SENATE DOCKET, NO. 1275 FILED ON: 1/18/2013

SENATE . . . . . No. 1060

The Commonwealth of Massachusetts

PRESENTED BY:

Richard T. Moore

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act adopting the nurse licensure compact.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Richard T. Moore	*Worcester and Norfolk*
Michael R. Knapik	*Second Hampden and Hampshire*
James B. Eldridge	*Middlesex and Worcester*
Jason M. Lewis	*Fifth Middlesex*

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SENATE . . . . . No. 1060

By Mr. Richard T. Moore, a petition (accompanied by bill, Senate, No. 1060) of Richard T. Moore, Michael R. Knapik, James B. Eldridge and Jason M. Lewis for legislation to adopt the nurse licensure compact. Public Health.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE SENATE, NO. *1131* OF 2011-2012.]

The Commonwealth of Massachusetts

In the Year Two Thousand Thirteen

An Act adopting the nurse licensure compact.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to increase public access to safe nursing care, provide for the rapid deployment of qualified nurses in response to a state of emergency, address the emerging practice of nursing through telecommunications technology, and build effective interstate communication on licensure and enforcement issues, therefore, it is hereby declared to be an emergency law, necessary for the immediate preservation of the public safety.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. The General Laws are hereby amended by inserting after Chapter 112 the following new chapter:-

Chapter 112A. Nurse Licensure Compact

Section 1. Notwithstanding any general or special law to the contrary, the "Nurse Licensure Compact" or Compact as adopted by the National Council of State Boards of Nursing Nurse Licensure Compact in its Final Version dated November 6, 1998 is hereby enacted into law. The Massachusetts board of registration in nursing shall adopt regulations in the same manner as all other with states legally joining in the Compact as set forth in this chapter.

Section 2. The party states find that:

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

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

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

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

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

21 The general purposes of this Compact are to:

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

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

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

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

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

32 Section 3. Definitions

33 "Adverse Action" means a home or remote state action.

34 "Alternative program" means a voluntary, non-disciplinary monitoring program approved
35 by a nurse licensing board.

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

"Current significant investigative information" means 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 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.

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

"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.

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

"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 such party state. All party states have the authority, in accordance with existing state due process laws, 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.

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

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

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

"Remote state action" means: 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 cease and desist and other injunctive or equitable orders issued by remote states or the licensing boards thereof.

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

"State practice laws" means those individual party's 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.

Section 4. General Provisions and Jurisdictions

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

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

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

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

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

Section 5. Application for Licensure in a Party State

(a) Upon application for a license, the licensing board in a party state shall ascertain, through the coordinated licensure information system, whether the applicant has ever held, or is

109 the holder of, a license issued by any other state, whether there are any restrictions on the
110 multistate licensure privilege, and whether any other adverse action by any state has been taken
111 against the license.

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

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

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

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

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

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

127 Section 6. Adverse Actions

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

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

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

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

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

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

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

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

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

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

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

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

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

172 Section 8. Coordinated Licensure Information Systems

173 (a) All party states shall participate in a cooperative effort to create a coordinated data
174 base 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
182 coordinated licensure information system only to party state licensing boards.

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

187 (e) Any personally identifiable information obtained by a party states' licensing board
188 from 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
195 the 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
200 the administrator of this Compact for his/her state.

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

205 (c) Compact administrators shall have the authority to develop uniform rules to facilitate
206 and coordinate implementation of this Compact. These uniform rules shall be adopted by party
207 states, 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
210 board who acts in accordance with the provisions of this Compact shall be liable on account of
211 any act or omission in good faith while engaged in the performance of their duties under this
212 Compact. 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
216 been enacted into the laws of that state. Any party state may withdraw from this Compact by
217 enacting a statute repealing the same, but no such withdrawal shall take effect until six months
218 after the withdrawing state has given notice of the withdrawal to the executive heads of all other
219 party states.

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

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

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

229 Section 12. Construction and Severability

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

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

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

243 individual mutually agreed upon by the Compact administrators of all the party states involved in
244 the dispute.

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

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

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

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

261 Section 17. In reporting information to the coordinated licensure information system
262 under Section 8 of this chapter related to the Nurse Licensure Compact, the board of registration
263 in 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
266 labor laws.

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

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

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