

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1611 Session of
2009

INTRODUCED BY HORNAMAN, ADOLPH, BAKER, BELFANTI, BEYER, BRENNAN,
CARROLL, CAUSER, CUTLER, DONATUCCI, FABRIZIO, FAIRCHILD,
FLECK, FREEMAN, GEORGE, GIBBONS, GROVE, HALUSKA, HARHAI,
HENNESSEY, HESS, HOUGHTON, JOSEPHS, W. KELLER, KORTZ, KOTIK,
KULA, MAHONEY, McILVAINE SMITH, MELIO, MILLARD, MUNDY,
PETRARCA, PHILLIPS, READSHAW, REICHLEY, SANTONI, SIPTROTH,
SOLOBAY, SONNEY, STERN, SWANGER, VULAKOVICH, YOUNGBLOOD AND
YUDICHAK, JUNE 5, 2009

REFERRED TO COMMITTEE ON PROFESSIONAL LICENSURE, JUNE 5, 2009

AN ACT

1 Authorizing the Commonwealth of Pennsylvania to join the Nurse
2 Licensure Compact; and providing for the form of the compact.

3 The General Assembly of the Commonwealth of Pennsylvania
4 hereby enacts as follows:

5 Section 1. Short title.

6 This act shall be known and may be cited as the Nurse
7 Licensure Compact Act.

8 Section 2. Nurse Licensure Compact.

9 The Nurse Licensure Compact is enacted into law and entered
10 into with all jurisdictions legally joining in the compact in
11 the form substantially as set forth as follows:

12 NURSE LICENSURE COMPACT

13 ARTICLE I

14 Findings and Declaration of Purpose

15 a. The party states find that:

1 1. the health and safety of the public are affected by
2 the degree of compliance with and the effectiveness of
3 enforcement activities related to state nurse licensure laws;

4 2. violations of nurse licensure and other laws
5 regulating the practice of nursing may result in injury or
6 harm to the public;

7 3. the expanded mobility of nurses and the use of
8 advanced communication technologies as part of our nation's
9 healthcare delivery system require greater coordination and
10 cooperation among states in the areas of nurse licensure and
11 regulation;

12 4. new practice modalities and technology make
13 compliance with individual state nurse licensure laws
14 difficult and complex;

15 5. the current system of duplicative licensure for
16 nurses practicing in multiple states is cumbersome and
17 redundant to both nurses and states;

18 b. The general purposes of this Compact are to:

19 1. facilitate the states' responsibility to protect the
20 public's health and safety;

21 2. ensure and encourage the cooperation of party states
22 in the areas of nurse licensure and regulation;

23 3. facilitate the exchange of information between party
24 states in the areas of nurse regulation, investigation and
25 adverse actions;

26 4. promote compliance with the laws governing the
27 practice of nursing in each jurisdiction; and

28 5. invest all party states with the authority to hold a
29 nurse accountable for meeting all state practice laws in the
30 state in which the patient is located at the time care is

1 rendered through the mutual recognition of party state
2 licenses.

3 ARTICLE II

4 Definitions

5 As used in this Compact:

6 "Adverse Action" means a home or remote state action.

7 "Alternative program" means a voluntary, nondisciplinary
8 monitoring program approved by a nurse licensing board.

9 "Coordinated licensure information system" means an
10 integrated process for collecting, storing, and sharing
11 information on nurse licensure and enforcement activities
12 related to nurse licensure laws, which is administered by a
13 nonprofit organization composed of and controlled by state nurse
14 licensing boards.

15 "Current significant investigative information" means:
16 investigative information that a licensing board, after a
17 preliminary inquiry that includes notification and an
18 opportunity for the nurse to respond if required by state law,
19 has reason to believe is not groundless and, if proved true,
20 would indicate more than a minor infraction; or investigative
21 information that indicates that the nurse represents an
22 immediate threat to public health and safety regardless of
23 whether the nurse has been notified and had an opportunity to
24 respond.

25 "Home state" means the party state which is the nurse's
26 primary state of residence.

27 "Home state action" means any administrative, civil,
28 equitable or criminal action permitted by the home state's laws
29 which are imposed on a nurse by the home state's licensing board
30 or other authority including actions against an individual's

license such as: revocation, suspension, probation or any other action which affects a nurse's authorization to practice.

"Licensing board" means a party state's regulatory body responsible for issuing nurse licenses.

"Multistate licensure privilege" means current, official authority from a remote state permitting the practice of nursing as either a registered nurse or a licensed practical/vocational nurse in such party state. All party states have the authority, in accordance with existing state due process law, to take actions against the nurse's privilege such as: revocation, suspension, probation or any other action which affects a nurse's authorization to practice.

"Nurse" means a registered nurse or licensed practical/vocational nurse, as those terms are defined by each party's state practice laws.

"Party state" means any state that has adopted this Compact.

"Remote state" means a party state, other than the home state, where the patient is located at the time nursing care is provided, or, in the case of the practice of nursing not involving a patient, in such party state where the recipient of nursing practice is located.

"Remote state action" means any administrative, civil, equitable or criminal action permitted by a remote state's laws which are imposed on a nurse by the remote state's licensing board or other authority including actions against an individual's multistate licensure privilege to practice in the remote state, and cease and desist and other injunctive or equitable orders issued by remote states or the licensing boards thereof.

"State" means a state, territory, or possession of the United

1 States, the District of Columbia or the Commonwealth of Puerto
2 Rico.

3 "State practice laws" means those individual party's state
4 laws and regulations that govern the practice of nursing, define
5 the scope of nursing practice, and create the methods and
6 grounds for imposing discipline.

7 "State practice laws" does not include the initial
8 qualifications for licensure or requirements necessary to obtain
9 and retain a license, except for qualifications or requirements
10 of the home state.

11 ARTICLE III

12 General Provisions and Jurisdiction

13 a. A license to practice registered nursing issued by a home
14 state to a resident in that state will be recognized by each
15 party state as authorizing a multistate licensure privilege to
16 practice as a registered nurse in such party state. A license to
17 practice licensed practical/vocational nursing issued by a home
18 state to a resident in that state will be recognized by each
19 party state as authorizing a multistate licensure privilege to
20 practice as a licensed practical/vocational nurse in such party
21 state. In order to obtain or retain a license, an applicant must
22 meet the home state's qualifications for licensure and license
23 renewal as well as all other applicable state laws.

24 b. Party states may, in accordance with state due process
25 laws, limit or revoke the multistate licensure privilege of any
26 nurse to practice in their state and may take any other actions
27 under their applicable state laws necessary to protect the
28 health and safety of their citizens. If a party state takes such
29 action, it shall promptly notify the administrator of the
30 coordinated licensure information system. The administrator of

1 the coordinated licensure information system shall promptly
2 notify the home state of any such actions by remote states.

3 c. Every nurse practicing in a party state must comply with
4 the state practice laws of the state in which the patient is
5 located at the time care is rendered. In addition, the practice
6 of nursing is not limited to patient care, but shall include all
7 nursing practice as defined by the state practice laws of a
8 party state. The practice of nursing will subject a nurse to the
9 jurisdiction of the nurse licensing board and the courts, as
10 well as the laws, in that party state.

11 d. This Compact does not affect additional requirements
12 imposed by states for advanced practice registered nursing.
13 However, a multistate licensure privilege to practice registered
14 nursing granted by a party state shall be recognized by other
15 party states as a license to practice registered nursing if one
16 is required by state law as a precondition for qualifying for
17 advanced practice registered nurse authorization.

18 e. Individuals not residing in a party state shall continue
19 to be able to apply for nurse licensure as provided for under
20 the laws of each party state. However, the license granted to
21 these individuals will not be recognized as granting the
22 privilege to practice nursing in any other party state unless
23 explicitly agreed to by that party state.

24 ARTICLE IV

25 Applications for Licensure in a Party State

26 a. Upon application for a license, the licensing board in a
27 party state shall ascertain, through the coordinated licensure
28 information system, whether the applicant has ever held, or is
29 the holder of, a license issued by any other state, whether
30 there are any restrictions on the multistate licensure

1 privilege, and whether any other adverse action by any state has
2 been taken against the license.

3 b. A nurse in a party state shall hold licensure in only one
4 party state at a time, issued by the home state.

5 c. A nurse who intends to change primary state of residence
6 may apply for licensure in the new home state in advance of such
7 change. However, new licenses will not be issued by a party
8 state until after a nurse provides evidence of change in primary
9 state of residence satisfactory to the new home state's
10 licensing board.

11 d. When a nurse changes primary state of residence by:

12 1. moving between two party states, and obtains a
13 license from the new home state, the license from the former
14 home state is no longer valid;

15 2. moving from a nonparty state to a party state, and
16 obtains a license from the new home state, the individual
17 state license issued by the nonparty state is not affected
18 and will remain in full force if so provided by the laws of
19 the nonparty state;

20 3. moving from a party state to a nonparty state, the
21 license issued by the prior home state converts to an
22 individual state license, valid only in the former home
23 state, without the multistate licensure privilege to practice
24 in other party states.

25 ARTICLE V

26 Adverse Actions

27 In addition to the General Provisions described in Article
28 III, the following provisions apply:

29 a. The licensing board of a remote state shall promptly
30 report to the administrator of the coordinated licensure

1 information system any remote state actions including the
2 factual and legal basis for such action, if known. The licensing
3 board of a remote state shall also promptly report any
4 significant current investigative information yet to result in a
5 remote state action. The administrator of the coordinated
6 licensure information system shall promptly notify the home
7 state of any such reports.

8 b. The licensing board of a party state shall have the
9 authority to complete any pending investigations for a nurse who
10 changes primary state of residence during the course of such
11 investigations. It shall also have the authority to take
12 appropriate action(s), and shall promptly report the conclusions
13 of such investigations to the administrator of the coordinated
14 licensure information system. The administrator of the
15 coordinated licensure information system shall promptly notify
16 the new home state of any such actions.

17 c. A remote state may take adverse action affecting the
18 multistate licensure privilege to practice within that party
19 state. However, only the home state shall have the power to
20 impose adverse action against the license issued by the home
21 state.

22 d. For purposes of imposing adverse action, the licensing
23 board of the home state shall give the same priority and effect
24 to reported conduct received from a remote state as it would if
25 such conduct had occurred within the home state. In so doing, it
26 shall apply its own state laws to determine appropriate action.

27 e. The home state may take adverse action based on the
28 factual findings of the remote state, so long as each state
29 follows its own procedures for imposing such adverse action.

30 f. Nothing in this Compact shall override a party state's

1 decision that participation in an alternative program may be
2 used in lieu of licensure action and that such participation
3 shall remain nonpublic if required by the party state's laws.
4 Party states must require nurses who enter any alternative
5 programs to agree not to practice in any other party state
6 during the term of the alternative program without prior
7 authorization from such other party state.

8 ARTICLE VI

9 Additional Authorities Invested in 10 Party State Nurse Licensing Boards

11 Notwithstanding any other powers, party state nurse licensing
12 boards shall have the authority to:

13 a. if otherwise permitted by state law, recover from the
14 affected nurse the costs of investigations and disposition of
15 cases resulting from any adverse action taken against that
16 nurse;

17 b. issue subpoenas for both hearings and investigations
18 which require the attendance and testimony of witnesses, and the
19 production of evidence. Subpoenas issued by a nurse licensing
20 board in a party state for the attendance and testimony of
21 witnesses, and/or the production of evidence from another party
22 state, shall be enforced in the latter state by any court of
23 competent jurisdiction, according to the practice and procedure
24 of that court applicable to subpoenas issued in proceedings
25 pending before it. The issuing authority shall pay any witness
26 fees, travel expenses, mileage and other fees required by the
27 service statutes of the state where the witnesses and/or
28 evidence are located;

29 c. issue cease and desist orders to limit or revoke a
30 nurse's authority to practice in their respective states;

1 d. promulgate uniform rules and regulations as provided for
2 in Article VIII(c).

3 ARTICLE VII

4 Coordinated Licensure Information System

5 a. All party states shall participate in a cooperative
6 effort to create a coordinated data base of all licensed
7 registered nurses and licensed practical/vocational nurses. This
8 system will include information on the licensure and
9 disciplinary history of each nurse, as contributed by party
10 states, to assist in the coordination of nurse licensure and
11 enforcement efforts.

12 b. Notwithstanding any other provision of law, all party
13 states' licensing boards shall promptly report adverse actions,
14 actions against multistate licensure privileges, any current
15 significant investigative information yet to result in adverse
16 action, denials of applications, and the reasons for such
17 denials, to the coordinated licensure information system.

18 c. Current significant investigative information shall be
19 transmitted through the coordinated licensure information system
20 only to party state licensing boards.

21 d. Notwithstanding any other provision of law, all party
22 states' licensing boards contributing information to the
23 coordinated licensure information system may designate
24 information that may not be shared with nonparty states or
25 disclosed to other entities or individuals without the express
26 permission of the contributing state.

27 e. Any personally identifiable information obtained by a
28 party state's licensing board from the coordinated licensure
29 information system may not be shared with nonparty states or
30 disclosed to other entities or individuals except to the extent

1 permitted by the laws of the party state contributing the
2 information.

3 f. Any information contributed to the coordinated licensure
4 information system that is subsequently required to be expunged
5 by the laws of the party state contributing that information,
6 shall also be expunged from the coordinated licensure
7 information system.

8 g. The Compact administrators, acting jointly with each
9 other and in consultation with the administrator of the
10 coordinated licensure information system, shall formulate
11 necessary and proper procedures for the identification,
12 collection and exchange of information under this Compact.

13 ARTICLE VIII

14 Compact Administration and Interchange of Information

15 a. The head of the nurse licensing board, or his/her
16 designee, of each party state shall be the administrator of this
17 Compact for his/her state.

18 b. The Compact administrator of each party state shall
19 furnish to the Compact administrator of each other party state
20 any information and documents including, but not limited to, a
21 uniform data set of investigations, identifying information,
22 licensure data, and disclosable alternative program
23 participation information to facilitate the administration of
24 this Compact.

25 c. Compact administrators shall have the authority to
26 develop uniform rules to facilitate and coordinate
27 implementation of this Compact. These uniform rules shall be
28 adopted by party states, under the authority invested under
29 Article VI (d).

30 ARTICLE IX

1 Construction and Severability

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

16 b. In the event party states find a need for settling
17 disputes arising under this Compact:

18 1. The party states may submit the issues in dispute to
19 an arbitration panel which will be comprised of an individual
20 appointed by the Compact administrator in the home state; an
21 individual appointed by the Compact administrator in the
22 remote state(s) involved; and an individual mutually agreed
23 upon by the Compact administrators of all the party states
24 involved in the dispute.

25 2. The decision of a majority of the arbitrators shall
26 be final and binding.

27 Section 10. Effective date.

28 This act shall take effect immediately.