

FIRST REGULAR SESSION
[P E R F E C T E D]
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILLS NOS. 237 & 137
95TH GENERAL ASSEMBLY

Reported from the Committee on Health, Mental Health, Seniors and Families, February 26, 2009, with recommendation that the Senate Committee Substitute do pass.

Senate Committee Substitute for Senate Bills Nos. 237 and 137, adopted March 4, 2009.

Taken up for Perfection March 4, 2009. Bill declared Perfected and Ordered Printed.

TERRY L. SPIELER, Secretary.

1212S.05P

AN ACT

To amend chapter 335, RSMo, by adding thereto twelve new sections relating to the nurse licensure compact.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Chapter 335, RSMo, is amended by adding thereto twelve new sections, to be known as sections 335.300, 335.305, 335.310, 335.315, 335.320, 335.325, 335.330, 335.335, 335.340, 335.345, 335.350, and 335.355, to read as follows:

NURSE LICENSURE COMPACT

ARTICLE I

335.300. FINDINGS AND DECLARATION OF PURPOSE. 1. 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 healthcare 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

15 practicing in multiple states is cumbersome and redundant to both
16 nurses and states.

17 2. The general purposes of this compact are to:

18 (1) Facilitate the states' responsibility to protect the public's
19 health and safety;

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

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

24 (4) Promote compliance with the laws governing the practice of
25 nursing in each jurisdiction;

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

30 ARTICLE II

335.305. DEFINITIONS. As used in this compact, the following
2 terms shall mean:

3 (1) "Adverse action", a home or remote state action;

4 (2) "Alternative program", a voluntary, nondisciplinary
5 monitoring program approved by a nurse licensing board;

6 (3) "Coordinated licensure information system", an integrated
7 process for collecting, storing, and sharing information on nurse
8 licensure and enforcement activities related to nurse licensure laws,
9 which is administered by a nonprofit organization composed of and
10 controlled by state nurse licensing boards;

11 (4) "Current significant investigative information":

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

17 (b) Investigative information that indicates that the nurse
18 represents an immediate threat to public health and safety regardless
19 of whether the nurse has been notified and had an opportunity to
20 respond;

21 (5) "Home state", the party state that is the nurse's primary state

22 of residence;

23 (6) "Home state action", any administrative, civil, equitable, or
24 criminal action permitted by the home state's laws that are imposed on
25 a nurse by the home state's licensing board or other authority
26 including actions against an individual's license such as: revocation,
27 suspension, probation, or any other action affecting a nurse's
28 authorization to practice;

29 (7) "Licensing board", a party state's regulatory body responsible
30 for issuing nurse licenses;

31 (8) "Multistate licensing privilege", current, official authority
32 from a remote state permitting the practice of nursing as either a
33 registered nurse or a licensed practical/vocational nurse in such party
34 state. All party states have the authority, in accordance with existing
35 state due process law, to take actions against the nurse's privilege such
36 as: revocation, suspension, probation, or any other action that affects
37 a nurse's authorization to practice;

38 (9) "Nurse", a registered nurse or licensed/vocational nurse, as
39 those terms are defined by each state's practice laws;

40 (10) "Party state", any state that has adopted this compact;

41 (11) "Remote state", a party state, other than the home state:

42 (a) Where a patient is located at the time nursing care is
43 provided; or

44 (b) In the case of the practice of nursing not involving a patient,
45 in such party state where the recipient of nursing practice is located;

46 (12) "Remote state action":

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

52 (b) Cease and desist and other injunctive or equitable orders
53 issued by remote states or the licensing boards thereof;

54 (13) "State", a state, territory, or possession of the United States,
55 the District of Columbia, or the Commonwealth of Puerto Rico;

56 (14) "State practice laws", those individual party's state laws and
57 regulations that govern the practice of nursing, define the scope of
58 nursing practice, and create the methods and grounds for imposing

59 discipline. State practice laws does not include the initial
60 qualifications for licensure or requirements necessary to obtain and
61 retain a license, except for qualifications or requirements of the home
62 state.

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ARTICLE III

335.310. GENERAL PROVISIONS AND JURISDICTION. 1. A
2 license to practice registered nursing issued by a home state to a
3 resident in that state will be recognized by each party state as
4 authorizing a multistate licensure privilege to practice as a registered
5 nurse in such party state. A license to practice licensed
6 practical/vocational nursing issued by a home state to a resident in that
7 state will be recognized by each party state as authorizing a multistate
8 licensure privilege to practice as a licensed practical/vocational nurse
9 in such party state. In order to obtain or retain a license, an applicant
10 must meet the home state's qualifications for licensure and license
11 renewal as well as all other applicable state laws.

12 2. Party states may, in accordance with state due process laws,
13 limit or revoke the multistate licensure privilege of any nurse to
14 practice in their state and may take any other actions under their
15 applicable state laws necessary to protect the health and safety of their
16 citizens. If a party state takes such action, it shall promptly notify the
17 administrator of the coordinated licensure information system. The
18 administrator of the coordinated licensure information system shall
19 promptly notify the home state of any such actions by remote states.

20 3. Every nurse practicing in a party state must comply with the
21 state practice laws of the state in which the patient is located at the
22 time care is rendered. In addition, the practice of nursing is not
23 limited to patient care, but shall include all nursing practice as defined
24 by the state practice laws of a party state. The practice of nursing will
25 subject a nurse to the jurisdiction of the nurse licensing board and the
26 courts, as well as the laws, in that party state.

27 4. This compact does not affect additional requirements imposed
28 by states for advanced practice registered nursing. However, a
29 multistate licensure privilege to practice registered nursing granted by
30 a party state shall be recognized by other party states as a license to
31 practice registered nursing if one is required by state law as a
32 precondition for qualifying for advanced practice registered nurse

33 authorization.

34 5. Individuals not residing in a party state shall continue to be
35 able to apply for nurse licensure as provided for under the laws of each
36 party state. However, the license granted to these individuals will not
37 be recognized as granting the privilege to practice nursing in any other
38 party state unless explicitly agreed to by that party state.

39 ARTICLE IV

 335.315. APPLICATIONS FOR LICENSURE IN A PARTY
2 STATE. 1. Upon application for a license, the licensing board in a
3 party state shall ascertain, through the coordinated licensure
4 information system, whether the applicant has ever held, or is the
5 holder of, a license issued by any other state, whether there are any
6 restrictions on the multistate licensure privilege, and whether any
7 other adverse action by any state has been taken against the license.

8 2. A nurse in a party state shall hold licensure in only one party
9 state at a time, issued by the home state.

10 3. A nurse who intends to change primary state of residence may
11 apply for licensure in the new home state in advance of such
12 change. However, new licenses will not be issued by a party state until
13 after a nurse provides evidence of change in primary state of residence
14 satisfactory to the new home state's licensing board.

15 4. When a nurse changes primary state of residence by:

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

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

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

27 ARTICLE V

 335.320. ADVERSE ACTIONS. In addition to the general
2 provisions described in article III of this compact, the following
3 provisions apply:

(1) 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 such 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 such reports;

(2) The licensing board of a party state shall have the authority to complete any pending investigations for a nurse who changes primary state of residence during the course of such investigations. It shall also have the authority to take appropriate actions, and shall promptly report the conclusions of such investigations 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 such actions;

(3) 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;

(4) For purposes of imposing adverse action, 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 such conduct had occurred within the home state, in so doing, it shall apply its own state laws to determine appropriate action;

29 (5) The home state may take adverse action based on the factual
30 findings of the remote state, so long as each state follows its own
31 procedures for imposing such adverse action;

(6) 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 such 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 such other party state.

ARTICLE VI

2 **STATE NURSE LICENSING BOARDS.** Notwithstanding any other
3 **powers, party state nurse licensing boards shall have the authority to:**

4 (1) If otherwise permitted by state law, recover from the affected
5 nurse the costs of investigations and disposition of cases resulting from
6 any adverse action taken against that nurse;

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

18 (3) Issue cease and desist orders to limit or revoke a nurse's
19 authority to practice in their state;

20 (4) Promulgate uniform rules and regulations as provided for in
21 subsection 3 of section 335.335.

22 **ARTICLE VII**

335.330. COORDINATED LICENSURE INFORMATION
2 **SYSTEM.** 1. All party states shall participate in a cooperative effort to
3 create a coordinated database of all licensed registered nurses and
4 licensed practical/vocational nurses. This system will include
5 information on the licensure and disciplinary history of each nurse, as
6 contributed by party states, to assist in the coordination of nurse
7 licensure and enforcement efforts.

8 2. Notwithstanding any other provision of law, all party states'
9 licensing boards shall promptly report adverse actions, actions against
10 multistate licensure privileges, any current significant investigative
11 information yet to result in adverse action, denials of applications, and
12 the reasons for such denials to the coordinated licensure information
13 system.

14 3. Current significant investigative information shall be
15 transmitted through the coordinated licensure information system only
16 to party state licensing boards.

17 4. Notwithstanding any other provision of law, all party states'
18 licensing boards contributing information to the coordinated licensure
19 information system may designate information that may not be shared
20 with nonparty states or disclosed to other entities or individuals
21 without the express permission of the contributing state.

22 5. Any personally identifiable information obtained by a party
23 states' licensing board from the coordinated licensure information
24 system may not be shared with nonparty states or disclosed to other
25 entities or individuals except to the extent permitted by the laws of the
26 party state contributing the information.

27 6. Any information contributed to the coordinated licensure
28 information system that is subsequently required to be expunged by the
29 laws of the party state contributing that information shall also be
30 expunged from the coordinated licensure information system.

31 **7. The compact administrators, acting jointly with each other**
32 **and in consultation with the administrator of the coordinated licensure**
33 **information system, shall formulate necessary and proper procedures**
34 **for the identification, collection, and exchange of information under**
35 **this compact.**

ARTICLE VIII

335.335. COMPACT ADMINISTRATION AND INTERCHANGE OF
2 INFORMATION. 1. The head of the nurse licensing board, or his/her
3 designee, of each party state shall be the administrator of this compact
4 for his/her state.

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

11 **3. Compact administrators shall have the authority to develop**
12 **uniform rules to facilitate and coordinate implementation of this**
13 **compact. These uniform rules shall be adopted by party states, under**
14 **the authority invested under subsection 4 of section 335.325.**

ARTICLE IX

335.340. IMMUNITY. No party state or the officers or employees
2 or agents of a party state's nurse licensing board who acts in

3 accordance with the provisions of this compact shall be liable on
4 account of any act or omission in good faith while engaged in the
5 performance of their duties under this compact. Good faith in this
6 article shall not include willful misconduct, gross negligence, or
7 recklessness.

8 ARTICLE X

335.345. ENTRY INTO FORCE, WITHDRAWAL AND
2 AMENDMENT. 1. This compact shall enter into force and become
3 effective as to any state when it has been enacted into the laws of that
4 state. Any party state may withdraw from this compact by enacting a
5 statute repealing the same, but no such withdrawal shall take effect
6 until six months after the withdrawing state has given notice of the
7 withdrawal to the executive heads of all other party states.

8 2. No withdrawal shall affect the validity or applicability by the
9 licensing boards of states remaining party to the compact of any report
10 of adverse action occurring prior to the withdrawal.

11 3. Nothing contained in this compact shall be construed to
12 invalidate or prevent any nurse licensure agreement or other
13 cooperative arrangement between a party state and a nonparty state
14 that is made in accordance with the other provisions of this compact.

15 4. This compact may be amended by the party states. No
16 amendment to this compact shall become effective and binding upon
17 the party states unless and until it is enacted into the laws of all party
18 states.

19 ARTICLE XI

335.350. CONSTRUCTION AND SEVERABILITY. 1. This compact
2 shall be liberally construed so as to effectuate the purposes
3 thereof. The provisions of this compact shall be severable and if any
4 phrase, clause, sentence, or provision of this compact is declared to be
5 contrary to the constitution of any party state or of the United States
6 or the applicability thereof to any government, agency, person, or
7 circumstance is held invalid, the validity of the remainder of this
8 compact and the applicability thereof to any government, agency,
9 person, or circumstance shall not be affected thereby. If this compact
10 shall be held contrary to the constitution of any state party thereto, the
11 compact shall remain in full force and effect as to the remaining party
12 states and in full force and effect as to the party state affected as to all

13 severable matters.

14 2. In the event party states find a need for settling disputes
15 arising under this compact:

16 (1) The party states may submit the issues in dispute to an
17 arbitration panel which will be comprised of an individual appointed
18 by the compact administrator in the home state, an individual
19 appointed by the compact administrator in the remote states involved,
20 and an individual mutually agreed upon by the compact administrators
21 of all the party states involved in the dispute;

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

 335.355. APPLICABILITY OF COMPACT. 1. The term "head of
2 the nurse licensing board" as referred to in article VIII of this compact
3 shall mean the executive director of the Missouri state board of
4 nursing.

5 2. A person who is extended the privilege to practice in this state
6 pursuant to the nurse licensure compact is subject to discipline by the
7 board, as set forth in this chapter, for violation of this chapter or the
8 rules and regulations promulgated herein. A person extended the
9 privilege to practice in this state pursuant to the nurse licensure
10 compact shall be subject to adhere to all requirements of this chapter,
11 as if such person were originally licensed in this state.

12 3. Sections 335.300 to 335.355 are applicable only to nurses whose
13 home states are determined by the Missouri state board of nursing to
14 have licensure requirements that are substantially equivalent or more
15 stringent than those of Missouri.

16 4. This compact is designed to facilitate the regulation of nurses,
17 and does not relieve employers from complying with statutorily
18 imposed obligations.

19 5. This compact does not supercede existing state labor laws.

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