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Bill Analysis

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Primary Sponsors: Sens. Roegner and S. Huffman

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SUMMARY

Interstate Medical Licensure Compact

- Enters Ohio into the Interstate Medical Licensure Compact, which enables a physician seeking to practice in multiple states to have certain qualifications verified, and a background check conducted, by the physician's state of principal license, and thereafter to apply for an expedited license to practice in other member states.
- Makes an appropriation.

Nurse aide training

- Allows a nurse aide to satisfy the existing requirement to complete a training and competency evaluation program by completing at least 75 hours of training in a long-term care setting during the COVID-19 public health emergency.
- Requires that prospective nurse aides using this new training pathway successfully complete the competency evaluation conducted by the Director of Health.

DETAILED ANALYSIS

Interstate Medical Licensure Compact

The bill enters Ohio as a party to the Interstate Medical Licensure Compact. The Compact is an agreement among participating states to streamline the licensing process for physicians who wish to practice in multiple states. The Compact currently includes 29 states, the District of Columbia, and the Territory of Guam.¹

¹ Interstate Medical Licensure Compact, *Introduction*, <https://www.imlcc.org/a-faster-pathway-to-physician-licensure/>.

Under the Compact, the practice of medicine occurs where the patient is located for the physician-patient encounter, and the physician is under the jurisdiction of the state medical licensing board for that location.²

Physician eligibility

To meet the definition of physician under the Compact, and in order to receive an expedited license (discussed below), all of the following must apply:³

1. The person has graduated from an accredited medical school;
2. The person has passed, within three attempts, each component of the U.S. Medical Licensing Examination, the Comprehensive Osteopathic Medical Licensing Examination, or an equivalent examination;
3. The person has completed approved graduate medical education;
4. The person holds specialty certification or a time-unlimited specialty certificate recognized by an organization named in the Compact;
5. The person possesses a full and unrestricted license to practice medicine issued by a member state's medical licensing board;
6. The person has never been convicted of, or had a similar disposition related to, any felony, gross misdemeanor, or crime of moral turpitude;
7. The person has never held a license authorizing the practice of medicine subjected to discipline by a licensing agency, other than for nonpayment of fees;
8. The person has never had a controlled substance license or permit suspended or revoked;
9. The person is not under active investigation by a licensing agency or law enforcement authority.

Expedited license under the Compact

Designating a state of principal license

In order to receive an expedited license through the Compact, a physician must designate a member state as the state of principal license. For a state to be a state of principal license, the physician must have a full and unrestricted license to practice medicine in that state and one of the following must apply to the state:⁴

1. It is the physician's state of principal residence;

² R.C. 4731.11, Compact Section 1 (references in this analysis to "Section" refer to sections of the Compact as set forth in R.C. 4731.11, except as otherwise specified).

³ Section 2(k) and (l) and 3(a).

⁴ Section 4(a).

2. It is the state where at least 25% of the physician's practice of medicine occurs;
3. It is the location of the physician's employer;
4. If none of the above apply, it is the physician's state of residence for federal income tax purposes.

A physician may redesignate the physician's state of principal residence at any time in accordance with rules that may be developed by the Interstate Medical Licensure Compact Commission ("Interstate Commission"), discussed below.⁵

Application for an expedited license

A physician seeking licensure through the Compact is required to file an application for an expedited license with the medical licensing board of the physician's state of principal residence. That board must evaluate whether the physician is eligible for an expedited license and issue a letter of qualification to the Interstate Commission verifying or denying the eligibility.⁶

The eligibility verification does not include verification of static qualifications, such as education and licensing examination, if those qualifications have already been a primary source verified by the state of principal residence. It does, however, include performing a criminal background check.⁷ The bill authorizes the State Medical Board of Ohio to require Compact applicants to comply with existing criminal records check procedures, including regarding obtaining fingerprint impressions.⁸

Once eligibility is verified, a physician must complete a registration process established by the Interstate Commission, including paying any applicable fees. Thereafter, a member state is required to issue an expedited license to the physician, which authorizes the practice of medicine in that state subject to that state's medical practice act and all laws of the member state and its medical licensing board.⁹

Fees

A member state issuing an expedited license may impose a fee for a license issued or renewed through the Compact. The Interstate Commission may develop rules regarding the fees.¹⁰

⁵ Section 4(b) and (c).

⁶ Section 5(a) and 2(h).

⁷ Section 5(b).

⁸ R.C. 4731.112.

⁹ Section 5(c), (d), and (e).

¹⁰ Section 6.

Period of validity and termination

An expedited license is valid for a period consistent with the licensure period in the member state and in the same manner as for other physicians holding full, unrestricted licenses in that state. The expedited license must be terminated if the physician fails to maintain the license in the state of principal licensure without redesignation of a new state of principal licensure.¹¹

Renewal

To renew an expedited license, a physician must complete a renewal process with the Interstate Commission if the physician (1) maintains a full, unrestricted license in a state of principal license, (2) has not been convicted of, or had related disposition for, any felony, gross misdemeanor, or crime of moral turpitude, (3) has not had a medical license subject to discipline by a licensing agency, other than for nonpayment of fees, and (4) has not had a controlled substance license or permit suspended or revoked.¹²

Physicians must comply with continuing professional development and medical education requirements for renewal of a license issued by a member state. The Interstate Commission is required to collect any renewal fees and distribute them to the applicable member state's medical licensing board.¹³

Coordinated Information System

The Interstate Commission is required to establish a database of all physicians with expedited licenses and those who have applied for expedited licenses. All information provided to the Interstate Commission or distributed to member states' medical licensing boards is confidential, must be filed under seal, and must be used only for investigatory or disciplinary matters. Member states' medical licensing boards are required to report to the Interstate Commission any public action or complaints against a licensed physician who has applied for or received an expedited license through the Compact; medical licensing boards may report any nonpublic complaint, disciplinary, or investigatory information not specifically required.¹⁴

Member states' medical licensing boards must report disciplinary or investigatory information as specified in rules of the Interstate Commission. Member boards must share complaint and disciplinary information about a physician on request of another member board.¹⁵

¹¹ Section 5(e) and (f).

¹² Section 7(a).

¹³ Section 7.

¹⁴ Section 8(a), (b), (d), and (f).

¹⁵ Section 8(c) and (e).

Joint investigations

The Compact specifies that licensure and disciplinary records of physicians are deemed investigative and identifies procedures under which member states' medical licensing boards may conduct joint investigations. Additionally, any member state may investigate actual or alleged violations of the statutes authorizing the practice of medicine in any other member state in which a physician holds a license to practice medicine.¹⁶

Disciplinary actions

The Compact provides that any disciplinary action that is taken by a member state's medical licensing board against a physician licensed through the Compact is deemed unprofessional conduct that may be subject to discipline by other member boards, in addition to any violation of the medical practice act or laws in that state. If a physician's license from the physician's state of principal license is revoked, suspended, or otherwise surrendered, then all licenses issued to the physician by other member boards are automatically placed on the same status. When the state of principal license subsequently reinstates the physician's license, other member states can take action to reinstate the physician's license in those states.¹⁷

If a physician's license from a member board is revoked, suspended, or otherwise surrendered, then any licenses issued by other member boards are automatically suspended for 90 days to permit other member states to investigate under their state laws. A member board may terminate the automatic suspension prior to the end of the 90-day period.¹⁸

Interstate Medical Licensure Compact Commission

Membership and meetings

The Compact creates the Interstate Medical Licensure Compact Commission (Interstate Commission) to administer the Compact. The Interstate Commission consists of two voting representatives appointed by each member state, who are referred to as commissioners. Each commissioner must be a member of a state's medical licensing board.¹⁹ The bill requires the State Medical Board to appoint Ohio's commissioners not later than 30 days after Ohio enters the Compact.²⁰ Governors of nonmember states are invited to participate in Interstate Commission activities as nonvoting members.²¹

The Interstate Commission is required to meet at least once each calendar year. Bylaws may provide for meetings by telecommunication or electronic communication. Except in limited circumstances, such as regarding trade secrets or criminal accusations, meetings are public, and

¹⁶ Section 9.

¹⁷ Section 10(a), (b), and (c).

¹⁸ Section 10(d).

¹⁹ Section 11(a) through (d).

²⁰ R.C. 4731.111.

²¹ Section 20(c).

public notice of meetings is required. Additional meetings may be called by the chairperson, including if a majority of the member states request a meeting. The Compact includes additional details pertaining to Interstate Commission meetings, including details related to voting, meeting minutes, and availability of official records.²²

Executive Committee

The Interstate Commission is required to establish an Executive Committee to act on behalf of the Commission, other than rulemaking, when the Commission is not in session. During those periods, the Executive Committee is required to oversee the administration of the Compact. The Interstate Commission is also required to establish other committees for governance and administration of the Compact.²³

Powers and duties

The Compact lists numerous powers and duties of the Interstate Commission. In addition to administering the Compact, some examples include (1) promulgating rules, (2) issuing advisory opinions, (3) enforcing compliance with the Compact, (4) paying expenses, (5) employing an executive director and other personnel, (6) establishing a budget, and (7) reporting annually to legislatures and governors of member states.²⁴

Finance powers

The Interstate Commission may collect from each member state an annual assessment to cover the cost of operations and activities of the Commission and its staff. The total assessment must be sufficient to cover the approved annual budget to the extent it is not covered from other sources.²⁵

The Interstate Commission cannot pledge the credit of any member state without the state's express permission and it cannot incur obligations prior to securing adequate funds. The Interstate Commission is subject to a yearly outside financial audit.²⁶

Organization and operation

The Interstate Commission is required to adopt bylaws to govern its conduct. It must annually elect or appoint from among its commissioners a chairperson, vice chairperson, and treasurer, all of which serve without pay.²⁷

The Compact contains numerous immunity and hold harmless provisions. The officers and employees of the Interstate Commission are immune from suit and liability, both

²² Section 11(e) through (j).

²³ Section 11(k) and (l).

²⁴ Section 12.

²⁵ Section 13(a).

²⁶ Section 13(b) through (d).

²⁷ Section 14(a) through (c).

personally and in official capacity, related to the scope of Commission employment, duties, or responsibilities, except for liability caused by intentional or willful and wanton misconduct.²⁸ The Compact further provides that the executive director and employees of the Interstate Commission are limited in liability as provided under state law for state officials, employees, and agents, as applicable. The Interstate Commission is required to defend the executive director and employees in related civil actions, except in the case of intentional or willful and wanton misconduct.²⁹

Rulemaking

The Interstate Commission is required to adopt rules to achieve the purpose of the Compact. Any rule that goes beyond the scope of the purposes of the Compact is invalid. The Interstate Commission must follow a rulemaking process that substantially conforms to the “Model State Administrative Procedure Act” of 2010. The Compact specifies a process for judicial review that may be filed by a person to challenge a rule.³⁰

Oversight of the Compact

The Compact requires the executive, legislative, and judicial branches of each member state’s government to enforce it. The Compact and rules adopted under it are to have standing as statutory law, but do not override existing state authority to regulate the practice of medicine.³¹

Enforcement, dispute resolution, and default procedures

Enforcement of the Compact is to be by the Interstate Commission. The Interstate Commission may, by a majority vote of the commissioners, initiate legal action to enforce compliance with the Compact by a member state in default. The Compact provides for injunctive relief, damages, and attorney’s fees.³²

The Interstate Commission must attempt to resolve disputes among member states and member medical licensing boards. It must adopt rules providing for both mediation and binding dispute resolution.³³

Grounds for default include a member state’s failure to perform its Compact obligations and responsibilities. If the Interstate Commission determines there has been a default, the Commission must provide (1) written notice to all member states that includes means to cure the default for the defaulting state and (2) remedial training and specific technical assistance regarding the default. If the defaulting state fails to cure the default, it must be terminated

²⁸ Section 14(d).

²⁹ Section 14(e) through (g).

³⁰ Section 15.

³¹ Section 16(a) and (b).

³² Section 17(a) and (b).

³³ Section 19.

from the Compact on a majority vote of the commissioners. The Interstate Commission must adopt rules and procedures to address licenses and physicians that are materially impacted by the termination or withdrawal of a member state.³⁴

Compact amendment

The Interstate Commission may propose amendments to the Compact. No amendment is effective until it is enacted into law by unanimous consent of the member states.³⁵

Withdrawal and dissolution

A state may withdraw from the Compact by repealing the statute that enacted it. Any withdrawal does not go into effect until one year after the effective date of the repealing statute, and after the withdrawing state gives written notice to the governor of each other member state. States are required to notify the Interstate Commission if legislation to repeal the Compact is introduced.³⁶

The Compact dissolves on the date of the withdrawal or default of a member state that reduces the membership of the Compact to one member state.³⁷

Construction and effect

The Compact includes various provisions addressing severability, liberal construction, and its binding effect on member states in relation to other state laws.³⁸

Implementation timeframe

The bill gives the State Medical Board one year to begin accepting and evaluating applications for expedited licenses and issuing expedited licenses in accordance with the Compact.³⁹

Nurse aide training

In addition to entering Ohio into the Interstate Medical Licensure Compact, the bill adds another pathway in which a nurse aide may satisfy the existing requirement to complete a training and competency evaluation program. A nurse aide is an individual who is not a licensed health care professional who provides nursing and nursing-related services to residents in a long-term care facility, either as a paid member of the staff or as a volunteer.⁴⁰ Currently, all nurse aides are required to complete a training and competency evaluation program conducted

³⁴ Section 18; *see also* Section 21(g).

³⁵ Section 20(d).

³⁶ Section 21.

³⁷ Section 22.

³⁸ Section 23 and 24.

³⁹ Section 5 of the bill.

⁴⁰ R.C. 3721.21(O), not in the bill.

or approved by the Director of Health. This requirement does not apply to individuals who met alternative requirements prior to July 1, 1989.⁴¹

The bill allows a nurse aide to forgo the training and competency evaluation program if that individual completes, during the COVID-19 public health emergency, a minimum of 75 hours of training that occurs in a long-term care facility setting. This training must include on-site observation and work as a nurse aide under a COVID-19 pandemic waiver issued by the federal Centers for Medicare and Medicaid Services, and address all of the required areas specified in federal law. If gaps in on-site training are identified, the individual also must complete supplemental training. All prospective nurse aides must still complete the competency evaluation conducted by the Director of Health.⁴²

HISTORY

Action	Date
Introduced	01-19-21
Reported, S. Health	03-17-21
Passed Senate (32-1)	04-21-21
Reported, H. Families, Aging & Human Services	06-10-21

S0006-RH-134/ks

⁴¹ R.C. 3721.28(F)(1).

⁴² R.C. 3721.28(F)(2), conforming changes in R.C. 3721.31 and 3721.32.