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S.B. 211*
135th General Assembly

Bill Analysis

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Version: As Reported by S. Health

Primary Sponsor: Sen. Roegner

Elizabeth Molnar, Attorney

SUMMARY

- Enters Ohio as a party to the Dietician Licensure Compact, the purpose of which is to facilitate the interstate practice of dietetics and improve public access to dietetics services.
- As a member of the Compact, requires Ohio to allow a dietician licensed in another member state to practice in Ohio, subject to Ohio's laws and rules governing the practice of dietetics.
- Requires the State Medical Board to appoint a member to the Dietician Licensure Compact Commission – a joint government agency created by the Compact to enforce the provisions and rules of the Compact.
- Requires Ohio to submit data regarding dietetics licensees to the Commission's data system, including information related to identification, examination, licensure, investigations, compact privilege, and adverse action.

DETAILED ANALYSIS

Dietician Licensure Compact

The Dietician Licensure Compact is an agreement between member states to improve public access to dietetics services by increasing mobility of eligible dieticians to work in multiple states.¹ The Compact goes into effect when it is enacted by the seventh member state.² The bill

* This analysis was prepared before the report of the Senate Health Committee appeared in the Senate Journal. Note that the legislative history may be incomplete.

¹ R.C. 4759.30; Section 1 ("Section" references in this analysis are to the Compact).

² Section 12.A.

enacts the Compact in Ohio.³ The Compact preserves states' regulatory authority to protect public health and safety through state licensure.⁴ Nothing in the Compact impacts Ohio's requirements for a license to practice as a dietician.⁵ Any Ohio laws or regulations in conflict with the Compact are superseded to the extent of the conflict.⁶

The Compact distinguishes between a member state, home state, and remote state as follows:⁷

A "member state" is a state that has enacted the Compact.

A "home state" is the member state that is the licensee's primary state of residence. In the case of a licensee who is active duty military or the spouse of a licensee who is active duty military, the licensee may designate a home state where the licensee has a current license in good standing. That designation can be retained for the duration of the service member's time on active duty.⁸

A "remote state" is a member state, other than the home state, where a licensee is exercising or seeking to exercise the right to practice dietetics (referred to as the compact privilege, see below).

Compact privilege

Compact privilege is authorization granted to allow a licensee from another member state to practice as a dietician in the remote state under its laws and rules. Licensees are responsible for following all laws and rules in the state in which the patient is located when care is provided.⁹

Each member state is required to grant the compact privilege to a licensee holding a valid, unencumbered license in another member state, as set forth in the Compact. Member states may not impose continuing education requirements on licensees exercising the compact privilege beyond those required by the licensee's home state. Member states may charge a fee for granting the compact privilege.¹⁰

Requirements to grant privilege

All of the following must be met for a licensee to exercise the compact privilege:

³ R.C. 4759.30.

⁴ Section 1.

⁵ Section 3.F.

⁶ Section 14.

⁷ Section 2.

⁸ Section 6.

⁹ Sections 1 and 2.I.

¹⁰ Sections 3.B.6 and C and 4.D.

1. The licensee must either hold a valid registration granting the right to use the term “Registered Dietician,” or have completed an accredited master’s or doctoral degree or its foreign equivalent, completed specified supervised practice, and successfully completed an examination;
2. The licensee must hold an unencumbered license in the home state;
3. The licensee must notify the Dietician Licensure Compact Commission (see “**Dietician Licensure Compact Commission**” below) that the licensee is seeking the compact privilege in a remote state;
4. The licensee must pay any applicable fees;
5. The licensee must meet any jurisprudence requirements established by the remote state in which the licensee is seeking a compact privilege (a jurisprudence requirement is an assessment of knowledge regarding the laws and rules governing the practice of dietetics in a state);
6. The licensee must report to the Commission any adverse action, encumbrance, or restriction taken by a nonmember state within 30 days of the date the action is taken.¹¹

Impact of restriction on home state license

If a licensee’s home state license is limited in any way, the licensee automatically loses the compact privilege in any remote state until the home state license is no longer limited. Once a restricted license in a home state is restored to good standing, the licensee must meet the requirements above to obtain the compact privilege in a remote state.¹²

Expiration

The compact privilege is valid until the expiration date of the home license. The licensee must comply with all of the requirements above to maintain the compact privilege in a remote state.¹³

Establishing a new home state

The Compact provides that a dietician cannot hold an active home state license in more than one member state at a time for Compact purposes. A licensee may, however, move between two member states and establish a new home state under the compact privilege. To establish a new home state, a licensee must file for a new home state license, pay all applicable fees, and notify both the current and new home state as required by any rules established for compacting states. The new home state is responsible for confirming that the licensee meets jurisprudence requirements, verifying that the licensee meets criteria for receiving the compact privilege by using the data system (see “**Data system**” below), and requiring the licensee to

¹¹ Section 4.A.

¹² Sections 7.H and I.

¹³ Section 4.B.

complete a Federal Bureau of Investigation fingerprint-based criminal history check and any other criminal history check required by the new home state. Once the new home state license is activated, the former home state must grant the licensee the compact privilege.¹⁴

Adverse actions

The Compact provides that a home state has the exclusive power to impose adverse action against a license it issues. Adverse action is defined as any administrative, civil, equitable, or criminal action imposed by a licensing board or other authority against a dietician. The home state must give the same priority and effect to reported conduct received from a member state as it would if the conduct had occurred within the home state, applying its own laws to determine appropriate action.¹⁵

The home state may take adverse action based on investigative information from a remote state, so long as the home state follows its own procedures. While states that are not the home state cannot impose adverse action against the license, a member state may investigate violations of statutes and rules authorizing the practice of dietetics and take adverse action against a licensee's compact privilege in that member state. Joint investigations between member states are also permissible.¹⁶

In addition to imposing adverse action against a licensee's compact privilege, a remote state may (1) issue subpoenas for hearings and investigations and (2) recover from the licensee the costs related to the adverse action against the licensee (if authorized by state law).¹⁷

The Compact preserves a state's ability to permit participation in an alternative program in lieu of adverse action.¹⁸ "Alternative program" is defined as a nondisciplinary monitoring or practice remediation process approved by a dietician licensing board.¹⁹

If a member state imposes adverse action against a licensee, it must immediately notify the administrator of the Commission's data system.²⁰

Dietician Licensure Compact Commission

The bill provides that Compact member states create and establish a joint government agency known as the Dietician Licensure Compact Commission.²¹ As a member state, the State Medical Board of Ohio must select one delegate to the Commission within 60 days of Ohio

¹⁴ Section 5.B.

¹⁵ Sections 2.C and 7.B. and C.

¹⁶ Section 7.

¹⁷ Sections 7.A.2 and E.

¹⁸ Section 7.K.

¹⁹ Section 2.D.

²⁰ Section 7.J.

²¹ Section 8.

entering the Compact.²² The delegate must be the primary administrator of the Board or the primary administrator's designee. The delegate is entitled to one vote regarding all matters requiring a vote. Meetings and votes may be in person or virtual, as established in bylaws.²³

The delegate may be recommended for removal or suspension by the Commission. The Board must fill any vacancy within 60 days.²⁴

Powers and duties

The Commission is required to meet at least annually. Generally, meetings must be open to the public. The Compact permits closed, nonpublic meetings of the Commission, the Executive Committee (see "**Executive Committee**" below), or other committees in limited circumstances, such as to discuss noncompliance of member states, employment matters, licensee discipline, litigation, or trade secrets.²⁵

The Commission has numerous powers and duties specified in the bill, some of which include:²⁶

1. Establishing bylaws and a code of conduct for the Commission;
2. Maintaining financial records, establishing a budget, making expenditures, and borrowing money;
3. Promulgating rules, including emergency rules;
4. Hiring employees and performing matters related to personnel;
5. Accepting donations and gifts and taking actions regarding real and personal property;
6. Appointing committees;
7. Performing other functions as necessary and appropriate to achieve the purposes of the Compact.

Data system

The Commission is required to provide for the development, maintenance, operation, and use of a coordinated data system containing licensure, adverse action, and investigative information regarding licensed individuals in member states. All member states must submit a uniform data set to the data system regarding licensees that are subject to the Compact. The data set includes (1) identifying information, (2) licensure data, (3) adverse actions against a license or compact privilege, (4) nonconfidential information related to alternative program participation, (5) any denial of an application for licensure and reasons for the denial,

²² Section 8.B and R.C. 4759.31.

²³ Section 8.B.

²⁴ Sections 8.B.4 and 5 and R.C. 4759.31.

²⁵ Sections 8.B.8 and F.

²⁶ Sections 8.C and 10.L.

(6) current significant investigative information, and (7) other information specified in Commission rules.²⁷

The Commission must promptly notify all member states of any adverse action taken against a licensee or applicant for a license. Adverse action information is to be available to all member states. Similarly, investigative information received by a dietetics licensing board pertaining to the investigation of a licensee in a member state will only be available to other member states.²⁸

The Compact permits a state to designate information in the data system that may not be shared with the public, and it also provides a mechanism for expunging information from the data system.²⁹

Financing

The Commission is required to pay the reasonable expenses of its establishment, organization, and ongoing activities. The Commission may accept monetary and nonmonetary donations and grants. It may impose annual assessments on member states and fees on licensees of member states to cover costs. The Commission must keep accurate records of receipts and disbursements, which must be reviewed annually by a certified or licensed public accountant.

The Commission is not permitted to incur obligations before securing funds to meet those obligations and it may not pledge the credit of member states without authority.³⁰

Executive Committee

The Compact provides that the Executive Committee has the power to act on behalf of the Commission. The Executive Committee, which must meet annually, is comprised of the following nine members:

1. The chair and vice chair of the Commission;
2. Five voting members elected by the Commission from its current membership;
3. One ex-officio, nonvoting member from a recognized professional association representing dietitians;
4. One ex-officio, nonvoting member from a recognized national credentialing organization for dietitians.

²⁷ Sections 9.A and C.

²⁸ Sections 7.J and 9.E. and F.

²⁹ Sections 9.G and H.

³⁰ Section 8.G.

Duties and responsibilities of the Executive Committee include:

- Overseeing day-to-day Compact administration activities including enforcement and compliance with the Compact's provisions and the Commission's rules and bylaws;
- Recommending changes to rules, bylaws, Compact legislation, and fees paid by member states and licensees;
- Ensuring Compact administration services are appropriately provided;
- Preparing and recommending the budget;
- Maintaining financial records;
- Monitoring Compact compliance of member states and providing compliance reports;
- Establishing additional committees;
- Exercising the powers and duties of the Commission between meetings;
- Any other duties provided in the bylaws.³¹

Rulemaking

The Commission has the power to adopt rules pursuant to the criteria and process set forth in the Compact. Prior to adopting a proposed rule, the Commission must hold a public hearing, and must provide public notice of that hearing at least 30 days in advance. If a majority of state legislatures of member states reject a rule by enacting a statute or resolution within four years of the date the rule was adopted, the rule is to have no further force or effect.³²

Qualified immunity, defense, and indemnification

The Compact provides that the members, officers, executive director, employees, and representatives of the Commission are immune from suit and liability for damages caused by or arising out of acts or omissions occurring within the scope of Commission employment, duties, or responsibilities, so long as the loss is not caused by intentional or willful or wanton misconduct. The Commission is required to defend individuals entitled to the immunity, but individuals also may retain their own counsel.

The Commission is required to indemnify and hold harmless any member, officer, executive director, employee, or representative of the Commission for the amount of a settlement or judgment obtained against the individual arising out of acts or omissions occurring within the scope of Commission employment, duties, or responsibilities, except in the case of intentional or willful or wanton misconduct.³³

³¹ Section 8.D.

³² Section 10.

³³ Section 8.H.

Enforcement and dispute resolution

The Compact requires each member state's executive and judicial branches of government to enforce it.

The Compact requires the Commission to attempt to resolve Compact disputes that arise among member states and between member states and nonmember states. The Commission is required to promulgate a rule providing for both mediation and binding dispute resolution.³⁴

Participation in the Compact

To participate in the Compact, a state – including Ohio – must license and regulate the practice of dietetics and have a mechanism in place for receiving and investigating complaints about licensees. Additionally, a participating state must do all of the following:

1. Fully participate in the Commission's data system;
2. Notify the Commission of any adverse action or the availability of investigative information about a licensee;
3. Fully implement a criminal background check requirement and use the results in making licensing decisions in accordance with the Compact;
4. Comply with and enforce the rules of the Commission;
5. Require an applicant for the compact privilege to have a license in the applicant's home state;
6. Recognize a compact privilege granted to a licensee who meets all of the requirements established in the Compact and by Commission rule.³⁵

Amending the Compact

The Compact may be amended through statute by member states. Any amendment is not effective until it is enacted by all member states.³⁶

Withdrawal and termination

The Compact permits member states to withdraw by enacting a statute repealing the Compact. Such a withdrawal is effective 180 days after the repeal.³⁷

The Compact provides a process for notifying a member state if the state has defaulted in performing its obligations or duties under the Compact. If the defaulting state fails to cure the default, it may be terminated from the Compact upon an affirmative vote of a majority of

³⁴ Sections 11.A and I.

³⁵ Sections 3.A and B.

³⁶ Section 12.D.

³⁷ Section 12.B.

all member states. The defaulting state may appeal the action of the Commission to the U.S. District Court for the District of Columbia or the federal district where the Commission has its principal offices. The prevailing party is to be awarded costs of litigation, including attorney's fees.³⁸

Construction and severability

The Compact provides that it is to be liberally construed, and its provisions are severable.³⁹

HISTORY

Action	Date
Introduced	01-09-24
Reported, S. Health	---

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³⁸ Sections 11.B, C, and H.

³⁹ Section 13.