

SENATE No. 01131

The Commonwealth of Massachusetts

PRESENTED BY:

Richard T. Moore

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:

An Act adopting the nurse licensure compact.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Richard T. Moore</i>	<i>Worcester and Norfolk</i>
<i>Patricia D. Jehlen</i>	<i>Second Middlesex</i>
<i>Bruce E. Tarr</i>	<i>First Essex and Middlesex</i>

SENATE No. 01131

By Mr. Moore, petition (accompanied by bill, Senate, No. 1131) of Tarr, Jehlen and Moore for legislation to adopt the nurse licensure compact [Joint Committee on Public Health].

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE
 SENATE
 , NO. 854 OF 2009-2010.]

The Commonwealth of Massachusetts

In the Year Two Thousand Eleven

An Act adopting the nurse licensure compact.

Whereas, the deferred operation of this act would tend to defeat its purpose, which is forthwith 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.

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
2 the 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
12 compliance with and the effectiveness of enforcement activities related to state nurse licensure
13 laws;

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

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

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

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

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

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

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

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

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

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

34 Section 3. Definitions

35 "Adverse Action" means a home or remote state action;

36 "Alternative program" means a voluntary, non-disciplinary monitoring program approved by a
37 nurse licensing board;

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

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

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

49 "Home state" means the party state which is the nurse's primary state of residence;

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

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

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

60 "Nurse" means a registered nurse or licensed practical/vocational nurse, as those terms are
61 defined by each party's state practice laws;

62 "Party state" means any state that has adopted this Compact;

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

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

70 cease and desist and other injunctive or equitable orders issued by remote states or the licensing
71 boards thereof;

72 "State" means a state, territory, or possession of the United States, the District of Columbia or
73 the Commonwealth of Puerto Rico;

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

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

80 Section 4. General Provisions and Jurisdictions

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

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

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

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

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

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

109 Section 5 Application for Licensure in a Party State

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

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

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

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

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

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

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

130 Section 6. Adverse Actions

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

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

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

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

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

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

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

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

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

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

162 b. issue subpoenas for both hearings and investigations which require the attendance
163 and testimony of witnesses, and the production of evidence. Subpoenas issued by a nurse
164 licensing board in a party state for the attendance and testimony of witnesses, and/or the

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

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

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

174 Section 8. Coordinated Licensure Information Systems

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

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

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

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

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

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

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

200 Section 9. Compact Administration and Interchange of Information

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

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

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

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

210 Section 10. Immunity

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

216 Section 11. Entry into Force, Withdrawal and Amendment

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

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

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

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

231 Section 12. Construction and Severability

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

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

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

246 an individual mutually agreed upon by the Compact administrators of all the party states
247 involved in the dispute.

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

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

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

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

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

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

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

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

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

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

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