

Stricken language would be deleted from and underlined language would be added to law as it existed prior to the 82nd General Assembly.

1 State of Arkansas
2 82nd General Assembly
3 Regular Session, 1999
4

As Engrossed: S1/21/99 H2/12/99

A Bill

SENATE BILL 28

5 By: Senators Mahony, Scott, Bradford, Ross, Roebuck, Edwards
6 By: Representatives Faris, *Teague*
7

For An Act To Be Entitled

10 "AN ACT TO ADOPT THE INTERSTATE NURSE LICENSURE
11 COMPACT; AND FOR OTHER PURPOSES."

Subtitle

14 "AN ACT TO ADOPT THE INTERSTATE NURSE
15 LICENSURE COMPACT."

16 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
17

18 SECTION 1. The Interstate Nurse Licensure Compact is enacted into law
19 and entered into by this state with all states legally joining therein and in
20 the form substantially as follows:
21

NURSE LICENSURE COMPACT

ARTICLE I

Findings and Declaration of Purpose

26 (a) The party states find that:

27 (1) the health and safety of the public are affected by the
28 degree of compliance with and the effectiveness of enforcement activities
29 related to state nurse licensure laws;

30 (2) violations of nurse licensure and other laws regulating the
31 practice of nursing may result in injury or harm to the public;

32 (3) the expanded mobility of nurses and the use of advanced
33 communication technologies as part of our nation's healthcare delivery system
34 require greater coordination and cooperation among states in the areas of
35 nurse licensure and regulation;

36 (4) new practice modalities and technology make compliance with

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1 individual state nurse licensure laws difficult and complex;

2 (5) the current system of duplicative licensure for nurses
3 practicing in multiple states is cumbersome and redundant to both nurses and
4 states.

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

6 (1) facilitate the states' responsibility to protect the public's
7 health and safety;

8 (2) ensure and encourage the cooperation of party states in the
9 areas of nurse licensure and regulation;

10 (3) facilitate the exchange of information between party states
11 in the areas of nurse regulation, investigation and adverse actions;

12 (4) promote compliance with the laws governing the practice of
13 nursing in each jurisdiction;

14 (5) invest all party states with the authority to hold a nurse
15 accountable for meeting all state practice laws in the state in which the
16 patient is located at the time care is rendered through the mutual recognition
17 of party state licenses.

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19 ARTICLE II
20 Definitions

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22 As used in this Compact:

23 (a) "Adverse Action" means a home or remote state action.

24 (b) "Alternative program" means a voluntary, non-disciplinary
25 monitoring program approved by a nurse licensing board.

26 (c) "Coordinated Licensure Information System" means an integrated
27 process for collecting, storing, and sharing information on nurse licensure
28 and enforcement activities related to nurse licensure laws, which is
29 administered by a non-profit organization composed of and controlled by state
30 nurse licensing boards.

31 (d) "Current significant investigative information" means:

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

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

4 (e) "Home state" means the party state which is the nurse's primary
5 estate of residence.

6 (f) "Home state action" means any administrative, civil, equitable or
7 criminal action permitted by the home state's laws which are imposed on a
8 nurse by the home state's licensing board or other authority including actions
9 against an individual's license such as: revocation, suspension, probation or
10 any other action which affects a nurse's authorization to practice.

11 (g) "Licensing board" means a party state's regulatory body responsible
12 for issuing nurse licenses.

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

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

22 (j) "Party state" means any state that has adopted this Compact.

23 (k) "Remote state" means a party state, other than the home state:

24 (1) where the patient is located at the time nursing care is
25 provided, or,

26 (2) in the case of the practice of nursing not involving a
27 patient, in such party state where the recipient of nursing practice is
28 located.

29 (l) "Remote state action" means:

30 (1) any administrative, civil, equitable or criminal action
31 permitted by a remote state's laws which are imposed on a nurse by the remote
32 state's licensing board or other authority including actions against an
33 individual's multistate licensure privilege to practice in the remote state,
34 and

35 (2) cease and desist and other injunctive or equitable orders
36 issued by remote states or the licensing boards thereof.

1 (m) "State" means a state, territory, or possession of the United
2 States, the District of Columbia or the Commonwealth of Puerto Rico.

3 (n) "State practice laws" means those individual party's state laws and
4 regulations that govern the practice of nursing, define the scope of nursing
5 practice, and create the methods and grounds for imposing discipline. "State
6 practice laws" does not include the initial qualifications for licensure or
7 requirements necessary to obtain and retain a license, except for
8 qualifications or requirements of the home state.

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10 ARTICLE III

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

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

30 (c) Every nurse practicing in a party state must comply with the state
31 practice laws of the state in which the patient is located at the time care is
32 rendered. In addition, the practice of nursing is not limited to patient
33 care, but shall include all nursing practice as defined by the state practice
34 laws of a party state. The practice of nursing will subject a nurse to the
35 jurisdiction of the nurse licensing board and the courts, as well as the laws,
36 in that party state.

1 (d) This Compact does not affect additional requirements imposed by
 2 states for advanced practice registered nursing. However, a multistate
 3 licensure privilege to practice registered nursing granted by a party state
 4 shall be recognized by other party states as a license to practice registered
 5 nursing if one is required by state law as a precondition for qualifying for
 6 advanced practice registered nurse authorization.

7 (e) Individuals not residing in a party state shall continue to be able
 8 to apply for nurse licensure as provided for under the laws of each party
 9 state. However, the license granted to these individuals will not be
 10 recognized as granting the privilege to practice nursing in any other party
 11 state unless explicitly agreed to by that party state.

12 13 ARTICLE IV

14 Applications for Licensure in a Party State

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

22 (b) A nurse in a party state shall hold licensure in only one party
 23 state at a time, issued by the home state.

24 (c) A nurse who intends to change primary state of residence may apply
 25 for licensure in the new home state in advance of such change. However, new
 26 licenses will not be issued by a party state until after a nurse provides
 27 evidence of change in primary state of residence satisfactory to the new home
 28 state's licensing board.

29 (d) When a nurse changes primary state of residence by:

30 (1) moving between two party states, and obtains a license from
 31 the new home state, the license from the former home state is no longer valid;

32 (2) moving from a non-party state to a party state, and obtains a
 33 license from the new home state, the individual state license issued by the
 34 non-party state is not affected and will remain in full force if so provided
 35 by the laws of the non-party state;

36 (3) moving from a party state to a non-party state, the license

1 issued by the prior home state converts to an individual state license, valid
2 only in the former home state, without the multistate licensure privilege to
3 practice in other party states.

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5 ARTICLE V
6 Adverse Actions

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8 In addition to the General Provisions described in Article III, the
9 following provisions apply:

10 (a) The licensing board of a remote state shall promptly report to the
11 administrator of the Coordinated licensure information system any remote state
12 actions including the factual and legal basis for such action, if known. The
13 licensing board of a remote state shall also promptly report any significant
14 current investigative information yet to result in a remote state action. The
15 administrator of the Coordinated licensure information system shall promptly
16 notify the home state of any such reports.

17 (b) The licensing board of a party state shall have the authority to
18 complete any pending investigations for a nurse who changes primary state of
19 residence during the course of such investigations. It shall also have the
20 authority to take appropriate action(s), and shall promptly report the
21 conclusions of such investigations to the administrator of the Coordinated
22 licensure information system. The administrator of the Coordinated licensure
23 information system shall promptly notify the new home state of any such
24 actions.

25 (c) A remote state may take adverse action affecting the multistate
26 licensure privilege to practice within that party state. However, only the
27 home state shall have the power to impose adverse action against the license
28 issued by the home state.

29 (d) For purposes of imposing adverse action, the licensing board of
30 the home state shall give the same priority and effect to reported conduct
31 received from a remote state as it would if such conduct had occurred within
32 the home state. In so doing, it shall apply its own state laws to determine
33 appropriate action.

34 (e) The home state may take adverse action based on the factual
35 findings of the remote state, so long as each state follows its own procedures
36 for imposing such adverse action.

1 practical/vocational nurses. This system will include information on the
2 licensure and disciplinary history of each nurse, as contributed by party
3 states, to assist in the coordination of nurse licensure and enforcement
4 efforts.

5 (b) Notwithstanding any other provision of law, all party states'
6 licensing boards shall promptly report adverse actions, actions against
7 multistate licensure privileges, any current significant investigative
8 information yet to result in adverse action, denials of applications, and the
9 reasons for such denials, to the coordinated licensure information system.

10 (c) Current significant investigative information shall be transmitted
11 through the coordinated licensure information system only to party state
12 licensing boards.

13 (d) Notwithstanding any other provision of law, all party states'
14 licensing boards contributing information to the coordinated licensure
15 information system may designate information that may not be shared with non-
16 party states or disclosed to other entities or individuals without the express
17 permission of the contributing state.

18 (e) Any personally identifiable information obtained by a party states'
19 licensing board from the coordinated licensure information system may not be
20 shared with non-party states or disclosed to other entities or individuals
21 except to the extent permitted by the laws of the party state contributing the
22 information.

23 (f) Any information contributed to the coordinated licensure
24 information system that is subsequently required to be expunged by the laws of
25 the party states contributing that information, shall also be expunged from
26 the coordinated licensure information system.

27 (g) The compact administrators, acting jointly with each other and in
28 consultation with the administrator of the coordinated licensure information
29 system, shall formulate necessary and proper procedures for the
30 identification, collection and exchange of information under this Compact.

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32 ARTICLE VIII

33 Compact Administration and Interchange of Information
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35 (a) The head of the nurse licensing board, or his/her designee, of each
36 party state shall be the administrator of this Compact for his/her state.

1 this Compact shall become effective and binding upon the party states unless
2 and until it is enacted into the laws of all party states.

4 ARTICLE XI

5 Construction and Severability

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

18 (b) In the event party states find a need for settling disputes arising
19 under this Compact:

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

26 (2) The decision of a majority of the arbitrators shall be final
27 and binding.

29 SECTION 2. The Board may limit or revoke practice privileges in this
30 state of a person licensed to practice nursing by a jurisdiction that has
31 joined the Compact or take action on previous practice privilege action from
32 another party state.

34 SECTION 3. For purposes of this act, the term "head of the nurse
35 licensing board" shall mean the Executive Director of the Arkansas State Board
36 of Nursing.

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SECTION 4. (a) The effective date of this Compact shall be July 1, 2000.

(b) Upon the effective date of this compact, the licensing board shall participate in an evaluation of the effectiveness and operability of the compact. Upon completion of the evaluation, a report shall be submitted to the Legislative Council for its review.

SECTION 5. All provisions of this Act of a general and permanent nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code Revision Commission shall incorporate the same in the Code.

SECTION 6. If any provision of this Act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable.

SECTION 7. All laws and parts of laws in conflict with this Act are hereby repealed.

/s/ Mahony, et al