

CHAPTER 340

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

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

C.45:11A-1 Nurse Multistate Licensure Compact.

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

Article I. Findings and Statement of Purpose.

1. The party states to this compact find that:
 - a. The health and safety of the public are affected by the degree of compliance with and the effectiveness of enforcement activities related to state nurse licensure laws;
 - b. Violations of nurse licensure and other laws relating to the practice of nursing may result in injury or harm to the public;
 - c. 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;
 - d. New practice modalities and technology make compliance with individual state nurse licensure laws difficult and complex; and
 - e. The current system of duplicative licensure for nurses practicing in multiple states is cumbersome and redundant to both nurses and the states.
2. The general purposes of this compact are to:
 - a. Facilitate the states' responsibility to protect the health and safety of the public;
 - b. Ensure and encourage the cooperation of party states in the areas of nurse licensure and regulation;
 - c. Facilitate the exchange of information between party states in the areas of nurse regulation, investigation, and adverse actions;
 - d. Promote compliance with the laws governing the practice of nursing in each jurisdiction; and
 - e. Through the mutual recognition of party state licenses, authorize the party states to hold a nurse accountable for meeting all nurse practice laws in the state in which the patient is located at the time that care was rendered.

Article II. Definitions.

3. For the purposes of this compact, and of any supplemental or concurring legislation enacted under this compact, except as may be otherwise required by the context:
 - a. "Adverse action" means a home or remote state action.
 - b. "Alternative program" means a voluntary, nondisciplinary monitoring program approved by a nurse licensing board.
 - c. "Compact" means this Nurse Multistate Licensing Compact.
 - d. "Coordinated licensure information system" means 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.
 - e. "Current significant investigative information" means investigative information that indicates a licensee:
 - (1) has committed more than a minor infraction; or
 - (2) represents an immediate threat to public health and safety.
 - f. "Home state" means the party state that is the nurse's primary state of residence.
 - g. "Home state action" means any administrative, civil, equitable, or criminal action permitted by the laws of the home state that is imposed on a nurse by the licensing board or other authority of the home state. "Home state action" includes: revocation, suspension or probation of a licensee; or any other action that affects a nurse's authorization to practice.

h. "Licensee" means a person licensed by the New Jersey Board of Nursing or the nurse licensing board of a party state.

i. "Licensing board" means a party state's regulatory agency that is responsible for licensing nurses.

j. "Multistate licensure privilege" means the 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 a party state.

k. "Nurse" means a registered nurse or a licensed practical or vocational nurse as those terms are defined by the laws of each party state.

l. "Party state" means any state that has adopted this compact.

m. "Remote state" means the party state, other than the home state:

(1) where the patient is located at the time nursing care is provided; or

(2) in the case of the practice of nursing that does not involve a patient, where the recipient of nursing practices is located.

n. "Remote state action" means any:

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

(2) cease and desist or other injunctive or equitable orders issued by remote states or their licensing boards.

o. "State" means a state, territory, or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico.

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

Article III. General Provisions and Jurisdiction.

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

b. Party states may, in accordance with the due process laws of that state, limit, suspend or revoke the multistate licensure privilege of any licensee to practice in the state and may take any other actions under the applicable state laws necessary to protect the health and safety of the citizens of the party state. If a party state takes an action authorized by this section, it shall promptly notify the administrator of the coordinated licensure information system. The administrator shall promptly notify the home state of any actions 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 that care is rendered. The practice of nursing is not limited to patient care, but shall include all nursing practice, as defined by the 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 courts of the party state.

d. This compact does not affect additional requirements imposed by states for advanced practice registered nursing. However, 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 one 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 the person shall not be recognized as granting the privilege to practice nursing in any other party state unless explicitly agreed to by that party state.

Article IV. Application for Licensure in a Party State.

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

- (1) the applicant holds or has ever held a license issued by any other state;
- (2) there are any restrictions on the applicant's multistate licensure privilege; and
- (3) 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, which license shall be issued by the home state.

c. A licensee who intends to change his 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 the change in the primary state of residence that is satisfactory to the new home state's licensing board.

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

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

(2) from a nonparty state to a party state and obtains 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; and

(3) 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.

Article V. Adverse Actions.

6. a. The remote state's nurse licensing board 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 remote state's nurse licensing board shall also promptly report any current significant investigative information yet to result in a remote state action. The administrator shall promptly notify the home state of any such reports.

b. The party state's nurse licensing board may complete any pending investigation of a licensee who changes his primary state of residence during the course of an 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 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 home state's nurse licensing board shall give the same priority and effect to the conduct reported by a remote state that it would if the conduct had occurred in 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. Nothing in this compact shall 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.

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

7. Notwithstanding any other powers, party state nurse licensing boards may:
 - a. If otherwise permitted by state law, recover from the licensee the costs of investigating and disposing of cases that result in adverse action;
 - b. Issue subpoenas for both hearings and investigations that require the attendance and testimony of witnesses, and the production of evidence. Subpoenas issued by a party state nurse licensing board 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 the evidence are located;
 - c. Issue cease and desist orders to limit or revoke a licensee's authority to practice in the board's state; and
 - d. Adopt uniform rules and regulations that are developed by the compact administrators pursuant to Article VIII of this compact.

Article VII. Coordinated Licensure Information System.

8. a. All party states shall participate in a cooperative effort to create a coordinated database 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 to the contrary, the party states' nurse 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 the party states' nurse licensing boards.
 - d. Notwithstanding any other provision of law to the contrary, all party states' nurse 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 individuals or entities without the express permission of the contributing party state.
 - e. Any personally identifiable information obtained by a party state nurse licensing board from the coordinated licensure information system shall not be shared with nonparty states or disclosed to other individuals or entities 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 that 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.

Article VIII. Compact Administration and Interchange of Information.

9. 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. In New Jersey, the administrator of this compact shall be the Director of the Division of Consumer Affairs in the Department of Law and Public Safety or the director's designee.
 - c. 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 any information and documents concerning each licensee, including a uniform data set of investigations, identifying information, licensure data, and disclosable alternative program participation information.

d. 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, pursuant to Article VI of this compact.

Article IX. Immunity.

10. A party state, and 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. Good faith shall not include willful misconduct, gross negligence or recklessness.

Article X. Effective Date, Withdrawal and Amendment.

11. a. This compact shall become effective as to any state when it has been enacted into the laws of that state. A party state may withdraw from the 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 nurse 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 agreement 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 until it is enacted into the laws of all party states.

Article XI. Construction and Severability.

12. a. This compact shall be liberally construed so as to effectuate the purposes of the compact. 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 the United States or the constitution of the party states, or 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 may not be affected. If this compact is held to be contrary to the constitution of a party state, this compact shall remain in full force and effect as to the remaining party states, and to the party state affected as to all severable matters.

b. In the event party states find a need for settling disputes arising under this compact, 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 of the party states involved in the dispute. The decision of a majority of the arbitrators shall be final and binding.

C.45:11A-2 Suspended, probationary nurse prohibited to practice in party state.

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

b. The multistate licensure privilege granted by this State pursuant to the compact is subject to revocation or other disciplinary action as the result of any disciplinary action imposed by a

nurse's home state.

C.45:11A-3 Purpose of compact.

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

C.45:11A-4 Provisions not abrogated, irreconcilable conflicts; omissions.

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

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

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

C.45:11A-5 Applicability of compact.

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

C.45:11A-6 Investigative, disciplinary powers unaffected.

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

C.45:11A-7 Tort claims defenses, immunity not waived.

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

C.45:11A-8 Withdrawal from compact.

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

9. This act shall take effect on January 1, 2002 and shall expire on January 1, 2007

Approved January 5, 2002.