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## Bill Analysis

**Version:** As Introduced

**Primary Sponsor:** Sen. Roegner

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### SUMMARY

- Enters Ohio as a party to the Nurse Licensure Compact, which allows a nurse to practice across states that have joined the Compact under a multistate license issued by the nurse's home state.

### DETAILED ANALYSIS

#### Nurse Licensure Compact

The Nurse Licensure Compact is an agreement that allows nurses to practice across states that have joined the Compact without having to obtain additional licenses. Currently, 34 states have joined the Compact.<sup>1</sup> The bill enacts the Compact in Ohio.

#### Multistate license to practice

Under the Compact, a multistate license to practice issued by a nurse's home state will be recognized by each state that is a party to the Compact ("party state") as authorizing the nurse to practice as a registered nurse (RN) or licensed practical/vocational nurse (LPN/VN) under a multistate licensure privilege in each party state.<sup>2</sup> The Compact defines a multistate license as a license to practice as an RN or LPN/VN issued by a home state (a nurse's primary state of residence that is a party to the Compact) licensing board that authorizes the licensed nurse to practice in all party states under a multistate licensure privilege.<sup>3</sup>

<sup>1</sup> NCSBN, *Nurse Licensure Compact (NLC)*, link to list of participating states available at: <https://www.ncsbn.org/nlcmemberstates.pdf>.

<sup>2</sup> R.C. 4723.11; Article III.a. (References in this analysis to "Article" refer to the Articles of the Compact.)

<sup>3</sup> Article II.h.

## **Compliance with state practice laws**

The Compact provides that a nurse practicing in a party state must comply with state practice laws of the state in which the client is located at the time the service is provided. The practice of nursing in a party state under a multistate licensure privilege subjects a nurse to the jurisdiction of the licensing board, courts, and laws of the party state where the client is located at the time the service is performed.<sup>4</sup>

### **Requirements for issuance of multistate license**

An applicant to obtain or retain a multistate license in a home state must:<sup>5</sup>

1. Meet the home state's qualifications for licensure or license renewal, as well as other state laws;
2. Graduate or be eligible to graduate from an approved prelicensure education program, including foreign programs if the program meets specified criteria;
3. Have passed an English proficiency examination if the applicant's education program was not in English or if English is not the individual's native language;
4. Have passed the NCLEX-RN or NCLEX-PN examination;
5. Hold an active, unencumbered license or be eligible to do so;
6. Submit as part of the application fingerprints or other biometric data to obtain federal and state criminal histories;
7. Not have convictions or findings of guilt for felony offenses under applicable state or federal criminal law;
8. Not have convictions or findings of guilt for misdemeanor offenses related to the practice of nursing;
9. Not currently be enrolled in an alternative program, which is defined by the Compact as a nondisciplinary monitoring program approved by a licensing board;
10. Be subject to self-disclosure of participation in an alternative program;
11. Have a valid Social Security number.

### **Applications for multistate license**

When a nurse applies for a multistate license, the licensing board in the issuing party state must ascertain whether (1) the applicant has ever held, or is the holder of, a license issued by any other state, (2) there are any encumbrances (such as a revocation, suspension, or limitation on the full, unrestricted practice of nursing) on a license or multistate license held by

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<sup>4</sup> Article III.e. and II.o.

<sup>5</sup> Article III.c.

the applicant, (3) any adverse action has been taken against any license or multistate license, and (4) the applicant is currently participating in an alternative program.<sup>6</sup>

The Compact provides that a nurse may hold a multistate license issued by a home state in only one party state at a time. The Compact contains provisions to address when a nurse changes the nurse's primary state of residence, including conversion to a single-state license if the nurse moves to a nonparty state.<sup>7</sup>

### **Adverse action**

The Compact authorizes party states, in accordance with existing state laws, to take adverse action against a nurse's multistate licensure privilege, such as revocation, suspension, probation, or any other action that affects a nurse's authorization to practice under a multistate licensure privilege. Adverse action may be administrative, civil, equitable, or criminal. A party state taking adverse action must notify the administrator of the coordinated licensure information system (discussed below), who must notify the home state of any such actions by remote states, which are party states other than the home state.<sup>8</sup>

If adverse action is taken by a home state against a nurse's multistate license, the nurse's multistate licensure privilege to practice in all other party states is deactivated until all encumbrances have been removed from the multistate license. Home state disciplinary orders that impose adverse action against a nurse's multistate license must include a statement that the nurse's multistate licensure privilege is deactivated in all party states during the pendency of the order.<sup>9</sup>

The Compact provides that it does not override a party state's decision that participation in an alternative program should be used in lieu of adverse action. A nurse's multistate licensure privilege is to be deactivated during the period of participation in an alternative program.<sup>10</sup>

### **Party state licensing boards**

The Compact defines "licensing board" as a party state's regulatory body responsible for issuing nursing licenses.<sup>11</sup> In addition to other powers conferred by state law, the Compact provides that licensing boards have various authorities, including taking action against a nurse's multistate license to practice within that party state. Only the home state has the power to take adverse action against a nurse's license issued by the home state. Home state licensing boards must give the same priority and effect to reported conduct from a remote state as it would if

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<sup>6</sup> Article IV.a. and II.e.

<sup>7</sup> Article IV.b. through d. and II.m.

<sup>8</sup> Article III.d., II.a., and II.l.

<sup>9</sup> Article V.b.

<sup>10</sup> Article V.c.

<sup>11</sup> Article II.g.

the conduct occurred in the home state. The home state laws are to be applied in determining appropriate action.<sup>12</sup> Other actions licensing boards may take include issuing cease and desist orders, imposing encumbrances on a nurse's authority to practice within that party state, completing any pending investigations, issuing subpoenas for witnesses and evidence, receiving information for and conducting background checks, and recovering costs of investigations.<sup>13</sup>

### **Coordinated licensure information system**

The Compact requires all party states to participate in a coordinated licensure information system of all licensed RNs and LPNs/VNs. The system includes information on the licensure and disciplinary history of each nurse, as submitted by party states, to assist in the coordination of nurse licensure and enforcement efforts.<sup>14</sup> All licensing boards are required to promptly report to the information system any adverse action, current significant investigative information (as specified in the Compact), denials of applications, and nurse participation in alternative programs.<sup>15</sup> A party state licensing board may designate information provided that may not be shared with nonparty states or disclosed to other entities or individuals without express permission of the contributing state.<sup>16</sup>

The Compact administrator of each party state must provide a uniform data set to the Compact administrator of each other party state, including the following information:<sup>17</sup>

1. Identifying information;
2. Licensure data;
3. Information related to alternative program participation;
4. Other information that may facilitate administration of the Compact, as determined by rules.

### **Interstate Commission of Nurse Licensure Compact Administrators**

The Compact establishes a joint public entity known as the Interstate Commission of Nurse Licensure Compact Administrators.<sup>18</sup>

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<sup>12</sup> Article V.a.1.

<sup>13</sup> Article V.a.2. through 7.

<sup>14</sup> Article VI.a. and II.c.

<sup>15</sup> Article VI.c. and II.d.

<sup>16</sup> Article VI.e.

<sup>17</sup> Article VI.h.

<sup>18</sup> Article VII.a.

## **Membership, voting, and meetings**

Each party state is to have one administrator, who is generally the head of the state licensing board or a designee. The bill requires the Board of Nursing to select an individual to serve as Ohio's administrator not later than 30 days after Ohio enters the Compact.<sup>19</sup>

Each administrator has one vote regarding rules and bylaws. Administrators may be removed or suspended, and vacancies are to be filled, as provided in state law. The bill provides that a vacancy for the Ohio administrator must be filled not later than 30 days after the vacancy occurs.

The Commission is required to meet at least once each calendar year. The meetings must be open to the public, with public notice of meetings provided. The Compact, however, specifies certain circumstances when closed, nonpublic meetings may occur, such as to discuss party state noncompliance, litigation, or trade secrets.<sup>20</sup>

## **Bylaws**

The Commission, by a majority vote of the administrators, is required to prescribe bylaws to govern its conduct. The bylaws must be published on the Commission's website.<sup>21</sup>

## **Powers**

The Compact provides the Commission various powers. Some powers include promulgating rules, bringing and prosecuting legal proceedings, hiring employees, obtaining property, borrowing money, and appointing committees.<sup>22</sup>

## **Financing**

The Commission is required to pay for reasonable expenses associated with its establishment, organization, and ongoing activities. To do so, the Commission may levy and collect an annual assessment from each party state. The Compact has additional provisions regarding obligations and accounting for receipts and disbursements.<sup>23</sup>

## **Qualified immunity, defense, and indemnification**

The Compact provides immunity associated with acts occurring within the scope of Commission employment, duties, or responsibilities, as long as the loss was not caused by intentional, willful, or wanton misconduct. The Commission is required to defend and indemnify persons in actions seeking to impose liability arising out of acts associated with Commission

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<sup>19</sup> R.C. 4723.111.

<sup>20</sup> Article VII.b.

<sup>21</sup> Article VII.c. and d.

<sup>22</sup> Article VII.g.

<sup>23</sup> Article VII.h.

employment, duties, or responsibilities, except in the case of intentional, willful, or wanton misconduct.<sup>24</sup>

### **Rulemaking**

The Commission is required to exercise rulemaking in accordance with the Compact. The Commission must provide 60-days' advance notice on its website prior to a final rule being adopted. The notice must also be filed on the website of each party state licensing board. The notice must include information about the meeting where the rule will be considered and voted on, the text of the rule and the reason for it, a request for comments, and information regarding how interested persons may attend and provide comments. The Compact also provides a procedure for the adoption of emergency rules without prior notice.<sup>25</sup>

### **Oversight, enforcement, and dispute resolution**

Each party state is required to enforce the Compact and take all necessary actions to effectuate its purposes and intent.<sup>26</sup>

The Commission is responsible for taking action if it determines that a party state has defaulted in the performance of its obligations or responsibilities. In that case, the Commission must provide written notice of the default, the proposed means of curing it, and remedial training and technical assistance. If the state does not cure the default, its membership in the Compact may be terminated upon an affirmative vote of a majority of the administrators.<sup>27</sup>

In the event of a dispute related to the Compact, the Commission is required to attempt to find a resolution. Commission rules must provide for both mediation and binding dispute resolution. If the Commission cannot resolve a dispute, the party states may submit the issues to an arbitration panel.<sup>28</sup>

### **Withdrawal and amendment**

Any party state may withdraw from the Compact by enacting a statute repealing the Compact. The withdrawal does not take effect until six months after enactment of the repealing statute.<sup>29</sup>

The Compact provides that it does not invalidate or prevent any nurse licensure agreement or other cooperative arrangement between a party state and a nonparty state that is made in accordance with the other provisions of the Compact.<sup>30</sup>

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<sup>24</sup> Article VII.i.

<sup>25</sup> Article VIII.

<sup>26</sup> Article IX.a. and d.

<sup>27</sup> Article IX.b.

<sup>28</sup> Article IX.c.

<sup>29</sup> Article X.c.

<sup>30</sup> Article X.e.

The Compact may be amended by the party states if the amendment is enacted into law by all party states.<sup>31</sup>

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## HISTORY

Action	Date
Introduced	07-21-20

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S0341-I-133/ts

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<sup>31</sup> Article X.f.