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House Bill 149 Nursing: Licensure; Multi-state Compact

Sectional Analysis

-- Sections 1-2 relates to the fee setting structures for single-state versus multistate nursing licenses --

- Section 1** Amends AS 08.01.065(c) – under *Centralized Licensing: establishment of fees* – to acknowledge subsection (l) created under Section 2.
- Section 2** Adds a new subsection (l) to AS 08.01.065 – under *Centralized Licensing: establishment of fees* – to require the Department of Commerce, Community, and Economic Development (“department”) to separate regulatory costs and the setting of fees for single-state nursing licenses from multistate nursing licenses and nurses practicing under a multistate licensure privilege.

-- Sections 3-5 make conforming changes to statutes under AS 08: Business and Professions based on Section 18 --

- Section 3** Amends AS 08.02.110(a) – under *Special Provisions relating to Health Care Providers: professional designation requirements* – to recognize a registered nurse (RN) holding a multistate licensure privilege as a RN in the state.
- Section 4** Amends AS 08.02.130(j)(1) – under *Special Provisions relating to Health Care Providers: telehealth* – to change the definition of “health care provider” to recognize a RN holding a multistate licensure privilege as a RN in the state.
- Section 5** Amends AS 08.11.120(b) – under *audiology exemptions* – to recognize a RN holding a multistate licensure privilege as a RN in the state.

-- Sections 6-17 make conforming changes to AS 08.68: Nursing based on Section 18. This is the same language all NLC states adopt into statute in order to join --

- Section 6** Amends AS 08.68.100 – *duties of the board* – to require the Board of Nursing (“board”) to adopt regulations necessary to implement the Nurse Licensure Compact (NLC) and to

appoint the board's executive administrator to serve as the state administrator of the Interstate Commission Nurse Licensure Compact Administrators ("commission")

- Section 7** Amends AS 08.68.140 – *applicability of administrative procedure act* – to allow an exception for AS 08.68.500 from the requirement to comply with the Administrative Procedure Act (AS 44.62).
- Section 8** Amends AS 08.68.160 – *license required* – to separate the requirements for a RN or LPN license from an advanced practice registered nurse (APRN) license; as RNs or LPNs can meet the requirements through license issued by the board or a multistate licensure privilege, whereas APRNs must obtain their license in Alaska to practice in the state.
- Section 9** Amends AS 08.68.170 – *qualifications of registered or practical nurse applicants* – to clarify that an applicant for a multistate license must meet both the Alaska and NLC requirements to qualify; and to recognize a RN holding a multistate licensure privilege as a RN in the state.
- Section 10** Adds a new subsection (c) to AS 08.68.190 – *under license by examination* – to require the board issue a multistate license to an RN or licensed practical nurse (LPN) who meets both the Alaska and NLC qualifications for licensure.
- Section 11** Amends AS 08.68.220 – *fees* – to clarify a difference in the fees for single-state and multistate RN and LPN license applications, licenses, and renewals in compliance with Section 2.
- Section 12** Amends AS 08.68.230(a) – *under use of title and abbreviation* – to allow RNs holding a multistate licensure privilege to use the title "registered nurse" or abbreviation "RN" in the state.
- Section 13** Amends AS 08.68.230(b) – *under use of title and abbreviation* – to allow LPNs holding a multistate licensure privilege to use the title "licensed practical nurse" or abbreviation "LPN" in the state.
- Section 14** Amends AS 08.68.251(a) – *under lapsed licenses* – to specify this section applies to licenses issued by the board (both single-state and multistate).
- Section 15** Amends AS 08.68.275(c) – *under disciplinary sanctions* – to specify this section applies to licenses issued by the board (both single-state and multistate).
- Section 16** Amends AS 08.68.275(d) – *under disciplinary sanctions* – to specify this section applies to licenses issued by the board (both single-state and multistate).
- Section 17** Adds a new subsection (g) to AS 08.68.275 – *under disciplinary sanctions* – to allow the board to take the following disciplinary actions singly or in combination against an individual who's practicing in the state under a multistate licensure privilege:
- Suspend the privilege in Alaska for a stated period of time;
 - Censure the individual;
 - Issue a letter of reprimand;
 - Impose limitations or conditions on the professional practice of the individual in the state;
 - Impose peer review;

- Impose professional education requirements until a satisfactory degree of skill has been attained in those aspects of professional practice determined by the board to need improvement; and/or
- Impose probation and require the individual to report regularly to the board on matters involving the basis for the probation.

-- Sections 18 enacts the NLC in Alaska; using the same language that must be adopted by all states --

Section 18 Creates a new Article – 5A. *Multistate Nurse Licensure Compact* – and section – AS 08.68.500. *Compact enacted* – to enact the NLC into law on behalf of the state with all other states and jurisdictions legally joining it in a form as follows:

Article I. Findings and Declaration of Purpose.

Subsection (a) provides the findings of the legislature related to the health and safety of the public, importance of compliance and enforcement of nursing laws, need for coordination and cooperation among states regarding nurse licensure, and the cumbersome and redundant nature of duplicative licensure for nurses practicing in multiple states.

Subsection (b) provides the general purposes of the Nurse Licensure Compact (NLC) are to facilitate states' responsibility to protect public health and safety, ensure and encourage the cooperation of party states, facilitate the exchange of information between party states, promote compliance with the laws governing practice in each jurisdiction, invest all party states with the authority to hold a nurse accountable for meeting all practice laws of the state in which the patient is located at the time care is rendered, decrease redundancies in the consideration and issuance of nurses licenses, and provide opportunities for interstate practice by nurses who meet the uniform licensure requirements (*Article III*).

Article II. Definitions.

Provides definitions for "adverse action", "alternative program", "coordinated licensure information system", "current significant investigative information", "encumbrance", "home state", "licensing board", "multistate license", "multistate licensure privilege", "nurse", "party state", "remote state", "single-state license", "state", and "state practice laws".

Article III. General Provisions and Jurisdiction.

Subsection (a) provides that a multistate license to practice as a registered nurse (RN) or licensed practical/vocational nurse (LPN/VN) issued by a home state will be recognized by each party state as authorizing a nurse to practice under multistate licensure privilege.

Subsection (b) requires a state to implement procedures for considering the criminal history records from the FBI and the agency responsible for retaining that state's criminal records for initial multistate licensure through the submission of fingerprints or other biometric-based information.

Subsection (c) requires each party state to require the following for a nurse to obtain or retain a multistate license in the home state:

- Meets the home state's qualification for licensure or renewal and all applicant state laws;

- Has graduated or is eligible to graduate from a licensing board-approved RN or LPN/VN prelicensure education program;
- Or has graduated from a foreign RN or LPN/VN prelicensure education program that has been approved by the authorized accrediting body in the applicable country and has been verified by an independent credentials review agency to be comparable to a licensing board-approved prelicensure education program;
- *If graduated from a foreign prelicensure education program not taught in English or if English is not the individual's native language:* Successfully passed an English proficiency examination that includes the components of reading, speaking, writing, and listening;
- Has successfully passed an NCLEX-RN or NCLEX-PN Examination or a recognized predecessor (as applicable);
- Is eligible for or holds an active, unencumbered license;
- Has submitted fingerprints or other biometric data for the purpose of obtaining criminal history record information from the FBI and the agency responsible for retaining that state's criminal records;
- Has not been convicted or found guilty, or entered into an agreed disposition, of a felony offense under applicable state or federal criminal law;
- Has not been convicted or found guilty, or entered into an agreed disposition, of a misdemeanor offense related to the practice of nursing as determined on a case-by-case basis;
- Is not currently enrolled in an alternative program;
- Is subject to self-disclosure requirements regarding current participation in an alternative program; and
- Has a valid U.S. Social Security number.

Subsection (d) states that all party states are authorized – in accordance with existing state due process law – to take adverse action against a nurse's multistate licensure privilege in that state, including cease and desist actions. If the state takes action, it must promptly notify the administrator of the coordinated licensure information system (*Article VI*).

Subsection (e) requires a nurse practicing in a party state to comply with the practice laws of the state in which the client is located at the time service is provided. The practice of nursing includes not only patient care, but all nursing practice as defined by that state's practice laws. The practice of nursing in a party state will subject a nurse to the jurisdiction of the state's licensing board, courts, and laws where the patient is located at the time services are provided.

Subsection (f) provides that individuals not residing in a party state are still able to apply for single state licensure in party states, which do not provide multistate licensure privileges in other party states. Nothing in the Compact affects the requirements established by a party state for the issuance of a single-state license.

Subsection (g) requires a nurse who changes primary state of residence must again meet all applicable requirements outlined above to obtain a multistate license from a new home state. A nurse who fails to satisfy the multistate license requirements due to a disqualifying event shall be ineligible to retain or renew a multistate license, and the multistate license shall be revoked or deactivated.

Article IV. Applications for Licensure in a Party State.

Subsection (a) requires a licensing board in the issuing state to ascertain, through the coordinated licensure information system (*Article VI*), where an applicant for a multistate license holds or has ever held a license in another state, whether there are any encumbrances on or adverse action against any license or multistate licensure privilege, and whether the applicant is currently participating in an alternative program.

Subsection (b) provides that a nurse can only hold a multistate license issued by the home state (and no more than one).

Subsection (c) provides that if a nurse changes primary state of residence by moving between two party states, the nurse must apply for licensure in the new home state and the multistate license issued by the prior home state will be deactivated. The nurse can apply for the license in the new home state in advance of the change in primary residency, but the new license cannot be issued until the nurse provides satisfactory evidence of a change in primary residency.

Subsection (d) provides that if a nurse changes primary state of residence by moving from a party state to a non-party state, the multistate license will convert to a single-state license in the prior home state.

Article V. Additional Authorities Invested in Party State Licensing Boards.

Subsection (a) provides that, in addition to other powers conferred by state law, a state's licensing board has the authority to:

- Take adverse action against a nurse's multistate licensure privilege to practice within that state; whereas only the home state has the power to take adverse action against the nurse's multistate license. Home states must give the same priority and effect to reported conduct received by a party state as it would if the conduct had occurred in the home state.
- Issue cease and desist orders or impose an encumbrance on the nurse's authority to practice within that party state.
- Complete any pending investigations of a nurse who changes primary state of residence during an investigation, and to take appropriate action(s). The board must promptly notify conclusions of such investigations to the administrator of the coordinated licensure information system (*Article VI*) who then promptly notifies the new home state.
- Issue subpoenas for both hearings and investigations.
- Obtain and submit fingerprint or other biometric-based information to the FBI and receive the results of that check to use for licensure decisions for each nurse licensure applicant.
- If otherwise permitted by state law, recover from the affected nurse the costs of investigations and dispositions of cases resulting from adverse action taken against that nurse.
- Take adverse action based on the factual findings of the remote state following the licensing board's own procedures.

Subsection (b) provides that if adverse action is taken by the home state against a nurse's multistate license, the nurse's multistate licensure privilege in all other party states is deactivated until all encumbrances have been removed from the multistate license. All home state disciplinary orders imposing adverse action against a multistate license must include a statement stating as such. Nothing in the Compact overrides a party state's

decision that participation in an alternative program can be issued in lieu of adverse action, but the nurse's multistate license must be deactivated during the duration of the nurse's participation in the program.

Article VI. Coordinated Licensure Information System and Exchange of Information.

Subsection (a) requires all party states to participate in the coordinated licensure information system ("system"). The system includes licensure and disciplinary history information of each nurse, submitted by party states.

Subsection (b) requires the Interstate Commission of Nurse Licensure Compact Administrators ("Commission"; *Article VII*), in consultation with the system administrator, to formulate necessary and proper procedures for the identification, collection, and exchange of information under the Compact.

Subsection (c) requires all party state licensing boards to promptly report to the system any adverse action, current significant investigative information, denials of applications (with reasons for denials), and nurse participations in alternative programs.

Subsection (d) requires current significant investigative information and participation in nonpublic or confidential alternative programs be transmitted through the system only to party state licensing boards.

Subsection (e) allows party states to designate information that may not be shared with non-party states or disclosed to other entities or individuals without express permission from that contributing state.

Subsection (f) prohibits personally identifiable information obtained from the system by a party state licensing board from being shared with non-party states or disclosed to other entities or individuals except to the extent permitted by the laws of the state that contributed the information.

Subsection (g) provides that information contributed to the system that is subsequently required to be expunged per the laws of the state that provided the information will also be expunged from the system.

Subsections (h) and (i) require each party state's Compact administrator to furnish a uniform data set to the other party states' Compact administrators, which will include identifying information, licensure data, information related to alternative program participation, and other information that may facilitate the administration of the Compact; as well as all investigative documents and information requested by another party state.

Article VII. Establishment of the Interstate Commission of Nurse Licensure Compact Administrators.

Subsection (a) explains the party states create and establish a joint public entity known as the Interstate Commission of Nurse Licensure Compact Administrators ("Commission"), which is an instrumentality of the party states. It specifies that nothing in the Compact can be construed to be a waiver of sovereign immunity.

Subsection (b) requires each party state to have one administrator, who is the head of the state licensing board or a designee. Any administrator can be removed or suspended from office as provided by that administrator's state laws, and that state will fill the vacancy on the Commission. Each administrator is entitled to one vote with regard to the promulgation

or rules and creation of bylaws; and has the opportunity to participate in all business and affairs of the Commission. The administration can vote in person or by other means as provided in the bylaws which can include telephonically or other means. The Commission must meet at least once annually. Additional meetings can be set forth in the bylaws or rules of the Commission. All meetings are open to the public, and public notice must be given in the same manner as required under rulemaking under Article VIII. The Commission can convene in a closed, nonpublic meeting only for the reasons outlined in subsection (b)(5). If a meeting, or part of a meeting, is closed, the Commission's legal counsel or designee must certify the meeting can be closed and reference each relevant exempting provision. The Commission must keep minutes that fully and clearly describe all matters discussed and provide a full and accurate summary of actions taken, reason for those actions, and a description of views expressed. All minutes and documents of a closed meeting remain under seal, subject to release by a majority vote of the Commission or order of a court of competent jurisdiction.

Subsection (c) requires the Commission – by a majority vote of the administrators – prescribes bylaws or rules to govern its conduct as necessary or appropriate to carry out the purposes and exercise the powers of the Compact – including all items listed in this subsection, such as establishing the Commission's fiscal year and providing reasonable standards and procedures for the establishment of meetings or other committees, calling and conducting meetings, and establishment of personnel policies and programs.

Subsections (d) – (g) require the Commission to publish its bylaws and rules, and any related amendments, on its website. It must maintain its financial records. The Commission's powers are outlined in subsection (g), including the powers to promulgate uniform rules to facilitate implementation and administration of the compact; bring and prosecute legal proceedings or actions in the name of the Commission; purchase and maintain insurance and bonds; cooperate with other organizations that administer state compacts relating to nursing; hire employees or elect/appoint officers; accept any and all appropriate donations, grants, and gifts; establish a budget and make expenditures; borrow money; appoint committees; and provide and receive information, and cooperate with, law enforcement agencies.

Subsection (h) outlines the financing of the Commission, including the ability for the Commission to levy on and collect an annual assessment from each party state to cover the cost of its operations, activities, and staff in its annual budget approved each year. The Commission cannot incur obligations of any kind prior to securing funds adequate to meet the same, nor can they pledge the credit of any of the party states without the authority of that state. The Commission must keep accurate accounts of all receipts and disbursements, subject to audit and accounting procedures established in the bylaws. Further, the receipts and disbursements will be audited annually by a certified or licensed public accountant, and the report of the audit will be included in and become part of the Commission's annual report.

Subsection (i) provides that administrators, officers, executive director, employees, and representatives of the Commission are immune from suit and liability within the scope of Commission employment, duties, or responsibilities. The Commission must defend those individuals in any civil action seeking to impose liability in that capacity. The Commission must indemnify and hold harmless any such individual for the amount of any settlement or judgement obtained against that person arising out of any actual or alleged act, error, or

omission that occurred within the scope of Commission employment, duties, or responsibilities.

Article VIII. Rulemaking.

Subsections (a) – (c) require the Commission to exercise its rulemaking powers pursuant to the criteria set out in this article and rules adopted thereunder. Rules or subsequent amendments must be adopted at regular or special Commission meetings. Prior to the promulgation and adoption of a rule, the Commission must file a notice of the proposed rule at least 60 days in advance on the Commission’s website and the website of each party state’s licensing board or the publication in which each state would otherwise publish proposed rules.

Subsection (d) outlines what the notice of proposed rulemaking must include, such as the time, date, and location of the meeting; proposed rule and reason; and a request for comments from any interested person.

Subsections (e) and (f) require that prior to adopting a rule, the Commission must allow persons to submit written facts, opinions, and arguments, to be made available to the public; and to grant the opportunity for a public hearing before adopting a rule. The details of that hearing must be published in accordance with subsection (g). If no one appears at the hearing, the Commission may proceed per subsection (h).

Subsections (i) and (j) require the Commission to consider all written and oral comments received, then, by a majority vote of all administrators, take final action on the proposed rule and determine the effective date.

Subsection (k) provides the Commission’s ability to consider and adopt emergency rules without prior notice upon determination that an emergency exists, and how those emergency rules must be adopted.

Subsection (l) allows the Commission to direct revisions to a previously adopted rule or amendment to correct typographical errors, errors in format, or errors in consistency or grammatical errors. Public notices of any revisions must be posted on the Commission’s website and are subject to be challenged by any person within 30 days of posting.

Article IX. Oversight, Dispute Resolution and Enforcement.

Subsection (a) covers oversight. It requires that each party state enforce the Compact and take all actions necessary and appropriate to effectuate its purposes and intent (*Article I*). The Commission is entitled to receive services of process in any proceeding that could affect its powers, responsibilities, or actions.

Subsection (b) outlines what the Commission must do if it determines a party state has defaulted in the performance of its obligations or responsibilities, including that termination of membership in the Compact shall be imposed only after all other means of securing compliance have been exhausted. Notice of intent to suspend or terminate must be given to the Governor and the licensing board’s executive officer of the defaulting state and each of the party states.

Subsection (c) outlines procedures for dispute resolution among party states and between party and non-party states.

Subsection (d) requires the Commission, in the reasonable exercise of its discretion, enforce the provisions and rules of the Compact.

Article X. Effective Date, Withdrawal and Amendment.

Subsections (a) and (b) specify the enhanced Compact went into effect on December 31, 2018, when no less than 26 states had joined. The prior Compact was superseded by this Compact. It outlines transition provisions for the states that were part of the prior Compact.

Subsection (c) provides how a party state can withdraw from the Compact.

Subsection (d) requires a withdrawn or terminated party state's continued requirement to report adverse actions and significant investigations occurring prior to the effective date of its withdrawal or termination.

Subsection (e) clarifies that nothing in the Compact can be construed to invalidate or prevent any nurse licensure agreement or other cooperative agreement between a party state and nonparty state made in accordance with other provisions of the Compact.

Subsection (f) allows the Compact to be amended by party states but specifies that no amendment to the Compact will become effective and binding unless and until it's enacted into the laws of all party states.

Subsection (g) requires that representatives of nonparty states be invited to participate in activities of the Commission, on a nonvoting basis, prior to the adoption of the Compact in all states.

Article XI. Construction and Severability.

Provides the Compact shall be liberally construed to effectuate the purposes of the Compact. Provisions of the Compact are severable, and if any phrase, clause, sentence, or provision of the Compact is declared to be contrary to the constitution of the U.S. or any party state, or if the applicability thereof to any government agency, person, or circumstance is held invalid, the validity of the remainder of this Compact and the applicability thereof shall not be affected.

-- Sections 19-22 amend AS 08.68 – Nursing – to make conforming changes based on Section 18 --

- Section 19** Amends AS 08.68.800(a) – under *delegation of nursing functions* – to clarify that the Alaska licensure exemption for a nurse licensed in another state engaging in nurse education or nursing consultation activities (if they do not exceed 20 working days within a licensing period) or employment responsibilities such as transporting patients (not exceeding 48 hours for each transport) applies to nurses licensed in another state that do not hold the multistate licensure privilege.
- Section 20** Amends AS 08.68.805 – *delegation of nursing functions* – to recognize a RN or LPN holding a multistate licensure privilege as a RN or LPN in the state.
- Section 21** Amends AS 08.68.850(1) – under *definitions* – to amend the definition of “advanced practice registered nurse” to recognize an RN license could hold a single-state license, multistate license, or multistate licensure privilege, but an APRN license must be issued by the board only.

- Section 22** Amends AS 08.68.850 – under *definitions* – to add three definitions:
- “Multistate license” means a license issued by the board under AS 08.68.500 (Section 18) to practice as an RN or LPN in Alaska or another NLC party state.
 - “Multistate licensure privilege” meaning a legal authorization for an RN or LPN holding a multistate license issued by another NLC party state to practice in Alaska.
 - “Single-state license” meaning a RN or LPN license issued by the board to practice in Alaska only.

-- Sections 23-35 to make conforming changes based on Section 18 --

- Section 23** Amends AS 09.55.560(2) – under *Code of Civil Procedure: Special Actions and Procedures: definitions* – to amend the definition of “health care provider” to recognize a nurse holding a multistate licensure privilege as a nurse in the state.
- Section 24** Amends AS 09.65.095(c)(1) – under *Code of Civil Procedure: Actions, Immunities, Defenses, and Duties: liability for administration of blood test* – to amend the definition of “health care provider” to recognize a nurse holding a multistate licensure privilege as a nurse in the state.
- Section 25** Amends AS 18.20.095(e)(2) – under *Health, Safety, Housing, Human Rights, and Public Defender: Hospitals and Nursing Facilities: mental health patients’ right to select staff; duties of hospital staff* – to amend the definition of “licensed staff member” to recognize a nurse holding a multistate licensure privilege as a nurse in the state.
- Section 26** Amends AS 18.20.499(3) – under *Health, Safety, Housing, Human Rights, and Public Defender: Hospitals and Nursing Facilities: definitions* – to amend the definition of “nurse” to recognize a nurse holding a multistate licensure privilege as a nurse in the state.
- Section 27** Amends AS 18.23.070(3) – under *Health, Safety, Housing, Human Rights, and Public Defender: Health Care Services Information and Review Organizations: definitions* – to amend the definition of “health care provider” to recognize a nurse holding a multistate licensure privilege as a nurse in the state.
- Section 28** Amends AS 47.07.045(b) – under *Welfare, Social Services, and Institutions: Medical Assistance for Needy Persons: home and community-based services* – to recognize a nurse holding a multistate licensure privilege as a nurse in the state.
- Section 29** Amends AS 47.30.915(16) – under *Welfare, Social Services, and Institutions: Mental Health: definitions* – to amend the definition of “mental health professional” to recognize a nurse holding a multistate licensure privilege as a nurse in the state.
- Section 30** Amends AS 47.33.020(d) – under *Welfare, Social Services, and Institutions: Assisted Living Homes: health-related services allowed in assisted living homes* – to recognize a nurse holding a multistate licensure privilege as a nurse in the state.
- Section 31** Amends AS 47.33.020(e) – under *Welfare, Social Services, and Institutions: Assisted Living Homes: health-related services allowed in assisted living homes* – to recognize a nurse holding a multistate licensure privilege as a nurse in the state.
- Section 32** Amends AS 47.33.020(f) – under *Welfare, Social Services, and Institutions: Assisted Living Homes: health-related services allowed in assisted living homes* – to recognize a nurse holding a multistate licensure privilege as a nurse in the state.

- Section 33** Amends AS 47.33.020(g) – under *Welfare, Social Services, and Institutions: Assisted Living Homes: health-related services allowed in assisted living homes* – to recognize a nurse holding a multistate licensure privilege as a nurse in the state.
- Section 34** Amends AS 47.33.020(h) – under *Welfare, Social Services, and Institutions: Assisted Living Homes: health-related services allowed in assisted living homes* – to recognize a nurse holding a multistate licensure privilege as a nurse in the state.
- Section 35** Amends AS 47.33.230(c) – under *Welfare, Social Services, and Institutions: Assisted Living Homes: assisted living plan contents; distribution* – to recognize a nurse holding a multistate licensure privilege as a nurse in the state.

-- Sections 36-38 related to transitional provisions and effective dates --

- Section 36** Creates a new section in the uncodified law to allow the department and board to adopt regulations necessary to implement the changes made by this Act.
- Section 37** Provides an immediate effective date for Section 36.
- Section 38** Provides a July 1, 2024 effective date for Sections 1-35.

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