STATE OF NEW YORK

3730

2021-2022 Regular Sessions

IN SENATE

January 30, 2021

Introduced by Sen. ORTT -- read twice and ordered printed, and when printed to be committed to the Committee on Higher Education

AN ACT to require a workgroup to investigate and report about licensing and the difficulties encountered by military spouses (Part A); to amend the education law, in relation to the authority of the state to certify persons to teach who are not graduates of teacher education programs (Part B); to amend the education law, in relation to adopting the interstate nursing licensure compact (Part C); to amend the general business law, the insurance law and the real property law, in relation to licensing of military spouses with out-of-state licenses in equivalent occupations (Part D)

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. This act enacts into law components of legislation relating to the "Military Spouse Act of 2021". Each component is wholly contained within a Part identified as Parts A through D. The effective date for each particular provision contained within such Part is set forth in the last section of such Part. Any provision in any section contained within a Part, including the effective date of the Part, which makes reference to a section "of this act", when used in connection with that particular component, shall be deemed to mean and refer to the corresponding section of the Part in which it is found. Section three of this act sets forth the general effective date of this act.

PART A

Section 1. State agencies are hereby directed to help spouses of members of the armed forces of the United States, national guard or reserves transfer teaching certificates or professional certifications to their new home state.

EXPLANATION--Matter in *italics* (underscored) is new; matter in brackets [-] is old law to be omitted.

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§ 2. The department of labor and the division of veterans' affairs shall establish a workgroup to identify licensing requirements for workforce shortage areas and to study, in conjunction with the relevant licensing entities, whether comparable military training could substitute for current licensing requirements, and manners in which state agencies, regulatory bodies and licensing entities can adopt procedures sensitive to the difficulties encountered by military spouses. The workgroup shall submit any findings, including any recommendations for legislative action to the governor, the temporary president of the senate and the speaker of the assembly by January 1, 2022.

§ 3. This act shall take effect immediately.

PART B

Section 1. Subdivision 1 of section 3006 of the education law is amended by adding a new paragraph f to read as follows:

f. An alternative placement certificate to any person:

(1) Who meets the eligibility requirements of the troops for teachers program operated by the United States department of defense and managed by the defense activity for non-traditional education support organization; and

(2) Who meets the requirements set forth in section three thousand eight-a of this article.

§ 2. The education law is amended by adding a new section 3008-a to read as follows:

§ 3008-a. Alternative teaching certification. 1. The commissioner shall issue a one-year, nonrenewable middle or secondary level alternative teaching certification to teach to any person who has attained certification by an alternative teacher certification organization as set forth in subdivision three of this section and has met the requirements of section three thousand four-b of this article.

2. Notwithstanding any provision of law to the contrary, teachers issued an alternative teaching certification pursuant to this section shall participate in the mentoring program provided by the alternative teacher certification organization as set forth in subdivision three of this section. Upon successful completion of such mentoring program, completion of the application and payment of the certification fee as set forth in section three thousand six of this article or as prescribed by the commissioner, the commissioner shall issue the teacher a certificate to teach.

3. For purposes of this section, the commissioner shall identify an alternative teacher certification organization that was founded with grant funding from the United States department of education and that developed pursuant to the passport to teaching program administered by the American board for certification of teacher excellence. The organization shall require candidates to hold a bachelor's degree, pass a professional teaching knowledge exam, pass a subject area exam and pass a background check. The organization shall provide candidates with access to workshops, an experienced teacher-advisor and optional access to comprehensive subject matter refresher courses. The organization shall also provide an intensive mentoring and induction program.

§ 3. This act shall take effect on the ninetieth day after it shall have become a law. Effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized to be made and completed on or before such effective date.

PART C

Section 1. The education law is amended by adding a new section 6912 to read as follows:

§ 6912. Interstate nurse licensure compact. 1. The interstate nurse licensure compact is hereby enacted into law and entered into with all jurisdictions legally joining therein in the form substantially as follows:

INTERSTATE NURSE LICENSURE COMPACT

ARTICLE I.

Findings and Declaration of Purpose

(a) The party states find that:

(1) 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;

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

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

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

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

(b) The general purposes of this Compact are to:

(1) Facilitate the states' responsibility to protect the public's health and safety;

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

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

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

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

ARTICLE II.

Definitions

As used in this Compact:

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

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

(c) "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 nurse licensing boards.

(d) "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.

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

(f) "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 the nurse's authorization to practice.

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

(h) "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/vocational nurse in such party state. All party states have the authority, in accordance with existing state due process law, to take actions against the nurse's privilege such as: revocation, suspension, probation or any other action which affects a nurse's authorization to practice.

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

(j) "Party state" means any state that has adopted this Compact.

(k) "Remote state" means a party state, other than the home state,

(1) Where the patient is located at the time nursing care is provided, or

(2) In the case of the practice of nursing not involving a patient, in such party state where the recipient of nursing practice is located.

(l) "Remote state action" means

(1) Any administrative, civil, equitable or criminal action permitted by a remote state's laws which are imposed on a nurse by the remote state's licensing board or other authority including actions against an individual's multistate licensure privilege to practice in the remote state, and

(2) Cease and desist and other injunctive or equitable orders issued by remote states or the licensing boards thereof.

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

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

ARTICLE III.
General Provisions and Jurisdiction

(a) 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. In order to obtain or retain a license, an applicant must meet the home state's qualifications for licensure and license renewal as well as all other applicable state laws.

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

(c) Every nurse practicing in a party state must comply with the state practice laws of the state in which the patient is located at the time care is rendered. In addition, the practice of nursing is not limited to patient care, but shall include all nursing practice as defined by the state practice laws of a party state. The practice of nursing will subject a nurse to the jurisdiction of the nurse licensing board 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 advanced 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.

ARTICLE IV.
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.

ARTICLE V.
Adverse Actions

In addition to the General Provisions described in Article III, the following provisions apply:

(a) 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.

(b) 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 action or 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.

(c) 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.

(d) 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.

(e) 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.

(f) 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.

ARTICLE VI.
Additional Authorities Invested in Party State Nurse Licensing Boards

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

(a) 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;

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

(c) Issue cease and desist orders to limit or revoke a nurse's authority to practice in their state;

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

ARTICLE VII.
Coordinated Licensure Information System

(a) All party states shall participate in a cooperative effort to create a coordinated data base of all licensed registered nurses and licensed practical/vocational nurses. This system shall include information on the licensure and disciplinary history of each nurse, as contributed by party states, to assist in the coordination of nurse licensure and enforcement efforts.

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

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

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

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

(f) Any information contributed to the coordinated licensure information system that is subsequently required to be expunged by the laws of the party state contributing that information, shall also be expunged from the coordinated licensure information system.

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

ARTICLE VIII.
Compact Administration and Interchange of Information

(a) The head of the nurse licensing board, or his or her designee, of each party state shall be the administrator of this Compact for his or her state.

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

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

ARTICLE IX.
Immunity

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

ARTICLE X.
Entry into Force, Withdrawal, and Amendment

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

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

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

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

ARTICLE XI.
Construction and Severability

1. (a) This Compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this Compact shall be severable and if any phrase, clause, sentence or provision of this Compact is declared to be contrary to the constitution of any party state or of the United States or 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 to any government, agency, person or circumstance shall not be affected thereby. If this Compact shall be held contrary to the constitution of any state party thereto, the Compact shall remain in full force and effect as to the remaining party states and in full force and effect as to the party state affected as to all severable matters.

(b) In the event party states find a need for settling disputes arising under this Compact:

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

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

2. For the purposes of the Compact set forth in subdivision one of this section the "head of the nurse licensing board" for this state shall be the secretary to the state board for nursing.

3. To facilitate cross-state enforcement efforts, this state shall have the power to recover from the affected nurse the costs of investigations and disposition of cases resulting from adverse actions taken by this state against that nurse.

4. This Compact is designed to facilitate the regulation of nurses and does not relieve employers from complying with obligations imposed by law or regulation.

5. This Compact does not supersede existing labor laws.

6. To facilitate workforce planning, the commissioner is authorized to collect employment data on nurses practicing on the multistate privilege in the nurse licensure compact provided that the submission of this data is not a requirement for practice under the multistate privilege.

§ 2. This act shall take effect on the ninetieth day after it shall have become a law. Effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized to be made and completed on or before such effective date.

PART D

Section 1. The general business law is amended by adding a new article 2-A to read as follows:

ARTICLE 2-A

ADMISSION TO A PROFESSION

Section 20. Admission to a profession; licensing, certification or registration.

§ 20. Admission to a profession; licensing, certification or registration. Admission to practice of a profession governed by this chapter in this state is accomplished, where required, by a license, certification or certificate of registration being issued to a qualified applicant by the secretary of state. To qualify for a license, certification or certificate of registration an applicant shall meet the requirements prescribed in the article for the particular profession and shall meet the requirements prescribed in section 3-503 of the general obligations law; provided that, notwithstanding any provision of the law to the contrary, any applicant who is the spouse of a member of the armed forces of the United States, national guard or reserves may submit satisfac-

tory evidence of licensure, certification or registration to practice an equivalent occupation issued by any other state, territory, protectorate or dependency of the United States in lieu of the submissions required by the article of this chapter for the particular profession, provided that such license, certification or certificate of registration was granted in compliance with standards which were, in the judgment of the secretary, not lower than those of this state.

§ 2. Subsection (d) of section 2136 of the insurance law, as added by chapter 687 of the laws of 2003, is amended to read as follows:

(d) (1) the applicant's home state awards nonresident insurance producer licenses to residents of this state on the same basis as provided in this subsection; or

(2) the applicant is the spouse of a member of the armed forces of the United States, national guard or reserves.

§ 3. Section 442-g of the real property law is amended by adding a new subdivision 1-a to read as follows:

1-a. No nonresident applicant who is the spouse of a member of the armed forces of the United States, national guard, or reserves regularly engaged in the real estate business as a vocation, who maintains a definite place of business and is licensed by any other state, territory, protectorate or dependency of the United States, shall be required to maintain a place of business within this state. The commission shall recognize the license issued by another state to an applicant who is the spouse of a member of the armed forces of the United States, national guard, or reserves as qualification for a license in New York, provided that such license was granted in compliance with standards which were, in the judgment of the secretary, not lower than those of this state.

§ 4. Section 444-e of the real property law is amended by adding a new subdivision 2-a to read as follows:

2-a. Any applicant for a license who is a spouse of a member of the armed forces of the United States, national guard or reserves may submit satisfactory evidence of licensure to practice an equivalent occupation issued by any other state, territory, protectorate or dependency of the United States in lieu of the evidence of education, experience and examination required by subdivision one of this section, provided that such license was granted in compliance with standards which were, in the judgment of the secretary, not lower than those of this state.

§ 5. This act shall take effect on the ninetieth day after it shall have become a law. Effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized to be made and completed on or before such effective date.

§ 2. Severability clause. If any clause, sentence, paragraph, subdivision, section or part of this act shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part thereof directly involved in the controversy in which such judgment shall have been rendered. It is hereby declared to be the intent of the legislature that this act would have been enacted even if such invalid provisions had not been included herein.

§ 3. This act shall take effect immediately; provided, however, that the applicable effective date of Parts A through D of this act shall be as specifically set forth in the last section of such Parts.