

ASSEMBLY, No. 1583

STATE OF NEW JERSEY 218th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2018 SESSION

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SYNOPSIS

Enters New Jersey in Nurse Multistate Licensure Compact.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



1 AN ACT concerning the Nurse Multistate Licensure Compact and
2 supplementing Title 45 of the Revised Statutes.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. The State of New Jersey enacts and enters into the Nurse
8 Multistate Licensure Compact with all other jurisdictions that
9 legally join in the compact in the form substantially as follows:

10

11 Article I. Findings and Statement of Purpose.

12

13 1. The party states to this compact find that:

14 a. The health and safety of the public are affected by the degree
15 of compliance with and the effectiveness of enforcement activities
16 related to state nurse licensure laws;

17 b. Violations of nurse licensure and other laws relating to the
18 practice of nursing may result in injury or harm to the public;

19 c. The expanded mobility of nurses and the use of advanced
20 communication technologies as part of our nation's health care
21 delivery system require greater coordination and cooperation among
22 states in the areas of nurse licensure and regulation;

23 d. New practice modalities and technology make compliance
24 with individual state nurse licensure laws difficult and complex;
25 and

26 e. The current system of duplicative licensure for nurses
27 practicing in multiple states is cumbersome and redundant to both
28 nurses and the states.

29

30 2. The general purposes of this compact are to:

31 a. Facilitate the states' responsibility to protect the health and
32 safety of the public;

33 b. Ensure and encourage the cooperation of party states in the
34 areas of nurse licensure and regulation;

35 c. Facilitate the exchange of information between party states
36 in the areas of nurse regulation, investigation, and adverse actions;

37 d. Promote compliance with the laws governing the practice of
38 nursing in each jurisdiction; and

39 e. Through the mutual recognition of party state licenses,
40 authorize the party states to hold a nurse accountable for meeting all
41 nurse practice laws in the state in which the patient is located at the
42 time that care was rendered.

43

44 Article II. Definitions.

45

46 3. For the purposes of this compact, and of any supplemental or
47 concurring legislation enacted under this compact, except as may be
48 otherwise required by the context:

- 1 a. "Adverse action" means a home or remote state action.
- 2 b. "Alternative program" means a voluntary, nondisciplinary
3 monitoring program approved by a nurse licensing board.
- 4 c. "Compact" means this Nurse Multistate Licensing Compact.
- 5 d. "Coordinated licensure information system" means an
6 integrated process for collecting, storing, and sharing information
7 on nurse licensure and enforcement activities related to nurse
8 licensure laws, that is administered by a nonprofit organization
9 composed of and controlled by state nurse licensing boards.
- 10 e. "Current significant investigative information" means
11 investigative information that indicates a licensee:
 - 12 (1) has committed more than a minor infraction; or
 - 13 (2) represents an immediate threat to public health and safety.
- 14 f. "Home state" means the party state that is the nurse's
15 primary state of residence.
- 16 g. "Home state action" means any administrative, civil,
17 equitable, or criminal action permitted by the laws of the home state
18 that is imposed on a nurse by the licensing board or other authority
19 of the home state. "Home state action" includes: revocation,
20 suspension, or probation of a licensee; or any other action that
21 affects a nurse's authorization to practice.
- 22 h. "Licensee" means a person licensed by the New Jersey
23 Board of Nursing or the nurse licensing board of a party state.
- 24 i. "Licensing board" means a party state's regulatory agency
25 that is responsible for licensing nurses.
- 26 j. "Multistate licensure privilege" means the current, official
27 authority from a remote state permitting the practice of nursing as
28 either a registered nurse or a licensed practical or vocational nurse
29 in a party state.
- 30 k. "Nurse" means a registered nurse or a licensed practical or
31 vocational nurse as those terms are defined by the laws of each
32 party state.
- 33 l. "Party state" means any state that has adopted this compact.
- 34 m. "Remote state" means the party state, other than the home
35 state:
 - 36 (1) where the patient is located at the time nursing care is
37 provided; or
 - 38 (2) in the case of the practice of nursing that does not involve a
39 patient, where the recipient of nursing practices is located.
- 40 n. "Remote state action" means any:
 - 41 (1) administrative, civil, equitable, or criminal action permitted
42 by the laws of the remote state which are imposed on a nurse by the
43 remote state's nurse licensing board or other authority, including
44 actions against an individual's multistate licensure privilege to
45 practice in the remote state; and
 - 46 (2) cease and desist or other injunctive or equitable orders
47 issued by remote states or their licensing boards.
- 48 o. "State" means a state, territory, or possession of the United

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

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

10

11 Article III. General Provisions and Jurisdiction.

12

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

23 b. Party states may, in accordance with the due process laws of
24 that state, limit, suspend, or revoke the multistate licensure
25 privilege of any licensee to practice in the state and may take any
26 other actions under the applicable state laws necessary to protect the
27 health and safety of the citizens of the party state. If a party state
28 takes an action authorized by this section, it shall promptly notify
29 the administrator of the coordinated licensure information system.
30 The administrator shall promptly notify the home state of any
31 actions by remote states.

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

39 d. This compact does not affect additional requirements
40 imposed by states for advanced practice registered nursing.
41 However, a multistate licensure privilege to practice registered
42 nursing granted by a party state shall be recognized by other party
43 states as a license to practice registered nursing if one is required by
44 state law as a precondition for qualifying for advanced practice
45 registered nurse authorization.

46 e. Persons not residing in a party state may continue to apply
47 for nurse licensure in party states as provided for under the laws of
48 each party state. The license granted to the person shall not be

1 recognized as granting the privilege to practice nursing in any other
2 party state unless explicitly agreed to by that party state.

3

4 Article IV. Application for Licensure in a Party State.

5

6 5. a. Upon receiving an application for a license, the licensing
7 board in a party state shall ascertain, through the coordinated
8 licensure information system, whether:

9 (1) the applicant holds or has ever held a license issued by any
10 other state;

11 (2) there are any restrictions on the applicant's multistate
12 licensure privilege; and

13 (3) any other adverse action by any state has been taken against
14 the applicant's license.

15 b. A licensee in a party state shall hold licensure in only one
16 party state at a time, which license shall be issued by the home
17 state.

18 c. A licensee who intends to change his primary state of
19 residence may apply for licensure in the new home state in advance
20 of the change; however, a new license shall not be issued by a party
21 state until after the licensee provides evidence of the change in
22 primary state of residence that is satisfactory to the new home
23 state's licensing board.

24 d. When a licensee changes his primary state of residence by
25 moving:

26 (1) between two party states and obtains a license from the new
27 home state, the license from the former home state is no longer
28 valid;

29 (2) from a nonparty state to a party state and obtains a license
30 from the new home state, the license issued by the nonparty state
31 shall not be affected and shall remain in full force if the laws of the
32 nonparty state so provide; and

33 (3) from a party state to a nonparty state, the license issued by
34 the former home state converts to an individual state license that is
35 valid only in the former home state. The license does not grant the
36 multistate licensure privilege to practice in other party states.

37

38 Article V. Adverse Actions.

39

40 6. a. The remote state's nurse licensing board shall promptly
41 report to the administrator of the coordinated licensure information
42 system any remote state actions, including the factual and legal
43 basis for the actions, if known. The remote state's nurse licensing
44 board shall also promptly report any current significant
45 investigative information yet to result in a remote state action. The
46 administrator shall promptly notify the home state of any such
47 reports.

48 b. The party state's nurse licensing board may complete any

1 pending investigation of a licensee who changes his primary state of
2 residence during the course of an investigation. It may also take
3 appropriate action against a licensee, and shall promptly report the
4 conclusion of the investigation to the administrator of the
5 coordinated licensure information system. The administrator shall
6 promptly notify the new home state of any action taken against a
7 licensee.

8 c. A remote state may take adverse action that affects the
9 multistate licensure privilege to practice within that party state;
10 however, only the home state may take adverse action that affects a
11 license that was issued by the home state.

12 d. For purposes of taking adverse action, the home state's nurse
13 licensing board shall give the same priority and effect to the
14 conduct reported by a remote state that it would if the conduct had
15 occurred in the home state. The board shall apply its own state laws
16 to determine the appropriate action that should be taken against the
17 licensee.

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

21 f. Nothing in this compact shall prohibit a party state from
22 allowing a licensee to participate in an alternative program instead
23 of taking adverse action against the licensee. If required by the
24 party state's laws, the licensee's participation in an alternative
25 program shall be confidential information. Party states shall require
26 licensees who enter alternative programs to agree not to practice in
27 any other party state during the term of the alternative program
28 without prior authorization from the other party state.

29

30 Article VI. Additional Authority Invested in Party State Nurse
31 Licensing Boards.

32

33 7. Notwithstanding any other powers, party state nurse
34 licensing boards may:

35 a. If otherwise permitted by state law, recover from the
36 licensee the costs of investigating and disposing of cases that result
37 in adverse action;

38 b. Issue subpoenas for both hearings and investigations that
39 require the attendance and testimony of witnesses, and the
40 production of evidence. Subpoenas issued by a party state nurse
41 licensing board for the attendance and testimony of witnesses or the
42 production of evidence from another party state, shall be enforced
43 in the other party state by any court of competent jurisdiction,
44 according to the practice and procedure of that court. The issuing
45 authority shall pay any witness fees, travel expenses, mileage, and
46 other fees required by the laws of the party state where the
47 witnesses or the evidence are located;

48 c. Issue cease and desist orders to limit or revoke a licensee's

1 authority to practice in the board's state; and
2 d. Adopt uniform rules and regulations that are developed by
3 the compact administrators pursuant to Article VIII of this compact.
4

5 Article VII. Coordinated Licensure Information System.
6

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

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

20 c. Current significant investigative information shall be
21 transmitted through the coordinated licensure information system
22 only to the party states' nurse licensing boards.

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

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

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

39 g. The compact administrators, acting jointly and in
40 consultation with the administrator of the coordinated licensure
41 information system, shall formulate necessary and proper
42 procedures for the identification, collection, and exchange of
43 information under this compact.
44

45 Article VIII. Compact Administration and Interchange of
46 Information.
47

48 9. a. The executive director of the nurse licensing board of

- 1 each party state, or the executive director's designee, shall be the
2 administrator of this compact for that state.
- 3 b. In New Jersey, the administrator of this compact shall be the
4 Director of the Division of Consumer Affairs in the Department of
5 Law and Public Safety or the director's designee.
- 6 c. To facilitate the administration of this compact, the compact
7 administrator of each party state shall furnish to the compact
8 administrators of all other party states any information and
9 documents concerning each licensee, including a uniform data set of
10 investigations, identifying information, licensure data, and
11 disclosable alternative program participation information.
- 12 d. Compact administrators shall develop uniform rules and
13 regulations to facilitate and coordinate implementation of this
14 compact. These uniform rules shall be adopted by party states,
15 pursuant to Article VI of this compact.

16
17 Article IX. Immunity.
18

- 19 10. A party state, and the officers, employees, or agents of a
20 party state's nurse licensing board, who act in accordance with this
21 compact shall not be liable for any good faith act or omission
22 committed while they were engaged in the performance of their
23 duties under this compact. Good faith shall not include willful
24 misconduct, gross negligence or recklessness.

25
26 Article X. Effective Date, Withdrawal and Amendment.
27

- 28 11. a. This compact shall become effective as to any state when
29 it has been enacted into the laws of that state. A party state may
30 withdraw from the compact by enacting a statute repealing the
31 compact, but the withdrawal shall not take effect until six months
32 after the withdrawing state has given notice of the withdrawal to the
33 compact administrators of all other party states.
- 34 b. No withdrawal shall affect the validity or applicability of
35 any report of adverse action taken by the nurse licensing board of a
36 state that remains a party to the compact if the adverse action
37 occurred prior to the withdrawal.
- 38 c. This compact does not invalidate or prevent any nurse
39 licensure agreement or other cooperative agreement between a party
40 state and a nonparty state that is made in accordance with this
41 compact.
- 42 d. This compact may be amended by the party states. No
43 amendment to this compact shall become effective and binding
44 upon the party states until it is enacted into the laws of all party
45 states.

1 Article XI. Construction and Severability.

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

16 b. In the event party states find a need for settling disputes
17 arising under this compact, the party states shall submit the issues
18 in dispute to an arbitration panel that shall consist of an individual
19 appointed by the compact administrator in the home state, an
20 individual appointed by the compact administrator in the remote
21 states involved, and an individual appointed by the compact
22 administrators of all of the party states involved in the dispute. The
23 decision of a majority of the arbitrators shall be final and binding.
24

25 2. a. A State licensed nurse whose license is under suspension
26 or under probation by the New Jersey Board of Nursing, or who is
27 participating in an established treatment program which is an
28 alternative to disciplinary action, shall not practice in any other
29 party state during the term of the suspension, probation, or
30 participation without prior authorization from the other party state.
31 The board may revoke the State license of a nurse under suspension,
32 probation, or participation who practices nursing in another party
33 state without prior authorization from that state.

34 b. The multistate licensure privilege granted by this State
35 pursuant to the compact is subject to revocation or other
36 disciplinary action as the result of any disciplinary action imposed
37 by a nurse's home state.
38

39 3. This compact is intended to facilitate the regulation of the
40 practice of nursing and does not relieve employers from complying
41 with contractual and statutorily imposed obligations.
42

43 4. a. This compact shall not abrogate any provision in Title 45
44 of the Revised Statutes or any other title applicable to the practice
45 of nursing in this State.

46 b. If there is an irreconcilable conflict between this compact
47 and chapter 11 of Title 45 of the Revised Statutes, the compact shall
48 control.

1 c. Omissions in this compact shall not be supplied by
2 construction. In any instance of an omission from the compact, the
3 remaining provisions of Title 45 of the Revised Statutes or other
4 applicable statutory law, and any regulations adopted pursuant
5 thereto, shall control.

6
7 5. The provisions of this act are applicable only to nurses
8 whose home states are determined by the New Jersey Board of
9 Nursing to have licensure requirements that are substantially
10 equivalent or more stringent than those of New Jersey.

11
12 6. Any investigative or disciplinary powers conferred on the
13 Attorney General, the Director of the Division of Consumer Affairs
14 in the Department of Law and Public Safety, and the New Jersey
15 Board of Nursing under the provisions of P.L.1978, c.73 (C.45:1-14
16 et seq.) or other law, or under regulations adopted pursuant thereto,
17 shall not be interpreted as limited in any way by the terms of the
18 compact and shall be available in any investigation of the conduct
19 of, or disciplinary action against, a remote state licensee practicing
20 in New Jersey and of a New Jersey home state licensee.

21
22 7. Nothing in Article IX of the compact shall be deemed to
23 waive or abrogate in any way any defense or immunity of a public
24 entity or public employee under the common law or statutory law
25 including, but not limited to, the "New Jersey Tort Claims Act,"
26 N.J.S.59:1-1 et seq.

27
28 8. The Governor may withdraw this State from the compact if
29 the Attorney General notifies the Governor that a state that is a
30 party to the compact has changed its licensure requirements to make
31 them substantially lower than the requirements of this State, or that
32 withdrawal from the compact is in the best interests of the health,
33 safety, and welfare of the citizens of this State.

34
35 9. This act shall take effect immediately.

36
37
38 STATEMENT

39
40 This bill would enter New Jersey in the Nurse Multistate
41 Licensure Compact (NMLC).

42 The NMLC provides for a mutual recognition model of nurse
43 licensure (for registered professional nurses and licensed practical
44 nurses), in which a nurse only needs to obtain one license from the
45 nurse's state of residence in order to be permitted to practice nursing
46 in any other state that is a party to the compact, as long as the nurse
47 complies with the state practice laws of the state in which the
48 patient is located at the time that care is rendered. Currently, a

1 nurse is required to be licensed in, and by, each state in which the
2 nurse chooses to practice.

3 Under the NMLC, a nurse who applies for licensure is required
4 to meet the qualifications for licensure and license renewal of the
5 nurse's state of residence. While a nurse may be licensed in any
6 state or states that are not parties to the compact, a nurse may only
7 be licensed in one state that is a party to the compact. The NMLC
8 authorizes a state that is a party to the compact to limit, suspend, or
9 revoke the multistate licensure privilege of any nurse to practice in
10 that state and may take any other actions under the applicable state
11 laws necessary to protect the health and safety of the citizens of the
12 party state. All party states are authorized to take actions against a
13 nurse's privileges to practice in the state, including, suspension,
14 revocation, or probation. In New Jersey, the Director of the
15 Division of Consumer Affairs in the Department of Law and Public
16 Safety is to be the Compact Administrator.

17 The NMLC also establishes a coordinated licensure information
18 system that will include a database on the licensure and disciplinary
19 history of all nurses licensed in the party states. The party states
20 will be required to report to the coordinated system all adverse
21 actions against nurses, including actions against multistate licensure
22 privileges, any current significant investigative information yet to
23 result in an adverse action, and denials of applications and the
24 reasons for the denials. This information will be shared with party
25 states unless the state submitting the information designates
26 information that may not be shared or disclosed without the
27 permission of the contributing state. The coordinated licensure
28 information system is to be administered by a nonprofit
29 organization composed of and controlled by state nurse licensing
30 boards.

31 The NMLC is intended to address the expanded mobility of
32 nurses and the use of advanced communication technologies
33 (telemedicine) by nurses, which requires greater coordination and
34 cooperation among states in the areas of nurse licensure and
35 regulation. The NMLC also is intended to facilitate the exchange of
36 information between states in the area of nurse regulation,
37 investigation and adverse actions. As of October 2009, 23 states
38 (including Maryland and Delaware) were participating in the
39 NMLC.

40 The provisions of this bill are identical to those of P.L.2001,
41 c.340 (C.45:11A-1 et seq.), which entered New Jersey in the NMLC
42 for a five-year period (from January 1, 2002 to January 1, 2007),
43 but expired without ever being implemented.