

HOUSE BILL REPORT

SSB 5499

As Passed House:

April 6, 2023

Title: An act relating to the multistate nurse licensure compact.

Brief Description: Concerning the multistate nurse licensure compact.

Sponsors: Senate Committee on Health & Long Term Care (originally sponsored by Senators Mullet, Rivers, King, Cleveland, Braun, Muzzall, Gildon, Hunt and Padden).

Brief History:

Committee Activity:

Postsecondary Education & Workforce: 3/22/23, 3/24/23 [DP];

Appropriations: 4/1/23, 4/4/23 [DP].

Floor Activity:

Passed House: 4/6/23, 94-4.

Brief Summary of Substitute Bill

- Enacts the Interstate Nurse Licensure Compact.
- Imposes certain reporting requirements on certain entities employing multistate licensees.
- Changes the name of the Nursing Care Quality Assurance Commission.

HOUSE COMMITTEE ON POSTSECONDARY EDUCATION & WORKFORCE

Majority Report: Do pass. Signed by 15 members: Representatives Slatter, Chair; Entenman, Vice Chair; Reed, Vice Chair; Ybarra, Ranking Minority Member; Waters, Assistant Ranking Minority Member; Chandler, Hansen, Jacobsen, Klicker, Leavitt, McEntire, Paul, Pollet, Schmidt and Timmons.

Staff: Jim Morishima (786-7191).

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: Do pass. Signed by 30 members: Representatives Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Macri, Vice Chair; Stokesbary, Ranking Minority Member; Chambers, Assistant Ranking Minority Member; Corry, Assistant Ranking Minority Member; Berg, Chandler, Chopp, Connors, Couture, Davis, Dye, Hansen, Harris, Lekanoff, Pollet, Riccelli, Rude, Ryu, Sandlin, Schmick, Senn, Simmons, Slatter, Springer, Steele, Stonier and Tharinger.

Minority Report: Do not pass. Signed by 1 member: Representative Fitzgibbon.

Staff: Lily Smith (786-7175).

Background:

Registered nurses (RNs) and licensed practical nurses (LPNs) are licensed by the Nursing Care Quality Assurance Commission. An RN or LPN who is licensed in another state or territory of the United States that meets all other requirements for licensure in Washington may receive a license without examination.

The Interstate Nursing Licensure Compact (Compact) is an agreement between states to expedite the licensure for RNs and LPNs across state lines. As of January 2023, 39 states have enacted the Compact.

Summary of Bill:

Enactment of the Compact.

The Interstate Nurse Licensure Compact (Compact) is enacted. A multistate license to practice registered or licensed practical nursing issued by the nurse's resident state must be recognized by each party state as authorizing the nurse to practice under a multistate licensure privilege. Multistate licensure privilege is the legal authorization associated with a multistate license permitting the practice of nursing in a remote state.

Compact Commission.

The Interstate Commission of Nurse Licensure Compact Administrators (Commission) is established to administer the Compact. The head of the licensing authority of each state, or their designee, shall be a member of the Commission. The Commission may promulgate rules and bylaws for the Compact and each member shall have one vote. The Commission must pay for reasonable establishment and ongoing operation expenses of the Commission. It may levy and collect an annual assessment from each party state to cover these costs.

The Commission must meet at least once a year. Most meetings of the Commission must

be open to the public. The Commission may close meetings to the public to discuss certain matters, including noncompliance by party states, employment matters, litigation, disclosure of trade secrets, law enforcement investigative records, and matters specifically exempt from disclosure by federal or state law.

The Commission may promulgate reasonable rules to facilitate and coordinate implementation and administration of the Compact. At least 60 days prior to voting on a rule, the Commission must file a notice of proposed rulemaking. The Commission must then conduct a public hearing and allow the submission of written input. The Commission may enact emergency rules that must undergo the full rulemaking process no later than 90 days after their effective dates.

The Commission may not alter:

- requirements to obtain or renew a single-state license;
- the scope of nursing practice in a state;
- the methods and grounds for disciplining a nurse in a state;
- state labor laws; or
- the obligation of any employer to comply with statutory requirements.

Other Compact provisions relating to the Commission include provisions relating to judicial proceedings against the Commission, financing the Commission, and qualified immunity, defense, and indemnification of Commission members.

Information System.

Each party state to the Compact must participate in a coordinated licensure information system and provide information to the system on licensure and disciplinary history of all registered nurses (RNs) and licensed practical nurses (LPNs) in the state. When an applicant applies for a multistate license, the home state must check the coordinated licensure information system to determine if the applicant holds or has ever held a multistate license issued by another state, is participating in an alternative licensing program, and whether the applicant has any disciplinary history.

Licensure Process.

Each home state licensing board or commission may issue a multistate license to a qualified applicant residing in that state. The applicant must meet the state's qualifications for licensure, must submit to a criminal background check, including providing fingerprints or other biometric information necessary to complete the check, and must have passed an approved examination. Each license holder is eligible to renew their license provided that they continue to meet all qualifications, including having no disqualifying disciplinary or criminal history.

A nurse may only hold one multistate license at a time. Upon moving to a new primary state

of residence, the nurse must apply for licensure in their new home state. A nurse may apply for licensure in advance of a change in primary state of residence. If a nurse moves to a nonparty state, the multistate license issued by the prior home state converts to a single-state license of that prior home state.

Discipline.

The practice of nursing in a party state under a multistate licensure privilege subjects a nurse to the jurisdiction of the licensing board, the courts, and the laws of the party state, including state practice laws, in which the client is located at the time of service.

All party states are authorized to take adverse action against a nurse's multistate licensure privilege in that state and must notify the coordinated licensure information system promptly of any such action. However, only the home state that issued the license may take adverse action against a nurse's license issued by that home state. The home state must give the same effect to reported conduct received from a remote state as it would if the conduct occurred in the home state. If a licensed nurse moves to a new state during the course of an investigation, the home state may complete the investigation and take appropriate action. If the home state takes disciplinary or other adverse action, the nurse's multistate licensure privilege to work in all other party states must be deactivated until the encumbrance has been removed. The home state must report all adverse actions to the coordinated licensure information system.

Oversight and Enforcement.

Each party state must enforce the Compact and take all actions necessary and appropriate to effectuate the Compact's purpose and intent. Upon request of a party state, the Commission must attempt to resolve disputes between party states and adopt rules regarding mediation and binding arbitration. If the Commission determines a state is in default, it must provide written notice to that state and provide it with remedial training and specific technical assistance regarding the default. In addition, the Commission may bring a legal action in federal court to enforce the Compact. After all other means of securing compliance have been exhausted, a defaulting state may be terminated from the Compact through a vote of the majority of party states.

Joining and Withdrawing.

States may join the Compact by enacting the Compact's provisions into law. States that enact the Compact before the Compact comes into effect are subject to review after the effective date of the Compact. The Compact may be amended by enactments in all party states. A state may withdraw from the Compact by repealing its enacting statute, but the withdrawal is not effective until six months after the statute's repeal.

State Law Changes.

Renaming the Nursing Care Quality Assurance Commission.

The Nursing Care Quality Assurance Commission (NCQAC) is renamed the Board of Nursing (Board). Some statutory references to the NCQAC are changed to the Board. All other statutory references to the NCQAC remain unchanged.

Rulemaking.

The Board may adopt rules to implement the Compact.

Disciplining Authority.

The Board is the disciplining authority for multistate licenses issued by Washington.

Choice of License.

A person seeking to practice as an RN or LPN in Washington may choose to apply for a single-state license or a multistate license.

Background Checks.

When screening applicants for a multistate licensure under the Compact, the Board must perform a Federal Bureau of Investigation (FBI) fingerprint background check and use the results in making multistate licensure decisions. The results of the FBI background check are confidential. The Board is not authorized to participate in the FBI service, known as Rap Back, which identifies changes in criminal history record information against retained fingerprints. The Board is authorized to receive criminal history information, including non-conviction data, for purposes of issuing multistate licenses under the Compact.

Informational Website.

The Board must publish on its website:

- all rules and requirements associated with the Compact;
- an annually updated summary of the key differences in each state's nursing practice act; and
- all meeting details, including meeting dates and times, locations, and methods of participation and sharing of comments, for Compact administrator meetings.

Licensing Surcharges.

Multistate licensees are subject to surcharges funding the Central Nursing Resource Center and the University of Washington's Health Evidence Resource for Washington State.

Licensing Fees.

Registered nurses, LPNs, and multistate licensees may be charged different licensing fees.

Other Requirements.

A multistate licensee must complete demographic surveys required by the Board and training in suicide assessment, treatment, and management if the licensee is employed by a hospital, psychiatric hospital, ambulatory surgical facility, in-home service agency, adult family home, or nursing pool. These entities must report to the Board when they employ a multistate licensee and attest that the licensee has completed the surveys and training.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill contains multiple effective dates. Please see the bill.

Staff Summary of Public Testimony (Postsecondary Education & Workforce):

(In support) There is a critical nursing shortage in Washington. This is an equity issue. Some of the demographic changes that are causing this shortage are likely permanent. Hospitals and long-term care facilities are having trouble recruiting nurses, especially in rural areas. This is leading to negative impacts on patient care. Mandated staffing levels are going back into effect, which also exacerbates this problem. Delays in placing patients in long-term care also prevent patients from being timely discharged from hospitals. Veterans are having to wait for needed care and are issuing clarion calls for help.

Washington is one of the highest-paying states in the nation and is an attractive place to live and work. It is difficult for nurses from other states to become licensed in Washington. Although the licensing process takes around seven days, the time it takes for applicants to gather the necessary information takes much longer. Having a portable credential is critical given the mobile nature of the workforce.

This bill enacts the Interstate Nurse Licensure Compact (Compact) in order to reduce bureaucratic barriers and more efficiently license nurses from other states. This Compact is an important part of the overall solution to address the nursing crisis. Other solutions include retaining current nurses and developing an educational pipeline. Health care facilities are pioneering innovative solutions such as virtual nursing. However, the difficulty in licensing nurses from other states makes such solutions difficult to implement. The Compact will help the state make future innovations and will curb health care costs.

The Compact will also help military families. Military families drop everything to answer the call, no matter where they are in life. Families who make the move experience negative

impacts on their careers. Delays in licensing can compound the stress already being experienced by military families. The Compact saves military families time, money, and stress. Without the Compact, military spouses may have to maintain multiple licenses.

Other requirements, such as suicide prevention training, are important. Since it is not possible to modify the Compact, these requirements have been added to state law in a way that does not void the Compact. This will place the burden on employers instead of the nurses themselves.

(Opposed) None.

(Other) Standards for licensing are identical in every Compact state. All nurses practicing under the Compact have gone through a rigorous licensing process. This bill will help expedite the licensing process.

Staff Summary of Public Testimony (Appropriations):

(In support) There is currently a critical shortage of nurses. We can barely handle current health care needs, much less the next pandemic. This compact would be a tool to address the shortage, and to make progress in addressing our workforce needs before that next crisis hits. Other states have begun this approach. Washington already has a competitive edge, but we need to make it easier to practice here, which this bill would do. This bill was carefully crafted to address stakeholder concerns.

(Opposed) None.

Persons Testifying (Postsecondary Education & Workforce): (In support) Senator Mark Mullet, prime sponsor; Carma Matti-Jackson, Washington Health Care Association; Lisa Thatcher, Washington State Hospital Association; Jennifer Burkhardt, Summit Pacific Medical Center; Jennifer Graham, MultiCare Health System; Deanna Martinez; Tom Davis, Veterans Legislative Coalition; Jeffrey Marshall, Fairchild Air Force Base; Courtney Hobson; Margaret Poteet; Ashlee Diamond; and Amy Anderson, Association of Washington Business.

(Other) Paula Meyer, Nursing Care Quality Assurance Commission.

Persons Testifying (Appropriations): Tom Davis, Veterans Legislative Coalition; and Ashlen Strong, Washington State Hospital Association.

Persons Signed In To Testify But Not Testifying (Postsecondary Education & Workforce): None.

Persons Signed In To Testify But Not Testifying (Appropriations): None.