

SENATE BILL NO. 251

IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-SIXTH LEGISLATURE - SECOND SESSION

BY SENATOR DAVIS

Introduced: 2/1/10

Referred: Health and Social Services, Labor and Commerce, Finance

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to an interstate compact on nurse licensure."**

2 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

3 * **Section 1.** AS 08.68.100(a)(1) is amended to read:

4 (1) adopt regulations necessary to implement this chapter, including
5 regulations pertaining to practice as an advanced nurse practitioner and a nurse
6 anesthetist, **regulations to implement AS 08.68.391 and 08.68.392, relating to the**
7 **Interstate Nurse Licensure Compact,** and regulations necessary to implement
8 AS 08.68.331 - 08.68.336, relating to certified nurse aides in order to protect the
9 health, safety, and welfare of clients served by nurse aides;

10 * **Sec. 2.** AS 08.68.160 is amended to read:

11 **Sec. 08.68.160. License required.** A person practicing or offering to practice
12 professional or practical nursing in the state shall submit evidence of qualification to
13 practice and shall **have a license issued or recognized** [BE LICENSED] under this
14 chapter.

15 * **Sec. 3.** AS 08.68 is amended by adding new sections to read:

1 **Article 5A. Interstate Nurse Licensure Compact.**

2 **Sec. 08.68.391. Compact enacted.** The Interstate Nurse Licensure Compact as
3 contained in this section is enacted into law and entered into on behalf of the state with
4 all other states and jurisdictions legally joining in it in a form substantially as follows:

5 INTERSTATE NURSE LICENSURE COMPACT

6 ARTICLE I

7 FINDINGS AND DECLARATION OF PURPOSE

8 (a) The party states find that

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

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

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

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

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

22 (b) The general purposes of this compact are to

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

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

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

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

31 (5) invest all party states with the authority to hold a nurse accountable

1 for meeting all state practice laws in the state in which the patient is located at the time
2 care is rendered through the mutual recognition of party state licenses.

3 ARTICLE II

4 DEFINITIONS

5 As used in this compact:

6 (a) "Adverse action" means a home or remote state action;

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

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

13 (d) "Current significant investigative information" means either

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

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

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

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

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

30 (h) "Multistate licensure privilege" means current, official authority from a
31 remote state permitting the practice of nursing as either a registered nurse or a licensed

1 practical or vocational nurse in such party state. All party states have the authority, in
 2 accordance with existing state due process law, to take actions against the nurse's
 3 privilege, such as revocation, suspension, probation, or any other action which affects
 4 a nurse's authorization to practice;

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

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

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

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

10 (2) In the case of the practice of nursing not involving a patient, in
 11 such party state where the recipient of nursing practice is located;

12 (l) "Remote state action" means

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

17 (2) cease and desist and other injunctive or equitable orders issued by
 18 remote states or the licensing boards of remote states;

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

21 (n) "State practice laws" means those individual party's state laws and
 22 regulations that govern the practice of nursing, define the scope of nursing practice,
 23 and create the methods and grounds for imposing discipline.

24 (o) "state practice laws" does not include the initial qualifications for licensure
 25 or requirements necessary to obtain and retain a license, except for qualifications or
 26 requirements of the home state.

27 ARTICLE III

28 GENERAL PROVISIONS AND JURISDICTION

29 (a) A license to practice registered nursing issued by a home state to a resident
 30 in that state will be recognized by each party state as authorizing a multistate licensure
 31 privilege to practice as a registered nurse in such party state. A license to practice

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

7 (b) Party states may, in accordance with state due process laws, limit or
8 revoke the multistate licensure privilege of any nurse to practice in their state and may
9 take any other actions under their applicable state laws necessary to protect the health
10 and safety of their citizens. If a party state takes such action, it shall promptly notify
11 the administrator of the coordinated licensure information system. The administrator
12 of the coordinated licensure information system shall promptly notify the home state
13 of any such actions by remote states.

14 (c) Every nurse practicing in a party state must comply with the state practice
15 laws of the state in which the patient is located at the time care is rendered. In
16 addition, the practice of nursing is not limited to patient care, but shall include all
17 nursing will practice as defined by the state practice laws of a party state. The practice
18 of nursing will subject a nurse to the jurisdiction of the nurse licensing board and the
19 courts, as well as the laws, in that party state.

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

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

29 ARTICLE IV

30 APPLICATIONS FOR LICENSURE IN A PARTY STATE

31 (a) Upon application for a license, the licensing board in a party state shall

1 ascertain, through the coordinated licensure information system, whether the applicant
 2 has ever held, or is the holder of, a license issued by any other state, whether there are
 3 any restrictions on the multistate licensure privilege, and whether any other adverse
 4 action by any state has been taken against the license.

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

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

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

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

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

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

20 ARTICLE V

21 ADVERSE ACTIONS

22 In addition to the general provisions described in article III, the following
 23 provisions apply:

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

30 (b) The licensing board of a party state shall have the authority to complete
 31 any pending investigations for a nurse who changes primary state of residence during

1 the course of such investigations. It shall also have the authority to take appropriate
 2 action and shall promptly report the conclusions of such investigations to the
 3 administrator of the coordinated licensure information system. The administrator of
 4 the coordinated licensure information system shall promptly notify the new home state
 5 of any such actions.

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

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

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

16 (f) Nothing in this compact shall override a party state's decision that
 17 participation in an alternative program may be used in lieu of licensure action and that
 18 such participation shall remain nonpublic if required by the party state's laws. Party
 19 states must require nurses who enter any alternative programs to agree not to practice
 20 in any other party state during the term of the alternative program without prior
 21 authorization from such other party state.

22 ARTICLE VI

23 ADDITIONAL AUTHORITIES INVESTED IN PARTY STATE NURSE LICENSING 24 BOARDS

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

27 (a) If otherwise permitted by state law, recover from the affected nurse the
 28 costs of investigations and disposition of cases resulting from any adverse action taken
 29 against that nurse.

30 (b) Issue subpoenas for both hearings and investigations which require the
 31 attendance and testimony of witnesses, and the production of evidence. Subpoenas

1 issued by a nurse licensing board in a party state for the attendance and testimony of
2 witnesses and/or the production of evidence from another party state shall be enforced
3 in the latter state by any court of competent jurisdiction, according to the practice and
4 procedure of that court applicable to subpoenas issued in proceedings pending before
5 it. The issuing authority shall pay any witness fees, travel expenses, mileage, and other
6 fees required by the service statutes of the state where the witnesses and/or evidence is
7 located.

8 (c) Issue cease and desist orders to limit or revoke a nurse's authority to
9 practice in their state.

10 (d) Promulgate uniform rules and regulations as provided for in article VIII
11 (c).

12 ARTICLE VII

13 COORDINATED LICENSURE INFORMATION SYSTEM

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

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

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

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

30 (e) Any personally identifiable information obtained by a party state's
31 licensing board from the coordinated licensure information system may not be shared

1 with nonparty states or disclosed to other entities or individuals except to the extent
2 permitted by the laws of the party state contributing the information.

3 (f) Any information contributed to the coordinated licensure information
4 system that is subsequently required to be expunged by the laws of the party state
5 contributing that information shall also be expunged from the coordinated licensure
6 information system.

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

11 ARTICLE VIII

12 COMPACT ADMINISTRATION AND INTERCHANGE OF INFORMATION

13 (a) The head of the nurse licensing board, or the head's designee, of each party
14 state shall be the administrator of this compact for the head's state.

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

20 (c) Compact administrators shall have the authority to develop uniform rules
21 to facilitate and coordinate implementation of this compact. These uniform rules shall
22 be adopted by party states, under the authority invested under article VI, section d.

23 ARTICLE IX

24 IMMUNITY

25 No party state or the officers or employees or agents of a party state's nurse licensing
26 board who acts in accordance with the provisions of this compact shall not be liable on
27 account of any act or omission in good faith while engaged in the performance of their
28 duties under this compact. Good faith in this article shall not include willful
29 misconduct, gross negligence, or recklessness.

30 ARTICLE X

31 ENTRY INTO FORCE, WITHDRAWAL, AND AMENDMENT

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

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

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

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

16 ARTICLE XI

17 CONSTRUCTION AND SEVERABILITY

18 (a) This compact shall be liberally construed so as to effectuate the purposes
19 thereof. The provisions of this compact shall be severable and if any phrase, clause,
20 sentence, or provision of this compact is declared to be contrary to the constitution of
21 any party state or of the United States or the applicability thereof to any government,
22 agency, person, or circumstance is held invalid, the validity of the remainder of this
23 compact and the applicability thereof to any government, agency, person, or
24 circumstance shall not be affected thereby. If this compact shall be held contrary to the
25 constitution of any state party thereto, the compact shall remain in full force and effect
26 as to the remaining party states and in full force and effect as to the party state affected
27 as to all severable matters.

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

30 (1) The party states may submit the issues in dispute to an arbitration
31 panel which will be comprised of an individual appointed by the compact

1 administrator in the home state, an individual appointed by the compact administrator
2 in the remote state or states involved, and an individual mutually agreed upon by the
3 compact administrators of all the party states involved in the dispute.

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

6 **Sec. 08.68.392. Compact administrator.** Under the compact established in
7 AS 08.68.391, the chair of the board may designate a person to serve as the compact
8 administrator. The compact administrator shall cooperate with all departments,
9 agencies, and officers of and in the government of this state and its subdivisions in
10 facilitating the proper administration of the compact.