

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

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SENATE BILL 194

Short Title: Nurse Licensure Compact.

(Public)

Sponsors: Senators Rand; Ballance, Carrington, Carter, Clodfelter, Cooper, Dalton, East, Forrester, Garrou, Garwood, Gulley, Hagan, Harris, Horton, Hoyle, Kinnaird, Lucas, Metcalf, Odom, Perdue, Phillips, Purcell, Robinson, and Weinstein.

Referred to: Health Care.

March 1, 1999

A BILL TO BE ENTITLED
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.

- 1 (3) The expanded mobility of nurses and the use of advanced
2 communication technologies as part of our nation's health care delivery
3 system require greater coordination and cooperation among states in the
4 areas of nurse licensure and regulation.
- 5 (4) New practice modalities and technology make compliance with
6 individual states' nurse licensure laws difficult and complex.
- 7 (5) The current system of duplicative licensure for nurses practicing in
8 multiple states is cumbersome and redundant to both nurses and states.
- 9 (b) The purposes of this Compact are to:
- 10 (1) Facilitate the states' responsibility to protect the public's health and
11 safety.
- 12 (2) Ensure and encourage the cooperation of party states in the areas of
13 nurse licensure and regulation.
- 14 (3) Facilitate the exchange of information between party states in the areas
15 of nurse regulation, investigation, and adverse actions.
- 16 (4) Promote compliance with the laws governing the practice of nursing in
17 each jurisdiction.
- 18 (5) Through the mutual recognition of party state licenses, grant all party
19 states the authority to hold nurses accountable for meeting all state
20 practice laws in the states in which their patients are located at the time
21 care is rendered.

22 **"§ 90-171.82. Definitions.**

23 The following definitions apply in this Article:

- 24 (1) Adverse action. – A home or remote state action.
- 25 (2) Alternative program. – A voluntary, nondisciplinary monitoring
26 program approved by a nurse licensing board.
- 27 (3) Compact. – This Article.
- 28 (4) Coordinated licensure information system. – An integrated process for
29 collecting, storing, and sharing information on nurse licensure and
30 enforcement activities related to nurse licensure laws that is
31 administered by a nonprofit organization composed of and controlled by
32 state nurse licensing boards.
- 33 (5) Current significant investigative information. –
- 34 a. Investigative information that indicates a licensee has committed
35 more than a minor infraction.
- 36 b. Investigative information that indicates a licensee represents an
37 immediate threat to public health and safety.
- 38 (6) Home state. – The party state that is the nurse's primary state of
39 residence.
- 40 (7) Home state action. – Any administrative, civil, equitable, or criminal
41 action permitted by the home state's laws that is imposed on a nurse by
42 the home state's licensing board or another authority. The term includes

1 the revocation, suspension, or probation of a nurse's license or any other
2 action that affects a nurse's authorization to practice.

3 (8) Licensee. – A person licensed by the North Carolina Board of Nursing
4 or the nurse licensing board of a party state.

5 (9) Licensing board. – A party state's regulatory agency that is responsible
6 for licensing nurses.

7 (10) Multistate licensure privilege. – Current official authority from a remote
8 state permitting the practice of nursing as either a registered nurse or a
9 licensed practical or vocational nurse in that state.

10 (11) Nurse. – A registered nurse or licensed practical or vocational nurse as
11 those terms are defined by each party state's practice laws.

12 (12) Party state. – Any state that has adopted this Compact.

13 (13) Remote state. – A party state, other than the home state, where the
14 patient is located at the time nursing care is provided. In the case of the
15 practice of nursing not involving a patient, the term means the party
16 state where the recipient of nursing practice is located.

17 (14) Remote state action. – Any administrative, civil, equitable, or criminal
18 action permitted by the laws of a remote state that are imposed on a
19 nurse by the remote state's nurse licensing board or other authority,
20 including actions against a nurse's multistate licensure privilege to
21 practice in the remote state. The term also includes cease and desist and
22 other injunctive or equitable orders issued by remote states or their
23 nurse licensing boards.

24 (15) State. – A state, territory, or possession of the United States, the District
25 of Columbia, or the Commonwealth of Puerto Rico.

26 (16) State practice laws. – The laws and regulations of individual party
27 states that govern the practice of nursing, define the scope of nursing
28 practice, and create the methods and grounds for disciplining nurses.
29 The term does not include the initial qualifications for licensure or the
30 requirements necessary to obtain and retain a license, except for
31 qualifications or requirements of the home state.

32 **"§ 90-171.83. General provisions and jurisdiction.**

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

41 (b) Party states may, in accordance with each state's due process laws, revoke,
42 suspend, or limit the multistate licensure privilege of any licensee to practice in their state
43 and may take any other actions under their applicable state laws that are necessary to

1 protect the health and safety of their citizens. If a party state takes an action authorized in
2 this subsection, it shall promptly notify the administrator of the coordinated licensure
3 information system. The administrator shall promptly notify the home state of any
4 actions taken by remote states.

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

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

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

21 **§ 90-171.84. Application for licensure in a party state.**

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

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

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

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

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

41 (f) When a licensee changes his or her primary state of residence by moving from
42 a party state to a nonparty state, the license issued by the former home state converts to

1 an individual state license that is valid only in the former home state. The license does
2 not grant the multistate licensure privilege to practice in other party states.

3 **"§ 90-171.85. Adverse actions.**

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

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

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

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

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

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

31 **"§ 90-171.86. Current significant investigative information.**

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

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

40 **"§ 90-171.87. Additional authority of party state nursing licensing boards.**

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

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

16 **"§ 90-171.88. Coordinated licensure information system.**

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

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

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

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

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

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

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

1 **"§ 90-171.89. Compact administration and interchange of information.**

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

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

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

12 **"§ 90-171.90. Immunity.**

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

17 **"§ 90-171.91. Effective date, withdrawal, and amendment.**

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

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

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

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

32 **"§ 90-171.92. Dispute resolution.**

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

35 (1) The party states shall submit the issues in dispute to an arbitration panel
36 that shall consist of an individual appointed by the Compact
37 administrator in the home state, an individual appointed by the Compact
38 administrator in the remote states involved, and an individual appointed
39 by the Compact administrators of all the party states involved in the
40 dispute.

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

42 **"§ 90-171.93. Construction and severability.**

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

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

16 Section 3. The North Carolina Board of Nursing shall report to the General
17 Assembly on the implementation of the provisions of this Compact no later than March 1,
18 2005.

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