

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 1999

SESSION LAW 1999-245
SENATE BILL 194

AN ACT TO CREATE THE NURSE LICENSURE COMPACT.

The General Assembly of North Carolina enacts:

Section 1. Chapter 90 of the General Statutes is amended by adding a new Article to read:

"ARTICLE 9G.

"Nurse Licensure Compact.

"§ 90-171.80. Entering into Compact.

The Nurse Licensure Compact is hereby enacted into law and entered into by this State with all other states legally joining therein, in the form substantially as set forth in this Article.

"§ 90-171.81. Findings and declaration of purpose.

- (a) The General Assembly of North Carolina makes the following findings:
- (1) The health and safety of the public are affected by the degree of compliance with and the effectiveness of enforcement activities related to states' nurse licensure laws.
 - (2) Violations of nurse licensure and other laws regulating the practice of nursing may result in injury or harm to the public.
 - (3) The expanded mobility of nurses and the use of advanced communication technologies as part of our nation's health care delivery system require greater coordination and cooperation among states in the areas of nurse licensure and regulation.
 - (4) New practice modalities and technology make compliance with individual states' nurse licensure laws difficult and complex.
 - (5) The current system of duplicative licensure for nurses practicing in multiple states is cumbersome and redundant to both nurses and states.
- (b) The purposes of this Compact are to:
- (1) Facilitate the states' responsibility to protect the public's health and safety.
 - (2) Ensure and encourage the cooperation of party states in the areas of nurse licensure and regulation.
 - (3) Facilitate the exchange of information between party states in the areas of nurse regulation, investigation, and adverse actions.

- (4) Promote compliance with the laws governing the practice of nursing in each jurisdiction.
- (5) Through the mutual recognition of party state licenses, grant all party states the authority to hold nurses accountable for meeting all state practice laws in the states in which their patients are located at the time care is rendered.

"§ 90-171.82. Definitions.

The following definitions apply in this Article:

- (1) Adverse action. – A home or remote state action.
- (2) Alternative program. – A voluntary, nondisciplinary monitoring program approved by a nurse licensing board.
- (3) Compact. – This Article.
- (4) Coordinated licensure information system. – An integrated process for collecting, storing, and sharing information on nurse licensure and enforcement activities related to nurse licensure laws that is administered by a nonprofit organization composed of and controlled by state nurse licensing boards.
- (5) Current significant investigative information. –
 - a. Investigative information that indicates a licensee has committed more than a minor infraction.
 - b. Investigative information that indicates a licensee represents an immediate threat to public health and safety.
- (6) Home state. – The party state that is the nurse's primary state of residence.
- (7) Home state action. – Any administrative, civil, equitable, or criminal action permitted by the home state's laws that is imposed on a nurse by the home state's licensing board or another authority. The term includes the revocation, suspension, or probation of a nurse's license or any other action that affects a nurse's authorization to practice.
- (8) Licensee. – A person licensed by the North Carolina Board of Nursing or the nurse licensing board of a party state.
- (9) Licensing board. – A party state's regulatory agency that is responsible for licensing nurses.
- (10) Multistate licensure privilege. – Current official authority from a remote state permitting the practice of nursing as either a registered nurse or a licensed practical or vocational nurse in that state.
- (11) Nurse. – A registered nurse or licensed practical or vocational nurse as those terms are defined by each party state's practice laws.
- (12) Party state. – Any state that has adopted this Compact.
- (13) Remote state. – A party state, other than the home state, where the patient is located at the time nursing care is provided. In the case of the practice of nursing not involving a patient, the term means the party state where the recipient of nursing practice is located.

- (14) Remote state action. – Any administrative, civil, equitable, or criminal action permitted by the laws of a remote state that are imposed on a nurse by the remote state's nurse licensing board or other authority, including actions against a nurse's multistate licensure privilege to practice in the remote state. The term also includes cease and desist and other injunctive or equitable orders issued by remote states or their nurse licensing boards.
- (15) State. – A state, territory, or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico.
- (16) State practice laws. – The laws and regulations of individual party states that govern the practice of nursing, define the scope of nursing practice, and create the methods and grounds for disciplining nurses. The term does not include the initial qualifications for licensure or the requirements necessary to obtain and retain a license, except for qualifications or requirements of the home state.

"§ 90-171.83. General provisions and jurisdiction.

(a) A license to practice registered nursing that is issued by a home state to a resident in that state shall be recognized by each party state as authorizing a multistate licensure privilege to practice as a registered nurse in each party state. A license to practice practical or vocational nursing that is issued by a home state to a resident in that state shall be recognized by each party state as authorizing a multistate licensure privilege to practice as a licensed practical or vocational nurse in each party state. In order to obtain or retain a license, an applicant must meet the home state's qualifications for licensure and license renewal as well as all other applicable state laws.

(b) Party states may, in accordance with each state's due process laws, revoke, suspend, or limit the multistate licensure privilege of any licensee to practice in their state and may take any other actions under their applicable state laws that are necessary to protect the health and safety of their citizens. If a party state takes an action authorized in this subsection, it shall promptly notify the administrator of the coordinated licensure information system. The administrator shall promptly notify the home state of any actions taken by remote states.

(c) Every licensee practicing in a party state shall comply with the state practice laws of the state in which the patient is located at the time care is rendered. The practice of nursing is not limited to patient care, but shall include all nursing practice as defined by the state practice laws of a party state. The practice of nursing in a party state shall subject a nurse to the jurisdiction of the nurse licensing board and the laws and the courts in that party state.

(d) The Compact does not affect additional requirements imposed by states for advanced-practice registered nursing. A multistate licensure privilege to practice registered nursing granted by a party state shall be recognized by other party states as a license to practice registered nursing if a license to practice registered nursing is required by state law as a precondition for qualifying for advanced-practice registered nurse authorization.

(e) Persons not residing in a party state may continue to apply for nurse licensure in party states as provided for under the laws of each party state. The license granted to such persons shall not be recognized as granting the privilege to practice nursing in any other party state unless explicitly agreed to by that party state.

"§ 90-171.84. Application for licensure in a party state.

(a) Upon receiving an application for a license, the licensing board in a party state shall ascertain through the coordinated licensure information system whether the applicant holds or has ever held a license issued by any other state, whether there are any restrictions on the applicant's multistate licensure privilege, and whether any other adverse action by any state has been taken against the applicant's license.

(b) A licensee in a party state shall hold licensure in only one party state at a time. The license shall be issued by the home state.

(c) A licensee who intends to change his or her primary state of residence may apply for licensure in the new home state in advance of the change. However, a new license shall not be issued by a party state until after the licensee provides evidence of a change in his or her primary state of residence that is satisfactory to the new home state's licensing board.

(d) When a licensee changes his or her primary state of residence by moving between two party states and obtaining a license from the new home state, the license from the former home state is no longer valid.

(e) When a licensee changes his or her primary state of residence by moving from a nonparty state to a party state and obtaining a license from the new home state, the license issued by the nonparty state shall not be affected and shall remain in full force if the laws of the nonparty state so provide.

(f) When a licensee changes his or her primary state of residence by moving from a party state to a nonparty state, the license issued by the former home state converts to an individual state license that is valid only in the former home state. The license does not grant the multistate licensure privilege to practice in other party states.

"§ 90-171.85. Adverse actions.

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

(b) The licensing board of a party state may complete any pending investigation of a licensee who changes his or her primary state of residence during the course of the investigation. It may also take appropriate action against a licensee and shall promptly report the conclusion of the investigation to the administrator of the coordinated licensure information system. The administrator of the coordinated licensure information system shall promptly notify the new home state of any action taken against a licensee.

(c) A remote state may take adverse action that affects the multistate licensure privilege to practice within that party state. However, only the home state may take adverse action that affects a license that was issued by the home state.

(d) For purposes of taking adverse action, the licensing board of the home state shall give to conduct reported by a remote state the same priority and effect that it would if the conduct had occurred within the home state. The board shall apply its own state laws to determine the appropriate action that should be taken against the licensee.

(e) The home state may take adverse action based upon the factual findings of the remote state if each state follows its own procedures for imposing the adverse action.

(f) This Compact does not prohibit a party state from allowing a licensee to participate in an alternative program instead of taking adverse action against the licensee. If required by the party state's laws, the licensee's participation in an alternative program shall be confidential information. Party states shall require licensees who enter alternative programs to agree not to practice in any other party state during the term of the alternative program without prior authorization from the other party state.

"§ 90-171.86. Current significant investigative information.

(a) If a licensing board finds current significant investigative information as defined in G.S. 90-171.82(5)a., the licensing board shall, after giving the licensee notice and an opportunity to respond if required by state law, conduct a hearing and decide what adverse action, if any, should be taken against the licensee.

(b) If a licensing board finds current significant investigative information as defined in G.S. 90-171.82(5)b., the licensing board may take adverse action against the licensee without first providing the licensee notice or an opportunity to respond to the information. A hearing shall be promptly commenced and determined.

"§ 90-171.87. Additional authority of party state nursing licensing boards.

Notwithstanding any other powers, party state nurse licensing boards may do any of the following:

- (1) If otherwise permitted by state law, recover from licensees the costs of investigating and disposing of cases that result in adverse action.
- (2) Issue subpoenas for both hearings and investigations that require the attendance and testimony of witnesses and the production of evidence. Subpoenas issued by a nurse licensing board in a party state for the attendance and testimony of witnesses or the production of evidence from another party state shall be enforced in the other party state by any court of competent jurisdiction according to the practice and procedure of that court. The issuing authority shall pay any witness fees, travel expenses, mileage, and other fees required by the laws of the party state where the witnesses or evidence are located.
- (3) Issue cease and desist orders to limit or revoke a licensee's authority to practice in the board's state.
- (4) Adopt uniform rules and regulations that are developed by the Compact administrators as provided in G.S. 90-171.89(c).

"§ 90-171.88. Coordinated licensure information system.

(a) All party states shall participate in a cooperative effort to create a coordinated data base of all licensed registered nurses and licensed practical or vocational nurses. This system shall include information on the licensure and disciplinary history of each licensee, as contributed by party states, to assist in the coordination of nurse licensure and enforcement efforts.

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

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

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

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

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

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

"§ 90-171.89. Compact administration and interchange of information.

(a) The executive director of the nurse licensing board of each party state or the executive director's designee shall be the administrator of this Compact for that state.

(b) To facilitate the administration of this Compact, the Compact administrator of each party state shall furnish to the Compact administrators of all other party states information and documents concerning each licensee, including a uniform data set of investigations, identifying information, licensure data, and disclosable alternative program participation.

(c) Compact administrators shall develop uniform rules and regulations to facilitate and coordinate implementation of this Compact. These uniform rules shall be adopted by party states as authorized in G.S. 90-171.87(4).

"§ 90-171.90. Immunity.

A party state or the officers, employees, or agents of a party state's nurse licensing board who act in accordance with this Compact shall not be liable for any good faith act or omission committed while they were engaged in the performance of their duties under this Compact.

"§ 90-171.91. Effective date, withdrawal, and amendment.

(a) This Compact shall become effective as to any state when it has been enacted into the laws of that state. Any party state may withdraw from this Compact by enacting a statute repealing the Compact, but the withdrawal shall not take effect until six months after the withdrawing state has given notice of the withdrawal to the Compact administrators of all other party states.

(b) No withdrawal shall affect the validity or applicability of any report of adverse action taken by the licensing board of a state that remains a party to the Compact if the adverse action occurred prior to the withdrawal.

(c) This Compact does not invalidate or prevent any nurse licensure agreement or other cooperative arrangement between a party state and a nonparty state that is made in accordance with this Compact.

(d) This Compact may be amended by the party states. No amendment to this Compact shall become effective and binding upon the party states unless and until it is enacted into the laws of all party states.

"§ 90-171.92. Dispute resolution.

If there is a dispute that cannot be resolved by the party states involved, the following procedure shall be used:

- (1) The party states shall submit the issues in dispute to an arbitration panel that shall consist of an individual appointed by the Compact administrator in the home state, an individual appointed by the Compact administrator in the remote states involved, and an individual appointed by the Compact administrators of all the party states involved in the dispute.
- (2) The decision of a majority of the arbitrators shall be final and binding.

"§ 90-171.93. Construction and severability.

This Compact shall be liberally construed so as to effectuate the purposes as stated in G.S. 90-171.81(b). The provisions of this Compact shall be severable and if any phrase, clause, sentence, or provision of this Compact is declared to be contrary to the constitution of any party state or of the United States, or if the applicability thereof to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this Compact and the applicability thereof to any government, agency, person, or circumstance shall not be affected. If this Compact shall be held contrary to the constitution of any party state, the Compact shall remain in full force and effect as to the remaining party states and in full force and effect as to the party state affected as to all severable matters."

Section 2. Any nurse whose license has been restricted by the North Carolina Board of Nursing on the date this act becomes effective shall not practice in any other party state as defined in G.S. 90-171.82(12), as enacted in Section 1 of this act, during the time in which the license is restricted unless the nurse receives prior authorization from such other party state.

Section 3. The North Carolina Board of Nursing shall report to the General Assembly on the implementation of the provisions of this Compact no later than March 1, 2005.

Section 4. This act becomes effective July 1, 2000.

In the General Assembly read three times and ratified this the 22nd day of June, 1999.

s/ Dennis A. Wicker
President of the Senate

s/ James B. Black
Speaker of the House of Representatives

s/ James B. Hunt, Jr.
Governor

Approved 9:03 a.m. this 2nd day of July, 1999