

The Enhanced Nurse Licensure Compact



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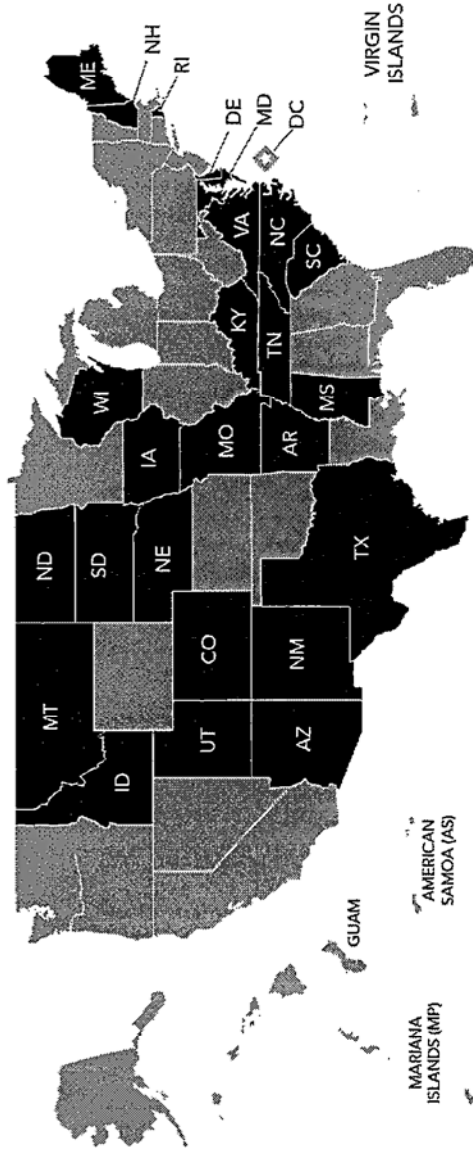
Unlocking Access to Nursing Care Across the Nation

What is the Nurse Licensure Compact?

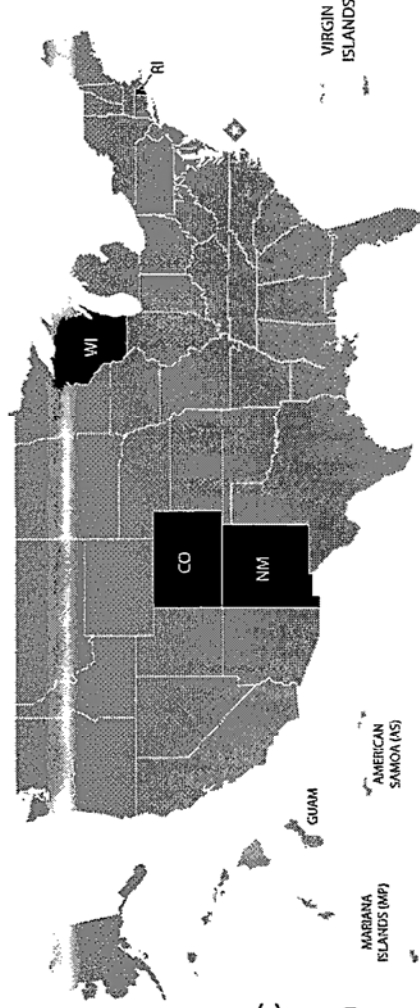
The NLC is an interstate compact. It authorizes a nurse holding one multistate license in the primary state of residence to practice (physically or via telehealth) in any compact state.



Original NLC – Current Status



Original NLC -- Starting Jan 19, 2018



NOTE:
RI and CO will introduce eNLC legislation in 2018; WI did in Sept 2017).



■ Current NLC States
■ Non-NLC States

Effective vs. Implementation Dates

- Effective date is whenever the 26th state enacts the eNLC (July 20, 2017)
- Implementation date (Jan 19, 2018)

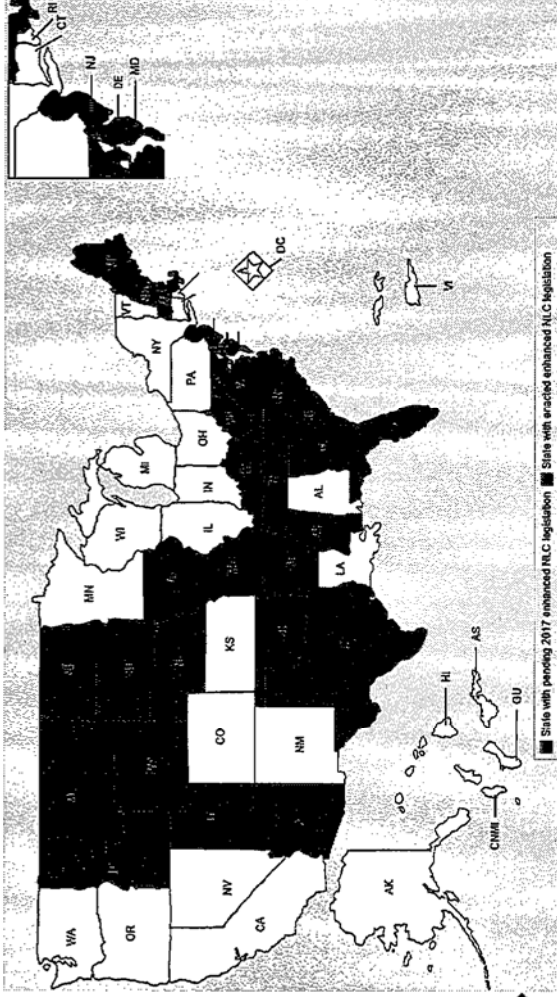


Where are We Today with the eNLC?

- 2016:
- 10 states enacted eNLC
- 2017:
- 16 states enacted eNLC (AR, DE, GA, IA, KY, MD, ME, MS, MT, NC, NE, ND, SC, UT, TX, WV)
 - 2 states currently pending (MA, NJ)



Enhanced NLC – Current Status



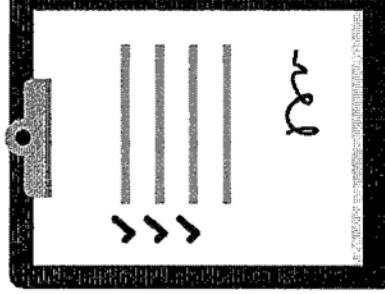
A graphic view of the information in the preceding slide...



What's Different in the enhanced NLC?



11 Uniform Licensure Requirements



To receive a **multistate** license, a nurse must:

- 1) Meet the home state's qualifications
- 2) Graduate from qualifying education program (or graduated from a foreign program verified by independent credentials review agency)
- 3) Pass the NCLEX-RN® or NCLEX-PN® exam (or predecessor)



Uniform Licensure Requirements (Continued)

To receive a multistate license, a nurse must:

- 4) Have no active discipline on a license
- 5) Submit to a federal criminal background check
- 6) Not be currently enrolled in an alternative program
- 7) Have a valid U.S. Social Security number



Uniform Licensure Requirements (Continued)

To receive a multistate license, a nurse must:

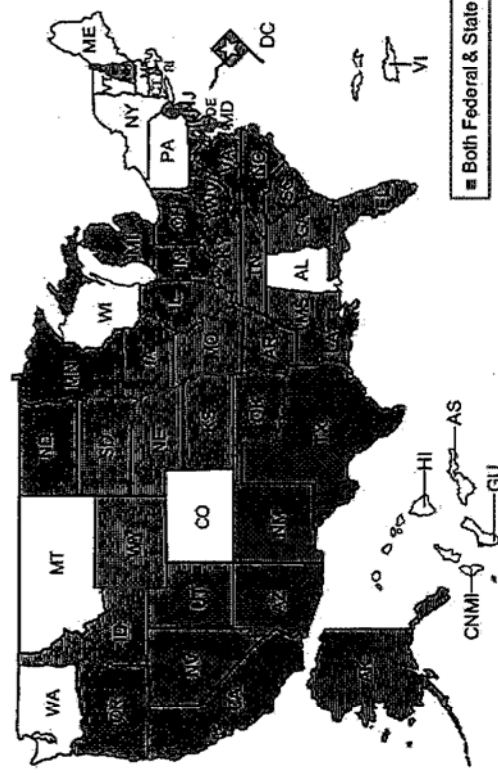
- 8) Self-disclose participation in an alternative program
- 9) Have no misdemeanors related to practice of nursing
- 10) Passed English proficiency exam if foreign grad
- 11) Have no prior state or federal felony convictions

- NOTE: A nurse who does not meet a requirement may receive a single state license.



Prevalence of Criminal Background Checks (CBCs)

Map shows 12 states without a CBC requirement. Maine and Montana will have CBC requirements in the eNLC. That leaves 10 states without.



Grandfathering

- Nurses in original NLC states (that enacted the eNLC) holding a multistate license on the July 20, 2017 effective date will be grandfathered into the eNLC:
- They won't have to meet the requirements for an eNLC multistate license.
- Nurses issued a multistate license after July 20, 2017 will be required to meet the eNLC multistate license requirements.



Rulemaking

- Rules adopted directly by the Commission
 - NOTE: Rules are limited to the implementation and operations of the compact and multistate licensure.
 - No requirement that rules be or adopted by individual states



NLC supporters across the U.S.

Air & Surface Transport Nurses Association	American Academy of Ambulatory Care Nursing	American Association of Colleges of Nursing
American Association of Neuroscience Nurses	American Association of Occupational Health Nurses (AAOHN)	American Association of Poison Control Centers
American Nephrology Nurses Association	American Organization of Nurse Executives (AONE)	American Telemedicine Association (ATA)
Association of Camp Nurses	Association for Vascular Access	Case Management Society of America (CMSA)
Center for Telehealth and E-Health Law	CGFNS International, Inc.	Citizen Advocacy Center (CAC)
Commission for Case Manager Certification	Emergency Nurses Association (ENA)	Health IT Now
National Military Family Association	National Governors Association Center for Best Practices	National League for Nursing
National Patient Safety Foundation	Oncology Nursing Society	Optum
Organization for Associate Degree Nursing	Population Health Alliance	Telehealth Leadership Council
U.S. Department of Commerce		



Other Interstate Licensure Compacts for Healthcare Professions: Insight into the Future of Licensure

Compacts in Progress

- 1) Nursing (RN/LPN)
- 2) Nursing (APRN)
- 3) Physicians
- 4) Physical Therapists
- 5) Emergency Medical Technicians
- 6) Psychologists

Compacts Under Development or Being Considered

- 1) Occupational Therapists
- 2) Speech Pathologists
- 3) Audiologists
- 4) Nutritionists
- 5) Dietitians
- 6) Physician Assistants
- 7) Social Workers
- 8) Athletic Trainers



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FAQs

Why is there an enhanced compact?

The current compact plateaued at 25 member states. Some enhancements were needed for other states to consider joining. Things like a social security number, criminal background check and graduation from nursing school.

What is the difference between the current nurse licensure compact and the enhanced compact?

The enhanced compact requires that applicants:

1. Meets the requirements for licensure in the home state (state of residency);
2. a. Has graduated from a board-approved education program; or
- b. Has graduated from an international education program (approved by the authorized accrediting body in the applicable country and verified by an independent credentials review agency);
3. Has passed an English proficiency examination (applies to graduates of an international education program not taught in English or if English is not the individual's native language);
4. Has passed an NCLEX-RN® or NCLEX-PN® Examination or predecessor exam;
5. Is eligible for or holds an active, unencumbered license (i.e., without active discipline);
6. Has submitted to state and federal fingerprint-based criminal background checks;
7. Has no state or federal felony convictions;
8. Has no misdemeanor convictions related to the practice of nursing (determined on a case-by-case basis);
9. Is not currently a participant in an alternative program;
10. Is required to self-disclose current participation in an alternative program; and
11. Has a valid United States Social Security number.

What is happening with the nurse licensure compact?

Twenty one of the compact states will leave the current compact. They are separating from the current compact to form a new compact which is effective on January 19, 2018. Each of the four states left (NM, RI, WI, CO) in the current compact will only have legal authority to recognize the multistate privilege of RNs and LPNs from the other three states.

Examples: A nurse with a multistate privilege from Texas will need to have a New Mexico nursing license on January 20, while a nurse from Colorado will not need a new license. Conversely, a New Mexico nurse working in Texas will need a Texas license.

Why hasn't the Board of Nursing said/done anything about this?

The Board of Nursing has done a great deal to educate nurses and nursing organizations about this.

The Board of Nursing Newsletter, Nursing News and Views, which is sent to all New Mexico nurses published full page features of this issue in the Fall 2015, Summer 2016 and Summer 2017 issues and also mentioned it in the Spring 2016 and Spring 2017 issues.

For the purpose of discussing the nurse licensure compacts, the Board of Nursing invited and met with the representatives from the New Mexico Nurses Association, the New Mexico Nurse Practitioner Society, and the New Mexico Association of Nurse Anesthetists on May 20, 2016.

The Board discussed the nurse licensure compact at multiple public meetings: August 2015; February 2016; June 2016; August 2016; August 2017

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In the spring of 2016 the Board sent the legislation to the NM Nurse Education Consortium, The NM Center for Nursing Excellence; The Certified Nurse Midwife Advisory Council, The NM Hospital Association, The NM organizations of Nurse Leaders, The NM Nurse Practitioner Council, The New Mexico Nurses Association, and the NM Association of Nurse Anesthetists. The Board of Nursing hosted the national director of the Nurse Licensure Compact at the National Hispanic Cultural Center and invited the states' nursing organizations.

Why hasn't the New Mexico Legislature done anything about this.

This policy was voted on by the delegate assembly of the National Council of State Boards of Nursing in August of 2015, and in about 18 month twenty six states passed the exact same legislation. That is a remarkable and unprecedented feat of political cooperation rarely seen in the US these days. Most of these states have legislatures that meet more frequently than the New Mexico volunteer legislature.

Regarding multistate privilege, will nurses be grandfathered?

No. There is no grandfathering for this transition. A nurse needs to be appropriately licensed in the jurisdiction where they are practicing on January 19, 2018.

The eNLC has other grandfathering clauses. If New Mexico enacts the eNLC will those go into effect?

No. Those grandfathering clauses were only applicable to those nurses who had a multistate privilege when the eNLC was enacted on July 20, 2017. New Mexico nurses with a felony will not be able to have multistate privilege in the enhanced compact, but will still be eligible for a single state license.

Can a Texas nurse get a New Mexico license?

Yes. Any nurse from the 21 states leaving the current compact can apply for a New Mexico nursing license now. The instructions for the RN or LPN Endorsement application are on the BON website.

Can a Colorado, Wisconsin or Rhode Island nurse get a New Mexico license?

No. New Mexico will still be in a compact with these states and their home state license will still be valid in New Mexico until such a time that New Mexico or that state leaves the current compact.

What can a nurse do about this?

Understand that no policy changed in New Mexico, only in those states that are leaving. You have not been left out of the decision making process; it simply has not been started in New Mexico. You have an opportunity now, to notify your legislators and let them know how you would like them to represent your interests in this matter. The Board of Nursing has no authority to enter into an interstate compact, that authority rests with the New Mexico legislature, which has not introduced a bill related to the enhanced nurse licensure compact. You can find out who your legislators are and their contact information on the New Mexico legislature website by entering your address.

Why did Governor Martinez veto the compact?

She didn't. That is an untrue rumor. The New Mexico legislature has never presented a bill to Governor Martinez related to the nurse licensure compact. Governor Martinez has made the healthcare workforce a priority for her administration and has advocated for New Mexican nurses and advanced practice nurses in both policy and the media.

I've heard the new compact will give broad subpoena power to Boards of Nursing.

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

Here is an example of the current practice: A Texas nurse smacks a New Mexico patient in New Mexico. The NM BON begins an investigation. The Texas nurse returns to Texas. I have no jurisdiction to issue a subpoena to that nurse in Texas for her hearing, so I ask the Texas BON of nursing to issue it. They may or may not do so. They are not obligated. Even if they do issue the subpoena, they nurse may ignore it because I can't enforce it, and the Texas BON is only going to exhaust a certain amount of their resources to enforce a subpoena for a case that did not affect their citizens.

The eNLC allows the member states to issue and enforce their own subpoena even in another jurisdiction. This is important for unsafe nurses who work in one state and live in another or who go back to their home state when they are fired for wrongdoing.

The enhanced Nurse Licensure Compact has a commission that can promulgate rules. Will they change nursing practice in New Mexico?

The commission's powers specifically state "To promulgate uniform rules to facilitate and coordinate implementation and administration of this Compact" (page12; Article VII, g, 1). There is no scope beyond that and I suspect that any attempt to go beyond that scope would be met with the legal challenge of every member state. The entire bill is specifically about a nurse licensure compact—not practice. In the current compact there was never an attempt to define nursing practice for the member states, and I don't think that would occur in the enhanced compact. For Example New Mexico would never accept Oklahoma's scope of practice, nor would Oklahoma accept ours. The compact language also states "A nurse practicing in a party state must comply with the state practice laws of the state in which the client is located at the time service is provided. The practice of nursing is not limited to patient care, but shall include all nursing practice as defined by the state practice laws of the party state in which the client is located. The practice of nursing in a party state under a multistate licensure privilege will subject a nurse to the jurisdiction of the licensing board, the courts and the laws of the party state in which the client is located at the time service is provided." (Article III, e Page 5).

There is clear intent in the law to respect the practice laws of the individual member states.

If we "open" the Nurse Practice Act (NPA) for the compact, I'm worried that something we don't want will be added to the NPA.

It's a misnomer to ever think that the NPA is "closed" any legislator can offer any amendment to the NPA at any time during a session. The law appears "open" when people start debating its content and that makes nurses feel a little vulnerable. The compact is a nice tonic for this because the compact has to be the exact same language in every state that adopts it, so it's all or nothing and there can be no wordsmithing of its content.

What happens if we don't enter into the eNLC

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New Mexico nurses and patients will be significantly impacted when the other states leave our current nurse licensure compact. As of January 19, 2018, a New Mexico multistate license will only be valid for practice in four states: Colorado, New Mexico, Wisconsin, and Rhode Island. Any nurse wishing to practice in any other state must now apply and pay for an individual license in that state. This includes all nursing practice, including telehealth and telephonic nursing as well as teaching distance education. New Mexico nurses working in eNLC states will need to be licensed in those states before January 19, 2017. Nurses working in New Mexico from states that are joining the eNLC will need to be licensed in New Mexico before January 19, 2017 if they wish to continue practicing here or with New Mexican patients.

Why should our state join the Nurse Licensure Compact (NLC)?

Dramatic changes are occurring in health care delivery. It is common for patients to travel across state lines for health care. Nurses often provide care across state borders both physically and electronically. The single state license (one license for every state in which the nurse practices) is not economical for nurses or employers. The current licensure model limits mobility of nurses and access to care for patients. In addition, it requires nurse educators that teach online students across the country to hold multiple licenses. The 100-year-old licensure model needs updating and the NLC offers an innovative approach that is safe and in lockstep with 21st century health care. Moreover, New Mexican nurses can more easily help other compact states with their disasters, and should something terrible happen in New Mexico, nurses from other jurisdictions could come help New Mexicans.

How does the NLC benefit our state?

- Creates a model that allows nurses to practice freely among member states while still allowing states to retain autonomy and the authority to enforce the state nurse practice act.
- Eliminates redundancy, duplicative regulatory processes and unnecessary fees.
- Improves access to licensed nurses during a disaster or other times of great need for qualified nursing services.
- Benefits military spouses with nursing licenses who often relocate every two years.

How does the NLC keep patients safe?

All nurses practicing under a multistate license must meet a minimum set of licensure requirements, including a fingerprint federal criminal background check. These requirements are based on the highest regulatory standards for licensed health care professionals. Nurses who fail to meet these requirements will not be eligible for a multistate license, and multistate privileges will be removed from nurses when disciplinary actions are taken against a home state multistate license.

Who supports the NLC and why?

In a nationwide survey (2014), 70 percent of nurses support their state joining the NLC. The NLC has removed barriers and impediments to borderless practice. State hospital associations and health care facilities in every state support the NLC, as well as numerous nursing organizations.

Why is this idea coming forward now?

The NLC is not a new idea. It has been in existence for 15 years, with 25 participating states, and has proven itself effective and safe. Recently all state boards of nursing met to add enhancements to the NLC to make it safer and better than ever.

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How does the NLC support states' rights?

While the NLC has a minimum set of licensure requirements that all nurses must meet before obtaining a multistate license, a state entering the NLC still maintains its standards, scope of practice and discipline procedures. The NLC is the best way to regulate the practice of nursing while facilitating interstate practice and allowing each state to have jurisdiction over remote state nurses practicing within the state.

What is the fiscal impact on my state by joining the NLC?

There is a nominal annual fee (currently \$6,000) for NLC membership, though the overall fiscal impact of the NLC is unique and varies from state to state. NCSBN offers states grants of financial assistance to help offset the expense of joining and implementing the NLC. NCSBN is also funding the ongoing operational expenses of the compact governing body, the Interstate Commission of Nurse Licensure Compact Administrators.

Who opposes the NLC and why?

In a few states, some nurse unions oppose the NLC; however, in the 25 current compact member states, no empirical evidence suggests that the NLC has ever been the basis for interfering in, or acting as an impediment to, lawful activities of any union acting on behalf of its member nurses. In fact, the model compact statute includes an enabling provision explicitly stating that “this compact does not supersede existing state labor laws.”

In New Mexico, only one of nursing organizations has made a formal declaration of support for the eNLC- The New Mexico School Nurse’s Association

Does our state belong to any other compacts like this?

While the NLC is the first interstate compact for a licensed profession, each state is already a member of an average of 25 interstate compacts. The NLC facilitates cross-border practice of nursing whether physically or via telehealth and puts critical systems in place that help keep patients safe. In 2015 the advent of new interstate licensure compacts for physicians, emergency medical technicians, psychologists and The National Center for Interstate Compacts reports that New Mexico is one of top ten states for having interstate compacts with over 30.



NURSE LICENSURE COMPACT

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Key policy changes from the current NLC are **bolded**.

Article I Findings and Declaration of Purpose

- Facilitate the states' responsibility to protect the public's health and safety;
- Ensure and encourage the cooperation of party states in the areas of nurse licensure and regulation;
- Facilitate the exchange of information between party states in the areas of nurse regulation, investigation and adverse actions;
- Promote compliance with the laws governing the practice of nursing in each jurisdiction;
- Invest all party states with the authority to hold a nurse accountable for meeting all state practice laws in the state in which the patient is located at the time care is rendered through the mutual recognition of party state licenses;
- Decrease redundancies in the consideration and issuance of nurse licenses; and
- Provide opportunities for interstate practice by nurses who meet uniform licensure requirements.

Article II Definitions

Reference model legislation at nursecompact.com.

Article III General Provisions and Jurisdiction

- **Eligibility and uniform licensure requirements for a multistate license**
- Authority to take adverse action against a multistate licensure privilege with application of state due process laws
- Nurse compliance with state practice laws
- Exclusion of advanced practice nurses (APRNs). There is a separate compact for APRNs called the Advanced Practice Registered Nurse Compact.
- **Grandfathering provision**

Article IV Applications for Licensure in a Party State

- Required verification of licensure information via the coordinated licensure information system
- Limitation to one home state license
- Outlines process for change of primary residence/home state

Article V Additional Authorities Invested in Party State Licensing Boards

- Provides authority to
 - Take adverse action against a multistate licensure privilege
 - Allow states to revoke a nurse's privilege to practice when a nurse is under investigation
 - Issue subpoenas
 - **Obtain and submit criminal background checks**
- Requires deactivation of multistate licensure privileges when license encumbered

Article VI Coordinated Licensure Information System and Exchange of Information

- Requires participation in a coordinated licensure information system
- Requires the boards of nursing to promptly report to the database any adverse action taken on a nurse, any information gathered during an investigation on a complaint against a nurse; and notification of any nurse that has been enrolled in an alternative to discipline program.
- Provides for exchange of information with other party states

Article VII Establishment of the Interstate Commission of Nurse Licensure Compact Administrators

Establishes the governing body as a public agency known as an "Interstate Commission."

Article VIII Rulemaking

Allows for rules to be adopted directly by the Commission. Such rulemaking is legally binding in all party states. There is no requirement that rules be ratified or adopted by individual states. Such rulemaking authority has been permitted and exercised by other interstate compacts. The procedural requirements are based on the national Model Administrative Procedures Act, which is similar to most state APAs and includes:

- Provision for notice to the public of proposed and adopted rules
- Opportunity for comment
- Opportunity for public hearing
- Consideration and voting upon proposed rules
- Responding to comments received

Article IX Oversight, Dispute Resolution and Enforcement

Ensures compliance with the NLC by member states. The procedures to be followed in the event of a failure by a party state to comply with the NLC include:

- A period of technical assistance in curing the default
- Improved dispute resolution processes; and
- Termination from the NLC in the event no other means of compliance has been successful.

Article X Effective Date, Withdrawal and Amendment

Addresses the method for states to enter, withdraw from or amend the NLC.

Article XI Construction and Severability

Provides for the compact to remain valid in a state when any provision is declared to be contrary to a party state's constitution.