

I Mina'trentai Singko Na Liheslaturan Guåhan
BILL STATUS

BILL NO.	SPONSOR	TITLE	DATE INTRODUCED	DATE REFERRED	CMTE REFERRED	PUBLIC HEARING DATE	DATE COMMITTEE REPORT FILED	FISCAL NOTES	NOTES
239-35 (COR)	Mary Camacho Torres Tina Rose Muña Barnes	AN ACT TO ADD A NEW ARTICLE 3A TO CHAPTER 12 OF TITLE 10 GUAM CODE ANNOTATED, RELATIVE TO ADOPTING THE NURSE LICENSURE COMPACT; AND TO ADD A NEW SUBSECTION D TO SECTION 12307 OF CHAPTER 12 OF 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.	11/6/19 5:08 p.m.						

I MINA'TRENTAI SINGKO NA LIHESLATURAN GUÅHAN
2019 (FIRST) Regular Session

Bill No. **239**-35 (COR)

Introduced by:

Mary Camacho Torres *MCY*
Tina Muña Barnes *T*

AN ACT TO ADD A NEW ARTICLE 3A TO CHAPTER 12 OF TITLE 10 GUAM CODE ANNOTATED, RELATIVE TO ADOPTING THE NURSE LICENSURE COMPACT; AND TO ADD A NEW SUBSECTION D TO SECTION 12307 OF CHAPTER 12 OF 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.

2019 NOV -6 PM 5:08 *HT*

BE IT ENACTED BY THE PEOPLE OF GUAM:

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

“Article 3A

Adoption of Nurse Licensure Compact Act

§ 123A01. Findings and Declaration of Purpose.

§ 123A02. Definitions.

§ 123A03. General Provisions and Jurisdiction.

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

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

1 § 123A06. Coordinated Licensure Information System and Exchange
2 of Information.

3 § 123A07. Establishment of the Interstate Commission of Nurse
4 Licensure Compact Administrators.

5 § 123A08. Rulemaking.

6 § 123A09. Oversight Dispute Resolution and Enforcement.

7 § 123A10. Effective Date, Withdrawal and Amendment.

8 § 123A11. Construction and Severability.

9
10 **§123A01. Findings and Declaration of Purpose.**

11 (a) The party states find that:

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

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

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

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

23 (5) The current system of duplicative licensure for nurses practicing
24 in multiple states is cumbersome and redundant for both nurses and states; and

25 (6) Uniformity of nurse licensure requirements throughout the states
26 promotes public safety and public health benefits.

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

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

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

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

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

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

13 (6) Decrease redundancies in the consideration and issuance of nurse
14 licenses; and

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

17 **§123A02. Definitions.** As used in this Compact:

18 (a) *Adverse action* means any administrative, civil, equitable or criminal
19 action permitted by a state's laws which is imposed by a licensing board or other
20 authority against a nurse, including actions against an individual's license or
21 multistate licensure privilege such as revocation, suspension, probation, monitoring
22 of the licensee, limitation on the licensee's practice, or any other encumbrance on
23 licensure affecting a nurse's authorization to practice, including issuance of a cease
24 and desist action.

25 (b) *Alternative program* means a non-disciplinary monitoring program
26 approved by a licensing board(d)

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

5 (d) Current significant investigative information means:

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

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

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

15 (f) Home state means the party state which is the nurse's primary state of
16 residence.

17 (g) Licensing board means a party state's regulatory body responsible for
18 issuing nurse licenses.

19 (h) Multistate license means a license to practice as a registered or a
20 licensed practical/vocational nurse (LPN/VN) issued by a home state licensing board
21 that authorizes the licensed nurse to practice in all party states under a multistate
22 licensure privilege.

23 (i) Multistate licensure privilege means a legal authorization associated
24 with a multistate license permitting the practice of nursing as either a registered nurse
25 (RN) or LPN/VN in a remote state.

26 (j) Nurse means RN or LPN/VN, as those terms are defined by each party
27 state's practice laws.

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

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

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

6 (n) State means a state, territory or possession of the United States and the
7 District of Columbia.

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

13 **§123A03. General Provisions and Jurisdiction.**

14 (a) A multistate license to practice registered or licensed
15 practical/vocational nursing issued by a home state to a resident in that state will be
16 recognized by each party state as authorizing a nurse to practice as a registered nurse
17 (RN) or as a licensed practical/vocational nurse (LPN/VN), under a multistate
18 licensure privilege, in each party state.

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

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

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

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

5 (B) Has graduated from a foreign RN or LPN/VN prelicensure
6 education program that (a) has been approved by the authorized
7 accrediting body in the applicable country and (b) has been verified by
8 an independent credentials review agency to be comparable to a
9 licensing board-approved prelicensure education program;

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

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

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

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

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

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

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

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

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

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

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

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

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

4 (1) A nurse, who changes primary state of residence after this
5 Compact’s effective date, must meet all applicable §123A03€ requirements to
6 obtain a multistate license from a new home state.

7 (2) A nurse who fails to satisfy the multistate licensure requirements
8 in §123A03€ due to a disqualifying event occurring after this Compact’s
9 effective date shall be ineligible to retain or renew a multistate license, and
10 the nurse’s multistate license shall be revoked or deactivated in accordance
11 with applicable rules adopted by the Interstate Commission of Nurse
12 Licensure Compact Administrators (“Commission”).

13 **§123A04. Applications for Licensure in a Party State**

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

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

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

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

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

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

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

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

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

16 (A) Only the home state shall have the power to take adverse
17 action against a nurse's license issued by the home state.

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

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

25 (3) Complete any pending investigations of a nurse who changes
26 primary state of residence during the course of such investigations. The
27 licensing board shall also have the authority to take appropriate action(s) and

1 shall promptly report the conclusions of such investigations to the
2 administrator of the coordinated licensure information system. The
3 administrator of the coordinated licensure information system shall promptly
4 notify the new home state of any such actions.

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

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

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

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

26 (b) If adverse action is taken by the home state against a nurse's multistate
27 license, the nurse's multistate licensure privilege to practice in all other party states

1 shall be deactivated until all encumbrances have been removed from the multistate
2 license. All home state disciplinary orders that impose adverse action against a
3 nurse's multistate license shall include a statement that the nurse's multistate
4 licensure privilege is deactivated in all party states during the pendency of the order.

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

10 **§123A06. Coordinated Licensure Information System and Exchange of**
11 **Information.**

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

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

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

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

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

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

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

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

20 (1) Identifying information;

21 (2) Licensure data;

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

23 (4) Other information that may facilitate the administration of this

24 Compact, as determined by Commission rules.

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

1 §123A07. Establishment of the Interstate Commission of Nurse
2 Licensure Compact Administrators.

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

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

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

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

13 (b) Membership, Voting and Meetings

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

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

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

4 (4) All meetings shall be open to the public, and public notice of
5 meetings shall be given in the same manner as required under the rulemaking
6 provisions in 10 GCA §123A08.

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

9 (A) Noncompliance of a party state with its obligations under
10 this Compact;

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

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

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

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

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

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

25 (H) Disclosure of investigatory records compiled for law
26 enforcement purposes;

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

4 (J) Matters specifically exempted from disclosure by federal
5 or state statute.

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

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

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

21 (2) Providing reasonable standards and procedures:

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

23 and

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

26 (3) Providing reasonable procedures for calling and conducting
27 meetings of the Commission, ensuring reasonable advance notice of all

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

4 (11) To borrow money;

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

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

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

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

15 (h) Financing of the Commission

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

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

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

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

8 (i) Qualified Immunity, Defense and Indemnification

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

20 (2) The Commission shall defend any administrator, officer,
21 executive director, employee or representative of the Commission in any civil
22 action seeking to impose liability arising out of any actual or alleged act, error
23 or omission that occurred within the scope of Commission employment,
24 duties or responsibilities, or that the person against whom the claim is made
25 had a reasonable basis for believing occurred within the scope of Commission
26 employment, duties or responsibilities; provided that nothing herein shall be
27 construed to prohibit that person from retaining his or her own counsel; and

1 provided further that the actual or alleged act, error or omission did not result
2 from that person's intentional, willful or wanton misconduct.

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

12 **§123A08. Rulemaking.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 **§123A09. Oversight, Dispute Resolution and Enforcement**

2 (a) Oversight

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

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

11 (b) Default, Technical Assistance and Termination

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

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

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

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

26 (3) Termination of membership in this Compact shall be imposed
27 only after all other means of securing compliance have been exhausted. Notice

1 of intent to suspend or terminate shall be given by the Commission to the
2 governor of the defaulting state and to the executive officer of the defaulting
3 state's licensing board and each of the party states.

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

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

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

17 (c) Dispute Resolution

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

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

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

25 (A) The party states may submit the issues in dispute to an
26 arbitration panel, which will be comprised of individuals appointed by
27 the Compact administrator in each of the affected party states and an

1 individual mutually agreed upon by the Compact administrators of all
2 the party states involved in the dispute.

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

5 (d) Enforcement

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

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

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

19 **§123A10. Effective Date, Withdrawal and Amendment.**

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

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

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

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

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

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

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

21 **§123A11. Construction and Severability.**

22 This Compact shall be liberally construed so as to effectuate the purposes
23 thereof. The provisions of this Compact shall be severable, and if any phrase, clause,
24 sentence or provision of this Compact is declared to be contrary to the constitution
25 of any party state or of the United States, or if the applicability thereof to any
26 government, agency, person or circumstance is held invalid, the validity of the
27 remainder of this Compact and the applicability thereof to any government, agency,

1 person or circumstance shall not be affected thereby. If this Compact shall be held
2 to be contrary to the constitution of any party state, this Compact shall remain in full
3 force and effect as to the remaining party states and in full force and effect as to the
4 party state affected as to all severable matters.”

5 **Section 2.** Multistate licensure under Article 13A, Chapter 12, Title 10
6 Guam Code Annotated, shall not apply to graduates of the University of Guam
7 School of Health until they have been licensed for two (2) years on Guam.

8 **Section 3.** A new subsection (d) is hereby *added* to §12307 of Chapter 12,
9 Title 10 Guam Code Annotated to read:

10 “(d) The Board shall facilitate the multistate licensure of nurses under the
11 Nurse Licensure Compact, Article 13A of Chapter 12, Title 10 Guam Code
12 Annotated, as follows:

13 (1) Appoint a qualified delegate to serve on the interstate
14 Commission of Nurse Licensure Compact Administrators;

15 (2) Participate in the Coordinated Licensure Information System, as
16 defined §123A06;

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

21 (A) Fingerprints, shall be submitted to the Guam Police
22 Department (“Department”) for a local criminal history check and
23 forwarded to the Federal Bureau of Investigation for a national criminal
24 history check.

25 (B) All applicants, shall pay a fee to be established by the
26 Department, to offset the costs of operating and administering a
27 fingerprint-based criminal background check system. The Department

1 may increase the fee accordingly if the Federal Bureau of Investigation
2 increases its fingerprint background check service fee.

3 (C) The Department shall forward the results of the criminal
4 history record check to the Guam Board of Nursing Examiners under
5 said U.S. Public Law 92-544. The board shall use the information
6 resulting from the fingerprint-based criminal history record check to
7 investigate and determine whether an applicant is qualified to hold a
8 license pursuant to the Compact. The board may verify the information
9 an applicant is required to submit. The results of the criminal history
10 record check are confidential. The board shall not release the results to
11 the public, the Interstate Commission of Nurse Licensure Compact
12 Administrators, or other State Licensing Boards.

13 (4) Establish and collect fees from every applicant for multistate
14 licensure pursuant to § 12308 of Chapter 12, Title 10 Guam Code Annotated.
15 Funding from such fees may be used to fund the annual membership fee to
16 the Nurse Licensure Compact.

17 (5) Notify the Interstate Commission of Nurse Licensure Compact
18 Administrators of any adverse action taken by the Board; and

19 (6) Approve payment of assessments levied by the Interstate
20 Commission of Nurse Licensure Compact Administrators to cover the cost of
21 the operations and activities of the commission and its staff.”

22 **Section 4. Effective Date.** This Act shall take effect immediately upon
23 enactment.

24 **Section 5. Severability.** If any provision of this Act or its application to any
25 person or circumstance is held invalid, the invalidity does not affect other provisions
26 or applications of this Act which can be given effect without the invalid provision
27 or application, and to this end the provisions of this Act are severable.