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HOUSE BILL NO. 1871

House Amendments in [] — January 30, 2003

A BILL to amend and reenact § 54.1-3007 of the Code of Virginia and to amend the Code of Virginia by adding in Chapter 30 of Title 54.1 an article numbered 6, consisting of sections numbered 54.1-3030 through 54.1-3040, relating to multistate licensure for nurses; Nurse Licensure Compact.

Patron Prior to Engrossment—Delegate O'Bannon

Referred to Committee on Health, Welfare and Institutions

Be it enacted by the General Assembly of Virginia:

1. That § 54.1-3007 of the Code of Virginia is amended and reenacted, and that the Code of Virginia is amended by adding in Chapter 30 of Title 54.1 an article numbered 6, consisting of sections numbered 54.1-3030 through 54.1-3040, as follows:

§ 54.1-3007. Refusal, revocation or suspension, censure or probation.

The Board may refuse to admit a candidate to any examination, refuse to issue a license or certificate to any applicant and may suspend any license, ~~or certificate or multistate licensure privilege~~ for a stated period or indefinitely, or revoke any license, ~~or certificate or multistate licensure privilege~~, or censure or reprimand any licensee, ~~or certificate holder or multistate licensure privilege holder~~, or place him on probation for such time as it may designate for any of the following causes:

1. Fraud or deceit in procuring or attempting to procure a license;
2. Unprofessional conduct;
3. Willful or repeated violation of any of the provisions of this chapter;
4. Conviction of any felony or any misdemeanor involving moral turpitude;
5. Practicing in a manner contrary to the standards of ethics or in such a manner as to make his practice a danger to the health and welfare of patients or to the public;
6. Use of alcohol or drugs to the extent that such use renders him unsafe to practice, or any mental or physical illness rendering him unsafe to practice;
7. The denial, revocation, suspension or restriction of a license, ~~or certificate or multistate licensure privilege~~ to practice in another state, the District of Columbia or a United States possession or territory; or
8. Abuse, negligent practice, or misappropriation of a patient's or resident's property.

*Article 6.**Nurse Licensure Compact.*

§ 54.1-3030. Definitions.

As used in the Nurse Licensure Compact, unless the context requires a different meaning:

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

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

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

"Current significant investigative information" means:

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

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

"Head of the nurse licensing board" means the Executive Director of the Board of Nursing as used to define the compact administrator.

"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 nurse in such party state. All party states have the authority, in accordance with existing state due process law, to take actions

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60 against the nurse's privilege such as: revocation, suspension, probation or any other action which
61 affects a nurse's authorization to practice.

62 "Nurse" means a registered nurse or licensed practical nurse, as those terms are defined in
63 § 54.1-3000.

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

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

68 "Remote state action" means any administrative, civil, equitable or criminal action permitted by a
69 remote state's laws which are imposed on a nurse by the remote state's licensing board or other
70 authority including actions against an individual's multistate licensure privilege to practice in the remote
71 state, and cease and desist and other injunctive or equitable orders issued by remote states or the
72 licensing boards thereof.

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

75 "State practice laws" means those individual party's state laws and regulations that govern the
76 practice of nursing, define the scope of nursing practice, and create the methods and grounds for
77 imposing discipline. "State practice laws" does not include the initial qualifications for licensure or
78 requirements necessary to obtain and retain a license, except for qualifications or requirements of the
79 home state.

80 § 54.1-3031. Findings and declaration of purpose for compact.

81 A. The party states find that:

82 1. The health and safety of the public are affected by the degree of compliance with and the
83 effectiveness of enforcement activities related to state nurse licensure laws;

84 2. Violations of nurse licensure and other laws regulating the practice of nursing may result in
85 injury or harm to the public;

86 3. The expanded mobility of nurses and the use of advance communication technologies as part of
87 our nation's healthcare delivery system require greater coordination and cooperation among states in
88 the areas of nurse licensure and regulation;

89 4. New practice modalities and technology make compliance with individual state nurse licensure
90 laws difficult and complex;

91 5. The current system of duplicative licensure for nurses practicing in multiple states is cumbersome
92 and redundant to both nurses and states.

93 B. The general purposes of this Compact are to:

94 1. Facilitate the states' responsibility to protect the public's health and safety;

95 2. Ensure and encourage the cooperation of party states in the areas of nurse licensure and
96 regulation;

97 3. Facilitate the exchange of information between party states in the areas of nurse regulation,
98 investigation and adverse actions;

99 4. Promote compliance with the laws governing the practice of nursing in each jurisdiction;

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

103 § 54.1-3032. General provisions and jurisdiction.

104 A. A license to practice registered nursing issued by a home state to a resident in that state will be
105 recognized by each party state as authorizing a multistate licensure privilege to practice as a registered
106 nurse in such party state. A license to practice licensed practical nursing issued by a home state to a
107 resident in that state will be recognized by each party state as authorizing a multistate licensure
108 privilege to practice as a licensed practical nurse in such party state. In order to obtain or retain a
109 license, an applicant must meet the home state's qualifications for licensure and license renewal as well
110 as all other applicable state laws.

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

117 C. Every nurse practicing in a party state must comply with the state practice laws of the state in
118 which the patient is located at the time care is rendered. In addition, the practice of nursing is not
119 limited to patient care, but shall include all nursing practice as defined by the state practice laws of a
120 party state. The practice of nursing will subject a nurse to the jurisdiction of the nurse licensing board
121 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 advance 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.

§ 54.1-3033. Applications 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 the holder of, a license issued by any other state, whether there are any restrictions on the multistate licensure privilege, and whether any other adverse action by any state has been taken against the license.

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

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

D. When a nurse changes primary state of residence by:

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

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

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

§ 54.1-3034. Adverse actions.

In addition to the general provisions described in § 54.1-3032, 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 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.

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.

§ 54.1-3035. Additional authorities invested in party state nursing licensing boards.

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

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

2. Issue subpoenas for both hearings and investigations which require the attendance and testimony

183 of witnesses, and the production of evidence. Subpoenas issued by a nurse licensing board in a party
184 state for the attendance and testimony of witnesses, and/or the production of evidence from another
185 party state, shall be enforced in the latter state by any court of competent jurisdiction, according to the
186 practice and procedure of that court applicable to subpoenas issued in proceedings pending before it.
187 The issuing authority shall pay any witness fees, travel expenses, mileage and other fees required by the
188 service statutes of the state where the witnesses and/or evidence are located.

189 3. Issue cease and desist orders to limit or revoke a nurse's authority to practice in their state;

190 4. Promulgate uniform rules and regulations as provided for in subsection C of § 54.1-3037.

191 § 54.1-3036. Coordinated licensure information system.

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

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

200 C. Current significant investigative information shall be transmitted through the coordinated
201 licensure information system only to party state licensing boards.

202 D. Notwithstanding any other provision of law, all party states' licensing boards contributing
203 information to the coordinated licensure information system may designate information that may not be
204 shared with non-party states or disclosed to other entities or individuals without the express permission
205 of the contributing state.

206 E. Any personally identifiable information obtained by a party state's licensing board from the
207 coordinated licensure information system may not be shared with non-party states or disclosed to other
208 entities or individuals except to the extent permitted by the laws of the party state contributing the
209 information.

210 F. Any information contributed to the coordinated licensure information system that is subsequently
211 required to be expunged by the laws of the party state contributing that information shall also be
212 expunged from the coordinated licensure information system.

213 G. The Compact administrators, acting jointly with each other and in consultation with the
214 administrator of the coordinated licensure information system, shall formulate necessary and proper
215 procedures for the identification, collection and exchange of information under this Compact.

216 § 54.1-3037. Compact administration and interchange of information.

217 A. The head of the nurse licensing board, or his designee, of each party state shall be the
218 administrator of this Compact for his state.

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

223 C. Compact administrators shall have the authority to develop uniform rules to facilitate and
224 coordinate implementation of this Compact. These uniform rules shall be adopted by party states, under
225 the authority invested by subdivision 4 of § 54.1-3035.

226 § 54.1-3038. Immunity.

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

231 § 54.1-3039. Entry into force, withdrawal and amendment.

232 A. This Compact shall enter into force and become effective as to any state when it has been enacted
233 into the laws of that state. Any party state may withdraw from this Compact by enacting a statute
234 repealing the same, but no such withdrawal shall take effect until six months after the withdrawing state
235 has given notice of the withdrawal to the executive heads of all other party states.

236 B. No withdrawal shall affect the validity or applicability by the licensing boards of states remaining
237 party to the Compact of any report of adverse action occurring prior to the withdrawal.

238 C. Nothing contained in this Compact shall be construed to invalidate or prevent any nurse licensure
239 agreement or other cooperative arrangement between a party state and a non-party state that is made in
240 accordance with the other provisions of this Compact.

241 D. This Compact may be amended by the party states. No amendment to this Compact shall become
242 effective and binding upon the party states unless and until it is enacted into the laws of all party states.

243 § 54.1-3040. Construction and severability.

244 A. This Compact shall be liberally construed so as to effectuate the purposes thereof. The provisions

245 of this Compact shall be severable and if any phrase, clause, sentence or provision of this Compact is
 246 declared to be contrary to the constitution of any party state or of the United States or the applicability
 247 thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder
 248 of this Compact and the applicability thereof to any government, agency, person or circumstance shall
 249 not be affected thereby. If this Compact shall be held contrary to the constitution of any state party
 250 thereto, the Compact shall remain in full force and effect as to the remaining party states and in full
 251 force and effect as to the party state affected as to all severable matters.

252 B. In the event party states find a need for settling disputes arising under this Compact:

253 1. The party states may submit the issues in dispute to an arbitration panel which will be comprised
 254 of an individual appointed by the Compact administrator in the home state; an individual appointed by
 255 the Compact administrator in the remote state(s) involved; and an individual mutually agreed upon by
 256 the Compact administrators of all the party states involved in the dispute.

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

258 [2. That the provisions of this act shall become effective on January 1, 2005.]

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