

A bill for an act
relating to health occupations; providing for a Nurse Licensure Compact;
providing for appointments; proposing coding for new law in Minnesota Statutes,
chapter 148.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. **[148.2855] NURSE LICENSURE COMPACT.**

The Nurse Licensure Compact is enacted into law and entered into with all other
jurisdictions legally joining in it, in the form substantially as follows:

ARTICLE 1

FINDINGS AND DECLARATION OF PURPOSE

(a) The party states find that:

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

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

(3) the expanded mobility of nurses and the use of advanced communication
technologies as part of our nation's health care delivery system require greater coordination
and cooperation among states in the areas of nurse licensure and regulation;

(4) new practice modalities and technology make compliance with individual state
nurse licensure laws difficult and complex;

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

(b) The general purposes of the compact are to:

(1) facilitate the states' responsibility to protect the public's health and safety;

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(2) ensure and encourage the cooperation of party states in the areas of nurse licensure and regulation;

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

(4) promote compliance with the laws governing the practice of nursing in each jurisdiction;

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

ARTICLE 2

DEFINITIONS

As used in this compact:

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

(b) "Alternative program" means a voluntary, nondisciplinary monitoring program approved by a nurse licensing board.

(c) "Coordinated licensure information system" means an integrated process for collecting, storing, and sharing information on nurse licensure and enforcement activities related to nurse licensure laws, which is administered by a nonprofit organization composed of and controlled by state nurse licensing boards.

(d) "Current significant investigative information" means:

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

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

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

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

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

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

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

(j) "Party state" means any state that has adopted this compact.

(k) "Remote state" means a party state other than the home state:

(1) where the patient is located at the time nursing care is provided; or

(2) in the case of the practice of nursing not involving a patient, in the party state where the recipient of nursing practice is located.

(l) "Remote state action" means:

(1) any administrative, civil, equitable, or criminal action permitted by a remote state's laws which are imposed on a nurse by the remote state's licensing board or other authority including actions against an individual's multistate licensure privilege to practice in the remote state; and

(2) cease and desist and other injunctive or equitable orders issued by remote states or the licensing boards of those states.

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

(n) "State practice laws" means individual party state laws and regulations that govern the practice of nursing, define the scope of nursing practice, and create the methods and grounds for imposing discipline. "State practice laws" does not include the initial qualifications for licensure or requirements necessary to obtain and retain a license, except for qualifications or requirements of the home state.

ARTICLE 3

GENERAL PROVISIONS AND JURISDICTION

(a) A license to practice registered nursing issued by a home state to a resident in that state will be recognized by each party state as authorizing a multistate licensure privilege to practice as a registered nurse in the party state. A license to practice licensed practical/vocational nursing issued by a home state to a resident in that state will be recognized by each party state as authorizing a multistate licensure privilege to practice as a licensed practical/vocational nurse in the party state. In order to obtain or retain a

4.1 license, an applicant must meet the home state's qualifications for licensure and license
4.2 renewal as well as all other applicable state laws.

4.3 (b) Party states may, according to state due process laws, limit or revoke the
4.4 multistate licensure privilege of any nurse to practice in their state and may take any other
4.5 actions under their applicable state laws necessary to protect the health and safety of
4.6 their citizens. If a party state takes such action, it shall promptly notify the administrator
4.7 of the coordinated licensure information system. The administrator of the coordinated
4.8 licensure information system shall promptly notify the home state of any such actions by
4.9 remote states.

4.10 (c) Every nurse practicing in a party state must comply with the state practice laws of
4.11 the state in which the patient is located at the time care is rendered. In addition, the practice
4.12 of nursing is not limited to patient care, but shall include all nursing practice as defined by
4.13 the state practice laws of the party state. The practice of nursing will subject a nurse to the
4.14 jurisdiction of the nurse licensing board, the courts, and the laws in the party state.

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

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

4.24 ARTICLE 4

4.25 APPLICATIONS FOR LICENSURE IN A PARTY STATE

4.26 (a) Upon application for a license, the licensing board in a party state shall ascertain,
4.27 through the coordinated licensure information system, whether the applicant has ever held
4.28 or is the holder of a license issued by any other state, whether there are any restrictions
4.29 on the multistate licensure privilege, and whether any other adverse action by a state
4.30 has been taken against the license.

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

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

(d) When a nurse changes primary state of residence by:

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

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

(3) moving from a party state to a nonparty state, the license issued by the prior home state converts to an individual state license, valid only in the former home state, without the multistate licensure privilege to practice in other party states.

ARTICLE 5

ADVERSE ACTIONS

In addition to the general provisions described in article 3, the provisions in this article apply.

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

(b) The licensing board of a party state shall have the authority to complete any pending investigation for a nurse who changes primary state of residence during the course of the investigation. The board shall also have the authority to take appropriate action, and shall promptly report the conclusion of the investigation to the administrator of the coordinated licensure information system. The administrator of the coordinated licensure information system shall promptly notify the new home state of any action.

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

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

(e) The home state may take adverse action based on the factual findings of the remote state, provided each state follows its own procedures for imposing the adverse action.

(f) Nothing in this compact shall override a party state's decision that participation in an alternative program may be used in lieu of licensure action and that participation shall remain nonpublic if required by the party state's laws.

Party states must require nurses who enter any alternative programs to agree not to practice in any other party state during the term of the alternative program without prior authorization from the other party state.

ARTICLE 6

ADDITIONAL AUTHORITIES INVESTED IN PARTY STATE NURSE LICENSING BOARDS

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

(1) if otherwise permitted by state law, recover from the affected nurse the costs of investigation and disposition of cases resulting from any adverse action taken against that nurse;

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

(3) issue cease and desist orders to limit or revoke a nurse's authority to practice in the nurse's state;

(4) adopt uniform rules and regulations as provided for in article 8, paragraph (c).

ARTICLE 7

COORDINATED LICENSURE INFORMATION SYSTEM

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

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

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

7.3 (d) Notwithstanding any other provision of law, all party states' licensing boards
7.4 contributing information to the coordinated licensure information system may designate
7.5 information that may not be shared with nonparty states or disclosed to other entities or
7.6 individuals without the express permission of the contributing state.

7.7 (e) Any personally identifiable information obtained by a party state's licensing
7.8 board from the coordinated licensure information system may not be shared with nonparty
7.9 states or disclosed to other entities or individuals except to the extent permitted by the
7.10 laws of the party state contributing the information.

7.11 (f) Any information contributed to the coordinated licensure information system that
7.12 is subsequently required to be expunged by the laws of the party state contributing that
7.13 information shall also be expunged from the coordinated licensure information system.

7.14 (g) The compact administrators, acting jointly with each other and in consultation
7.15 with the administrator of the coordinated licensure information system, shall formulate
7.16 necessary and proper procedures for the identification, collection, and exchange of
7.17 information under this compact.

7.18 ARTICLE 8

7.19 COMPACT ADMINISTRATION AND
7.20 INTERCHANGE OF INFORMATION

7.21 (a) The head or designee of the nurse licensing board of each party state shall be the
7.22 administrator of this compact for that state.

7.23 (b) The compact administrator of each party state shall furnish to the compact
7.24 administrator of each other party state any information and documents including, but not
7.25 limited to, a uniform data set of investigations, identifying information, licensure data, and
7.26 disclosable alternative program participation information to facilitate the administration of
7.27 this compact.

7.28 (c) Compact administrators shall have the authority to develop uniform rules to
7.29 facilitate and coordinate implementation of this compact. These uniform rules shall be
7.30 adopted by party states under the authority in article 6, clause (4).

7.31 ARTICLE 9

7.32 IMMUNITY

7.33 A party state or the officers, employees, or agents of a party state's nurse licensing
7.34 board who acts in good faith according to the provisions of this compact shall not be
7.35 liable for any act or omission while engaged in the performance of their duties under

this compact. Good faith shall not include willful misconduct, gross negligence, or recklessness.

ARTICLE 10

ENACTMENT, WITHDRAWAL, AND AMENDMENT

(a) This compact shall become effective for each state when it has been enacted by that state. Any party state may withdraw from this compact by repealing the nurse licensure compact, but no withdrawal shall take effect until six months after the withdrawing state has given notice of the withdrawal to the executive heads of all other party states.

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

(c) Nothing contained in this compact shall be construed to invalidate or prevent any nurse licensure agreement or other cooperative arrangement between a party state and a nonparty state that is made according to the other provisions of this compact.

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

ARTICLE 11

CONSTRUCTION AND SEVERABILITY

(a) This compact shall be liberally construed to effectuate the purposes of the compact. The provisions of this compact shall be severable and if any phrase, clause, sentence, or provision of this compact is declared to be contrary to the constitution of any party state or of the United States or the applicability thereof to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this compact and the applicability of it to any government, agency, person, or circumstance shall not be affected by it. If this compact is held contrary to the constitution of any party state, the compact shall remain in full force and effect for the remaining party states and in full force and effect for the party state affected as to all severable matters.

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

(1) the party states may submit the issues in dispute to an arbitration panel which shall be comprised of an individual appointed by the compact administrator in the home state, an individual appointed by the compact administrator in the remote states involved, and an individual mutually agreed upon by the compact administrators of the party states involved in the dispute; and

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

Sec. 2. [148.2856] APPLICATION OF NURSE LICENSURE COMPACT TO EXISTING LAWS.

(a) A nurse practicing professional or practical nursing in Minnesota under the authority of section 148.2855 shall have the same obligations, privileges, and rights as if the nurse was licensed in Minnesota. Notwithstanding contrary provision in section 148.2855, the Board of Nursing shall comply with and follow all laws and rules with respect to registered and licensed practical nurses practicing professional or practical nursing in Minnesota under the authority of section 148.2855, and all such individuals shall be governed and regulated as if they were licensed by the board.

(b) Section 148.2855 does not relieve employers of nurses from complying with statutorily imposed obligations.

(c) Section 148.2855 does not supersede existing state labor laws.

(d) For purposes of the Minnesota Government Data Practices Act, chapter 13, an individual not licensed as a nurse under sections 148.171 to 148.285 who practices professional or practical nursing in Minnesota under the authority of section 148.2855 is considered to be a licensee of the board.

(e) Uniform rules developed by the compact administrators shall not be subject to the provisions of sections 14.05 to 14.389, except for sections 14.07, 14.08, 14.101, 14.131, 14.18, 14.22, 14.23, 14.27, 14.28, 14.365, 14.366, 14.37, and 14.38.

(f) Proceedings brought against an individual's multistate privilege shall be adjudicated following the procedures listed in sections 14.50 to 14.62 and shall be subject to judicial review as provided for in sections 14.63 to 14.69.

(g) For purposes of sections 62M.09, subdivision 2; 121A.22, subdivision 4; 144.051; 144.052; 145A.02, subdivision 18; 148.975; 148A.01, subdivision 5; 151.37; 152.12; 154.04; 256B.0917, subdivision 8; 595.02, subdivision 1, paragraph (g); and 631.40, subdivision 2; and chapters 319B and 364, holders of a multistate privilege who are licensed as registered or licensed practical nurses in the home state shall be considered to be licensees in Minnesota. If any of the statutes listed in this paragraph are limited to registered nurses or the practice of professional nursing, then only holders of a multistate privilege who are licensed as registered nurses in the home state shall be considered licensees.

(h) The reporting requirements of sections 144.4175, 148.263, 626.52, and 626.557 apply to individuals not licensed as registered or licensed practical nurses under sections 148.171 to 148.285 who practice professional or practical nursing in Minnesota under the authority of section 148.2855.

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(i) The board may take action against an individual's multistate privilege based on the grounds listed in section 148.261, subdivision 1, and any other statute authorizing or requiring the board to take corrective or disciplinary action.

(j) The board may take all forms of disciplinary action provided for in section 148.262, subdivision 1, and corrective action provided for in section 214.103, subdivision 6, against an individual's multistate privilege.

(k) The immunity provisions of section 148.264, subdivision 1, apply to individuals who practice professional or practical nursing in Minnesota under the authority of section 148.2855.

(l) The cooperation requirements of section 148.265 apply to individuals who practice professional or practical nursing in Minnesota under the authority of section 148.2855.

(m) The provisions of section 148.283 shall not apply to individuals who practice professional or practical nursing in Minnesota under the authority of section 148.2855.

(n) Complaints against individuals who practice professional or practical nursing in Minnesota under the authority of section 148.2855 shall be handled as provided in sections 214.10 and 214.103.

(o) All provisions of section 148.2855 authorizing or requiring the board to provide data to party states are authorized by section 214.10, subdivision 8, paragraph (d).

(p) Except as provided in section 13.41, subdivision 6, the board shall not report to a remote state any active investigative data regarding a complaint investigation against a nurse licensed under sections 148.171 to 148.285, unless the board obtains reasonable assurances from the remote state that the data will be maintained with the same protections as provided in Minnesota law.

(q) The provisions of sections 214.17 to 214.25 shall apply to individuals who practice professional or practical nursing in Minnesota under the authority of section 148.2855 when the practice involves direct physical contact between the nurse and a patient.

(r) A nurse practicing professional or practical nursing in Minnesota under the authority of section 148.2855 must comply with any criminal background check required under Minnesota law.

Sec. 3. [148.2857] WITHDRAWAL FROM COMPACT.

The governor may withdraw the state from the compact in section 148.2855 if the Board of Nursing notifies the governor that a party state to the compact changed the party state's requirements for nurse licensure after July 1, 2009, and that the party

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11.1 state's requirements, as changed, are substantially lower than the requirements for nurse
11.2 licensure in this state.

11.3 Sec. 4. **[148.2858] MISCELLANEOUS PROVISIONS.**

11.4 (a) For the purposes of section 148.2855, "head of the Nurse Licensing Board"
11.5 means the executive director of the board.

11.6 (b) The Board of Nursing shall have the authority to recover from a nurse practicing
11.7 professional or practical nursing in Minnesota under the authority of section 148.2855,
11.8 the costs of investigation and disposition of cases resulting from any adverse action
11.9 taken against the nurse.

11.10 (c) The board may implement a system of identifying individuals who practice
11.11 professional or practical nursing in Minnesota under the authority of section 148.2855.

11.12 Sec. 5. **[148.2859] NURSE LICENSURE COMPACT ADVISORY COMMITTEE.**

11.13 Subdivision 1. **Establishment; membership.** A Nurse Licensure Compact Advisory
11.14 Committee is established to advise the compact administrator in the implementation of
11.15 section 148.2855. Members of the advisory committee shall be appointed by the board
11.16 and shall be composed of representatives of Minnesota nursing organizations, Minnesota
11.17 licensed nurses who practice in nursing facilities or hospitals, Minnesota licensed nurses
11.18 who provide home care, Minnesota licensed advanced practice registered nurses, and
11.19 public members as defined in section 214.02.

11.20 Subd. 2. **Duties.** The advisory committee shall advise the compact administrator in
11.21 the implementation of section 148.2855.

11.22 Subd. 3. **Organization.** The advisory committee shall be organized and
11.23 administered under section 15.059.

11.24 Sec. 6. **EFFECTIVE DATE.**

11.25 Sections 1 to 5 are effective upon implementation of the coordinated licensure
11.26 information system defined in section 1, article 7, but no sooner than July 1, 2010.