

Legal Memorandum to Employers

TO: Employers Located in Nurse Licensure Compact Member States

FROM: Rick Masters, Special Counsel, Nurse License Compact Administrators

DATE: August 2, 2013

RE: Compact Requirement of Acceptance of Multistate License

This memorandum was prepared at the direction of the Executive Committee of the Nurse Licensure Compact Administrators in response to reports that some nurse employers in NLC member states have been requiring, as a condition of employment, that nurses apply for a nursing license in the state(s) where the employer is located, notwithstanding the fact that the nurse/employee in question is already licensed in another compact member state which is the primary state of residence (“PSOR”).

In at least one case an employer is mandating that employees sign a form which authorizes the employer to complete and submit both licensure and renewal applications on behalf of the nurses and requiring applicants to apply for one or more other state licenses, even though such applicants do not intend to declare another PSOR. One nurse who refused to sign the form was forced to resign.

This practice is in direct violation of the applicable provisions of the Nurse Licensure Compact, which prohibits this practice and, as such, subjects the state in which the employer is located to enforcement action under the compact and the employer engaging in such statutory violations to potential private legal actions by individual nurses.

Article III a. of the Compact provides: *“A license to practice registered nursing issued by a home state to a resident in that state will be recognized by each party state as authorizing a multistate licensure privilege to practice as a registered nurse in such party state. A license to practice licensed practical/vocational nursing issued by a home state to a resident in that state will be recognized by each party state as authorizing a multistate licensure privilege to practice as a licensed practical/vocational nurse in such party state.”*

Article IV b. of the Compact specifically provides: *“A nurse in a party state shall hold licensure in only one party state at a time, issued by the home state.”* Moreover under Article IV 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between two party states, and obtains a license from the new home state, the license from the former home state is no longer valid;*

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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.”*

These provisions of the NLC, in any state in which it is enacted, have the same status as any other state law and entitle a nurse licensee, whose application is refused or whose job is terminated, to take legal action based upon the legal grounds that the multi-state license is valid under Article III, a. of the compact and that Article IV expressly prohibits licensure in more than one party state at a time.

An employer refusing to honor a multi-state license or which is, in essence, requiring prospective employees to violate applicable state law by applying for license(s) in more than one party state, is clearly acting in violation of state law, and is potentially legally liable to such employees for ‘wrongful discharge’ or “wrongful termination of employment in violation of public policy.” See for example, *Kirk v. Mercy Hospital Tri-County*, 851 S.W.2d 617, 622 (Mo. App. S.D. 1993) (*termination of a nurse’s employment due to a refusal to violate or condone the violation of the Nurse Practice Act supports a claim for the public policy exception to wrongful discharge*).

Moreover in many cases hospital accrediting authorities and/or State agencies which have the authority to grant certificates of need allowing hospitals and other providers to provide medical care as well as State Medical Licensure Boards all have requirements that the holders of certificates of need or licensees (e.g. physicians) have an affirmative duty to comply with applicable state laws. Obviously nurse licensees can also hire private attorneys who could assist them in asserting their entitlement to practice nursing in a particular member state.