

1 \_\_\_\_\_ BILL NO. \_\_\_\_\_

2 INTRODUCED BY \_\_\_\_\_  
3 (Primary Sponsor)

4 A BILL FOR AN ACT ENTITLED: "AN ACT ADOPTING THE INTERSTATE NURSE LICENSURE COMPACT;  
5 DIRECTING THE GOVERNOR TO JOIN THE COMPACT; PROVIDING RULEMAKING AUTHORITY; AND  
6 AMENDING SECTIONS 37-8-202 AND 37-8-204, MCA."

7  
8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

9  
10 **NEW SECTION. Section 1. Interstate Nurse Licensure Compact.** The Interstate Nurse Licensure  
11 Compact is enacted into law and entered into with all jurisdictions legally joining in the compact in the form  
12 substantially as set forth in [section 3].

13  
14 **NEW SECTION. Section 2. Authority to join Interstate Nurse Licensure Compact.** The governor  
15 of the state of Montana is authorized and directed to enter into the Interstate Nurse Licensure Compact provided  
16 for in [sections 1 through 3] on behalf of the state with any state that has lawfully joined in the compact in the form  
17 substantially contained in [section 3].

18  
19 **NEW SECTION. Section 3. Text of compact.** The Interstate Nurse Licensure Compact referred to in  
20 [sections 1 and 2] reads as follows:

21 Article I. Findings

22 The party states find that:

23 (1) The health and safety of the public are affected by the degree of compliance with and the  
24 effectiveness of enforcement activities related to state nurse licensure laws.

25 (2) Violations of nurse licensure and other laws regulating the practice of nursing may result in injury or  
26 harm to the public.

27 (3) The expanded mobility of nurses and the use of advanced communication technologies as part of  
28 our nation's health care delivery system require greater coordination and cooperation among states in the areas  
29 of nurse licensure and regulation.

30 (4) New practice modalities and technology make compliance with individual state nurse licensure laws



1 difficult and complex.

2 (5) The current system of duplicative licensure for nurses practicing in multiple states is cumbersome  
3 and redundant to both nurses and states.

#### 4 Article II. Purposes

5 The purposes of this compact are to:

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

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

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

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

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

#### 14 Article III. Definitions

15 As used in this compact, the following definitions apply:

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

17 (2) "Alternative program" means a voluntary, nondisciplinary monitoring program approved by a nurse  
18 licensing board.

19 (3) "Coordinated licensure information system" means an integrated process for collecting, storing, and  
20 sharing information on nurse licensure and enforcement activities related to nurse licensure laws that is  
21 administered by a nonprofit organization composed of and controlled by state nurse licensing boards.

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

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

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

28 (5) "Home state" means the party state that is the nurse's primary state of residence.

29 (6) "Home state action" means any administrative, civil, equitable or criminal action permitted by the  
30 home state's laws that are imposed on a nurse by the home state's licensing board or other authority, including

1 actions against a nurse's license such as revocation, suspension, probation, or any other action that affects a  
2 nurse's authorization to practice.

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

4 (8) "Multistate licensure privilege" means current, official authority from a remote state permitting the  
5 practice of nursing as either a registered nurse or a licensed practical or vocational nurse in a party state. All party  
6 states have the authority, in accordance with existing state due process laws, to take actions against the nurse's  
7 privilege, including revocation, suspension, probation, or any other action that affects a nurse's authorization to  
8 practice.

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

11 (10) "Party state" means any state that has adopted this compact.

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

15 (12) "Remote state action" means:

16 (a) any administrative, civil, equitable, or criminal action permitted by a remote state's laws that are  
17 imposed on a nurse by the remote state's licensing board or other authority, including actions against a nurse's  
18 multistate licensure privilege to practice in the remote state; and

19 (b) cease and desist and other injunctive or equitable orders issued by remote states or remote state  
20 licensing boards.

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

23 (14) (a) "State practice laws" means individual party state laws and regulations that govern the practice  
24 of nursing, define the scope of nursing practice, and create the methods and grounds for imposing discipline.

25 (b) The term does not include the initial qualifications for licensure or requirements necessary to obtain  
26 and retain a license, except for qualifications or requirements of the home state.

27 Article IV. General Provisions and Jurisdiction

28 (1) A license to practice registered nursing issued by a home state to a resident in that state will be  
29 recognized by each party state as authorizing a multistate licensure privilege to practice as a registered nurse  
30 in a party state. A license to practice licensed practical or vocational nursing issued by a home state to a resident

1 in that state will be recognized by each party state as authorizing a multistate licensure privilege to practice as  
2 a licensed practical or vocational nurse in a party state. In order to obtain or retain a license, an applicant must  
3 meet the home state's qualifications for licensure and license renewal, as well as all other applicable home state  
4 laws.

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

10 (3) Every nurse practicing in a party state shall comply with the state practice laws of the state in which  
11 the patient is located at the time care is rendered. In addition, the practice of nursing is not limited to patient care,  
12 but includes all nursing practice as defined by the state practice laws of a party state. The practice of nursing  
13 subjects a nurse to the jurisdiction of the nurse licensing board and the courts, as well as the laws, in that party  
14 state.

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

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

#### 23 Article V. Applications for Licensure in a Party State

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

28 (2) A nurse in a party state may hold a license issued by the home state in only one party state at a time.

29 (3) A nurse who intends to change the nurse's primary state of residence may apply for licensure in a  
30 new home state in advance of the change. However, a new license may not be issued by a party state until a

1 nurse has provided evidence of the change in the primary state of residence that is satisfactory to the new home  
2 state's licensing board.

3 (4) If a nurse changes the nurse's primary state of residence:

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

6 (b) by moving from a nonparty state to a party state and obtains a license from the new home state, the  
7 individual state license issued by the nonparty state is not affected and will remain in full force if allowed by the  
8 laws of the nonparty state; or

9 (c) by moving from a party state to a nonparty state, the license issued by the prior home state converts  
10 to an individual state license that is valid only in the former home state and does not include the multistate  
11 licensure privilege to practice in other party states.

#### 12 Article VI. Adverse Actions

13 In addition to the general provisions described in Article IV, the following provisions apply:

14 (1) The licensing board of a remote state shall promptly report to the administrator of the coordinated  
15 licensure information system any remote state actions, including the factual and legal basis for an action if known.  
16 The licensing board of a remote state shall also promptly report any significant current investigative information  
17 yet to result in a remote state action. The administrator of the coordinated licensure information system shall  
18 promptly notify the home state of any reports.

19 (2) The licensing board of a party state has the authority to complete any pending investigations for a  
20 nurse who changes the nurse's primary state of residence during the course of an investigation. The licensing  
21 board also has the authority to take appropriate action and shall promptly report the conclusions of an  
22 investigation to the administrator of the coordinated licensure information system. The administrator of the  
23 coordinated licensure information system shall promptly notify the new home state of any action.

24 (3) A remote state may take adverse action affecting the multistate licensure privilege to practice within  
25 that party state. However, only the home state may have the power to impose adverse action against the license  
26 issued by the home state.

27 (4) For the purposes of imposing an adverse action, the licensing board of the home state shall give the  
28 same priority and effect to reported conduct received from a remote state as it would if the conduct had occurred  
29 within the home state. In doing so, the licensing board shall apply its own state laws to determine the appropriate  
30 action.

1 (5) The home state may take an adverse action based on the factual findings of the remote state as long  
2 as each state follows its own procedures for imposing an adverse action.

3 (6) Nothing in this compact may override a party state's decision that participation in an alternative  
4 program may be used in lieu of licensure action and that the participation must remain private if required by the  
5 party state's laws. Party states shall require a nurse who enters any alternative programs to agree not to practice  
6 in any other party state during the term of the alternative program without obtaining prior authorization from the  
7 party state.

#### 8 Article VII. Additional Authorities Invested in Party State Nurse Licensing Boards

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

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

12 (2) issue subpoenas for both hearings and investigations that require the attendance and testimony of  
13 witnesses or the production of evidence. Subpoenas issued by a nurse licensing board in a party state for the  
14 attendance and testimony of a witness or the production of evidence from another party state must be enforced  
15 in the latter state by any court of competent jurisdiction and in accordance with the practice and procedures of  
16 that court applicable to subpoenas. The issuing authority shall pay any witness fees, travel expenses, mileage,  
17 and other fees required by the service statutes of the state where the witness or evidence is located.

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

19 (4) promulgate uniform rules and regulations as provided for in Article IX.

#### 20 Article VIII. Coordinated Licensure Information System

21 (1) All party states shall participate in a cooperative effort to create a coordinated database of all licensed  
22 registered nurses and licensed practical or vocational nurses. This system must include information on the  
23 licensure and disciplinary history of each nurse, as contributed by party states, to assist in the coordination of  
24 nurse licensure and enforcement efforts.

25 (2) Notwithstanding any other provision of law, all party state licensing boards shall promptly report  
26 adverse actions, actions against multistate licensure privileges, any current significant investigative information  
27 yet to result in an adverse action, and denials of applications and the reasons for the denials to the coordinated  
28 licensure information system.

29 (3) Current significant investigative information must be transmitted through the coordinated licensure  
30 information system only to party state licensing boards.

1 (4) Notwithstanding any other provision of law, all party state licensing boards contributing information  
2 to the coordinated licensure information system may designate information that may not be shared with nonparty  
3 states or disclosed to other entities or individuals without the express permission of the contributing state.

4 (5) Any personally identifiable information obtained by a party state licensing board from the coordinated  
5 licensure information system may not be shared with nonparty states or disclosed to other entities or individuals  
6 except to the extent permitted by the laws of the party state contributing the information.

7 (6) Any information contributed to the coordinated licensure information system that is subsequently  
8 required to be expunged by the laws of the party state contributing the information must also be expunged from  
9 the coordinated licensure information system.

10 (7) The compact administrators, acting jointly with each other and in consultation with the administrator  
11 of the coordinated licensure information system, shall formulate necessary and proper procedures for the  
12 identification, collection, and exchange of information under this compact.

#### 13 Article IX. Compact Administration and Interchange of Information

14 (1) The head or a designee of the nurse licensing board of each party state is the administrator of this  
15 compact for that state.

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

20 (3) Compact administrators have the authority to develop uniform rules to facilitate and coordinate the  
21 implementation of this compact. The uniform rules must be adopted by the party states under the authority  
22 provided for in Article VII.

#### 23 Article X. Immunity

24 A party state or an officer, employee, or agent of a party state's nurse licensing board who acts in  
25 accordance with the provisions of this compact is not liable on account of any good faith act or omission that  
26 occurred in performing duties under this compact. The term "good faith" does not include willful misconduct, gross  
27 negligence, or recklessness.

#### 28 Article XI. Effect, Withdrawal, and Amendment

29 (1) This compact takes effect as to any state when the compact has been enacted into the laws of that  
30 state. Any party state may withdraw from this compact by enacting a statute repealing the compact but no

1 withdrawal may take effect until 6 months after the withdrawing state provided notice of the withdrawal to the  
2 heads of all other party states.

3 (2) No withdrawal may affect the validity or applicability of any report or adverse action of the licensing  
4 board of a state remaining a party to the compact that occurred prior to the withdrawal.

5 (3) Nothing contained in this compact may be construed to invalidate or prevent any nurse licensure  
6 agreement or other cooperative arrangement between a party state and a nonparty state that is made in  
7 accordance with the provisions of this compact.

8 (4) This compact may be amended by the party states. An amendment is not effective and binding on  
9 the party states unless and until the amendment is enacted into the laws of all of the party states.

#### 10 Article XII. Construction and Severability

11 (1) This compact must be liberally construed to give effect to the purposes of the compact. The  
12 provisions of this compact are severable and if any phrase, clause, sentence, or provision is declared to be  
13 contrary to the constitution of any party state or to the constitution of the United States or the applicability of the  
14 compact to any government, agency, person, or circumstance is held invalid, the validity and applicability of the  
15 remainder of this compact is not affected. If this compact is held contrary to the constitution of any party state,  
16 the compact remains in full force and effect as to the remaining party states and severable provisions remain in  
17 full force and effect as to the party state affected.

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

19 (a) The party states may submit the issues in dispute to an arbitration panel that is comprised of an  
20 individual appointed by the compact administrator in the home state, an individual appointed by the compact  
21 administrator of the remote state involved, and an individual mutually agreed upon by the compact administrators  
22 of all the party states involved in the dispute.

23 (b) The decision of a majority of the arbitrators is final and binding.

#### 24 Article XIII. Nurse Licensure Compact -- Supplemental Provisions

25 (1) A person who is extended the privilege to practice in this state pursuant to the compact is subject to  
26 the same disciplinary requirements as any other person licensed to practice in this state, and the board's  
27 investigative and disciplinary powers and procedures apply equally to a person who practices in this state  
28 pursuant to the compact.

29 (2) A person who is extended the privilege to practice in this state pursuant to the compact may use the  
30 title that is appropriate to the person's qualification as defined in the state.



1 (3) This compact is designed to facilitate the regulation of nurses and does not relieve employers from  
2 complying with statutorily imposed obligations.

3 (4) This compact does not supersede state labor laws.

4 (5) For the purposes of this Article, the term "board" means the board of nursing provided for in  
5 2-15-1734.

6 (6) For the purposes of Article IX, the term "head of nurse licensing board" means the executive director  
7 of the board as provided for in 37-8-204.

8

9 **Section 4.** Section 37-8-202, MCA, is amended to read:

10 **"37-8-202. Organization -- meetings -- powers and duties.** (1) The board shall:

11 (a) meet annually and elect from among the members a president and a secretary;

12 (b) hold other meetings when necessary to transact its business;

13 (c) prescribe standards for schools preparing persons for registration and licensure under this chapter;

14 (d) provide for surveys of schools at times the board considers necessary;

15 (e) approve programs that meet the requirements of this chapter and of the board;

16 (f) conduct hearings on charges that may call for discipline of a licensee, revocation of a license, or  
17 removal of schools of nursing from the approved list;

18 (g) cause the prosecution of persons violating this chapter. The board may incur necessary expenses  
19 for prosecutions.

20 (h) adopt rules regarding authorization for prescriptive authority of advanced practice registered nurses.

21 If considered appropriate for an advanced practice registered nurse who applies to the board for authorization,  
22 prescriptive authority must be granted.

23 (i) participate in and adopt rules as authorized by the Interstate Nurse Licensure Compact provided for  
24 in [sections 1 through 3];

25 ~~(j)~~(j) adopt rules to define criteria for the recognition of registered nurses who are certified through a  
26 nationally recognized professional nursing organization as registered nurse first assistants; and

27 ~~(k)~~(k) establish a medical assistance program to assist licensed nurses who are found to be physically  
28 or mentally impaired by habitual intemperance or the excessive use of addictive drugs, alcohol, or any other drug  
29 or substance or by mental illness or chronic physical illness. The program must provide for assistance to  
30 licensees in seeking treatment for mental illness or substance abuse and monitor their efforts toward

1 rehabilitation. The board shall ensure that a licensee who is required or volunteers to participate in the medical  
2 assistance program as a condition of continued licensure or reinstatement of licensure must be allowed to enroll  
3 in a qualified medical assistance program within this state and may not require a licensee to enroll in a qualified  
4 treatment program outside the state unless the board finds that there is no qualified treatment program in this  
5 state. For purposes of funding this medical assistance program, the board shall adjust the renewal fee to be  
6 commensurate with the cost of the program.

7 (2) The board may:

8 (a) participate in and pay fees to a national organization of state boards of nursing to ensure interstate  
9 endorsement of licenses;

10 (b) define the educational requirements and other qualifications applicable to recognition of advanced  
11 practice registered nurses. Advanced practice registered nurses are nurses who must have additional  
12 professional education beyond the basic nursing degree required of a registered nurse. Additional education must  
13 be obtained in courses offered in a university setting or the equivalent. The applicant must be certified or in the  
14 process of being certified by a certifying body for advanced practice registered nurses. Advanced practice  
15 registered nurses include nurse practitioners, nurse-midwives, nurse anesthetists, and clinical nurse specialists.

16 (c) establish qualifications for licensure of medication aides, including but not limited to educational  
17 requirements. The board may define levels of licensure of medication aides consistent with educational  
18 qualifications, responsibilities, and the level of acuity of the medication aides' patients. The board may limit the  
19 type of drugs that are allowed to be administered and the method of administration.

20 (d) adopt rules for delegation of nursing tasks by licensed nurses to unlicensed persons;

21 (e) adopt rules necessary to administer this chapter; ~~and~~

22 (f) fund additional staff, hired by the department, to administer the provisions of this chapter; and

23 (g) impose fees to pay for the costs associated with participation in the Interstate Nurse Licensure  
24 Compact provided for in [sections 1 through 3]."

25

26 **Section 5.** Section 37-8-204, MCA, is amended to read:

27 **"37-8-204. Executive director.** (1) The department shall hire an executive director to provide services  
28 to the board in connection with the board's duties of:

29 (a) prescribing curricula and standards for nursing schools and making surveys of and approving schools  
30 and courses;

1 (b) evaluating and approving courses for affiliation of student nurses; and

2 (c) reviewing qualifications of applicants for licensure.

3 (2) The department shall hire as the executive director an individual who:

4 (a) is a graduate of an approved school of nursing and who has at least a master's degree with  
5 postgraduate courses in nursing;

6 (b) is licensed as a registered professional nurse in Montana; and

7 (c) has experience in teaching or administration in an approved school of nursing and who has  
8 completed at least 3 years in the clinical practice of nursing.

9 (3) The executive director shall act as the administrator of the Interstate Nurse Licensure Compact for  
10 this state as provided in [sections 1 through 3]."

11

12 **NEW SECTION. Section 6. Codification instruction.** [Sections 1 through 3] are intended to be codified  
13 as an integral part of Title 37, chapter 8, and the provisions of Title 37, chapter 8, apply to [sections 1 through 3].

14

- END -