



HOUSE BILL 550: Establish New Nurse Licensure Compact.

2017-2018 General Assembly

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| Committee: Senate Rules and Operations of the Senate | Date: June 28, 2017 |
| Introduced by: Reps. Szoka, Adcock, Boswell, White | Prepared by: Jason Moran-Bates |
| Analysis of: First Edition | Staff Attorney |

OVERVIEW: *House Bill 550 would enact and make North Carolina a member state in the new nurse licensure compact. It would also repeal the current nurse licensure compact and replace it with the new version.*

CURRENT LAW: The current Nurse Licensure Compact is codified as Article 9G of Chapter 90 of the General Statutes. Comparisons between the current compact (G.S. 90-171.80 through G.S. 90-171.94) and the proposed new compact will be underlined below.¹

BILL ANALYSIS: **Section 1** of House Bill 550 would repeal the current nurse licensure compact, G.S. 90-171.80 through G.S. 90-171.94.

Section 2 of House Bill 550 would enact the new nurse licensure compact as described below.

G.S. 90-171.95 sets out the purpose of and findings supporting the new compact. This section is substantially similar to current G.S. 90-171.81.

G.S. 90-171.95A defines the terms to be used in the new compact. The term "adverse action" is significantly expanded in the new compact to clarify that any administrative, civil, equitable or criminal actions taken by a state licensing board qualify as adverse actions. The current compact does not define the types of actions that may be classified as adverse. The new compact also adds some procedural safeguards to the term "current significant investigative information" and adds definitions for "multistate license" and "single-state license." The remainder of this section is substantially similar to current G.S. 90-171.82.

G.S. 90-171.95B describes the general provisions and jurisdiction of the new compact.

- Subsection (a) would allow a nurse residing in North Carolina to receive a multi-state license which gives the nurse the privilege to practice in any other state that is a member of the new compact. This provision is substantially similar to G.S. 90-171.83(a) of the current compact.
- Subsection (b) would require the North Carolina Board of Nursing (Board) to consider the criminal history of applicants for a multi-state license by submitting fingerprints or other biometric data to the FBI. This provision does not appear in the current compact.
- Subsection (c) sets forth the criteria applicants must meet in order to obtain a multi-state license, which would include: 1) meeting all of North Carolina's qualifications for licensure; 2) graduating from a Board-approved nursing program; 3) demonstrating proficiency in English; 4)

¹ To facilitate clarity, the nurse licensure compact that is currently in law and codified as G.S. 90-171.80 through G.S. 90-171.94 will be referred to as the "current compact" throughout this summary. The proposed nurse licensure compact that would be established by enacting this bill will be referred to as the "new compact."

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passing an NCLEX-RN or NCLEX-PN exam; 5) being eligible for, or currently holding, an unencumbered license; 6) submitting fingerprints or other biometric data for a criminal background check; 7) not being found guilty of a felony offense or a misdemeanor offense related to nursing; 8) being subject to self-disclosure requirements regarding current participation in an alternative program; and 9) having a valid Social Security Number. These requirements do not appear in the current compact.

- Subsection (d) would allow the Board to take adverse action against a nurse's multi-state license. This subsection is substantially similar to G.S. 90-171.83(b) of the current compact.
- Subsection (e) would require a nurse practicing in a state under a multi-state license to comply with all the laws and regulations of the state in which the nurse is practicing. This subsection is substantially similar to G.S. 90-171.83(c) of the current compact.
- Subsection (f) would prohibit nurses residing in states that are not parties to the compact from obtaining multi-state licenses allowing them the privilege to practice in states that are parties to the compact. This subsection is substantially similar to G.S. 90-171.83(e) of the current compact.
- Subsection (g) would allow nurses holding multi-state licenses under the current compact to renew those licenses under the new compact as long as no disqualifying events have taken place, and all the requirements of any new state of residency are met. These provisions do not appear in the current compact.

G.S. 90-171.95C would establish procedures for applicants seeking a multi-state license in a member state. These procedures are substantially similar to those in G.S. 90-171.84.

G.S. 90-171.95D would define the powers the Board has under the new compact to take adverse action against licensees.

- Sub-subsection (a)(1) would allow the Board to take action against the multi-state licenses of nurses residing in other states who practice in North Carolina. This provision is substantially similar to G.S. 90-171.86(c) and (d).
- Sub-subsections (a)(2)-(a)(7) would allow the Board to issue cease and desist orders or encumber a nurse's authority to practice in North Carolina, issue subpoenas for hearings and investigations, and, if permitted by law, recover the costs of investigation and disposition of adverse action taken against nurses. These three provisions are substantially similar to G.S. 90-171.87(3), (2), and (1), respectively. Sub-subsections (a)(2)-(a)(7) would also allow the Board to complete investigations of nurses who are under investigation when they relocate to North Carolina, obtain fingerprint and biometric data from applicants, and take adverse action based on factual findings of nursing boards in other states. These three provisions are not found in the current compact.
- Sub-subsection (b) would provide that if a home state takes action against a nurse's multi-state license, the nurse's privilege to practice in any remote state will be revoked until the home state license is cleared. This provision is not found in the current compact.
- Sub-subsection(c) would allow the Board to, at its discretion, place a nurse practicing in North Carolina on a multi-state license in an alternative program, rather than revoking the nurse's privilege to practice in North Carolina. This provision is not found in the current compact.

G.S. 90-171.95E would establish the rules for reporting to the coordinated licensure information system (System). The reporting provisions are substantially similar to those found in G.S. 90-171.88. This section would also require the compact administrator in North Carolina to submit to the System a

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uniform data set of identifying information, licensure data, information related to participation in alternative programs, and other information that facilitates the administration of the compact, as well as provide to another member state all investigative information requested by that state. These two provisions are not found in the current compact.

G.S. 90-171.95F would establish the Interstate Commission of Nurse Licensure Compact Administrators (Commission), the governing body of the compact. None of the provisions of G.S. 90-171.95F are found in the current compact.

- Subsection (a) would require any suits filed against the Commission to be brought in the jurisdiction where the Commission's principal office is located.
- Subsection (b) would establish rules for membership in and meetings of the Commission. Each member state gets one administrator, with one vote, on the Commission. The Commission must meet at least once per year, and all meetings must be open to the public, unless a specifically defined exception applies.
- Subsection (c) would establish the bylaws for the Commission, including defining the fiscal year, setting forth procedures for committees, establishing rules for calling meetings and electing officers for the Commission, establishing personnel policies, and providing a mechanism to wind up the Commission's operations.
- Subsections (d), (e), and (f) would require the Commission to publish its bylaws and rules, maintain financial records in compliance with its bylaws, and take actions consistent with the new compact and the Commission's bylaws.
- Subsection (g) would grant the Commission the powers to: 1) adopt rules to administer the new compact; 2) prosecute legal actions in the Commission's name; 3) obtain insurance; 4) make personnel and hiring decisions for the Commission; 5) accept donations and gifts to the Commission; 6) dispose of Commission property as necessary; 7) establish and maintain a budget, including borrowing money if necessary; 8) appoint committees; 9) cooperate with law enforcement agencies; and 10) perform any functions necessary and appropriate to achieve the purposes of the new compact.
- Subsection (h) would allow the Commission to levy an annual assessment from each member state and require it to maintain accurate accounts and not incur any obligations prior to securing adequate funds to meet those obligations.
- Subsection (i) would grant qualified immunity to administrators, officers, executive directors, employees, and representatives of the Commission for claims arising out of their official duties and require the Commission to defend and indemnify any of these individuals for claims or judgments made against them.

G.S. 90-171.95G would establish the rule-making authority of the Commission. The rules promulgated by the Commission would be for the administration of the Commission and new compact only. They will not interfere with the Board's authority to regulate the practice of nursing in North Carolina. All rules must be adopted at a public meeting of the Commission after a notice and comment period as well as a public hearing. Emergency rules may be promulgated immediately, but they must go through the notice, comment, and hearing process within 90 days of promulgation. None of the provisions of G.S. 90-171.95G are found in the current compact.

G.S. 90-171.95H would establish the oversight, dispute resolution and enforcement standards of the new compact. Each member state would have the ability to enforce the new compact, and the Commission is

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required to accept service of process for any suit affecting its powers, responsibilities, or actions. This section would allow the Commission to terminate a state's membership in the new compact if the state is in default of its obligations and, after notice, refuses to cure the default. The Commission will attempt to resolve disputes related to the new compact that arise between member and non-member states, and it must promulgate a rule providing for mediation and binding dispute resolution. These provisions are not found in the current compact. If the Commission cannot resolve a dispute between member states, the member states may submit their dispute to binding arbitration. This provision is substantially similar to G.S. 90-171.92.

G.S. 90-171.95I would establish the procedures for states to amend and withdraw from the new compact. The provisions governing withdrawal are substantially similar to provisions in G.S. 90-171.91. Each member state must recognize multi-state licenses issued under the current compact until that member state has withdrawn from the current compact. If a member state withdraws from the new compact, it must still report adverse actions to the new compact. All non-member states may participate in a non-voting capacity in the activities of the Commission. None of these three provisions are found in the current compact.

G.S. 90-171.95J would allow the remainder of the new compact to remain in force and valid if one provision is struck down by a court. This section is substantially similar to G.S. 90-171.93.

EFFECTIVE DATE: This bill would become effective the earlier of December 31, 2018, or the enactment of the new compact by the 26th state. The Board must report to the Revisor of Statutes when 26 states have enacted the compact.

BACKGROUND: The current nurse licensure compact has been enacted by 25 states. As of April 1, 2017, 32 states have either enacted the new compact or filed bills to enact the new compact.