

ADVANCED PRACTICE REGISTERED NURSE COMPACT

2022 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Curtis S. Bramble

House Sponsor: James A. Dunnigan

LONG TITLE

General Description:

This bill enacts provisions related to the nursing profession.

Highlighted Provisions:

This bill:

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

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

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

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 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 following

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

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

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

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

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

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

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

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

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

346 ARTICLE VI

347 Coordinated Licensure Information System and Exchange of Information

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

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

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

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

364 (5) Any personally identifiable information obtained from the coordinated licensure
365 information system by a party state licensing board shall not be shared with non-party states or
366 disclosed to other entities or individuals except to the extent permitted by the laws of the party
367 state contributing the information.

368 (6) Any information contributed to the coordinated licensure information system that is

369 subsequently required to be expunged by the laws of the party state contributing that
370 information shall also be expunged from the coordinated licensure information system.

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

373 (a) identifying information;

374 (b) licensure data;

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

376 (d) other information that may facilitate the administration of this Compact, as

377 determined by Commission rules.

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

380 ARTICLE VII

381 Establishment of the Interstate Commission of APRN Compact Administrators

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

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

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

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

390 (2) Membership, Voting and Meetings

391 (a) Each party state shall have and be limited to one administrator. The head of the
392 state licensing board or designee shall be the administrator of this Compact for each party state.
393 Any administrator may be removed or suspended from office as provided by the law of the
394 state from which the Administrator is appointed. Any vacancy occurring in the Commission
395 shall be filled in accordance with the laws of the party state in which the vacancy exists.

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

400 in meetings by telephone or other means of communication.

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

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

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

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

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

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

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

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

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

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

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

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

421 (x) matters specifically exempted from disclosure by federal or state statute.

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

430 (3) The Commission shall, by a majority vote of the administrators, prescribe bylaws or

431 rules to govern its conduct as may be necessary or appropriate to carry out the purposes and
432 exercise the powers of this Compact, including but not limited to:

433 (a) establishing the fiscal year of the Commission;

434 (b) providing reasonable standards and procedures:

435 (i) for the establishment and meetings of other committees; and

436 (ii) governing any general or specific delegation of any authority or function of the
437 Commission.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

488 (k) to borrow money;

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

492 (m) to issue advisory opinions;

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

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

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

498 (8) Financing of the Commission

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

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

504 (ii) The aggregate annual assessment amount, if any, shall be allocated based upon a
505 formula to be determined by the Commission, which shall promulgate a rule that is binding
506 upon all party states.

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

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

516 (9) Qualified Immunity, Defense, and Indemnification

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

524 damage, loss, injury or liability caused by the intentional, willful or wanton misconduct of that
525 person.

526 (b) The Commission shall defend any administrator, officer, executive director,
527 employee or representative of the Commission in any civil action seeking to impose liability
528 arising out of any actual or alleged act, error or omission that occurred within the scope of
529 Commission employment, duties or responsibilities, or that the person against whom the claim
530 is made had a reasonable basis for believing occurred within the scope of Commission
531 employment, duties or responsibilities; provided that nothing herein shall be construed to
532 prohibit that person from retaining his or her own counsel; and provided further that the actual
533 or alleged act, error or omission did not result from that person's intentional, willful or wanton
534 misconduct.

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

543 ARTICLE VIII

544 Rulemaking

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

584 (11) Upon determination that an emergency exists, the Commission may consider and
585 adopt an emergency rule without prior notice, opportunity for comment, or hearing, provided

586 that the usual rulemaking procedures provided in this Compact and in this section shall be
587 retroactively applied to the rule as soon as reasonably possible, in no event later than ninety
588 (90) days after the effective date of the rule. For the purposes of this provision, an emergency
589 rule is one that must be adopted immediately in order to:

- 590 (a) Meet an imminent threat to public health, safety or welfare;
- 591 (b) Prevent a loss of Commission or party state funds; or
- 592 (c) Meet a deadline for the promulgation of an administrative rule that is established by
593 federal law or rule.

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

603 ARTICLE IX

604 Oversight, Dispute Resolution and Enforcement

605 (1) Oversight

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

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

613 (2) Default, Technical Assistance and Termination

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

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

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

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

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

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

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

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

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

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

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

643 (3) Dispute Resolution

644 (a) Upon request by a party state, the Commission shall attempt to resolve disputes
645 related to the Compact that arises among party states and between party and non-party states.

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

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

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

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

655 (4) Enforcement

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

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

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

667 ARTICLE X

668 Effective Date, Withdrawal and Amendment

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

672 (2) Any state that joins this Compact subsequent to the Commission's initial adoption
673 of the APRN uniform licensure requirements shall be subject to all rules that have been
674 previously adopted by the Commission.

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

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

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

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

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

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

692 ARTICLE XI

693 Construction and Severability

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

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

704 **58-31d-102. Division rulemaking.**

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

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

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

710 (b) licensed to practice under Section 58-44a-301.

711 (4) Once the compact comes into effect as described in Section 58-31d-101, Article

712 X(1), the division shall provide a notice that the compact is in effect:

713 (a) to an individual licensed under:

714 (i) Subsection 58-31b-201(2)(d) or (e);

715 (ii) Section 58-44a-301; and

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

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

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

719 **58-44a-302. Qualifications for licensure.**

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

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

722 (b) pay a fee as determined by the department under Section 63J-1-504;

723 (c) be of good moral character;

724 (d) at the time of application for licensure hold a license in good standing as a
725 registered nurse in Utah, or be at that time qualified for a license as a registered nurse under

726 Title 58, Chapter 31b, Nurse Practice Act;

727 (e) have completed:

728 (i) a certified nurse midwifery education program accredited by the Accreditation
729 Commission for Midwifery Education and approved by the division; or

730 (ii) a nurse midwifery education program located outside of the United States which is
731 approved by the division and is equivalent to a program accredited by the Accreditation

732 Commission for Midwifery Education, as demonstrated by a graduate's being accepted to sit for
733 the national certifying examination administered by the Accreditation Commission for

734 Midwifery Education or its designee; ~~and~~

735 (f) have passed examinations established by the division rule in collaboration with the
736 board within two years after completion of the approved education program required under

737 Subsection (1)(e)[-]; and

738 (g) complete and pass a criminal background check in accordance with Section
739 58-44a-302.1.

740 (2) For purposes of Subsection (1)(e), as of January 1, 2010, ~~[the accredited education~~

741 ~~program or it's equivalent must grant a graduate degree, including post-master's certificate, in~~
742 ~~nurse midwifery]~~ an applicant shall have completed a graduate degree, including post-master's
743 certificate, in nurse midwifery from the accredited education program or the accredited
744 education program's equivalent.

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

746 **58-44a-302.1. Background checks.**

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

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

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

752 (2) The division shall:

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

755 (i) the fee that the Bureau of Criminal Identification is authorized to collect for the
756 services provided under Section [53-10-108](#); and

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

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

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

763 (3) The Bureau of Criminal Identification shall, in accordance with the requirements of
764 Section [53-10-108](#):

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

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

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

771 (4) For purposes of conducting a criminal background check required under this

772 section, the division shall have direct access to criminal background information maintained
773 under Title 53, Chapter 10, Part 2, Bureau of Criminal Identification.

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

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

780 (b) Notwithstanding Title 63G, Chapter 4, Administrative Procedures Act, if the
781 criminal background check required in Subsection 58-44a-302(1) demonstrates the applicant
782 has failed to accurately disclose a criminal history, the license is immediately and automatically
783 revoked upon notice to the licensee by the division.

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

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

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

791 **Section 6. Repealer.**

792 This bill repeals:

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