

I MINA'TRENTAI SAIS NA LIHESLATURAN GUÅHAN

2021 (FIRST) Regular Session

VOTING RECORD

Bill No. 13-36 (COR) As amended in the Committee of the Whole.	Speaker Antonio R. Unpingco Legislative Session Hall Guam Congress Building February 22, 2021					
NAME	Aye	Nay	Not Voting/ Abstained	Out During Roll Call	Absent	Excused
Senator V. Anthony Ada	✓					
Senator Frank Blas Jr.	✓					
Senator Joanne Brown		✓				
Senator Christopher M. Dueñas			✓			✓
Senator James C. Moylan	✓					
Vice Speaker Tina Rose Muña Barnes	✓					
Senator Telen Cruz Nelson	✓					
Senator Sabina Flores Perez		✓				
Senator Clynton E. Ridgell	✓					
Senator Joe S. San Agustin	✓					
Senator Amanda L. Shelton	✓					
Senator Telo T. Taitague		✓				
Senator Jose "Pedo" Terlaje	✓					
Speaker Therese M. Terlaje		✓				
Senator Mary Camacho Torres	✓					

TOTAL

10

Aye

4

Nay

1

Not Voting/
Abstained


Out During
Roll Call

Absent

1

Excused

CERTIFIED TRUE AND CORRECT:



RENNAE V. C. MENO
Clerk of the Legislature

I = Pass

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Bill No. 13-36 (COR)

As amended in the Committee of the Whole.

Introduced by:

Mary Camacho Torres
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Therese M. Terlaje

AN ACT TO ADD A NEW ARTICLE 3A TO PART 1 OF CHAPTER 12, DIVISION 1, TITLE 10, GUAM CODE ANNOTATED, RELATIVE TO ADOPTING THE NURSE LICENSURE COMPACT; TO ADD A NEW § 12307(d) OF ARTICLE 3, PART 1, CHAPTER 12, DIVISION 1, TITLE 10, GUAM CODE ANNOTATED, RELATIVE TO ESTABLISHING ADDITIONAL DUTIES OF THE GUAM BOARD OF NURSE EXAMINERS TO FACILITATE THE LICENSURE OF NURSES UNDER THE COMPACT; AND TO APPROPRIATE THE SUM OF SIX THOUSAND DOLLARS (\$6,000) FROM THE HEALTH PROFESSIONAL LICENSING OFFICE REVOLVING FUND TO THE DEPARTMENT OF PUBLIC HEALTH AND SOCIAL SERVICES TO FUND THE ANNUAL MEMBERSHIP FEE TO THE NURSE LICENSURE COMPACT IN FISCAL YEAR 2022.

1 **BE IT ENACTED BY THE PEOPLE OF GUAM:**

2 **Section 1.** A new Article 3A is hereby *added* to Part 1 of Chapter 12,
3 Division 1, Title 10, Guam Code Annotated, to read as follows:

4 **“ARTICLE 3A**

5 **ADOPTION OF NURSE LICENSURE COMPACT**

6 § 123A01. Findings and Declaration of Purpose.

7 § 123A02. Definitions.

8 § 123A03. General Provisions and Jurisdiction.

9 § 123A04. Applications for Licensure in a Party State.

10 § 123A05. Additional Authorities Invested in Party State Licensing
11 Boards.

12 § 123A06. Coordinated Licensure Information System and Exchange of
13 Information.

14 § 123A07. Establishment of the Interstate Commission of Nurse Licensure
15 Compact Administrators.

16 § 123A08. Rulemaking.

17 § 123A09. Oversight, Dispute Resolution, and Enforcement.

18 § 123A10. Effective Date, Withdrawal, and Amendment.

19 § 123A11. Construction and Severability.

20 **§ 123A01. Findings and Declaration of Purpose.**

21 (a) The party states find that:

22 (1) the health and safety of the public are affected by the degree of
23 compliance with and the effectiveness of enforcement activities related to
24 state nurse licensure laws;

25 (2) violations of nurse licensure and other laws regulating the
26 practice of nursing may result in injury or harm to the public;

1 (3) the expanded mobility of nurses and the use of advanced
2 communication technologies as part of our nation's health care delivery
3 system require greater coordination and cooperation among states in the areas
4 of nurse licensure and regulation;

5 (4) new practice modalities and technology make compliance with
6 individual state nurse licensure laws difficult and complex;

7 (5) the current system of duplicative licensure for nurses practicing
8 in multiple states is cumbersome and redundant for both nurses and states; and

9 (6) uniformity of nurse licensure requirements throughout the states
10 promotes public safety and public health benefits.

11 (b) The general purposes of this Compact are to:

12 (1) facilitate the states' responsibility to protect the public's health
13 and safety;

14 (2) ensure and encourage the cooperation of party states in the areas
15 of nurse licensure and regulation;

16 (3) facilitate the exchange of information between party states in the
17 areas of nurse regulation, investigation, and adverse actions;

18 (4) promote compliance with the laws governing the practice of
19 nursing in each jurisdiction;

20 (5) invest all party states with the authority to hold a nurse
21 accountable for meeting all state practice laws in the state in which the patient
22 is located at the time care is rendered through the mutual recognition of party
23 state licenses;

24 (6) decrease redundancies in the consideration and issuance of nurse
25 licenses; and

26 (7) provide opportunities for interstate practice by nurses who meet
27 uniform licensure requirements.

1 **§ 123A02. Definitions.**

2 As used in this Compact:

3 (a) *Adverse action* means any administrative, civil, equitable, or
4 criminal action permitted by a state’s laws which is imposed by a licensing
5 board or other authority against a nurse, including actions against an
6 individual’s license or multistate licensure privilege such as revocation,
7 suspension, probation, monitoring of the licensee, limitation on the licensee’s
8 practice, or any other encumbrance on licensure affecting a nurse’s
9 authorization to practice, including issuance of a cease and desist action.

10 (b) *Alternative program* means a non-disciplinary monitoring
11 program approved by a licensing board.

12 (c) *Coordinated licensure information system* means an integrated
13 process for collecting, storing, and sharing information on nurse licensure and
14 enforcement activities related to nurse licensure laws that is administered by
15 a nonprofit organization composed of and controlled by licensing boards.

16 (d) *Current significant investigative information* means:

17 (1) investigative information that a licensing board, after a
18 preliminary inquiry that includes notification and an opportunity for the
19 nurse to respond, if required by state law, has reason to believe is not
20 groundless and, if proved true, would indicate more than a minor
21 infraction; or

22 (2) investigative information that indicates that the nurse
23 represents an immediate threat to public health and safety regardless of
24 whether the nurse has been notified and had an opportunity to respond.

25 (e) *Encumbrance* means a revocation or suspension of, or any
26 limitation on, the full and unrestricted practice of nursing imposed by a
27 licensing board.

1 (f) *Home state* means the party state which is the nurse’s primary
2 state of residence.

3 (g) *Licensing board* means a party state’s regulatory body
4 responsible for issuing nurse licenses.

5 (h) *Multistate license* means a license to practice as a registered
6 nurse (RN) or a licensed practical/vocational nurse (LPN/VN) issued by a
7 home state licensing board that authorizes the licensed nurse to practice in all
8 party states under a multistate licensure privilege.

9 (i) *Multistate licensure privilege* means a legal authorization
10 associated with a multistate license permitting the practice of nursing as either
11 a registered nurse (RN) or a licensed practical/vocational nurse (LPN/VN) in
12 a remote state.

13 (j) *Nurse* means an RN or LPN/VN, as those terms are defined by
14 each party state’s practice laws.

15 (k) *Party state* means any state that has adopted this Compact.

16 (l) *Remote state* means a party state, other than the home state.

17 (m) *Single-state license* means a nurse license issued by a party state
18 that authorizes practice only within the issuing state and does not include a
19 multistate licensure privilege to practice in any other party state.

20 (n) *State* means a state, territory, or possession of the United States
21 and the District of Columbia.

22 (o) *State practice laws* means a party state’s laws, rules, and
23 regulations that govern the practice of nursing, define the scope of nursing
24 practice, and create the methods and grounds for imposing discipline. “State
25 practice laws” do not include requirements necessary to obtain and retain a
26 license, except for qualifications or requirements of the home state.

27 **§ 123A03. General Provisions and Jurisdiction.**

1 (a) A multistate license to practice registered or licensed
2 practical/vocational nursing issued by a home state to a resident in that state will be
3 recognized by each party state as authorizing a nurse to practice as a registered nurse
4 (RN) or as a licensed practical/vocational nurse (LPN/VN), under a multistate
5 licensure privilege, in each party state.

6 (b) A state must implement procedures for considering the criminal history
7 records of applicants for initial multistate license or licensure by endorsement. Such
8 procedures shall include the submission of fingerprints or other biometric-based
9 information by applicants for the purpose of obtaining an applicant's criminal
10 history record information from the Federal Bureau of Investigation and the agency
11 responsible for retaining that state's criminal records.

12 (c) Each party state shall require the following for an applicant to obtain or
13 retain a multistate license in the home state:

14 (1) meets the home state's qualifications for licensure or renewal of
15 licensure, as well as all other applicable state laws;

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

18 (B) has graduated from a foreign RN or LPN/VN prelicensure
19 education program that (i) has been approved by the authorized
20 accrediting body in the applicable country and (ii) has been verified by
21 an independent credentials review agency to be comparable to a
22 licensing board-approved prelicensure education program;

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

1 (4) has successfully passed an NCLEX-RN® or NCLEX-PN®
2 Examination or recognized predecessor, as applicable;

3 (5) is eligible for or holds an active, unencumbered license;

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

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

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

15 (9) is not currently enrolled in an alternative program;

16 (10) is subject to self-disclosure requirements regarding current
17 participation in an alternative program; and

18 (11) has a valid United States Social Security number.

19 (d) All party states shall be authorized, in accordance with existing state
20 due process law, to take adverse action against a nurse’s multistate licensure
21 privilege such as revocation, suspension, probation, or any other action that affects
22 a nurse’s authorization to practice under a multistate licensure privilege, including
23 cease and desist actions. If a party state takes such action, it shall promptly notify
24 the administrator of the coordinated licensure information system. The administrator
25 of the coordinated licensure information system shall promptly notify the home state
26 of any such actions by remote states.

1 (e) A nurse practicing in a party state must comply with the state practice
2 laws of the state in which the client is located at the time service is provided. The
3 practice of nursing is not limited to patient care but shall include all nursing practice
4 as defined by the state practice laws of the party state in which the client is located.
5 The practice of nursing in a party state under a multistate licensure privilege will
6 subject a nurse to the jurisdiction of the licensing board, the courts, and the laws of
7 the party state in which the client is located at the time service is provided.

8 (f) Individuals not residing in a party state shall continue to be able to apply
9 for a party state's single-state license as provided under the laws of each party state.
10 However, the single-state license granted to these individuals will not be recognized
11 as granting the privilege to practice nursing in any other party state. Nothing in this
12 Compact shall affect the requirements established by a party state for the issuance
13 of a single-state license.

14 (g) Any nurse holding a home state multistate license, on the effective date
15 of this Compact, may retain and renew the multistate license issued by the nurse's
16 then-current home state, provided that:

17 (1) A nurse who changes primary state of residence after this
18 Compact's effective date must meet all applicable § 123A03(c) requirements
19 to obtain a multistate license from a new home state.

20 (2) A nurse who fails to satisfy the multistate licensure requirements
21 in § 123A03(c) due to a disqualifying event occurring after this Compact's
22 effective date shall be ineligible to retain or renew a multistate license, and
23 the nurse's multistate license shall be revoked or deactivated in accordance
24 with applicable rules adopted by the Interstate Commission of Nurse
25 Licensure Compact Administrators (Commission).

26 **§ 123A04. Applications for Licensure in a Party State.**

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

8 (b) A nurse may hold a multistate license, issued by the home state, in only
9 one (1) party state at a time.

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

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

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

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

23 **§ 123A05. Additional Authorities Invested in Party State Licensing**
24 **Boards.**

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

1 (1) take adverse action against a nurse's multistate licensure
2 privilege to practice within that party state;

3 (A) only the home state shall have the power to take adverse
4 action against a nurse's license issued by the home state;

5 (B) for purposes of taking adverse action, the home state
6 licensing board shall give the same priority and effect to reported
7 conduct received from a remote state as it would if such conduct had
8 occurred within the home state. In so doing, the home state shall apply
9 its own state laws to determine appropriate action;

10 (2) issue cease and desist orders or impose an encumbrance on a
11 nurse's authority to practice within that party state;

12 (3) complete any pending investigations of a nurse who changes
13 primary state of residence during the course of such investigations. The
14 licensing board shall also have the authority to take appropriate action(s) and
15 shall promptly report the conclusions of such investigations to the
16 administrator of the coordinated licensure information system. The
17 administrator of the coordinated licensure information system shall promptly
18 notify the new home state of any such actions;

19 (4) issue subpoenas for both hearings and investigations that require
20 the attendance and testimony of witnesses, as well as the production of
21 evidence. Subpoenas issued by a licensing board in a party state for the
22 attendance and testimony of witnesses or the production of evidence from
23 another party state shall be enforced in the latter state by any court of
24 competent jurisdiction, according to the practice and procedure of that court
25 applicable to subpoenas issued in proceedings pending before it. The issuing
26 authority shall pay any witness fees, travel expenses, mileage, and other fees

1 required by the service statutes of the state in which the witnesses or evidence
2 are located;

3 (5) obtain and submit, for each nurse licensure applicant, fingerprint
4 or other biometric-based information to the Federal Bureau of Investigation
5 for criminal background checks, receive the results of the Federal Bureau of
6 Investigation record search on criminal background checks, and use the results
7 in making licensure decisions;

8 (6) if otherwise permitted by state law, recover from the affected
9 nurse the costs of investigations and disposition of cases resulting from any
10 adverse action taken against that nurse; and

11 (7) take adverse action based on the factual findings of the remote
12 state; provided, that the licensing board follows its own procedures for taking
13 such adverse action.

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

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

25 **§ 123A06. Coordinated Licensure Information System and Exchange of**
26 **Information.**

1 (a) All party states shall participate in a coordinated licensure information
2 system of all licensed registered nurses (RNs) and licensed practical/vocational
3 nurses (LPNs/VNs). This system will include information on the licensure and
4 disciplinary history of each nurse, as submitted by party states, to assist in the
5 coordination of nurse licensure and enforcement efforts.

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

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

15 (d) Current significant investigative information and participation in
16 nonpublic or confidential alternative programs shall be transmitted through the
17 coordinated licensure information system only to party state licensing boards.

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

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

1 (g) Any information contributed to the coordinated licensure information
2 system that is subsequently required to be expunged by the laws of the party state
3 contributing that information shall also be expunged from the coordinated licensure
4 information system.

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

8 (1) identifying information;

9 (2) licensure data;

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

11 (4) other information that may facilitate the administration of this

12 Compact, as determined by Commission rules.

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

15 **§ 123A07. Establishment of the Interstate Commission of Nurse**
16 **Licensure Compact Administrators.**

17 (a) The party states hereby create and establish a joint public entity known
18 as the Interstate Commission of Nurse Licensure Compact Administrators
19 (Commission).

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

21 (2) Venue is proper, and judicial proceedings by or against the
22 Commission shall be brought solely and exclusively, in a court of competent
23 jurisdiction where the principal office of the Commission is located. The
24 Commission may waive venue and jurisdictional defenses to the extent it
25 adopts or consents to participate in alternative dispute resolution proceedings.

26 (3) Nothing in this Compact shall be construed to be a waiver of
27 sovereign immunity.

1 (b) Membership, Voting, and Meetings.

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

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

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

18 (4) All meetings shall be open to the public, and public notice of
19 meetings shall be given in the same manner as required under the rulemaking
20 provisions in § 123A08 of this Article.

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

23 (A) noncompliance of a party state with its obligations under
24 this Compact;

25 (B) the employment, compensation, discipline or other
26 personnel matters, practices or procedures related to specific

1 employees, or other matters related to the Commission's internal
2 personnel practices and procedures;

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

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

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

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

10 (G) disclosure of information of a personal nature where
11 disclosure would constitute a clearly unwarranted invasion of personal
12 privacy;

13 (H) disclosure of investigatory records compiled for law
14 enforcement purposes;

15 (I) disclosure of information related to any reports prepared
16 by or on behalf of the Commission for the purpose of investigation of
17 compliance with this Compact; or

18 (J) matters specifically exempted from disclosure by federal
19 or state statute.

20 (6) If a meeting, or portion of a meeting, is closed pursuant to this
21 provision, the Commission's legal counsel or designee shall certify that the
22 meeting may be closed and shall reference each relevant exempting provision.
23 The Commission shall keep minutes that fully and clearly describe all matters
24 discussed in a meeting and shall provide a full and accurate summary of
25 actions taken, and the reasons therefor, including a description of the views
26 expressed. All documents considered in connection with an action shall be
27 identified in such minutes. All minutes and documents of a closed meeting

1 shall remain under seal, subject to release by a majority vote of the
2 Commission or order of a court of competent jurisdiction.

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

7 (1) establishing the fiscal year of the Commission;

8 (2) providing reasonable standards and procedures:

9 (A) for the establishment and meetings of other committees;

10 and

11 (B) governing any general or specific delegation of any
12 authority or function of the Commission;

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

23 (4) establishing the titles, duties, and authority, and reasonable
24 procedures for the election of the officers of the Commission;

25 (5) providing reasonable standards and procedures for the
26 establishment of the personnel policies and programs of the Commission.
27 Notwithstanding any civil service or other similar laws of any party state, the

1 bylaws shall exclusively govern the personnel policies and programs of the
2 Commission; and

3 (6) providing a mechanism for winding up the operations of the
4 Commission and the equitable disposition of any surplus funds that may exist
5 after the termination of this Compact after the payment or reserving of all its
6 debts and obligations.

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

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

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

13 (g) The Commission shall have the following powers:

14 (1) to promulgate uniform rules to facilitate and coordinate the
15 implementation and administration of this Compact; and the rules shall have
16 the force and effect of law and shall be binding in all party states;

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

20 (3) to purchase and maintain insurance and bonds;

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

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

26 (6) to hire employees, elect or appoint officers, fix compensation,
27 define duties, grant such individuals appropriate authority to carry out the

1 purposes of this Compact, and to establish the Commission's personnel
2 policies and programs relating to conflicts of interest, qualifications of
3 personnel, and other related personnel, matters;

4 (7) to accept any and all appropriate donations, grants and gifts of
5 money, equipment, supplies, materials and services, and to receive, utilize,
6 and dispose of the same; provided, that at all times the Commission shall avoid
7 any appearance of impropriety or conflict of interest;

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

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

14 (10) to establish a budget and make expenditures;

15 (11) to borrow money;

16 (12) to appoint committees, including advisory committees
17 comprised of administrators, state nursing regulators, state legislators or their
18 representatives, and consumer representatives, and other such interested
19 persons;

20 (13) to provide and receive information from, and to cooperate with,
21 law enforcement agencies;

22 (14) to adopt and use an official seal; and

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

26 (h) Financing of the Commission.

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

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

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

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

20 (i) Qualified Immunity, Defense, and Indemnification.

21 (1) The administrators, officers, executive director, employees, and
22 representatives of the Commission shall be immune from suit and liability,
23 either personally or in their official capacity, for any claim for damage to or
24 loss of property or personal injury or other civil liability caused by or arising
25 out of any actual or alleged act, error or omission that occurred, or that the
26 person against whom the claim is made had a reasonable basis for believing
27 occurred, within the scope of Commission employment, duties, or

1 responsibilities; provided, that nothing in this Subsection shall be construed
2 to protect any such person from suit or liability for any damage, loss, injury,
3 or liability caused by the intentional, willful or wanton misconduct of that
4 person.

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

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

24 **§ 123A08. Rulemaking.**

25 (a) The Commission shall exercise its rulemaking powers pursuant to the
26 criteria set forth in this Article and the rules adopted thereunder. Rules and

1 amendments shall become binding as of the date specified in each rule or amendment
2 and shall have the same force and effect as provisions of this Compact.

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

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

9 (1) on the website of the Commission; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

26 (2) prevent a loss of Commission or party state funds; or

1 (3) meet a deadline for the promulgation of an administrative rule
2 that is required by federal law or rule.

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

13 **§ 123A09. Oversight, Dispute Resolution, and Enforcement.**

14 (a) Oversight.

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

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

23 (b) Default, Technical Assistance, and Termination.

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

1 (A) provide written notice to the defaulting state and other
2 party states of the nature of the default, the proposed means of curing
3 the default or any other action to be taken by the Commission; and

4 (B) provide remedial training and specific technical assistance
5 regarding the default.

6 (2) If a state in default fails to cure the default, the defaulting state's
7 membership in this Compact may be terminated upon an affirmative vote of a
8 majority of the administrators, and all rights, privileges, and benefits
9 conferred by this Compact may be terminated on the effective date of
10 termination. A cure of the default does not relieve the offending state of
11 obligations or liabilities incurred during the period of default.

12 (3) Termination of membership in this Compact shall be imposed
13 only after all other means of securing compliance have been exhausted. Notice
14 of intent to suspend or terminate shall be given by the Commission to the
15 governor of the defaulting state and to the executive officer of the defaulting
16 state's licensing board and each of the party states.

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

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

25 (6) The defaulting state may appeal the action of the Commission by
26 petitioning the U.S. District Court for the District of Columbia or the federal
27 district in which the Commission has its principal offices. The prevailing party

1 shall be awarded all costs of such litigation, including reasonable attorneys'
2 fees.

3 (c) Dispute Resolution.

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

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

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

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

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

18 (d) Enforcement.

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

21 (2) By majority vote, the Commission may initiate legal action in the
22 U.S. District Court for the District of Columbia or the federal district in which
23 the Commission has its principal offices against a party state that is in default
24 to enforce compliance with the provisions of this Compact and its
25 promulgated rules and bylaws. The relief sought may include both injunctive
26 relief and damages. In the event judicial enforcement is necessary, the

1 prevailing party shall be awarded all costs of such litigation, including
2 reasonable attorneys' fees.

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

6 **§ 123A10. Effective Date, Withdrawal, and Amendment.**

7 (a) This Compact shall become effective and binding on the earlier of the
8 date of legislative enactment of this Compact into law by no less than twenty-six
9 (26) states or December 31, 2018. All party states to this Compact, that also were
10 parties to the prior Nurse Licensure Compact, superseded by this Compact, ("Prior
11 Compact"), shall be deemed to have withdrawn from said Prior Compact within six
12 (6) months after the effective date of this Compact.

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

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

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

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

1 (f) This Compact may be amended by the party states. No amendment to
2 this Compact shall become effective and binding upon the party states unless and
3 until it is enacted into the laws of all party states.

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

7 **§ 123A11. Construction and Severability.**

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

18 **Section 2.** A new § 12307(d) of Article 3, Part 1, Chapter 12, Title 10, Guam
19 Code Annotated, is hereby *added* to read:

20 “(d) The Board shall facilitate the multistate licensure of nurses under
21 the Nurse Licensure Compact (Article 3A, Part 1, Chapter 12, 10 GCA), as
22 follows:

23 (1) appoint a qualified delegate to serve on the Interstate
24 Commission of Nurse Licensure Compact Administrators;

25 (2) participate in the Coordinated Licensure Information
26 System, as defined by 10 GCA § 123A06; and

1 (3) require an applicant for multistate licensure under the
2 Compact to have his or her fingerprints taken by the Guam Police
3 Department for the purpose of obtaining a fingerprint-based criminal
4 history record check, as authorized by 28 CFR § 20.33 and U.S. Public
5 Law 92-544.

6 (A) Fingerprints shall be submitted to the Guam Police
7 Department (Department) for a local criminal history check and
8 forwarded to the Federal Bureau of Investigation for a national
9 criminal history check.

10 (B) All applicants shall pay a fee, to be established by
11 the Department, to offset the costs of operating and administering
12 a fingerprint-based criminal background check system. The
13 Department may increase the fee accordingly if the Federal
14 Bureau of Investigation increases its fingerprint background
15 check service fee.

16 (C) The Department shall forward the results of the
17 criminal history record check to the Guam Board of Nursing
18 Examiners under said U.S. Public Law 92-544. The Board shall
19 use the information resulting from the fingerprint-based criminal
20 history record check to investigate and determine whether an
21 applicant is qualified to hold a license pursuant to the Nurse
22 Licensure Compact. The Board may verify the information an
23 applicant is required to submit. The results of the criminal history
24 record check are confidential. The Board shall not release the
25 results to the public, the Interstate Commission of Nurse
26 Licensure Compact Administrators, or other state licensing
27 boards.

1 (4) The Board shall establish and collect fees from every
2 applicant for multistate licensure pursuant to § 12308 of this Article.
3 Funds from such fees may be used for the annual membership fee of
4 the Nurse Licensure Compact.

5 (5) The Board shall notify the Interstate Commission of Nurse
6 Licensure Compact Administrators of any adverse actions taken by the
7 Board.

8 (6) The Board shall approve payment of assessments levied
9 by the Interstate Commission of Nurse Licensure Compact
10 Administrators to cover the cost of the operations and activities of the
11 Commission and its staff.”

12 **Section 3. Appropriation.** Notwithstanding any other provision of law,
13 or rule or regulation, the sum of Six Thousand Dollars (\$6,000) is appropriated from
14 the fees generated through the Guam Board of Nurse Examiners that are deposited
15 in the Health Professional Licensing Office Revolving Fund (Account No.
16 324156344) to the Department of Public Health and Social Services to fund the
17 annual membership fee to the Nurse Licensure Compact in Fiscal Year 2022.

18 **Section 4. Reporting Requirement.** Upon the implementation of the Nurse
19 Licensure Compact, and quarterly thereafter, the Guam Board of Nurse Examiners
20 (GBNE) shall report to the Department of Public Health and Social Services Health
21 Professional Licensing Office (DPHSS HPLO) the number of nurses who hold a
22 multistate nurse license issued by the GBNE and the number of nurses licensed by
23 other Nurse Licensure Compact jurisdictions who are employed or privileged by a
24 hospital or clinic on Guam. The DPHSS HPLO shall forward a copy of the reports
25 to the Speaker of *I Liheslaturan Guåhan* no later than five (5) business days upon
26 receipt.

1 **Section 5. Annual Fiscal Impact Report.** The Guam Board of Nurse
2 Examiners shall provide an annual fiscal impact report of licensure fee revenues and
3 annual operating expenditures associated with the Nurse Licensure Compact
4 membership to the Speaker of *I Liheslaturan Guåhan*, which shall be submitted one
5 (1) full year after the implementation of the Nurse Licensure Compact and annually
6 thereafter.

7 **Section 6. Effective Date.** This Act shall be effective upon enactment.

8 **Section 7. Severability.** If any provision of this Act or its application to any
9 person or circumstance is found to be invalid or contrary to law, such invalidity shall
10 not affect other provisions or applications of this Act that can be given effect without
11 the invalid provision or application, and to this end the provisions of this Act are
12 severable.