

HOUSE BILL No. 5493

December 8, 2005, Introduced by Reps. Stakoe, Baxter, Hildenbrand, Vander Veen, Garfield, Pastor, Shaffer, Elsenheimer, Sheltroun, Amos, Wenke, David Law, Jones, Booher, Hansen, Green, Proos, Emmons, Nitz, Casperson, Gosselin, Hune, Kolb, Farrah, Huizenga, Wojno, Polidori, Byrnes, Accavitti, Lipsey, Taub, Stahl, Gaffney, Whitmer, Caswell, Mortimer, Rocca, Hoogendyk, Acciavatti, LaJoy and Marleau and referred to the Committee on Health Policy.

A bill entering into the nurse licensure compact.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

NURSE LICENSURE COMPACT

ARTICLE I. FINDINGS AND PURPOSES

The party states find that:

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

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

c. The expanded mobility of nurses and the use of advanced communication technologies as part of our nation's health care delivery system require greater coordination and cooperation among

1 states in the areas of nurse licensure and regulation.

2 d. New practice modalities and technology make compliance with
3 individual state nurse licensure laws difficult and complex.

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

7 The general purposes of this compact are to:

8 a. Facilitate the states' responsibility to protect the
9 public's health and safety.

10 b. Ensure and encourage the cooperation of party states in the
11 areas of nurse licensure and regulation.

12 c. Facilitate the exchange of information between party states
13 in the areas of nurse regulation, investigation, and adverse
14 actions.

15 d. Promote compliance with the laws governing the practice of
16 nursing in each jurisdiction.

17 e. Invest all party states with the authority to hold a nurse
18 accountable for meeting all state practice laws in the state in
19 which the patient is located at the time care is rendered through
20 the mutual recognition of party state licenses.

21 ARTICLE II. DEFINITIONS

22 As used in this compact:

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

24 b. "Alternative program" means a voluntary, nondisciplinary
25 monitoring program approved by a nurse licensing board.

26 c. "Coordinated licensure information system" means an
27 integrated process for collecting, storing, and sharing information

1 on nurse licensure and enforcement activities related to nurse
2 licensure laws, which is administered by a nonprofit organization
3 composed of and controlled by state nurse licensing boards.

4 d. "Current significant investigative information" means
5 investigative information that a licensing board, after a
6 preliminary inquiry that includes notification and an opportunity
7 for the nurse to respond if required by state law, has reason to
8 believe is not groundless and, if proved true, would indicate more
9 than a minor infraction or investigative information that indicates
10 that the nurse represents an immediate threat to public health and
11 safety regardless of whether the nurse has been notified and had an
12 opportunity to respond.

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

15 f. "Home state action" means any administrative, civil,
16 equitable, or criminal action permitted by the home state's laws
17 which are imposed on a nurse by the home state's licensing board or
18 other authority including actions against an individual's license
19 such as revocation, suspension, probation, or any other action
20 which affects a nurse's authorization to practice.

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

23 h. "Multistate licensure privilege" means current, official
24 authority from a remote state permitting the practice of nursing as
25 either a registered nurse or a licensed practical nurse in a party
26 state. All party states have the authority, in accordance with
27 existing state due process law, to take actions against the nurse's

1 privilege such as revocation, suspension, probation, or any other
2 action which affects a nurse's authorization to practice.

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

6 j. "Party state" means any state that has adopted this
7 compact.

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

13 l. "Remote state action" means any administrative, civil,
14 equitable, or criminal action permitted by a remote state's laws
15 which are imposed on a nurse by the remote state's licensing board
16 or other authority including actions against an individual's
17 multistate licensure privilege to practice in the remote state, and
18 cease and desist and other injunctive or equitable orders issued by
19 remote states or the licensing boards of the remote states.

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

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

27 o. "State practice laws" does not include the initial

1 qualifications for licensure or requirements necessary to obtain
2 and retain a license, except for qualifications or requirements of
3 the home state.

4 ARTICLE III. GENERAL PROVISIONS AND JURISDICTION

5 a. A license to practice registered nursing issued by a home
6 state to a resident in that state will be recognized by each party
7 state as authorizing a multistate licensure privilege to practice
8 as a registered nurse in a party state. A license to practice
9 licensed practical nursing issued by a home state to a resident in
10 that state will be recognized by each party state as authorizing a
11 multistate licensure privilege to practice as a licensed practical
12 nurse in a party state. In order to obtain or retain a license, an
13 applicant must meet the home state's qualifications for licensure
14 and license renewal as well as all other applicable state laws.

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

24 c. Every nurse practicing in a party state must comply with
25 the state practice laws of the state in which the patient is
26 located at the time care is rendered. In addition, the practice of
27 nursing is not limited to patient care, but shall include all

1 nursing practice as defined by the state practice laws of a party
2 state. The practice of nursing will subject a nurse to the
3 jurisdiction of the nurse licensing board and the courts, as well
4 as the laws, in that party state.

5 d. This compact does not affect additional requirements
6 imposed by states for advanced practice registered nursing.
7 However, a multistate licensure privilege to practice registered
8 nursing granted by a party state shall be recognized by other party
9 states as a license to practice registered nursing if one is
10 required by state law as a precondition for qualifying for advanced
11 practice registered nurse authorization.

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

18 ARTICLE IV. APPLICATIONS FOR LICENSURE IN PARTY STATE

19 a. Upon application for a license, the licensing board in a
20 party state shall ascertain, through the coordinated licensure
21 information system, whether the applicant has ever held, or is the
22 holder of, a license issued by any other state, whether there are
23 any restrictions on the multistate licensure privilege, and whether
24 any other adverse action by any state has been taken against the
25 license.

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

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

6 d. When a nurse changes primary state of residence by:

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

10 2. Moving from a nonparty state to a party state, and obtains
11 a license from the new home state, the individual state license
12 issued by the nonparty state is not affected and will remain in
13 full force if so provided by the laws of the nonparty state.

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

18 ARTICLE V. ADVERSE ACTIONS

19 In addition to the general provisions described in Article
20 III, the following provisions apply:

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

1 shall promptly notify the home state of any such reports.

2 b. The licensing board of a party state shall have the
3 authority to complete any pending investigations for a nurse who
4 changes primary state of residence during the course of such
5 investigations. It shall also have the authority to take
6 appropriate action, and shall promptly report the conclusions of
7 the investigations to the administrator of the coordinated
8 licensure information system. The administrator of the coordinated
9 licensure information system shall promptly notify the new home
10 state of any actions.

11 c. A remote state may take adverse action affecting the
12 multistate licensure privilege to practice within that party state.
13 However, only the home state shall have the power to impose adverse
14 action against the license issued by the home state.

15 d. For purposes of imposing adverse action, the licensing
16 board of the home state shall give the same priority and effect to
17 reported conduct received from a remote state as it would if that
18 conduct had occurred within the home state. In so doing, it shall
19 apply its own state laws to determine appropriate action.

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

23 f. Nothing in this compact shall override a party state's
24 decision that participation in an alternative program may be used
25 in lieu of licensure action and that participation shall remain
26 nonpublic if required by the party state's laws. Party states must
27 require nurses who enter any alternative programs to agree not to

1 practice in any other party state during the term of the
2 alternative program without prior authorization from the other
3 party state.

4 ARTICLE VI. ADDITIONAL AUTHORITIES

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

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

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

21 c. Issue cease and desist orders to limit or revoke a nurse's
22 authority to practice in his or her state.

23 d. Promulgate uniform rules and regulations as provided for in
24 Article VIII(c).

25 ARTICLE VII. COORDINATED LICENSURE INFORMATION SYSTEM

26 a. All party states shall participate in a cooperative effort
27 to create a coordinated database of all licensed registered nurses

1 and licensed practical nurses. This system will include information
2 on the licensure and disciplinary history of each nurse, as
3 contributed by party states, to assist in the coordination of nurse
4 licensure and enforcement efforts.

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

11 c. Current significant investigative information shall be
12 transmitted through the coordinated licensure information system
13 only to party state licensing boards.

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

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

25 f. Any information contributed to the coordinated licensure
26 information system that is subsequently required to be expunged by
27 the laws of the party state contributing that information, shall

1 also be expunged from the coordinated licensure information system.

2 g. The compact administrators, acting jointly with each other
3 and in consultation with the administrator of the coordinated
4 licensure information system, shall formulate necessary and proper
5 procedures for the identification, collection, and exchange of
6 information under this compact.

7 ARTICLE VIII. COMPACT ADMINISTRATION AND INTERCHANGE OF INFORMATION

8 a. The head of the nurse licensing board of each party state,
9 or his or her designee, shall be the administrator of this compact
10 for his or her state.

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

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

21 ARTICLE IX. IMMUNITY

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

1 ARTICLE X. ENTRY INTO FORCE, WITHDRAWAL, AND AMENDMENT

2 a. This compact shall become effective as to any state when it
3 has been enacted into the laws of that state. Any party state may
4 withdraw from this compact by enacting a statute repealing the
5 same, but a withdrawal shall not take effect until six months after
6 the withdrawing state has given notice of the withdrawal to the
7 executive heads of all other party states.

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

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

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

20 ARTICLE XI. CONSTRUCTION AND SEVERABILITY

21 a. This compact shall be liberally construed so as to
22 effectuate the purposes of this compact. The provisions of this
23 compact shall be severable and if any phrase, clause, sentence, or
24 provision of this compact is declared to be contrary to the
25 constitution of any party state or of the United States or the
26 applicability thereof to any government, agency, person, or
27 circumstance is held invalid, the validity of the remainder of this

1 compact and the applicability of this compact to any government,
2 agency, person, or circumstance shall not be affected. If this
3 compact shall be held contrary to the constitution of any state
4 party to this compact, the compact shall remain in full force and
5 effect as to the remaining party states and in full force and
6 effect as to the party state affected as to all severable matters.

7 b. In the event party states find a need for settling disputes
8 arising under this compact:

9 1. The party states may submit the issues in dispute to an
10 arbitration panel which will be comprised of an individual
11 appointed by the compact administrator in the home state, an
12 individual appointed by the compact administrator in the remote
13 states involved, and an individual mutually agreed upon by the
14 compact administrators of all the party states involved in the
15 dispute.

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