

HOUSE No. 2002

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 adoption of the accompanying bill:

An Act relative to 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>Leah Cole</i>	<i>12th Essex</i>
<i>Marjorie C. Decker</i>	<i>25th Middlesex</i>
<i>James B. Eldridge</i>	<i>Middlesex and Worcester</i>
<i>Kenneth I. Gordon</i>	<i>21st Middlesex</i>
<i>Jason M. Lewis</i>	<i>Fifth Middlesex</i>
<i>Denise Provost</i>	<i>27th Middlesex</i>
<i>Benjamin Swan</i>	<i>11th Hampden</i>
<i>Chris Walsh</i>	<i>6th Middlesex</i>

HOUSE No. 2002

By Ms. Khan of Newton, a petition (accompanied by bill, House, No. 2002) of Kay Khan and others for legislation to provide for the rapid deployment of qualified nurses. Public Health.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE HOUSE, NO. 2006 OF 2013-2014.]

The Commonwealth of Massachusetts

**In the One Hundred and Eighty-Ninth General Court
(2015-2016)**

An Act relative to nurse licensure compact in Massachusetts.

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

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

3 Chapter 112A. Nurse Licensure Compact

4 Section 1. Notwithstanding any general or special law to the contrary, the “Nurse
5 Licensure Compact” or Compact as adopted by the National Council of State Boards of Nursing
6 Nurse Licensure Compact in its Final Version dated November 6, 1998 is hereby enacted into

7 law. The Massachusetts board of registration in nursing shall adopt regulations in the same
8 manner as all other with states legally joining in the Compact as set forth in this chapter.

9 Section 2. General Findings

10 a. The party states find that:

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

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

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

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

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

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

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

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

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

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

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

33 Section 3. Definition

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

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

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

41 d. "Current significant investigative information" means:

42 investigative information that a licensing board, after a preliminary inquiry that includes
43 notification and an opportunity for the nurse to respond if required by state law, has reason to
44 believe is not groundless and, if proved true, would indicate more than a minor infraction; or

45 investigative information that indicates that the nurse represents an immediate threat to
46 public health and safety regardless of whether the nurse has been notified and had an opportunity
47 to respond.

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

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

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

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

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

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

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

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

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

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

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

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

82 Section 4. General Provisions and Jurisdictions

83 a. A license to practice registered nursing issued by a home state to a resident in that
84 state will be recognized by each party state as authorizing a multistate licensure privilege to
85 practice as a registered nurse in such party state. A license to practice licensed

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

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

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

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

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

111 Section 5. Application for Licensure in a Party State

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

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

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

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

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

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

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

132 Section 6. Adverse Actions

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

134 a. The licensing board of a remote state shall promptly report to the administrator of
135 the coordinated licensure information system any remote state actions including the factual and
136 legal basis for such action, if known. The licensing board of a remote state shall also promptly
137 report any significant current investigative information yet to result in a remote state action. The
138 administrator of the coordinated licensure information system shall promptly notify the home
139 state of any such reports.

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

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

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

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

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

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

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

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

165 b. issue subpoenas for both hearings and investigations which require the attendance
166 and testimony of witnesses, and the production of evidence. Subpoenas issued by a nurse

167 licensing board in a party state for the attendance and testimony of witnesses, and/or the
168 production of evidence from another party state, shall be enforced in the latter state by any court
169 of competent jurisdiction, according to the practice and procedure of that court applicable to
170 subpoenas issued in proceedings pending before it. The issuing authority shall pay any witness
171 fees, travel expenses, mileage and other fees required by the service statutes of the state where
172 the witnesses and/or evidence are located.

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

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

177 Section 8. Coordinated Licensure Information Systems

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

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

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

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

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

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

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

203 Section 9. Compact Administration and Interchange of Information.

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

206 b. The Compact administrator of each party state shall furnish to the Compact
207 administrator of each other party state any information and documents including, but not limited

208 to, a uniform data set of investigations, identifying information, licensure data, and disclosable
209 alternative program participation information to facilitate the administration of this Compact.

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

213 Section 10. Immunity

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

219 Section 11. Entry into Force, Withdrawal and Amendment

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

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

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

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

234 Section 12. Construction and Severability

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

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

246 1. The party states may submit the issues in dispute to an arbitration panel which
247 will be comprised of an individual appointed by the Compact administrator in the home state; an
248 individual appointed by the Compact administrator in the remote state(s) involved; and an

249 individual mutually agreed upon by the Compact administrators of all the party states involved in
250 the dispute.

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

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

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

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

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

267 Section 17. In reporting information to the coordinated licensure information system
268 under Section 8 of this chapter related to the Nurse Licensure Compact, the board of registration

269 in nursing may disclose personally identifiable information about the nurse, including social
270 security number.

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

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

278 SECTION 2. The effective date of entry into the Nurse Licensure Compact shall be one
279 year from the effective date of this Act. Prior to said effective date, the board of registration in
280 nursing may take such actions as are necessary to effectuate entry into, and implement, the
281 Compact.

282 SECTION 3. Notwithstanding any general or special law to the Contrary, the secretary of
283 administration and finance, following a public hearing, shall increase the fee for obtaining or
284 renewing a license, certificate, registration, permit or authority issued by a board within the
285 department of public health, excluding the board of registration in medicine, as necessary to
286 implement the provisions of the Nurse Licensure Compact. All of this increase shall be deposited
287 in the Quality in Health Professions Trust Fund established in section 35X of Chapter 10.