

**SENATE . . . . . No.**

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**The Commonwealth of Massachusetts**

PRESENTED BY:

**Moore, Richard (SEN)**

*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:

Moore, Richard (SEN)

DISTRICT/ADDRESS:

Worcester and Norfolk

[SIMILAR MATTER FILED IN PREVIOUS SESSION  
SEE SENATE, NO. S02437 OF .]

## The Commonwealth of Massachusetts

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In the Year Two Thousand and Nine

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### AN ACT ADOPTING THE NURSE LICENSURE COMPACT.

*Whereas*, The deferred operation for this act would tend to defeat its purpose, which is forthwith to make 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 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 Licensure
- 5 Compact” or Compact as adopted by the National Council of State Boards of Nursing Nurse
- 6 Licensure Compact in its Final Version dated November 6, 1998 is hereby enacted into law. The

7 Massachusetts board of registration in nursing shall adopt regulations in the same manner as all  
8 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 and the  
12 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 result  
14 in injury or harm to the public;

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

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

20 5. the current system of duplicative licensure for nurses practicing in multiple states is  
21 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 licensure and  
25 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 jurisdiction;  
29 and
- 30 5. invest all party states with the authority to hold a nurse accountable for meeting all state  
31 practice laws in the state in which the patient is located at the time care is rendered through the  
32 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 approved  
36 by a nurse licensing board.
- 37 c. "Coordinated licensure information system" means an integrated process for collecting,  
38 storing, and sharing information on nurse licensure and enforcement activities related to nurse  
39 licensure laws, which is administered by a non-profit organization composed of and controlled  
40 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 public  
46 health and safety regardless of whether the nurse has been notified and had an opportunity to  
47 respond.

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

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

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

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

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

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

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

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

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

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

77 o. "State practice laws" does not include the initial qualifications for licensure or  
78 requirements necessary to obtain and retain a license, except for qualifications or requirements of  
79 the home 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 state  
82 will be recognized by each party state as authorizing a multistate licensure privilege to practice  
83 as a registered nurse in such party state. A license to practice licensed practical/vocational  
84 nursing issued by a home state to a resident in that state will be recognized by each party state as  
85 authorizing a multistate licensure privilege to practice as a licensed practical/vocational nurse in

86 such party state. In order to obtain or retain a license, an applicant must meet the home state's  
87 qualifications for licensure and license renewal as well as all other applicable state laws.

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

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

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

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

108 Section 5 Application for Licensure in a Party State

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

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

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

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

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

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

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



129 Section 6. Adverse Actions

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

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

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

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

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

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

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

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

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

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

161 b. issue subpoenas for both hearings and investigations which require the attendance and  
162 testimony of witnesses, and the production of evidence. Subpoenas issued by a nurse licensing  
163 board in a party state for the attendance and testimony of witnesses, and/or the production of  
164 evidence from another party state, shall be enforced in the latter state by any court of competent  
165 jurisdiction, according to the practice and procedure of that court applicable to subpoenas issued  
166 in proceedings pending before it. The issuing authority shall pay any witness fees, travel  
167 expenses, mileage and other fees required by the service statutes of the state where the witnesses  
168 and/or evidence are located.

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

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

172 Section 8 Coordinated Licensure Information Systems

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

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

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

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

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

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

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

198 Section 9. Compact Administration and Interchange of Information.

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

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

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

208 Section 10. Immunity

209 No party state or the officers or employees or agents of a party state's nurse licensing board who  
210 acts in accordance with the provisions of this Compact shall be liable on account of any act or  
211 omission in good faith while engaged in the performance of their duties under this Compact.

212 Good faith under this section shall not include willful misconduct, gross negligence, or  
213 recklessness.

#### 214 Section 11 Entry into Force, Withdrawal and Amendment

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

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

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

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

#### 228 Section 12 Construction and Severability

229 a. This Compact shall be liberally construed so as to effectuate the purposes thereof. The  
230 provisions of this Compact shall be severable and if any phrase, clause, sentence or provision of  
231 this Compact is declared to be contrary to the constitution of any party state or of the United  
232 States or the applicability thereof to any government, agency, person or circumstance is held

233 invalid, the validity of the remainder of this Compact and the applicability thereof to any  
234 government, agency, person or circumstance shall not be affected thereby. If this Compact shall  
235 be held contrary to the constitution of any state party thereto, the Compact shall remain in full  
236 force and effect as to the remaining party states and in full force and effect as to the party state  
237 affected as to all severable matters.

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

239 1. The party states may submit the issues in dispute to an arbitration panel which will be  
240 comprised of an individual appointed by the Compact administrator in the home state; an  
241 individual appointed by the Compact administrator in the remote state(s) involved; and an  
242 individual mutually agreed upon by the Compact administrators of all the party states involved in  
243 the dispute.

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

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

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

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251 Section 15. The board of registration in nursing may recover from a nurse the costs of  
252 investigation and disposition of cases resulting in any adverse disciplinary action taken against  
253 that nurse's license or privilege to practice. Funds collected pursuant to this section shall be

254 deposited in the Quality in Health Professions Trust Fund established pursuant to section 35X of  
255 chapter 10.

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

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

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

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

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

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