

§2177. Establishment of the Interstate Commission of Nurse Licensure Compact Administrators -- Article 7

1. Commission established. The party states hereby create and establish a joint public entity known as the Interstate Commission of Nurse Licensure Compact Administrators.

A. The commission is an instrumentality of the party states. [PL 2017, c. 258, Pt. A, §1 (NEW).]

B. Venue is proper, and judicial proceedings by or against the commission must 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. [PL 2017, c. 258, Pt. A, §1 (NEW).]

C. Nothing in this compact may be construed to be a waiver of sovereign immunity. [PL 2017, c. 258, Pt. A, §1 (NEW).]

[PL 2017, c. 258, Pt. A, §1 (NEW).]

2. Membership, voting and meetings. This subsection governs the membership, voting and meetings of the commission.

A. Each party state has and is limited to one administrator. The head of the state licensing board or the head of the state licensing board's designee is the administrator of this compact for each party state. An 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 must be filled in accordance with the laws of the party state in which the vacancy exists. [PL 2017, c. 258, Pt. A, §1 (NEW).]

B. Each administrator is entitled to one vote with regard to the promulgation of rules and creation of bylaws and must 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. [PL 2017, c. 258, Pt. A, §1 (NEW).]

C. The commission shall meet at least once during each calendar year. Additional meetings must be held as set forth in the bylaws or rules of the commission. [PL 2017, c. 258, Pt. A, §1 (NEW).]

D. All meetings must be open to the public, and public notice of meetings must be given in the same manner as required under the rule-making provisions in section 2178. [PL 2017, c. 258, Pt. A, §1 (NEW).]

E. The commission may convene in a closed, nonpublic meeting if the commission must discuss:

- (1) Noncompliance of a party state with its obligations under this compact;
- (2) 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;
- (3) Current, threatened or reasonably anticipated litigation;
- (4) Negotiation of contracts for the purchase or sale of goods, services or real estate;
- (5) Accusing a person of a crime or formally censuring a person;
- (6) Disclosure of trade secrets or commercial or financial information that is privileged or confidential;
- (7) Disclosure of information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

- (8) Disclosure of investigatory records compiled for law enforcement purposes;
- (9) 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
- (10) Matters specifically exempted from disclosure by federal or state statute. [PL 2017, c. 258, Pt. A, §1 (NEW).]

F. If a meeting, or portion of a meeting, is closed pursuant to paragraph E, 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 for those actions, including a description of the views expressed. All documents considered in connection with an action must be identified in the minutes. All minutes and documents of a closed meeting must remain under seal, subject to release by a majority vote of the commission or order of a court of competent jurisdiction. [PL 2017, c. 258, Pt. A, §1 (NEW).]

[PL 2017, c. 258, Pt. A, §1 (NEW).]

3. Bylaws and rules. 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:

- A. Establishing the fiscal year of the commission; [PL 2017, c. 258, Pt. A, §1 (NEW).]
- B. Providing reasonable standards and procedures:
 - (1) For the establishment and meetings of other committees; and
 - (2) Governing any general or specific delegation of any authority or function of the commission; [PL 2017, c. 258, Pt. A, §1 (NEW).]
- C. 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 such 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; [PL 2017, c. 258, Pt. A, §1 (NEW).]
- D. Establishing the titles, duties and authority and reasonable procedures for the election of the officers of the commission; [PL 2017, c. 258, Pt. A, §1 (NEW).]
- E. 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 exclusively govern the personnel policies and programs of the commission; and [PL 2017, c. 258, Pt. A, §1 (NEW).]
- F. 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 or reserving of all of its debts and obligations. [PL 2017, c. 258, Pt. A, §1 (NEW).]

[PL 2017, c. 258, Pt. A, §1 (NEW).]

4. Publishing. The commission shall publish its bylaws and rules, and any amendments thereto, in a convenient form on the publicly accessible website of the commission.

[PL 2017, c. 258, Pt. A, §1 (NEW).]

5. Financial records. The commission shall maintain its financial records in accordance with the bylaws.

[PL 2017, c. 258, Pt. A, §1 (NEW).]

6. Meetings. The commission shall meet and take such actions as are consistent with the provisions of this compact and the bylaws.

[PL 2017, c. 258, Pt. A, §1 (NEW).]

7. Powers. The commission has the following powers:

A. To promulgate uniform rules to facilitate and coordinate implementation and administration of this compact. The rules have the force and effect of law and are binding in all party states; [PL 2017, c. 258, Pt. A, §1 (NEW).]

B. To bring and prosecute legal proceedings or actions in the name of the commission; however, the standing of any licensing board to sue or be sued under applicable law is not affected; [PL 2017, c. 258, Pt. A, §1 (NEW).]

C. To purchase and maintain insurance and bonds; [PL 2017, c. 258, Pt. A, §1 (NEW).]

D. To borrow, accept or contract for services of personnel, including, but not limited to, employees of a party state or nonprofit organizations; [PL 2017, c. 258, Pt. A, §1 (NEW).]

E. 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; [PL 2017, c. 258, Pt. A, §1 (NEW).]

F. To hire employees, elect or appoint officers, fix compensation, define duties, grant appropriate authority to carry out the purposes of this compact and establish the commission's personnel policies and programs relating to conflicts of interest, qualifications of personnel and other related personnel matters; [PL 2017, c. 258, Pt. A, §1 (NEW).]

G. To accept all appropriate donations, grants and gifts of money, equipment, supplies, materials and services and to receive, use and dispose of the same, as long as at all times the commission avoids any appearance of impropriety or conflict of interest; [PL 2017, c. 258, Pt. A, §1 (NEW).]

H. To lease, purchase, accept appropriate gifts or donations of, or otherwise to own, hold, improve or use, any property, whether real, personal or mixed, as long as at all times the commission avoids any appearance of impropriety; [PL 2017, c. 258, Pt. A, §1 (NEW).]

I. To sell, convey, mortgage, pledge, lease, exchange, abandon or otherwise dispose of any property, whether real, personal or mixed; [PL 2017, c. 258, Pt. A, §1 (NEW).]

J. To establish a budget and make expenditures; [PL 2017, c. 258, Pt. A, §1 (NEW).]

K. To borrow money; [PL 2017, c. 258, Pt. A, §1 (NEW).]

L. To appoint committees, including advisory committees composed of administrators, state nursing regulators, state legislators or their representatives, consumer representatives and other interested persons; [PL 2017, c. 258, Pt. A, §1 (NEW).]

M. To provide and receive information from, and to cooperate with, law enforcement agencies; [PL 2017, c. 258, Pt. A, §1 (NEW).]

N. To adopt and use an official seal; and [PL 2017, c. 258, Pt. A, §1 (NEW).]

O. To perform such other functions as may be necessary or appropriate to achieve the purposes of this compact consistent with the state regulation of nurse licensure and practice. [PL 2017, c. 258, Pt. A, §1 (NEW).]

[PL 2017, c. 258, Pt. A, §1 (NEW).]

8. Financing of commission. This subsection governs the financial operations of the commission.

A. The commission shall pay, or provide for the payment of, the reasonable expenses of its establishment, organization and ongoing activities. [PL 2017, c. 258, Pt. A, §1 (NEW).]

B. The commission may 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, must be allocated based upon a formula to be determined by the commission, which shall promulgate a rule that is binding upon all party states. [PL 2017, c. 258, Pt. A, §1 (NEW).]

C. The commission may not incur obligations of any kind prior to securing the funds adequate to those obligations; nor may the commission pledge the credit of any of the party states except by and with the authority of that party state. [PL 2017, c. 258, Pt. A, §1 (NEW).]

D. The commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the commission are subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the commission must be audited yearly by a certified or licensed public accountant, and the report of the audit must be included in and become part of the annual report of the commission. [PL 2017, c. 258, Pt. A, §1 (NEW).]

[PL 2017, c. 258, Pt. A, §1 (NEW).]

9. Qualified immunity; defense and indemnification. This subsection governs immunity provisions and defense and indemnification requirements of the commission.

A. An administrator, officer, executive director, employee or representative of the commission is immune from suit and liability, either personally or in that person's 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, except that nothing in this paragraph may be construed to protect any person from suit or liability for any damage, loss, injury or liability caused by the intentional, willful or wanton misconduct of that person. [PL 2017, c. 258, Pt. A, §1 (NEW).]

B. The commission shall defend an 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, as long as the actual or alleged act, error or omission did not result from that person's intentional, willful or wanton misconduct. Nothing in this paragraph may be construed to prohibit that person from retaining counsel. [PL 2017, c. 258, Pt. A, §1 (NEW).]

C. The commission shall indemnify and hold harmless an 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 the person had a reasonable basis for believing occurred within the scope of commission employment, duties or responsibilities, as long as the actual or alleged act, error or omission did not result from the intentional, willful or wanton misconduct of that person. [PL 2017, c. 258, Pt. A, §1 (NEW).]

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SECTION HISTORY

PL 2017, c. 258, Pt. A, §1 (NEW).

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