel practices and procedures;

iii. Current, threatened, or reasonably anticipated litigation;

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

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

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

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

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

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

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

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

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

(1) Establishing the fiscal year of the commission;

(2) Providing reasonable standards and procedures:

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

   ii. Governing any general or specific delegation of any authority or function of the commission;

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

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

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

and

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

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

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

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

(g) The commission shall have the following powers:

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

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

(3) To purchase and maintain insurance and bonds;

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

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

(6) To hire employees, elect or appoint officers, fix compensation, define duties,
grant such individuals appropriate authority to carry out the purposes of
this compact, and to establish the commission’s personnel policies and
programs relating to conflicts of interest, qualifications of personnel, and
other related personnel matters;
(7) To accept any and all appropriate donations, grants and gifts of money, equipment, supplies, materials, and services and to receive, utilize, and dispose of the same; provided that at all times the commission shall strive to avoid any appearance of impropriety and conflict of interest;

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

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

(10) To establish a budget and make expenditures;

(11) To borrow money;

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

(13) To issue advisory opinions;

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

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

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

(h) Financing of the Commission

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

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

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

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

(i) Qualified Immunity, Defense, and Indemnification

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

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

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

ARTICLE VIII
Rulemaking

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

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

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

(1) On the website of the commission; and

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

(d) The notice of proposed rulemaking shall include:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

ARTICLE IX
Oversight, Dispute Resolution, and Enforcement

(a) Oversight

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

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

(b) Default, Technical Assistance, and Termination

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

i. Provide written notice to the defaulting state and other party states of the nature of the default, the proposed means of curing the default, and any other action to be taken by the commission; and

ii. Provide remedial training and specific technical assistance regarding the default.
(2) If a state in default fails to cure the default, the defaulting state’s membership in this compact may be terminated upon an affirmative vote of a majority of the administrators, and all rights, privileges, and benefits conferred by this compact may be terminated on the effective date of termination. A cure of the default does not relieve the offending state of obligations or liabilities incurred during the period of default.

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

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

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

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

(c) Dispute Resolution

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

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

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

i. The party states may submit the issues in dispute to an arbitration 
panel, which shall be composed of individuals appointed by the 
compact administrator in each of the affected party states and an 
individual mutually agreed upon by the compact administrators of all 
the party states involved in the dispute.

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

(d) Enforcement

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

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

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

ARTICLE X
Effective Date, Withdrawal, and Amendment

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

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

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

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

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

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

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

ARTICLE XI

Construction and Severability

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

ARTICLE XII

APPLICABILITY TO KENTUCKY STATE GOVERNMENT

In order to clarify the effect of certain provisions of this compact and to ensure that the rights and responsibilities of the various branches of government are maintained, the following shall be in effect in this state:

(a) By entering into this compact, this state authorizes the state licensing board as defined in Article II of this compact and as created by KRS Chapter 314 to implement the provisions of this compact.

(b) Notwithstanding any provision of this compact to the contrary:

(I) When a rule is adopted pursuant to Article VIII of this compact, the licensing board as defined by Article II of this compact shall have sixty (60) days to review the rule for the purpose of filing the rule as an emergency administrative regulation pursuant to KRS 13A.190 and for filing the rule as an accompanying ordinary administrative regulation, following the requirements of KRS Chapter 13A. Failure by the licensing board as defined by Article II of this compact to promulgate a rule adopted by the Interstate Commission of APRN Compact Administrators as an administrative regulation pursuant to KRS Chapter 13A shall result in the
initiation of the process for withdrawal as set forth in Article X of this compact. Nothing in these provisions shall negate the applicability and effect of Article VIII of this compact to this state.

(2) If the proposed administrative regulation is found deficient and the deficiency is not resolved pursuant to KRS 13A.330 or 13A.335, the provisions of Article IX of this compact shall apply. If the procedures under Article IX of this compact fail to resolve an issue, the provisions of Article X of this compact shall apply.

(3) If the Interstate Commission of APRN Compact Administrators created by Article VII of this compact exercises its rulemaking authority in a manner that is beyond the scope of the purposes of this compact, or the powers granted under this compact, then such an action by the commission shall be invalid and have no force or effect.

(c) Article VII of this compact pertaining to the financing of the commission shall not be interpreted to obligate the general fund of this state. Any funds used to finance this compact shall be from money collected pursuant to KRS 314.161.

(d) This compact shall apply only to those advanced practice registered nurses who practice or work under a compact privilege.