

HOUSE No. 01493

The Commonwealth of Massachusetts

PRESENTED BY:

Kay Khan

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

nurse licensure compact in Massachusetts.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Kay Khan</i>	<i>11th Middlesex</i>
<i>Jennifer E. Benson</i>	<i>37th Middlesex</i>
<i>Denise Provost</i>	<i>27th Middlesex</i>

HOUSE No. 01493

By Ms. Kay Khan of Newton, petition (accompanied by bill, House, No. 01493) of Denise Provost and others for legislation to provide for the rapid deployment of qualified nurses. Joint Committee on Public Health.

The Commonwealth of Massachusetts

In the Year Two Thousand Eleven

nurse licensure compact in Massachusetts.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Emergency Preamble

2 Whereas, the deferred operation of this act would tend to defeat its purpose, which is to increase
3 public access to safe nursing care, provide for the rapid deployment of qualified nurses in
4 response to a state of emergency, address the emerging practice of nursing through
5 telecommunications technology, and build effective interstate communication on licensure and
6 enforcement issues, this act is hereby declared to be an emergency law, necessary for the
7 immediate preservation of the public safety and convenience, and is hereby effective on its
8 enactment.

9 SECTION 2. The General Laws are hereby amended by inserting after Chapter 112 the
10 following new chapter:-

12 Chapter 112A. Nurse Licensure Compact

13 Section 1. Notwithstanding any general or special law to the contrary, the “Nurse Licensure
14 Compact” or Compact as adopted by the National Council of State Boards of Nursing Nurse
15 Licensure Compact in its Final Version dated November 6, 1998 is hereby enacted into law. The
16 Massachusetts board of registration in nursing shall adopt regulations in the same manner as all
17 other with states legally joining in the Compact as set forth in this chapter.

18

19 Section 2. General Findings

20 a. The party states find that:

21 1. the health and safety of the public are affected by the degree of compliance with and the
22 effectiveness of enforcement activities related to state nurse licensure laws;

23 2. violations of nurse licensure and other laws regulating the practice of nursing may result
24 in injury or harm to the public;

25 3. the expanded mobility of nurses and the use of advanced communication technologies as
26 part of our nation’s healthcare delivery system require greater coordination and cooperation
27 among states in the areas of nurse licensure and regulation;

28 4. new practice modalities and technology make compliance with individual state nurse
29 licensure laws difficult and complex; and

30 5. the current system of duplicative licensure for nurses practicing in multiple states is
31 cumbersome and redundant to both nurses and states.

32 b. The general purposes of this Compact are to:

33 1. facilitate the states' responsibility to protect the public's health and safety;

34 2. ensure and encourage the cooperation of party states in the areas of nurse licensure and
35 regulation;

36 3. facilitate the exchange of information between party states in the areas of nurse
37 regulation, investigation and adverse actions;

38 4. promote compliance with the laws governing the practice of nursing in each jurisdiction;
39 and

40 5. invest all party states with the authority to hold a nurse accountable for meeting all state
41 practice laws in the state in which the patient is located at the time care is rendered through the
42 mutual recognition of party state licenses.

43 Section 3. Definition

44 a. "Adverse Action" means a home or remote state action.

45 b. "Alternative program" means a voluntary, non-disciplinary monitoring program approved
46 by a nurse licensing board.

47 c. "Coordinated licensure information system" means an integrated process for collecting,
48 storing, and sharing information on nurse licensure and enforcement activities related to nurse
49 licensure laws, which is administered by a non-profit organization composed of and controlled
50 by state nurse licensing boards.

51 d. "Current significant investigative information" means:

52 investigative information that a licensing board, after a preliminary inquiry that includes
53 notification and an opportunity for the nurse to respond if required by state law, has reason to
54 believe is not groundless and, if proved true, would indicate more than a minor infraction; or
55 investigative information that indicates that the nurse represents an immediate threat to public
56 health and safety regardless of whether the nurse has been notified and had an opportunity to
57 respond.

58 e. "Home state" means the party state which is the nurse's primary state of residence.

59 f. "Home state action" means any administrative, civil, equitable or criminal action
60 permitted by the home state's laws which are imposed on a nurse by the home state's licensing
61 board or other authority including actions against an individual's license such as: revocation,
62 suspension, probation or any other action which affects a nurse's authorization to practice.

63 g. "Licensing board" means a party state's regulatory body responsible for issuing nurse
64 licenses.

65 h. "Multistate licensure privilege" means current, official authority from a remote state
66 permitting the practice of nursing as either a registered nurse or a licensed practical/vocational
67 nurse in such party state. All party states have the authority, in accordance with existing state due
68 process laws, to take actions against the nurse's privilege such as: revocation, suspension,
69 probation or any other action which affects a nurse's authorization to practice.

70 i. "Nurse" means a registered nurse or licensed practical/vocational nurse, as those terms
71 are defined by each party's state practice laws.

72 j. "Party state" means any state that has adopted this Compact.

73 k. "Remote state" means a party state, other than the home state, where the patient is located
74 at the time nursing care is provided or, in the case of the practice of nursing not involving a
75 patient, in such party state where the recipient of nursing practice is located.

76 l. "Remote state action" means: any administrative, civil, equitable or criminal action
77 permitted by a remote state's laws which are imposed on a nurse by the remote state's licensing
78 board or other authority including actions against an individual's multistate licensure privilege to
79 practice in the remote state; and

80 cease and desist and other injunctive or equitable orders issued by remote states or the licensing
81 boards thereof.

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

84 n. "State practice laws" means those individual party's state laws and regulations that
85 govern the practice of nursing, define the scope of nursing practice, and create the methods and
86 grounds for imposing discipline.

87 o. "State practice laws" does not include the initial qualifications for licensure or
88 requirements necessary to obtain and retain a license, except for qualifications or requirements of
89 the home state.

90 Section 4. General Provisions and Jurisdictions

91 a. A license to practice registered nursing issued by a home state to a resident in that state
92 will be recognized by each party state as authorizing a multistate licensure privilege to practice
93 as a registered nurse in such party state. A license to practice licensed practical/vocational

94 nursing issued by a home state to a resident in that state will be recognized by each party state as
95 authorizing a multistate licensure privilege to practice as a licensed practical/vocational nurse in
96 such party state. In order to obtain or retain a license, an applicant must meet the home state's
97 qualifications for licensure and license renewal as well as all other applicable state laws.

98 b. Party states may, in accordance with state due process laws, limit or revoke the multistate
99 licensure privilege of any nurse to practice in their state and may take any other actions under
100 their applicable state laws necessary to protect the health and safety of their citizens. If a party
101 state takes such action, it shall promptly notify the administrator of the coordinated licensure
102 information system. The administrator of the coordinated licensure information system shall
103 promptly notify the home state of any such actions by remote states.

104 c. Every nurse practicing in a party state must comply with the state practice laws of the
105 state in which the patient is located at the time care is rendered. In addition, the practice of
106 nursing is not limited to patient care, but shall include all nursing practice as defined by the state
107 practice laws of a party state. The practice of nursing will subject a nurse to the jurisdiction of
108 the nurse licensing board and the courts, as well as the laws, in that party state.

109 d. This Compact does not affect additional requirements imposed by states for advanced
110 practice registered nursing. However, a multistate licensure privilege to practice registered
111 nursing granted by a party state shall be recognized by other party states as a license to practice
112 registered nursing if one is required by state law as a precondition for qualifying for advanced
113 practice registered nurse authorization.

114 e. Individuals not residing in a party state shall continue to be able to apply for nurse
115 licensure as provided for under the laws of each party state. However, the license granted to

116 these individuals will not be recognized as granting the privilege to practice nursing in any other
117 party state unless explicitly agreed to by that party state.

118 Section 5 Application for Licensure in a Party State

119 a. Upon application for a license, the licensing board in a party state shall ascertain, through
120 the coordinated licensure information system, whether the applicant has ever held, or is the
121 holder of, a license issued by any other state, whether there are any restrictions on the multistate
122 licensure privilege, and whether any other adverse action by any state has been taken against the
123 license.

124 b. A nurse in a party state shall hold licensure in only one party state at a time, issued by the
125 home state.

126 c. A nurse who intends to change primary state of residence may apply for licensure in the
127 new home state in advance of such change. However, new licenses will not be issued by a party
128 state until after a nurse provides evidence of change in primary state of residence satisfactory to
129 the new home state's licensing board.

130 d. When a nurse changes primary state of residence by:

131 1. moving between two party states, and obtains a license from the new home state, the
132 license from the former home state is no longer valid;

133 2. moving from a non-party state to a party state, and obtains a license from the new home
134 state, the individual state license issued by the non-party state is not affected and will remain in
135 full force if so provided by the laws of the non-party state; or

136 3. moving from a party state to a non-party state, the license issued by the prior home state
137 converts to an individual state license, valid only in the former home state, without the multistate
138 licensure privilege to practice in other party states.

139 Section 6. Adverse Actions

140 In addition to the provisions of Section 4, the following provisions shall apply:

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

147 b. The licensing board of a party state shall have the authority to complete any pending
148 investigations for a nurse who changes primary state of residence during the course of such
149 investigations. It shall also have the authority to take appropriate action(s), and shall promptly
150 report the conclusions of such investigations to the administrator of the coordinated licensure
151 information system. The administrator of the coordinated licensure information system shall
152 promptly notify the new home state of any such actions.

153 c. A remote state may take adverse action affecting the multistate licensure privilege to
154 practice within that party state. However, only the home state shall have the power to impose
155 adverse action against the license issued by the home state.

156 d. For purposes of imposing adverse action, the licensing board of the home state shall give
157 the same priority and effect to reported conduct received from a remote state as it would if such
158 conduct had occurred within the home state. In so doing, it shall apply its own state laws to
159 determine appropriate action.

160 e. The home state may take adverse action based on the factual findings of the remote state,
161 so long as each state follows its own procedures for imposing such adverse action.

162 f. Nothing in this Compact shall override a party state's decision that participation in an
163 alternative program may be used in lieu of licensure action and that such participation shall
164 remain non-public if required by the party state's laws. Party states must require nurses who
165 enter any alternative programs to agree not to practice in any other party state during the term of
166 the alternative program without prior authorization from such other party state.

167 Section 7. Additional Authorities Invested in Party State Nurse Licensing Boards

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

169 a. if otherwise permitted by state law, recover from the affected nurse the costs of
170 investigations and disposition of cases resulting from any adverse action taken against that nurse;

171 b. issue subpoenas for both hearings and investigations which require the attendance and
172 testimony of witnesses, and the production of evidence. Subpoenas issued by a nurse licensing
173 board in a party state for the attendance and testimony of witnesses, and/or the production of
174 evidence from another party state, shall be enforced in the latter state by any court of competent
175 jurisdiction, according to the practice and procedure of that court applicable to subpoenas issued
176 in proceedings pending before it. The issuing authority shall pay any witness fees, travel

177 expenses, mileage and other fees required by the service statutes of the state where the witnesses
178 and/or evidence are located.

179 c. issue cease and desist orders to limit or revoke a nurse's authority to practice in their
180 state; and

181 d. promulgate uniform rules and regulations as provided for in Section 9c of this Chapter

182 Section 8 Coordinated Licensure Information Systems

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

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

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

193 d. Notwithstanding any other provision of law, all party states' licensing boards contributing
194 information to the coordinated licensure information system may designate information that may
195 not be shared with non-party states or disclosed to other entities or individuals without the
196 express permission of the contributing state.

197 e. Any personally identifiable information obtained by a party states' licensing board from
198 the coordinated licensure information system may not be shared with non-party states or
199 disclosed to other entities or individuals except to the extent permitted by the laws of the party
200 state contributing the information.

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

204 g. The Compact administrators, acting jointly with each other and in consultation with the
205 administrator of the coordinated licensure information system, shall formulate necessary and
206 proper procedures for the identification, collection and exchange of information under this
207 Compact.

208 Section 9. Compact Administration and Interchange of Information.

209 a. The head of the nurse licensing board, or his/her designee, of each party state shall be the
210 administrator of this Compact for his/her state.

211 b. The Compact administrator of each party state shall furnish to the Compact administrator
212 of each other party state any information and documents including, but not limited to, a uniform
213 data set of investigations, identifying information, licensure data, and disclosable alternative
214 program participation information to facilitate the administration of this Compact.

215 c. Compact administrators shall have the authority to develop uniform rules to facilitate and
216 coordinate implementation of this Compact. These uniform rules shall be adopted by party states,
217 under the authority invested under Section 7 (d) of this Chapter.

218 Section 10. Immunity

219 No party state or the officers or employees or agents of a party state's nurse licensing board who
220 acts in accordance with the provisions of this Compact shall be liable on account of any act or
221 omission in good faith while engaged in the performance of their duties under this Compact.
222 Good faith under this section shall not include willful misconduct, gross negligence, or
223 recklessness.

224 Section 11 Entry into Force, Withdrawal and Amendment

225 a. This Compact shall enter into force and become effective as to any state when it has been
226 enacted into the laws of that state. Any party state may withdraw from this Compact by enacting
227 a statute repealing the same, but no such withdrawal shall take effect until six months after the
228 withdrawing state has given notice of the withdrawal to the executive heads of all other party
229 states.

230 b. No withdrawal shall affect the validity or applicability by the licensing boards of states
231 remaining party to the Compact of any report of adverse action occurring prior to the withdrawal.

232 c. Nothing contained in this Compact shall be construed to invalidate or prevent any nurse
233 licensure agreement or other cooperative arrangement between a party state and a non-party state
234 that is made in accordance with the other provisions of this Compact.

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

238 Section 12 Construction and Severability

239 a. This Compact shall be liberally construed so as to effectuate the purposes thereof. The
240 provisions of this Compact shall be severable and if any phrase, clause, sentence or provision of
241 this Compact is declared to be contrary to the constitution of any party state or of the United
242 States or the applicability thereof to any government, agency, person or circumstance is held
243 invalid, the validity of the remainder of this Compact and the applicability thereof to any
244 government, agency, person or circumstance shall not be affected thereby. If this Compact shall
245 be held contrary to the constitution of any state party thereto, the Compact shall remain in full
246 force and effect as to the remaining party states and in full force and effect as to the party state
247 affected as to all severable matters.

248 b. In the event party states find a need for settling disputes arising under this Compact:

249 1. The party states may submit the issues in dispute to an arbitration panel which will be
250 comprised of an individual appointed by the Compact administrator in the home state; an
251 individual appointed by the Compact administrator in the remote state(s) involved; and an
252 individual mutually agreed upon by the Compact administrators of all the party states involved in
253 the dispute.

254 2. The decision of a majority of the arbitrators shall be final and binding.

255 Section 13. The executive director of the board of registration in nursing, or the board executive
256 director's designee, shall be the administrator of the Nurse Licensure Compact for the
257 commonwealth.

258 Section 14. The board of registration in nursing may adopt regulations necessary to implement
259 the provisions of this chapter.

260 Section 15. The board of registration in nursing may recover from a nurse the costs of
261 investigation and disposition of cases resulting in any adverse disciplinary action taken against
262 that nurse's license or privilege to practice. Funds collected pursuant to this section shall be
263 deposited in the Quality in Health Professions Trust Fund established pursuant to section 35X of
264 chapter 10.

265 Section 16. The board of registration in nursing may take disciplinary action against the practice
266 privilege of a registered nurse or of a licensed practical/vocational nurse practicing in the
267 commonwealth under a license issued by a state that is a party to the Nurse Licensure Compact.
268 The board's disciplinary action may be based on disciplinary action against the nurse's license
269 taken by the nurse's home state.

270 Section 17. In reporting information to the coordinated licensure information system under
271 Section 8 of this chapter related to the Nurse Licensure Compact, the board of registration in
272 nursing may disclose personally identifiable information about the nurse, including social
273 security number.

274 Section 18. Enactment of the Nurse Licensure Compact shall not supersede existing labor laws.

275 Section 19. The commonwealth, its officers and employees, and the board of registration in
276 nursing and its agents who act in accordance with the provisions of this chapter shall not be
277 liable on account of any act or omission in good faith while engaged in the performance of their
278 duties under this chapter. Good faith shall not include willful misconduct, gross negligence, or
279 recklessness.

280 SECTION 3. The effective date of entry into the Nurse Licensure Compact shall be one year
281 from the effective date of this Act. Prior to said effective date, the board of registration in

282 nursing may take such actions as are necessary to effectuate entry into, and implement, the
283 Compact.

284 SECTION 4. Notwithstanding any general or special law to the Contrary, the secretary of
285 administration and finance, following a public hearing, shall increase the fee for obtaining or
286 renewing a license, certificate, registration, permit or authority issued by a board within the
287 department of public health, excluding the board of registration in medicine, as necessary to
288 implement the provisions of the Nurse Licensure Compact. All of this increase shall be
289 deposited in the Quality in Health Professions Trust Fund established in section 35X of Chapter
290 10.