

1 **ADVANCED PRACTICE REGISTERED NURSE COMPACT**

2 2022 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Curtis S. Bramble**

5 House Sponsor: James A. Dunnigan

7 **LONG TITLE**

8 **General Description:**

9 This bill enacts provisions related to the nursing profession.

10 **Highlighted Provisions:**

11 This bill:

- 12 ▶ enacts the Advanced Practice Registered Nurse Compact (compact);
- 13 ▶ requires individuals to complete a background check to obtain a license to be a
- 14 nurse midwife as required by the compact;
- 15 ▶ for purposes of the compact, allows an individual licensed as an advanced practice
- 16 registered nurse to obtain licensure as a certified nurse anesthetist or a nurse
- 17 midwife; and
- 18 ▶ repeals the previously enacted compact related to advanced practice registered
- 19 nurses and associated provisions.

20 **Money Appropriated in this Bill:**

21 None

22 **Other Special Clauses:**

23 None

24 **Utah Code Sections Affected:**

25 AMENDS:

26 **58-1-301.5**, as last amended by Laws of Utah 2020, Chapter 339

27 **58-44a-302**, as last amended by Laws of Utah 2016, Chapter 238

28 ENACTS:

29 **58-44a-302.1**, Utah Code Annotated 1953

30 REPEALS AND REENACTS:

31 **58-31d-101**, as enacted by Laws of Utah 2004, Chapter 15

32 **58-31d-102**, as enacted by Laws of Utah 2004, Chapter 15

33 REPEALS:

34 **58-31d-103**, as last amended by Laws of Utah 2019, Chapter 233



36 *Be it enacted by the Legislature of the state of Utah:*

37 Section 1. Section **58-1-301.5** is amended to read:

38 **58-1-301.5. Division access to Bureau of Criminal Identification records.**

39 (1) The division shall have direct access to local files maintained by the Bureau of
40 Criminal Identification under Title 53, Chapter 10, Part 2, Bureau of Criminal Identification,
41 for background screening of ~~[persons]~~ individuals who are applying for licensure, licensure
42 renewal, licensure reinstatement, or relicensure, as required in:

43 (a) Section **58-17b-307** [~~of Title 58, Chapter 17b, Pharmacy Practice Act~~];

44 (b) Sections **58-24b-302** and **58-24b-302.1** [~~of Title 58, Chapter 24b, Physical Therapy
45 Practice Act~~];

46 (c) Section **58-31b-302** [~~of Title 58, Chapter 31b, Nurse Practice Act~~];

47 (d) Section 58-44a-302.1;

48 ~~[(d)]~~ (e) Section 58-47b-302 [~~of Title 58, Chapter 47b, Massage Therapy Practice Act~~];

49 ~~[(e)]~~ (f) Section 58-55-302 [~~of Title 58, Chapter 55, Utah Construction Trades
50 Licensing Act, as it~~], as Section **58-55-302** applies to alarm companies and alarm company
51 agents;

52 ~~[(f)]~~ (g) Sections 58-61-304 and 58-61-304.1 [~~of Title 58, Chapter 61, Psychologist
53 Licensing Act~~];

54 ~~[(g)]~~ (h) Section 58-63-302 [~~of Title 58, Chapter 63, Security Personnel Licensing
55 Act~~];

56 ~~[(h)]~~ (i) Section 58-64-302 [~~of Title 58, Chapter 64, Deception Detection Examiners
57 Licensing Act~~];

58 ~~[(i)] (j)~~ Sections ~~58-67-302~~ and ~~58-67-302.1~~ ~~[of Title 58, Chapter 67, Utah Medical~~
59 ~~Practice Act]; and~~

60 ~~[(j)] (k)~~ Sections ~~58-68-302~~ and ~~58-68-302.1~~ ~~[of Title 58, Chapter 68, Utah~~
61 ~~Osteopathic Medical Practice Act].~~

62 (2) The division's access to criminal background information under this section:

63 (a) shall meet the requirements of Section ~~53-10-108~~; and

64 (b) includes convictions, pleas of nolo contendere, pleas of guilty or nolo contendere
65 held in abeyance, dismissed charges, and charges without a known disposition.

66 (3) The division may not disseminate outside of the division any criminal history
67 record information that the division obtains from the Bureau of Criminal Identification or the
68 Federal Bureau of Investigation under the criminal background check requirements of this
69 section.

70 Section 2. Section ~~58-31d-101~~ is repealed and reenacted to read:

71 **58-31d-101. Advanced Practice Registered Nurse Compact.**

72 The Advanced Practice Registered Nurse Compact is hereby enacted and entered into
73 with all other jurisdictions that legally join in the compact, which is, in form, substantially as
74 follows:

75 ARTICLE I

76 Findings and Declaration of Purpose

77 (1) The party states find that:

78 (a) the health and safety of the public are affected by the degree of compliance with
79 APRN licensure requirements and the effectiveness of enforcement activities related to State
80 APRN licensure laws;

81 (b) violations of APRN licensure and other laws regulating the practice of nursing may
82 result in injury or harm to the public;

83 (c) the expanded mobility of APRNs and the use of advanced communication and
84 intervention technologies as part of our nation's health care delivery system require greater
85 coordination and cooperation among states in the areas of APRN licensure and regulation;

86 (d) new practice modalities and technology make compliance with individual state
87 APRN licensure laws difficult and complex;

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

91 (f) uniformity of APRN licensure requirements throughout the states promotes public
92 safety and public health benefits as well as providing a mechanism to increase access to care,
93 particularly in rural and underserved areas.

94 (2) The general purposes of this compact are to:

95 (a) facilitate the states' responsibilities to protect the public's health and safety;

96 (b) ensure and encourage the cooperation of party states in the areas of APRN licensure
97 and regulation, including promotion of uniform licensure requirements;

98 (c) facilitate the exchange of information between party states in the areas of APRN
99 regulation, investigation, and adverse actions;

100 (d) promote compliance with the laws governing APRN practice in each jurisdiction;

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

104 (f) decrease redundancies in the consideration and issuance of APRN licenses; and

105 (g) provide opportunities for interstate practice by APRNs who meet uniform licensure
106 requirements.

107 ARTICLE II

108 Definitions

109 As used in this compact:

110 (1) "Advanced practice registered nurse" or "APRN" means a registered nurse who has
111 gained additional specialized knowledge, skills, and experience through a program of study
112 recognized or defined by the Interstate Commission of APRN Compact Administrators
113 ("Commission") and who is licensed to perform advanced nursing practice. An advanced

114 practice registered nurse is licensed in an APRN role that is congruent with an APRN
115 educational program, certification, and Commission rules.

116 (2) "Adverse action" means any administrative, civil, equitable or criminal action
117 permitted by a state's laws, which is imposed by a licensing board or other authority against an
118 APRN, including actions against an individual's license or multistate licensure privilege such
119 as revocation, suspension, probation, monitoring of the licensee, limitation on the licensee's
120 practice, or any other encumbrance on licensure affecting an APRN's authorization to practice,
121 including the issuance of a cease and desist action.

122 (3) "Alternative program" means a nondisciplinary monitoring program approved by a
123 licensing board.

124 (4) "APRN licensure" means the regulatory mechanism used by a party state to grant
125 legal authority as an APRN.

126 (5) "APRN uniform licensure/ requirements" means the minimum uniform licensure,
127 education, and examination requirements set forth in Article III.2 of this Compact.

128 (6) "Coordinated licensure information system" means an integrated process for
129 collecting, storing, and sharing information on APRN licensure and enforcement activities
130 related to APRN licensure laws that are administered by a nonprofit organization composed of
131 and controlled by licensing boards.

132 (7) "Current significant investigative information" means:

133 (a) investigative information that a licensing board, after a preliminary inquiry that
134 includes notification and an opportunity for the APRN to respond, if required by state law, has
135 reason to believe is not groundless and, if proved true, would indicate more than a minor
136 infraction; or

137 (b) investigative information that indicates that the APRN represents an immediate
138 threat to public health and safety regardless of whether the APRN has been notified and had an
139 opportunity to respond.

140 (8) "Encumbrance" means a revocation or suspension of, or any limitation on, the full
141 and unrestricted practice of nursing imposed by a licensing board in connection with a

142 disciplinary proceeding.

143 (9) "Home state" means the party state that is the APRN's primary state of residence.

144 (10) "Licensing board" means a party state's regulatory body responsible for regulating
145 the practice of advanced practice registered nursing.

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

150 (12) "Non-controlled prescription drug" means a device or drug that is not a controlled
151 substance and is prohibited under state or federal law from being dispensed without a
152 prescription. The term includes a device or drug that bears or is required to bear the legend
153 "Caution: federal law prohibits dispensing without prescription" or "prescription only" or other
154 legend that complies with federal law.

155 (13) "Party state" means any state that has adopted this compact.

156 (14) "Population focus" means one of the six population foci of family/individual
157 across the lifespan, adult-gerontology, pediatrics, neonatal, women's health/gender-related and
158 psych/mental health.

159 (15) "Prescriptive authority" means the legal authority to prescribe medications and
160 devices as defined by party state laws.

161 (16) "Remote state" means a party state that is not the home state.

162 (17) "Role" means one of the four recognized roles of certified registered nurse
163 anesthetists (CRNA), certified nurse-midwives (CNM), clinical nurse specialists (CNS) and
164 certified nurse practitioners (CNP).

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

168 (19) "State" means a state, territory, or possession of the United States and the District
169 of Columbia.

170 (20) (a) "State practice laws" means a party state's laws, rules, and regulations that
171 govern APRN practice, define the scope of advanced nursing practice, and create the methods
172 and grounds for imposing discipline except that prescriptive authority shall be treated in
173 accordance with Article III.1(d) of this Compact.

174 (b) "State practice laws" do not include:

175 (i) a party state's laws, rules, and regulations requiring supervision or collaboration
176 with a healthcare professional, except for laws, rules, and regulations regarding prescribing
177 controlled substances; or

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

180 ARTICLE III

181 General Provisions and Jurisdiction

182 (1) (a) A state must implement procedures for considering the criminal history records
183 of applicants for initial APRN licensure or APRN licensure by endorsement.

184 (b) Such procedures shall include the submission of fingerprints or other
185 biometric-based information by APRN applicants for the purpose of obtaining an applicant's
186 criminal history record information from the Federal Bureau of Investigation and the agency
187 responsible for retaining that state's criminal records.

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

190 (a) meeting the home state's qualifications for licensure or renewal of licensure, as well
191 as, all other applicable state laws;

192 (b) (i) has completed an accredited graduate-level education program that prepares the
193 applicant for one of the four recognized roles and population foci; or

194 (ii) has completed a foreign APRN education program for one of the four recognized
195 roles and population foci that:

196 (A) has been approved by the authorized accrediting body in the applicable country;
197 and

198 (B) has been verified by an independent credentials review agency to be comparable to
199 a licensing board-approved APRN education program;

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

203 (d) has successfully passed a national certification examination that measures APRN,
204 role and population-focused competencies and maintains continued competence as evidenced
205 by recertification in the role and population focus through the national certification program;

206 (e) holds an active, unencumbered license as a registered nurse and an active,
207 unencumbered authorization to practice as an APRN;

208 (f) has successfully passed an NCLEX-RN® examination or recognized predecessor,
209 as applicable;

210 (g) has practiced for at least 2,080 hours as an APRN in a role and population focus
211 congruent with the applicant's education and training. For purposes of this section, practice
212 shall not include hours obtained as part of enrollment in an APRN education program;

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

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

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

222 (k) is not currently enrolled in an alternative program;

223 (l) is subject to self-disclosure requirements regarding current participation in an
224 alternative program; and

225 (m) has a valid United States Social Security number.

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

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

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

237 (6) Issuance of an APRN multistate license shall include prescriptive authority for
238 non-controlled prescription drugs.

239 (7) For each state in which an APRN seeks authority to prescribe controlled
240 substances, the APRN shall satisfy all requirements imposed by such state in granting and/or
241 renewing such authority.

242 (8) (a) An APRN issued a multistate license is authorized to assume responsibility and
243 accountability for patient care independent of any supervisory or collaborative relationship.

244 (b) This authority may be exercised in the home state and in any remote state in which
245 the APRN exercises a multistate licensure privilege.

246 (9) (a) All party states shall be authorized, in accordance with state due process laws,
247 to take adverse action against an APRN's multistate licensure privilege such as revocation,
248 suspension, probation or any other action that affects an APRN's authorization to practice
249 under a multistate licensure privilege, including cease and desist actions.

250 (b) If a party state takes such action, it shall promptly notify the administrator of the
251 coordinated licensure information system.

252 (c) The administrator of the coordinated licensure information system shall promptly
253 notify the home state of any such actions by remote states.

254 (10) (a) Except as otherwise expressly provided in this Compact, an APRN practicing
255 in a party state must comply with the state practice laws of the state in which the client is
256 located at the time service is provided.

257 (b) APRN practice is not limited to patient care, but shall include all advanced nursing
258 practice as defined by the state practice laws of the party state in which the client is located.

259 (c) APRN practice in a party state under a multistate licensure privilege will subject the
260 APRN to the jurisdiction of the licensing board, the courts, and the laws of the party state in
261 which the client is located at the time service is provided.

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

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

271 ARTICLE IV

272 Applications for APRN Licensure in a Party State

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

281 (2) An APRN may hold a multistate APRN license issued by the home state, in only

282 one party state at a time.

283 (3) If an APRN changes primary state of residence by moving between two party
284 states, the APRN must apply for APRN licensure in the new home state, and the multistate
285 license issued by the prior home state shall be deactivated in accordance with applicable
286 Commission rules.

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

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

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

296 ARTICLE V

297 Additional Authorities Invested in Party State Licensing Boards

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

300 (a) Take adverse action against an APRN's multistate licensure privilege to practice
301 within that party state.

302 (i) Only the home state shall have the power to impose adverse action against the
303 APRN license issued by the home state.

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

308 (b) Issue cease and desist orders or impose an encumbrance on an APRN's authority to
309 practice within that party state.

310 (c) Complete any pending investigations of an APRN who changes primary state of
311 residence during the course of such investigations. The licensing board shall also have the
312 authority to take appropriate action(s) and shall promptly report the conclusions of such
313 investigations to the administrator of the coordinated licensure information system. The
314 administrator of the coordinated licensure information system shall promptly notify the new
315 home state of any such actions.

316 (d) Issue subpoenas for both hearings and investigations that require the attendance and
317 testimony of witnesses, as well as, the production of evidence in accordance with the
318 following:

319 (i) Subpoenas issued by a party state licensing board for the attendance and testimony
320 of witnesses, and/or the production of evidence from another party state shall be enforced in the
321 latter state by any court of competent jurisdiction, according to the court's practice and
322 procedure in considering subpoenas issued in its own proceedings.

323 (ii) The issuing licensing board shall pay any witness fees, travel expenses, mileage,
324 and other fees required by the service statutes of the state in which the witnesses and/or
325 evidence are located;

326 (e) Obtain and submit, for an APRN licensure applicant, fingerprints or other
327 biometric-based information to the Federal Bureau of Investigation for criminal background
328 checks, receive the results of the Federal Bureau of Investigation record search on criminal
329 background checks and use the results in making licensure decision.

330 (f) If otherwise permitted by state law, recover from the affected APRN the costs of
331 investigations and disposition of cases resulting from any adverse action taken against that
332 APRN.

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

335 (2) (a) If adverse action is taken by a home state against an APRN's multistate
336 licensure, the privilege to practice in all other party states under a multistate licensure privilege
337 shall be deactivated until all encumbrances have been removed from the APRN's multistate

338 license.

339 (b) All home state disciplinary orders that impose adverse action against an APRN's
340 multistate license shall include a statement that the APRN's multistate licensure privilege is
341 deactivated in all party states during the pendency of the order.

342 (3) (a) Nothing in this Compact shall override a party state's decision that participation
343 in an alternative program may be used in lieu of adverse action.

344 (b) The home state licensing board shall deactivate the multistate licensure privilege
345 under the multistate license of any APRN for the duration of the APRN's participation in an
346 alternative program.

347 ARTICLE VI

348 Coordinated Licensure Information System and Exchange of Information

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

353 (2) The Commission, in consultation with the administrator of the coordinated
354 licensure information system, shall formulate necessary and proper procedures for the
355 identification, collection and exchange of information under this Compact.

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

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

365 (5) Any personally identifiable information obtained from the coordinated licensure

366 information system by a party state licensing board shall not be shared with non-party states or
367 disclosed to other entities or individuals except to the extent permitted by the laws of the party
368 state contributing the information.

369 (6) Any information contributed to the coordinated licensure information system that is
370 subsequently required to be expunged by the laws of the party state contributing that
371 information shall also be expunged from the coordinated licensure information system.

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

374 (a) identifying information;

375 (b) licensure data;

376 (c) information related to alternative program participation information; and

377 (d) other information that may facilitate the administration of this Compact, as
378 determined by Commission rules.

379 (8) The Compact administrator of a party state shall provide all investigative
380 documents and information requested by another party state.

381 ARTICLE VII

382 Establishment of the Interstate Commission of APRN Compact Administrators

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

385 (a) The Commission is an instrumentality of the party states.

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

390 (c) Nothing in this Compact shall be construed to be a waiver of sovereign immunity.

391 (2) Membership, Voting and Meetings

392 (a) Each party state shall have and be limited to one administrator. The head of the
393 state licensing board or designee shall be the administrator of this Compact for each party state.

394 Any administrator may be removed or suspended from office as provided by the law of the
395 state from which the Administrator is appointed. Any vacancy occurring in the Commission
396 shall be filled in accordance with the laws of the party state in which the vacancy exists.

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

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

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

406 (e) The Commission may convene in a closed, nonpublic meeting if the Commission
407 must discuss:

408 (i) noncompliance of a party state with its obligations under this Compact;

409 (ii) the employment, compensation, discipline or other personnel matters, practices or
410 procedures related to specific employees or other matters related to the Commission's internal
411 personnel practices and procedures;

412 (iii) current, threatened, or reasonably anticipated litigation;

413 (iv) negotiation of contracts for the purchase or sale of goods, services or real estate;

414 (v) accusing any person of a crime or formally censuring any person;

415 (vi) disclosure of trade secrets or commercial or financial information that is privileged
416 or confidential;

417 (vii) disclosure of information of a personal nature where disclosure would constitute a
418 clearly unwarranted invasion of personal privacy;

419 (viii) disclosure of investigatory records compiled for law enforcement purposes;

420 (ix) disclosure of information related to any reports prepared by or on behalf of the
421 Commission for the purpose of investigation of compliance with this Compact; or

422 (x) matters specifically exempted from disclosure by federal or state statute.
423 (f) If a meeting, or portion of a meeting, is closed pursuant to this provision, the
424 Commission's legal counsel or designee shall certify that the meeting may be closed and shall
425 reference each relevant exempting provision. The Commission shall keep minutes that fully
426 and clearly describe all matters discussed in a meeting and shall provide a full and accurate
427 summary of actions taken, and the reasons therefore, including a description of the views
428 expressed. All documents considered in connection with an action shall be identified in such
429 minutes. All minutes and documents of a closed meeting shall remain under seal, subject to
430 release by a majority vote of the Commission or order of a court of competent jurisdiction.

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

434 (a) establishing the fiscal year of the Commission;
435 (b) providing reasonable standards and procedures:
436 (i) for the establishment and meetings of other committees; and
437 (ii) governing any general or specific delegation of any authority or function of the
438 Commission.

439 (c) (i) Providing reasonable procedures for calling and conducting meetings of the
440 Commission, ensuring reasonable advance notice of all meetings and providing an opportunity
441 for attendance of such meetings by interested parties, with enumerated exceptions designed to
442 protect the public's interest, the privacy of individuals, and proprietary information, including
443 trade secrets.

444 (ii) The Commission may meet in closed session only after a majority of the
445 administrators vote to close a meeting in whole or in part.

446 (iii) As soon as practicable, the Commission must make public a copy of the vote to
447 close the meeting revealing the vote of each administrator, with no proxy votes allowed;

448 (d) Establishing the titles, duties and authority and reasonable procedures for the
449 election of the officers of the Commission;

450 (e) (i) Providing reasonable standards and procedures for the establishment of the
451 personnel policies and programs of the Commission.

452 (ii) Notwithstanding any civil service or other similar laws of any party state, the
453 bylaws shall exclusively govern the personnel policies and programs of the Commission;

454 (f) Providing a mechanism for winding up the operations of the Commission and the
455 equitable disposition of any surplus funds that may exist after the termination of this Compact
456 after the payment and/or reserving of all of its debts and obligations;

457 (4) The Commission shall publish its bylaws and rules, and any amendments thereto, in
458 a convenient form on the website of the Commission;

459 (5) The Commission shall maintain its financial records in accordance with the bylaws;

460 (6) The Commission shall meet and take such actions as are consistent with the
461 provisions of this Compact and the bylaws.

462 (7) The Commission shall have the following powers:

463 (a) to promulgate uniform rules to facilitate and coordinate implementation and
464 administration of this Compact. The rules shall have the force and effect of law and shall be
465 binding in all party states;

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

469 (c) to purchase and maintain insurance and bonds;

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

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

475 (f) to hire employees, elect or appoint officers, fix compensation, define duties, grant
476 such individuals appropriate authority to carry out the purposes of this Compact, and to
477 establish the Commission's personnel policies and programs relating to conflicts of interest,

478 qualifications of personnel and other related personnel matters;

479 (g) to accept any and all appropriate donations, grants and gifts of money, equipment,
480 supplies, materials and services, and to receive, utilize and dispose of the same; provided that
481 at all times the Commission shall strive to avoid any appearance of impropriety and/or conflict
482 of interest;

483 (h) to lease, purchase, accept appropriate gifts or donations of, or otherwise to own,
484 hold, improve or use, any property, whether real, personal or mixed; provided that at all times
485 the Commission shall strive to avoid any appearance of impropriety;

486 (i) to sell, convey, mortgage, pledge, lease, exchange, abandon or otherwise dispose of
487 any property, whether real, personal or mixed;

488 (j) to establish a budget and make expenditures;

489 (k) to borrow money;

490 (l) to appoint committees, including advisory committees comprised of administrators,
491 state nursing regulators, state legislators or their representatives, and consumer representatives,
492 and other such interested persons;

493 (m) to issue advisory opinions;

494 (n) to provide and receive information from, and to cooperate with, law enforcement
495 agencies;

496 (o) to adopt and use an official seal; and

497 (p) to perform such other functions as may be necessary or appropriate to achieve the
498 purposes of this Compact, consistent with the state regulation of APRN licensure and practice.

499 (8) Financing of the Commission

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

502 (b) (i) The Commission may also levy on and collect an annual assessment from each
503 party state to cover the cost of its operations, activities and staff in its annual budget as
504 approved each year.

505 (ii) The aggregate annual assessment amount, if any, shall be allocated based upon a

506 formula to be determined by the Commission, which shall promulgate a rule that is binding
507 upon all party states.

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

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

517 (9) Qualified Immunity, Defense, and Indemnification

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

527 (b) The Commission shall defend any administrator, officer, executive director,
528 employee or representative of the Commission in any civil action seeking to impose liability
529 arising out of any actual or alleged act, error or omission that occurred within the scope of
530 Commission employment, duties or responsibilities, or that the person against whom the claim
531 is made had a reasonable basis for believing occurred within the scope of Commission
532 employment, duties or responsibilities; provided that nothing herein shall be construed to
533 prohibit that person from retaining his or her own counsel; and provided further that the actual

534 or alleged act, error or omission did not result from that person's intentional, willful or wanton
535 misconduct.

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

544 ARTICLE VIII

545 Rulemaking

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

550 (2) Rules or amendments to the rules shall be adopted at a regular or special meeting of
551 the Commission.

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

555 (a) on the website of the Commission; and

556 (b) on the website of each licensing board or the publication in which each state would
557 otherwise publish proposed rules.

558 (4) The notice of proposed rulemaking shall include:

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

561 (b) the text of the proposed rule or amendment, and the reason for the proposed rule;

562 (c) a request for comments on the proposed rule from any interested person; and

563 (d) the manner in which interested persons may submit notice to the Commission of
564 their intention to attend the public hearing and any written comments.

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

567 (6) The Commission shall grant an opportunity for a public hearing before it adopts a
568 rule or amendment.

569 (7) The Commission shall publish the place, time, and date of the scheduled public
570 hearing.

571 (a) (i) Hearings shall be conducted in a manner providing each person who wishes to
572 comment a fair and reasonable opportunity to comment orally or in writing.

573 (ii) All hearings will be recorded, and a copy will be made available upon request.

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

577 (8) If no one appears at the public hearing, the Commission may proceed with
578 promulgation of the proposed rule.

579 (9) Following the scheduled hearing date, or by the close of business on the scheduled
580 hearing date if the hearing was not held, the Commission shall consider all written and oral
581 comments received.

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

585 (11) Upon determination that an emergency exists, the Commission may consider and
586 adopt an emergency rule without prior notice, opportunity for comment, or hearing, provided
587 that the usual rulemaking procedures provided in this Compact and in this section shall be
588 retroactively applied to the rule as soon as reasonably possible, in no event later than ninety
589 (90) days after the effective date of the rule. For the purposes of this provision, an emergency

590 rule is one that must be adopted immediately in order to:

591 (a) meet an imminent threat to public health, safety or welfare;

592 (b) prevent a loss of Commission or party state funds; or

593 (c) meet a deadline for the promulgation of an administrative rule that is established by
594 federal law or rule.

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

604 ARTICLE IX

605 Oversight, Dispute Resolution and Enforcement

606 (1) Oversight

607 (a) Each party state shall enforce this Compact and take all actions necessary and
608 appropriate to effectuate this Compact's purposes and intent.

609 (b) The Commission shall be entitled to receive service of process in any proceeding
610 that may affect the powers, responsibilities or actions of the Commission, and shall have
611 standing to intervene in such a proceeding for all purposes. Failure to provide service of
612 process to the Commission shall render a judgment or order void as to the Commission, this
613 Compact or promulgated rules.

614 (2) Default, Technical Assistance and Termination

615 (a) If the Commission determines that a party state has defaulted in the performance of
616 its obligations or responsibilities under this Compact or the promulgated rules, the Commission
617 shall:

618 (i) provide written notice to the defaulting state and other party states of the nature of
619 the default, the proposed means of curing the default and/or any other action to be taken by the
620 Commission; and

621 (ii) provide remedial training and specific technical assistance regarding the default.

622 (b) (i) If a state in default fails to cure the default, the defaulting state's membership in
623 this Compact may be terminated upon an affirmative vote of a majority of the administrators,
624 and all rights, privileges and benefits conferred by this Compact may be terminated on the
625 effective date of termination.

626 (ii) A cure of the default does not relieve the offending state of obligations or liabilities
627 incurred during the period of default.

628 (c) (i) Termination of membership in this Compact shall be imposed only after all other
629 means of securing compliance have been exhausted.

630 (ii) Notice of intent to suspend or terminate shall be given by the Commission to the
631 governor of the defaulting state and to the executive officer of the defaulting state's licensing
632 board, the defaulting state's licensing board, and each of the party states.

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

636 (e) The Commission shall not bear any costs related to a state that is found to be in
637 default or whose membership in this Compact has been terminated, unless agreed upon in
638 writing between the Commission and the defaulting state.

639 (f) (i) The defaulting state may appeal the action of the Commission by petitioning the
640 United States District Court for the District of Columbia or the federal district in which the
641 Commission has its principal offices.

642 (ii) The prevailing party shall be awarded all costs of such litigation, including
643 reasonable attorneys' fees.

644 (3) Dispute Resolution

645 (a) Upon request by a party state, the Commission shall attempt to resolve disputes

646 related to the Compact that arises among party states and between party and non-party states.

647 (b) The Commission shall promulgate a rule providing for both mediation and binding
648 dispute resolution for disputes, as appropriate.

649 (c) In the event the Commission cannot resolve disputes among party states arising
650 under this Compact:

651 (i) The party states may submit the issues in dispute to an arbitration panel, which will
652 be composed of individuals appointed by the Compact administrator in each of the affected
653 party states and an individual mutually agreed upon by the Compact administrators of all the
654 party states involved in the dispute.

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

656 (4) Enforcement

657 (a) The Commission, in the reasonable exercise of its discretion, shall enforce the
658 provisions and rules of this Compact.

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

666 (c) The remedies herein shall not be the exclusive remedies of the Commission. The
667 Commission may pursue any other remedies available under federal or state law.

668 ARTICLE X

669 Effective Date, Withdrawal and Amendment

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

673 (2) Any state that joins this Compact subsequent to the Commission's initial adoption

674 of the APRN uniform licensure requirements shall be subject to all rules that have been
675 previously adopted by the Commission.

676 (3) (a) Any party state may withdraw from this Compact by enacting a statute repealing
677 the same.

678 (b) A party state's withdrawal shall not take effect until six (6) months after enactment
679 of the repealing statute.

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

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

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

690 (7) Representatives of non-party states to this Compact shall be invited to participate in
691 the activities of the Commission, on a nonvoting basis, prior to the adoption of this Compact
692 by all states.

693 ARTICLE XI

694 Construction and Severability

695 This Compact shall be liberally construed so as to effectuate the purposes thereof. The
696 provisions of this Compact shall be severable, and if any phrase, clause, sentence or provision
697 of this Compact is declared to be contrary to the constitution of any party state or of the United
698 States, or if the applicability thereof to any government, agency, person or circumstance is held
699 invalid, the validity of the remainder of this Compact and the applicability thereof to any
700 government, agency, person or circumstance shall not be affected thereby. If this Compact shall
701 be held to be contrary to the constitution of any party state, this Compact shall remain in full

702 force and effect as to the remaining party states and in full force and effect as to the party state
703 affected as to all severable matters.

704 Section 3. Section **58-31d-102** is repealed and reenacted to read:

705 **58-31d-102. Division rulemaking.**

706 (1) The division shall make rules in accordance with Title 63G, Chapter 3,
707 Administrative Rulemaking Act, to implement Section [58-31d-101](#).

708 (2) For purposes of Section [58-31d-101](#), "role" as defined in Article II(17) includes an
709 individual who is:

710 (a) licensed to practice under Subsection [58-31b-301](#)(2)(d) or (e); or

711 (b) licensed to practice under Section [58-44a-301](#).

712 (4) Notwithstanding any provision in Section [58-31d-101](#), Section [58-31d-101](#) does not
713 supersede state law related to an individual's scope of practice under this title.

714 (5) Once the compact comes into effect as described in Section [58-31d-101](#), Article
715 X(1), the division shall provide a notice that the compact is in effect:

716 (a) to an individual licensed under:

717 (i) Subsection [58-31b-201](#)(2)(d) or (e);

718 (ii) Section [58-44a-301](#); and

719 (b) to the Health and Human Services Interim Committee; and

720 (c) on the division's website with information for potential applicants.

721 Section 4. Section **58-44a-302** is amended to read:

722 **58-44a-302. Qualifications for licensure.**

723 (1) An applicant for licensure as a nurse midwife shall:

724 (a) submit an application in a form as prescribed by the division;

725 (b) pay a fee as determined by the department under Section [63J-1-504](#);

726 (c) be of good moral character;

727 (d) at the time of application for licensure hold a license in good standing as a
728 registered nurse in Utah, or be at that time qualified for a license as a registered nurse under
729 Title 58, Chapter 31b, Nurse Practice Act;

730 (e) have completed:
731 (i) a certified nurse midwifery education program accredited by the Accreditation
732 Commission for Midwifery Education and approved by the division; or
733 (ii) a nurse midwifery education program located outside of the United States which is
734 approved by the division and is equivalent to a program accredited by the Accreditation
735 Commission for Midwifery Education, as demonstrated by a graduate's being accepted to sit for
736 the national certifying examination administered by the Accreditation Commission for
737 Midwifery Education or its designee; ~~and~~

738 (f) have passed examinations established by the division rule in collaboration with the
739 board within two years after completion of the approved education program required under
740 Subsection (1)(e)~~[-]; and~~

741 (g) complete and pass a criminal background check in accordance with Section
742 58-44a-302.1.

743 (2) For purposes of Subsection (1)(e), as of January 1, 2010, ~~[the accredited education~~
744 ~~program or it's equivalent must grant a graduate degree, including post-master's certificate, in~~
745 ~~nurse midwifery]~~ an applicant shall have completed a graduate degree, including post-master's
746 certificate, in nurse midwifery from the accredited education program or the accredited
747 education program's equivalent.

748 Section 5. Section **58-44a-302.1** is enacted to read:

749 **58-44a-302.1. Background checks.**

750 (1) An applicant for licensure under this chapter shall:

751 (a) submit fingerprint cards in a form acceptable to the division at the time the license
752 application is filed; and

753 (b) consent to a fingerprint background check conducted by the Bureau of Criminal
754 Identification and the Federal Bureau of Investigation regarding the application.

755 (2) The division shall:

756 (a) in addition to other fees authorized by this chapter, collect from each applicant
757 submitting fingerprints in accordance with this section:

758 (i) the fee that the Bureau of Criminal Identification is authorized to collect for the
759 services provided under Section 53-10-108; and

760 (ii) the fee charged by the Federal Bureau of Investigation for fingerprint processing for
761 the purpose of obtaining federal criminal history record information;

762 (b) submit from each applicant the fingerprint card and the fees described in
763 Subsection (2)(a) to the Bureau of Criminal Identification; and

764 (c) obtain and retain in division records a signed waiver approved by the Bureau of
765 Criminal Identification in accordance with Section 53-10-108 for each applicant.

766 (3) The Bureau of Criminal Identification shall, in accordance with the requirements of
767 Section 53-10-108:

768 (a) check the fingerprints submitted under Subsection (2)(b) against the applicable state
769 and regional criminal records databases;

770 (b) forward the fingerprints to the Federal Bureau of Investigation for a national
771 criminal history background check; and

772 (c) provide the results from the state, regional, and nationwide criminal history
773 background checks to the division.

774 (4) For purposes of conducting a criminal background check required under this
775 section, the division shall have direct access to criminal background information maintained
776 under Title 53, Chapter 10, Part 2, Bureau of Criminal Identification.

777 (5) Except for information provided to the applicant, the division may not disseminate
778 outside of the division any criminal history record information that the division obtains from
779 the Bureau of Criminal Identification or the Federal Bureau of Investigation under the criminal
780 background check requirements of this section.

781 (6) (a) A new nurse midwife license issued under Section 58-44a-302 is conditional
782 pending completion of the criminal background check.

783 (b) Notwithstanding Title 63G, Chapter 4, Administrative Procedures Act, if the
784 criminal background check required in Subsection 58-44a-302(1) demonstrates the applicant
785 has failed to accurately disclose a criminal history, the license is immediately and automatically

786 revoked upon notice to the licensee by the division.

787 (c) An individual's whose conditional license has been revoked under Subsection (6)(b)
788 is entitled to a postrevocation hearing to challenge the revocation.

789 (d) The division shall conduct a postrevocation hearing in accordance with Title 63G,
790 Chapter 4, Administrative Procedures Act.

791 (7) The division may not authorize the practice of the licensee under Chapter 31d,
792 Advanced Practice Registered Nurse Compact, until the criminal background check described
793 in this section is completed.

794 **Section 6. Repealer.**

795 This bill repeals:

796 Section **58-31d-103**, **Rulemaking authority -- Enabling provisions.**