

1 **NURSE REGISTRATION INTERSTATE**

2 **COMPACT AMENDMENTS**

3 1999 GENERAL SESSION

4 STATE OF UTAH

5 **Sponsor: L. Alma Mansell**

6 AN ACT RELATING TO OCCUPATIONS AND PROFESSIONS; AMENDING THE NURSE
7 LICENSURE COMPACT REGARDING PARTY STATE AUTHORITY TO TAKE ACTION
8 AGAINST A NURSE'S AUTHORIZATION TO PRACTICE; CLARIFYING WHAT IS
9 ACCEPTABLE PARTY STATE LICENSING BOARD USE OF INFORMATION OBTAINED
10 FROM THE COORDINATED LICENSURE INFORMATION SYSTEM; CLARIFYING
11 EXPUNGEMENT REQUIREMENTS; **§ CLARIFYING INTERSTATE PRACTICE RESTRICTIONS**
11a **WHEN A LICENSE IS SUBJECT TO DISCIPLINARY ACTION ON THE EFFECTIVE DATE OF THE**
NURSE

11b **LICENSURE COMPACT**; § AND PROVIDING AN EFFECTIVE DATE.

12 This act affects sections of Utah Code Annotated 1953 as follows:

13 AMENDS:

14 **58-31b-401**, as enacted by Chapter 288, Laws of Utah 1998

15 **58-31c-102 (Effective 01/01/00)**, as enacted by Chapter 189, Laws of Utah 1998

15a **§ ENACTS:**

15b **58-31c-103, Utah Code Annotated 1953 §**

16 *Be it enacted by the Legislature of the state of Utah:*

17 Section 1. Section **58-31b-401** is amended to read:

18 **58-31b-401. Grounds for denial of licensure and disciplinary proceedings.**

19 (1) Grounds for refusal to issue a license to an applicant, for refusal to renew the license
20 of a licensee, to revoke, suspend, restrict, or place on probation the license of a licensee, to issue
21 a public or private reprimand to a licensee, and to issue cease and desist orders shall be in
22 accordance with Section 58-1-401.

23 (2) (a) If a court of competent jurisdiction determines that a nurse is an "incapacitated
24 person" as defined in Section 75-1-201, the director shall suspend the license of the nurse upon
25 entry of the judgment, regardless of the pendency of an appeal.

26 (b) If it appears to the board that there is reasonable cause to believe that a nurse, even
27 though the nurse has not been judicially determined to be incompetent, mentally incompetent, or

28 incapable, is unable to practice nursing with reasonable skill and safety to patients because of
29 illness, drunkenness, excessive use of drugs, narcotics, chemical, or any other type of material, or
30 as a result of any mental or physical condition, a complaint in the name of the board shall be served
31 upon the nurse for hearing on the sole issue of the capacity of the nurse to conduct properly the
32 practice of nursing.

33 (c) (i) Failure of a nurse to submit to a mental or physical examination within 30 days
34 when directed by the board in connection with a hearing instituted under Subsection (2)(b)
35 constitutes grounds for immediate suspension of the nurse's license, unless the failure was due to
36 circumstances beyond the control of the nurse.

37 (ii) A licensee who submits to an examination under this Subsection (2) waives all
38 objections to the admissibility of an examining physician's testimony or examination report on the
39 ground that they constitute a privileged communication.

40 (iii) The director may enter an order of suspension of the license without the taking of
41 testimony or the presentation of evidence upon a finding of reasonable cause to believe that an
42 order of suspension is necessary to protect the public health, safety, or welfare, if a hearing is
43 scheduled to occur within 30 days of the order of suspension.

44 (d) A nurse whose license is suspended under Subsection (2) shall, at reasonable intervals
45 defined by rule, be afforded the opportunity to demonstrate that the nurse can resume the
46 competent practice of nursing with reasonable skill and safety to patients.

47 (3) Nothing in Section 63-2-206 may be construed as limiting the authority of the division
48 to report current significant investigative information to the coordinated licensure information
49 system for transmission to party states as required of the division by Article VII of the Nurse
50 Licensure Compact in Section 58-31c-102.

51 Section 2. Section **58-31c-102 (Effective 01/01/00)** is amended to read:

52 **58-31c-102 (Effective 01/01/00). Nurse Licensure Compact.**

53 The Nurse Licensure Compact is hereby enacted and entered into with all other
54 jurisdictions that legally join in the compact, which is, in form, substantially as follows:

55 NURSE LICENSURE COMPACT

56 ARTICLE I

57 FINDINGS AND DECLARATION OF PURPOSE

58 (1) The party states find that:

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

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

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

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

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

70 (2) The general purposes of this compact are to:

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

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

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

76 (d) promote compliance with the laws governing the practice of nursing in each
77 jurisdiction; and

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

81 ARTICLE II
82 DEFINITIONS

83 As used in this compact:

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

85 (2) "Alternative program" means a voluntary, non-disciplinary monitoring program
86 approved by a nurse licensing board.

87 (3) "Coordinated licensure information system" means an integrated process for collecting,
88 storing, and sharing information on nurse licensure and enforcement activities related to nurse
89 licensure laws, which is administered by a non-profit organization composed of and controlled by

90 state nurse licensing boards.

91 (4) "Current significant investigative information" means:

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

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

99 [~~(4)~~] (5) "Home state" means the party state which is the nurse's primary state of residence.

100 [~~(5)~~] (6) "Home state action" means any administrative, civil, equitable, or criminal action
101 permitted by the home state's laws which are imposed on a nurse by the home state's licensing
102 board or other authority including actions against an individual's license such as: revocation,
103 suspension, probation, or any other action which affects a nurse's authorization to practice.

104 [~~(6)~~] (7) "Licensing board" means a party state's regulatory body responsible for issuing
105 nurse licenses.

106 [~~(7)~~] (8) "Multistate licensure privilege" means current, official authority from a remote
107 state permitting the practice of nursing as either a registered nurse or a licensed practical/vocational
108 nurse in such party state. All party states have the authority, in accordance with existing state due
109 process law, to take actions against the nurse's privilege such as: revocation, suspension, probation,
110 or any other action which affects a nurse's authorization to practice.

111 [~~(8)~~] (9) "Nurse" means a registered nurse or licensed practical/vocational nurse, as those
112 terms are defined by each party's state practice laws.

113 [~~(9)~~] (10) "Party state" means any state that has adopted this compact.

114 [~~(10)~~] (11) "Remote state" means a party state, other than the home state:

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

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

118 [~~(11)~~] (12) "Remote state action" means:

119 (a) any administrative, civil, equitable, or criminal action permitted by a remote state's
120 laws which are imposed on a nurse by the remote state's licensing board or other authority

121 including actions against an individual's multistate licensure privilege to practice in the remote
122 state; and

123 (b) cease and desist and other injunctive or equitable orders issued by remote states or the
124 licensing boards thereof.

125 ~~[(12)]~~ (13) "State" means a state, territory, or possession of the United States, the District
126 of Columbia, or the Commonwealth of Puerto Rico.

127 ~~[(13)]~~ (14) "State practice laws" means those individual party's state laws and regulations
128 that govern the practice of nursing, define the scope of nursing practice, and create the methods
129 and grounds for imposing discipline. "State practice laws" does not include the initial
130 qualifications for licensure or requirements necessary to obtain and retain a license, except for
131 qualifications or requirements of the home state.

132 ARTICLE III

133 GENERAL PROVISIONS AND JURISDICTION

134 (1) A license to practice registered nursing issued by a home state to a resident in that state
135 will be recognized by each party state as authorizing a multistate licensure privilege to practice as
136 a registered nurse in such party state. A license to practice licensed practical/vocational nursing
137 issued by a home state to a resident in that state will be recognized by each party state as
138 authorizing a multistate licensure privilege to practice as a licensed practical/vocational nurse in
139 such party state. In order to obtain or retain a license, an applicant must meet the home state's
140 qualifications for licensure and license renewal as well as all other applicable state laws.

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

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

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

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

161 ARTICLE IV

162 APPLICATIONS FOR LICENSURE IN A PARTY STATE

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

168 (2) A nurse in a party state shall hold licensure in only one party state at a time, issued by
169 the home state.

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

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

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

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

180 (c) moving from a party state to a non-party state, the license issued by the prior home state
181 converts to an individual state license, valid only in the former home state, without the multistate
182 licensure privilege to practice in other party states.

183
184
185
186
187
188
189
190
191
192
193
194
195
196
197
198
199
200
201
202
203
204
205
206
207
208
209
210
211
212
213

ARTICLE V
ADVERSE ACTIONS

In addition to the General Provisions described in Article III, the following 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 action(s), 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.

(5) The home state may take adverse action based on the factual findings of the remote state, so long as each state follows its own 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 non-public 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

214 ADDITIONAL AUTHORITIES INVESTED IN
215 PARTY STATE NURSE LICENSING BOARDS

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

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

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

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

230 (4) promulgate uniform rules and regulations as provided for in Article VIII(3).

231 ARTICLE VII
232 COORDINATED LICENSURE INFORMATION SYSTEM

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

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

241 (3) Current significant investigative information shall be transmitted through the
242 coordinated licensure information system only to party state licensing boards.

243 ~~[(3)]~~ (4) Notwithstanding any other provision of law, all party ~~[states]~~ states' licensing
244 boards contributing information to the coordinated licensure information system may designate

245 information that may not be shared with non-party states or disclosed to other entities or
 246 individuals without the express permission of the contributing state.

247 (5) Any personally identifiable information obtained by a party states' licensing board from
 248 the coordinated licensure information system may not be shared with non-party states or disclosed
 249 to other entities or individuals except to the extent permitted by the laws of the party state
 250 contributing the information.

251 (6) Any information contributed to the coordinated licensure information system that is
 252 subsequently required to be expunged by the laws of the party state contributing that information,
 253 shall also be expunged from the coordinated licensure information system.

254 [(4)] (7) The compact administrators, acting jointly with each other and in consultation
 255 with the administrator of the coordinated licensure information system, shall formulate necessary
 256 and proper procedures for the identification, collection, and exchange of information under this
 257 compact.

258 ARTICLE VIII

259 COMPACT ADMINISTRATION AND INTERCHANGE OF INFORMATION

260 (1) The head of the nurse licensing board, or his/her designee, of each party state shall be
 261 the administrator of this compact for his/her state.

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

266 (3) Compact administrators shall have the authority to develop uniform rules to facilitate
 267 and coordinate implementation of this compact. These uniform rules shall be adopted by party
 268 states under the authority invested under Article VI(4).

269 ARTICLE IX

270 IMMUNITY

271 No party state or the officers or employees or agents of a party state's nurse licensing
 272 board[~~the administrator of the Coordinated Licensure Information System, or any other authority~~
 273 ~~or administrator]~~ who acts in accordance with the provisions of this compact shall be liable on
 274 account of any act or omission in good faith while engaged in the performance of their duties under
 275 this compact. Good faith in this article shall not include willful misconduct, gross negligence, or

276 recklessness.

277 ARTICLE X

278 ENTRY INTO FORCE, WITHDRAWAL, AND AMENDMENT

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

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

286 (3) Nothing contained in this compact shall be construed to invalidate or prevent any nurse
287 licensure agreement or other cooperative arrangement between a party state and a non-party state
288 that is made in accordance with the other provisions of this compact.

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

292 ARTICLE XI

293 CONSTRUCTION AND SEVERABILITY

294 (1) This compact shall be liberally construed so as to effectuate the purposes thereof. The
295 provisions of this compact shall be severable and if any phrase, clause, sentence, or provision of
296 this compact is declared to be contrary to the constitution of any party state or of the United States
297 or the applicability thereof to any government, agency, person, or circumstance is held invalid, the
298 validity of the remainder of this compact and the applicability thereof to any government, agency,
299 person, or circumstance shall not be affected thereby. If this compact shall be held contrary to the
300 constitution of any state party thereto, the compact shall remain in full force and effect as to the
301 remaining party states and in full force and effect as to the party state affected as to a severable
302 matter.

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

304 (a) the party states may submit the issues in dispute to an arbitration panel which will be
305 comprised of an individual appointed by the compact administrator in the home state; an individual
306 appointed by the compact administrator in the remote state(s) involved; and an individual mutually

307 agreed upon by the compact administrators of all the party states involved in the dispute; and
308 (b) the decision of a majority of the arbitrators shall be final and binding.

308a § Section [3] 2 . Section 58-31c-103 is enacted to read:

308b 58-31c-103. Pending disciplinary actions.

308c (1) NOTWITHSTANDING SECTIONS 58-31b-308 AND 58-31c-102, A NURSE LICENSED BY A
308d PARTY STATE WHOSE LICENSE IS IN ANY WAY RESTRICTED OR OTHERWISE SUBJECT TO
308e DISCIPLINARY ACTION ON JANUARY 1, 2000, OR THE DATE ON WHICH THE NURSE'S HOME STATE
308f ADOPTS THE NURSE LICENSURE COMPACT, MAY NOT PRACTICE AS A REGISTERED NURSE IN
308g THIS STATE WITHOUT THE EXPRESS PERMISSION OF THE DIVISION IN CONSULTATION WITH THE
308h BOARD OF NURSING CREATED IN SECTION 58-31b-201.

308i (2) NOTWITHSTANDING SECTION 58-31c-102, UNPROFESSIONAL CONDUCT UNDER
308j SECTION 58-31b-502 INCLUDES PRACTICING IN A PARTY STATE WITHOUT FIRST OBTAINING THE
308k EXPRESS PERMISSION OF THAT STATE IF THE NURSE'S LICENSE ISSUED UNDER SECTION
308l 58-31b-301 IS IN ANYWAY RESTRICTED OR OTHERWISE SUBJECT TO DISCIPLINARY ACTION ON
308m JANUARY 1, 2000. §

309 Section 3. **Effective date.**

310 Section 58-31c-102 § [takes] AND 58-31c-103 TAKE § effect January 1, 2000.

Legislative Review Note
as of 1-6-99 8:17 AM

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel