

2015 -- S 0495

=====
LC001428
=====

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2015

—————
A N A C T

RELATING TO BUSINESSES AND PROFESSIONS

Introduced By: Senator Maryellen Goodwin

Date Introduced: February 26, 2015

Referred To: Senate Health & Human Services

It is enacted by the General Assembly as follows:

1 SECTION 1. Chapter 5-34.3 of the General Laws entitled "Nurse Licensure Compact" is
2 hereby repealed in its entirety.

3 ~~CHAPTER 5-34.3~~

4 ~~Nurse Licensure Compact~~

5 ~~**5-34.3-1. Short title.**--- This chapter may be cited as the "Nurse Licensure Compact Act".~~

6 ~~**5-34.3-2. The Nurse Licensure Compact.**--- The nurse licensure compact is hereby~~
7 ~~adopted and entered into with all other jurisdictions that legally join in the compact, which is, in~~
8 ~~form, substantially similar to this chapter.~~

9 ~~**5-34.3-3. Legislative findings.**--- (a) The general assembly finds and declares that:~~

10 ~~(1) The health and safety of the public are affected by the degree of compliance with and~~
11 ~~the effectiveness of enforcement activities related to state nurse licensure laws;~~

12 ~~(2) Violations of nurse licensure and other laws regulating the practice of nursing may~~
13 ~~result in injury or harm to the public;~~

14 ~~(3) The expanded mobility of nurses and the use of advanced communication~~
15 ~~technologies as part of our nation's healthcare delivery system require greater coordination and~~
16 ~~cooperation among states in the areas of nurse licensure and regulations;~~

17 ~~(4) New practice modalities and technology make compliance with individual state nurse~~
18 ~~licensure laws difficult and complex; and~~

19 ~~(5) The current system of duplicative licensure for nurses practicing in multiple states is~~

1 ~~cumbersome and redundant to both nurses and states.~~

2 ~~(b) The general purposes of this compact are to:~~

3 ~~(1) Facilitate the states' responsibility to protect the public's health and safety;~~

4 ~~(2) Ensure and encourage the cooperation of party states in the areas of nurse licensure~~
5 ~~and regulation;~~

6 ~~(3) Facilitate the exchange of information between party states in the areas of nurse~~
7 ~~regulation, investigation and adverse actions;~~

8 ~~(4) Promote compliance with the laws governing the practice of nursing in each~~
9 ~~jurisdiction; and~~

10 ~~(5) Invest all party states with the authority to hold a nurse accountable for meeting all~~
11 ~~state practice laws in the state in which the patient is located at the time care is rendered through~~
12 ~~the mutual recognition of party state licenses.~~

13 ~~**5-34.3-4. Definitions.** -- As used in this chapter:~~

14 ~~(1) "Adverse action" means a home or remote state action.~~

15 ~~(2) "Alternative program" means a voluntary, non-disciplinary monitoring program~~
16 ~~approved by a nurse licensing board.~~

17 ~~(3) "Coordinated licensure information system" means an integrated process for~~
18 ~~collecting, storing, and sharing information on nurse licensure and enforcement activities related~~
19 ~~to nurse licensure laws, which is administered by a non-profit organization composed of and~~
20 ~~controlled by state nurse licensing boards.~~

21 ~~(4) "Current significant investigative information" means investigative information that a~~
22 ~~licensing board, after a preliminary inquiry that includes notification and an opportunity for the~~
23 ~~nurse to respond if required by state law, has reason to believe is not groundless and, if proved~~
24 ~~true, would indicate more than a minor infraction; or investigative information that indicates that~~
25 ~~the nurse represents an immediate threat to public health and safety regardless of whether the nurse~~
26 ~~has been notified and had an opportunity to respond.~~

27 ~~(5) "Home state" means the party state which is the nurse's primary state of residence.~~

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

32 ~~(7) "Licensing board" means a party state's regulatory body responsible for issuing nurse~~
33 ~~licenses.~~

34 ~~(8) "Multistate licensure privilege" means current, official authority from a remote state~~

1 ~~permitting the practice of nursing as either a registered nurse or a licensed practical/vocational~~
2 ~~nurse in such party state. All party states have the authority, in accordance with existing state due~~
3 ~~process law, to take actions against the nurse's privilege such as: revocation, suspension,~~
4 ~~probation or any other action which affects a nurse's authorization to practice.~~

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

7 ~~(10) "Party state" means any state that has adopted this compact.~~

8 ~~(11) "Remote state" means a party state, other than the home state, where the patient is~~
9 ~~located at the time nursing care is provided, or, in the case of the practice of nursing not involving~~
10 ~~a patient, in such party state where the recipient of nursing practice is located.~~

11 ~~(12) "Remote state action" means any administrative, civil, equitable or criminal action~~
12 ~~permitted by a remote state's laws which are imposed on a nurse by the remote state's licensing~~
13 ~~board or other authority including actions against an individual's multistate licensure privilege to~~
14 ~~practice in the remote state, and cease and desist and other injunctive or equitable orders issued~~
15 ~~by remote states or the licensing boards thereof.~~

16 ~~(13) "State" means a state, territory, or possession of the United States, the District of~~
17 ~~Columbia.~~

18 ~~(14) "State practice laws" means those individual party's state laws and regulations that~~
19 ~~govern the practice of nursing, define the scope of nursing practice, and create the methods and~~
20 ~~grounds for imposing discipline. It does not include the initial qualifications for licensure or~~
21 ~~requirements necessary to obtain and retain a license, except for qualifications or requirements of~~
22 ~~the home state.~~

23 ~~**5-34.3-5. Permitted activities and jurisdiction.** (a) A license to practice registered~~
24 ~~nursing issued by a home state to a resident in that state will be recognized by each party state as~~
25 ~~authorizing a multistate licensure privilege to practice as a registered nurse in such party state. A~~
26 ~~license to practice licensed practical/vocational nursing issued by a home state to a resident in~~
27 ~~that state will be recognized by each party state as authorizing a multistate licensure privilege to~~
28 ~~practice as a licensed practical/vocational nurse in such party state. In order to obtain or retain a~~
29 ~~license, an applicant must meet the home state's qualifications for licensure and license renewal~~
30 ~~as well as all other applicable state laws.~~

31 ~~(b) Party states may, in accordance with state due process laws, limit or revoke the~~
32 ~~multistate licensure privilege of any nurse to practice in their state and may take any other actions~~
33 ~~under their applicable state laws necessary to protect the health and safety of their citizens. If a~~
34 ~~party state takes such action, it shall promptly notify the administrator of the coordinated~~

1 ~~licensure information system. The administrator of the coordinated licensure information system~~
2 ~~shall promptly notify the home state of any such actions by remote states.~~

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

8 ~~(d) This compact does not affect additional requirements imposed by states for advanced~~
9 ~~practice registered nursing. However, a multistate licensure privilege to practice registered~~
10 ~~nursing granted by a party shall be recognized by other party states as a license to practice~~
11 ~~registered nursing if one is required by state law as a precondition for qualifying for advanced~~
12 ~~practice registered nurse authorization.~~

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

17 ~~**5-34.3-6. Applications for licensure in a party state.**~~ (a) ~~Upon application for a~~
18 ~~license, the licensing board in a party state shall ascertain, through the coordinated licensure~~
19 ~~information system, whether the applicant has ever held, or is the holder of, a license issued by~~
20 ~~any other state, whether there are any restrictions on the multistate licensure privilege, and~~
21 ~~whether any other adverse action by any state has been taken against the license.~~

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

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

28 ~~(d) When a nurse changes primary state of residence by;~~

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

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

34 ~~(3) Moving from a party state to a non party state, the license issued by the prior home~~

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

3 ~~**5-34.3-7. Adverse actions.** -- In addition to the provisions described in § 5-34.3-5, the~~
4 ~~following provisions apply:~~

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

11 ~~(2) The licensing board of a party state shall have the authority to complete any pending~~
12 ~~investigations for a nurse who changes primary state of residence during the course of such~~
13 ~~investigations. It shall also have the authority to take appropriate action(s), and shall promptly~~
14 ~~report the conclusions of such investigations to the administrator of the coordinated licensure~~
15 ~~information system. The administrator of the coordinated licensure information system shall~~
16 ~~promptly notify the new home state of any such actions.~~

17 ~~(3) A remote state may take adverse action affecting the multistate licensure privilege to~~
18 ~~practice within that party state. However, only the home state shall have the power to impose~~
19 ~~adverse action against the license issued by the home state.~~

20 ~~(4) For purposes of imposing adverse action, the licensing board of the home state shall~~
21 ~~give the same priority and effect to reported conduct received from a remote state as it would if~~
22 ~~such conduct had occurred within the home state. In so doing, it shall apply its own state laws to~~
23 ~~determine appropriate action.~~

24 ~~(5) The home state may take adverse action based on the factual findings of the remote~~
25 ~~state, so long as each state follows its own procedures for imposing such adverse action.~~

26 ~~(6) Nothing in this compact shall override a party state's decision that participation in an~~
27 ~~alternative program may be used in lieu of licensure action and that such participation shall~~
28 ~~remain non-public if required by the party state's laws. Party states must require nurses who enter~~
29 ~~any alternative programs to agree not to practice in any other party state during the term of the~~
30 ~~alternative program without prior authorization from such other party state.~~

31 ~~**5-34.3-8. Additional authorities invested in party state nurse licensing boards.** --~~

32 ~~Notwithstanding any other powers, party state nurse licensing boards shall have the authority to:~~

33 ~~(1) If otherwise, permitted by state law, recover from the affected nurse the costs of~~
34 ~~investigations and disposition of cases resulting from any adverse action taken against that nurse;~~

1 ~~(2) Issue subpoenas for both hearings and investigations which require the attendance~~
2 ~~and testimony of witnesses, and the production of evidence. Subpoenas issued by a nurse~~
3 ~~licensing board in a party state for the attendance and testimony of witnesses, and/or the~~
4 ~~production of evidence from another party state, shall be enforced in the latter state by any court~~
5 ~~of competent jurisdiction, according to the practice and procedure of that court applicable to~~
6 ~~subpoenas issued in proceedings pending before it. The issuing authority shall pay any witness~~
7 ~~fees, travel expenses, mileage and other fees required by the service statutes of the state where the~~
8 ~~witnesses and/or evidence are located.~~

9 ~~(3) Issue cease and desist orders to limit or revoke a nurse's authority to practice in their~~
10 ~~state;~~

11 ~~(4) Promulgate uniform rules and regulations as provided for in subsection 5-34.3-10(c).~~

12 ~~**5-34.3-9. Coordinated licensure information system.**~~ (a) All party states shall
13 ~~participate in a cooperative effort to create a coordinated data base of all licensed registered~~
14 ~~nurses and licensed practical/vocational nurses. This system will include information on the~~
15 ~~licensure and disciplinary history of each nurse, as contributed by party states, to assist in the~~
16 ~~coordination of nurse licensure and enforcement efforts.~~

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

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

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

27 ~~(e) Any personally identifiable information obtained by a party state's licensing board~~
28 ~~from the coordinated licensure information system may not be shared with non party states or~~
29 ~~disclosed to other entities or individuals except to the extent permitted by the laws of the party~~
30 ~~state contributing the information.~~

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

34 ~~(g) The compact administrators, acting jointly with each other and in consultation with~~

1 ~~the administrator of the coordinated licensure information system, shall formulate necessary and~~
2 ~~proper procedures for the identification, collection and exchange of information under this~~
3 ~~compact.~~

4 ~~**5-34.3-10. Compact administration and interchange of information.** -- (a) The head~~
5 ~~of the nurse licensing board, or his/her designee, of each party state shall be the administrator of~~
6 ~~this compact for his/her state.~~

7 ~~(b) The compact administrator of each party shall furnish to the compact administrator of~~
8 ~~each other party state any information and documents including, but not limited to, a uniform data~~
9 ~~set of investigations, identifying information, licensure data, and disclosable alternative program~~
10 ~~participation information to facilitate the administration of this compact.~~

11 ~~(c) Compact administrators shall have the authority to develop uniform rules to facilitate~~
12 ~~and coordinate implementation of this compact. These uniform rules shall be adopted by party~~
13 ~~states, under the authority invested under subsection 5-34.3-8(4).~~

14 ~~**5-34.3-11. Immunity.** -- No party state or the officers or employees or agents of a party~~
15 ~~state's nurse licensing board who acts in accordance with the provisions of this compact shall be~~
16 ~~liable on account of any act or omission in good faith while engaged in the performance of their~~
17 ~~duties under this compact. Good faith in this article shall not include willful misconduct, gross~~
18 ~~negligence, or recklessness.~~

19 ~~**5-34.3-12. Entry into force, withdrawal and amendment.** -- (a) This compact shall~~
20 ~~enter into force and become effective as to any state when it has been enacted into the laws of that~~
21 ~~state. Any party state may withdraw from this compact by enacting a statute repealing the same,~~
22 ~~but no such withdrawal shall take effect until six (6) months after the withdrawing state has given~~
23 ~~notice of the withdrawal to the executive heads of all other party states.~~

24 ~~(b) No withdrawal shall affect the validity or applicability by the licensing boards of~~
25 ~~states remaining party to the compact of any report of adverse action occurring prior to the~~
26 ~~withdrawal.~~

27 ~~(c) Nothing contained in this compact shall be construed to invalidate or prevent any~~
28 ~~nurse licensure agreement or other cooperative arrangement between a party state and a non-party~~
29 ~~state that is made in accordance with the other provisions of this compact.~~

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

33 ~~**5-34.3-13. Employers.** -- This compact is designed to facilitate the regulation of nurses,~~
34 ~~and does not relieve employers from complying with statutorily imposed obligations. This~~

1 ~~compact does not supersede existing state labor laws.~~

2 ~~**5-34.3-14. Construction and severability.** (a) This compact shall be liberally~~
3 ~~construed so as to effectuate the purposes thereof. The provisions of this compact shall be~~
4 ~~severable and if any phrase, clause, sentence or provision of this compact is declared to be~~
5 ~~contrary to the constitution of any party state or of the United States or the applicability thereof to~~
6 ~~any government, agency, person or circumstance is held invalid, the validity of the remainder of~~
7 ~~this compact and the applicability thereof to any government, agency, person or circumstance~~
8 ~~shall not be affected thereby. If this compact shall be held contrary to the constitution of any state~~
9 ~~party thereto, the compact shall remain in full force and effect as to the remaining party states and~~
10 ~~in full force and effect as to the party state affected as to all severable matters.~~

11 ~~(b) In the event party states find a need for settling disputes arising under this compact:~~

12 ~~(1) The party states may submit the issues in dispute to an arbitration panel which will be~~
13 ~~comprised of an individual appointed by the compact administrator in the home state; an~~
14 ~~individual appointed by the compact administrator in the remote state(s) involved; and an~~
15 ~~individual mutually agreed upon by the compact administrators of all the party states involved in~~
16 ~~the dispute.~~

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

18 SECTION 2. This act shall take effect upon passage.

=====
LC001428
=====

EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO BUSINESSES AND PROFESSIONS

- 1 This act would repeal the Nurse Licensure Compact.
- 2 This act would take effect upon passage.

=====
LC001428
=====