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Bill Analysis

Version: As Introduced

Primary Sponsor: Sen. Roegner

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SUMMARY

- Enters Ohio into the Social Work Licensure Compact to facilitate the interstate practice of and improve public access to social work services by allowing social workers to practice in multiple states with a multistate license.
- As a member of the Compact, requires Ohio to extend the ability to practice to social workers with a multistate license from another member state of the Compact, subject to Ohio's laws and rules governing social workers.
- Requires Ohio to submit data regarding social worker licensees to the Social Work Licensure Compact Commission's data system, including information related to identification, licensure, investigations, and adverse action.

DETAILED ANALYSIS

Social Work Licensure Compact

The bill enters Ohio as a party to the Social Work Licensure Compact. The Compact is an agreement among states that join the Compact to allow social workers to practice in multiple states with a multistate license.¹ The purpose of the Compact is to facilitate interstate practice of social workers by improving public access to social work services. Nothing in the Compact restricts, limits, or reduces the ability of a member state to enact and enforce laws, regulations, or other rules related to the practice of social work in that state where not inconsistent with the Compact.²

¹ R.C. 4757.52, Section 1 (unless otherwise noted, subsequent "Section" references in this analysis are to specific sections of the Compact as enacted in R.C. 4757.52).

² Section 6.A.

The Compact becomes effective when seven states enact it into law. Each state's enacting statute cannot be materially different from the Model Compact.³ It does not appear any states have enacted the Compact yet.⁴

State participation in compact

To participate in the Compact, a state must:⁵

1. License and regulate the practice of social work;
2. Require applicants for licensure to graduate from a program that is operated by a college or university recognized by the licensing authority, accredited or in candidacy to become accredited by an accrediting agency recognized by the Council of Higher Education or the United States Department of Education, and correspond to the licensure sought as outlined in Section 4 of the Compact (discussed below);
3. Require applicants for clinical licensure to complete a period of supervised practice;
4. Have a mechanism in place for receiving, investigating, and adjudicating complaints about licensees;
5. Require that applicants for a multistate licenses pass a qualifying national exam for the corresponding category of multistate license sought;
6. Participate fully in the Commission's data system (see "**Data System**" below);
7. Notify the Commission of any adverse action or the availability of current significant investigate information regarding a licensee;
8. Implement procedures for considering the criminal history records of applicants for a multistate license;
9. Comply with the rules of the Commission;
10. Require an applicant to obtain or retain a license in the home state to meet the home state's qualifications for licensure or renewal of licensure, as well as all other applicable home state laws;
11. Authorize a licensee holding a multistate license in any member state to practice in accordance with the terms of the Compact and rules of the Commission; and
12. Designate a delegate to participate in Commission meetings.

³ Section 14.A.

⁴ [Social Work Licensure Compact Map](http://www.swcompact.org), available by clicking "Compact Map" on the Social Work Compact Licensure website: www.swcompact.org.

⁵ Sections 3.A and 3.B.

Social worker participation in compact

To be eligible for a multistate license under the terms and provisions of the Compact, an applicant must:⁶

1. Hold or be eligible for an active, unencumbered license in the home state;
2. Pay any applicable fees, including any state fee, for the multistate license;
3. Submit fingerprints or other biometric data to obtain criminal history record information from the FBI and agency responsible for retaining the state's criminal records;
4. Notify the home state of any adverse action, encumbrance, or restriction on any professional license taken by any member state or nonmember state within 30 days from the date the action is taken;
5. Meet any continuing competence requirements established by the home state; and
6. Abide by the laws, regulations, and applicable standards in the member state where the client is located at the time care is rendered.

Applicants for multistate licenses in the bachelor's, master's, or clinical categories have specific requirements in each category provided in the Compact that must be met in order to receive the multistate license. The requirements generally require passage of a national exam, attaining the requisite degree from an accredited educational program, and, if applicable, fulfilling supervised clinical practice.

A social worker with a multistate license is subject to the renewal requirements of the home state, but must continue to maintain compliance with the above requirements. The social worker's services in a remote state are subject to that member state's regulatory authority.⁷ A licensee providing services in a remote state under the multistate license must adhere to the laws, regulations, and standards of the remote state where the client is located at the time care is rendered.⁸ A remote state may, in accordance with the due process laws in that state, remove a licensee's multistate authorization to practice in that state for a specific period of time, impose fines, or take other actions to protect the health and safety of that state's citizens.⁹

Member states are not authorized to impose discipline against a multistate license for lawful actions within another member state.¹⁰

⁶ Section 4.A.

⁷ Section 4.B., 4.C., 4.D., 4.E., and 4.F.

⁸ Section 16.A.

⁹ Section 4.F.

¹⁰ Section 9.K.

Issuance of multistate license

The Compact provides that the home state licensing board must determine an applicant's eligibility for a multistate license pursuant to the Compact. Once a multistate license is issued, the home state licensing board must designate whether the regulated social worker holds the multistate license in the bachelor's, master's, or clinical category of social work. A multistate license issued to a licensee must be recognized by all member states corresponding to each category of licensure regulated in each member state.¹¹

A licensee can hold a multistate license, issued by their home state, in only one member state at a time. If the licensee changes their home state by moving between two member states, the Compact provides a process for a multistate license to be reissued to that social worker.¹²

An active military member or their spouse must designate a home state where the individual has a multistate license and may retain that home state designation during the period of active duty.¹³

Adverse actions

The Compact provides that member states may take adverse actions against licensees, including issuing subpoenas for hearings and investigations. Adverse actions are any administrative, civil, equitable, or criminal action permitted by a state's laws that is imposed by a licensing board or other authority against a regulated social worker, including actions against an individual's state license or multistate license such as revocation, suspension, probation, monitoring of the licensee, or restriction on the licensee's practice.¹⁴

A state where a social worker is practicing with a multistate license but is not the home state may take adverse action against the social worker's multistate authorization to practice only within that member state. Only a home state has the power to take adverse action against a social worker's multistate license.¹⁵ A home state may take adverse action against a multistate license based on information provided by a remote state.¹⁶ A home state must give the same priority and effect of reported conduct from another member state as it would if the conduct had occurred in the home state. The home state must apply its own state laws in determining the appropriate action.¹⁷ If adverse action is taken by a home state against a

¹¹ Section 5.

¹² Section 7.

¹³ Section 8.

¹⁴ Section 9.A. and 2.B.

¹⁵ Section 9.A.

¹⁶ Section 6.E.

¹⁷ Section 9.B.

multistate license, the multistate authorization to practice in all other member states is deactivated until all encumbrances have been removed from the multistate license.¹⁸

A member state may take adverse action based on factual findings of another member state, so long as it follows its own procedures. Joint investigations between participating states are also permissible.¹⁹ Nothing in the Compact limits, restricts, or reduces the ability of a member state to take adverse actions against a licensee's single state license to practice social work in that state or to take adverse action against a licensee's multistate authorization to practice in that state.²⁰

Social Work Licensure Compact Commission

The Compact provides for the creation of the Social Work Licensure Compact Commission, which is a joint government agency and an instrumentality of the Compact states acting jointly.²¹

Membership

Each member state has one delegate selected by the member state's licensing board. The delegate must be a current member of the member state's licensing board who is either a regulated social worker or public member of the board, or an administrator of the state's licensing board or their designee. A member state's licensing board is required to fill any vacancy of its delegate within 60 days of the vacancy. Each delegate is entitled to one vote on all matters voted on by the Commission. Any delegate may be removed or suspended from the Commission as provided by the Compact.²²

Regarding Ohio's delegate, the bill requires the State Counselor, Social Worker, and Marriage and Family Therapist Board to select the delegate within 60 days of the Compact being entered into. Any future vacancies must be filled within 60 days.²³

Powers and duties

The Compact specifies numerous powers and duties of the Commission, some of which include (1) establishing a code of conduct, conflict of interest policies, and rules and bylaws, (2) maintaining financial records, (3) promulgating rules, (4) prosecuting legal proceedings, (5) purchasing and maintaining insurance and bonds, (6) hiring employees and taking related

¹⁸ Section 9.G.

¹⁹ Section 9.E. and 9.F.

²⁰ Section 6.C. and 6.D.

²¹ Section 10.A.

²² Section 10.B.

²³ R.C. 4757.521.

actions, (7) borrowing money, and (8) performing other functions as necessary and appropriate to achieve the purpose of the Compact.²⁴

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 at least annually, is composed of the following members:

1. The chair and vice chair of the Commission as voting members;
2. Five voting members from the current membership of the Commission, chosen by the Commission;
3. Up to four ex-officio, nonvoting members from four recognized national social work organizations, chosen by their respective organizations.²⁵

Duties and responsibilities of the Executive Committee include:

- Overseeing day-to-day activities of the administration of the Compact, including enforcement and compliance;
- Recommending changes to the rules, bylaws, Compact legislation, and fees charged to member states and licensees;
- Ensuring Compact administration services are appropriately provided;
- Preparing and recommending the budget;
- Maintaining financial records on behalf of the Commission;
- Monitoring Compact compliance of member states and providing compliance reports;
- Establishing additional committees as necessary;
- Exercising the powers and duties of the Commission during the interim between Commission meetings, except for adopting or amending rules or bylaws and exercising any other powers and duties expressly reserved to the Commission by rule or bylaw; and
- Any other duties as provided in the Commission rules or bylaws.²⁶

Commission meetings

Commission meetings generally are required to be open to the public. A public notice of the meetings generally must be provided 30 days in advance of the meeting. Minutes must be

²⁴ Section 10.C.

²⁵ Section 10.D.2.

²⁶ Section 10.D.1.

kept.²⁷ The Commission or the Executive Committee may have a closed, nonpublic meeting to receive legal advice or to discuss limited topics, such as state noncompliance; employment, compensation, or discipline of specific employees; litigation; contract negotiation; criminal accusations; and trade secrets and confidential information. If the meeting or a portion of a meeting is closed, the presiding officer must state that the meeting will be closed and reference each relevant provision that exempts the meeting from being public.²⁸

Commission finances

The Commission is required to pay for the reasonable expense of its establishment, organization, and ongoing activities. The Commission may collect an annual assessment from each member state and impose fees on licensees that receive multistate licenses. The Commission cannot incur obligations without first securing the funds to meet the obligation and cannot pledge the credit of member states without their authority. The Commission must keep accurate accounts of all receipts and disbursements, subject to audit.²⁹

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 may also retain their own counsel at their own expense.

The Commission also is required to indemnify and hold harmless any member, officer, executive director, employee, or representative from the amount of any settlement or judgement obtained against that 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.³⁰

Data System

The Commission is required to provide for the development, maintenance, operation, and utilization of a coordinated data system. Each member state is required to submit a uniform data set to the data system for each licensee, including:³¹

1. Identifying information;
2. Licensure data;

²⁷ Section 10.F.1 and Section 12.

²⁸ Section 10.F.2 and 10.F.3.

²⁹ Section 10.G.

³⁰ Section 10.H.

³¹ Section 11.

3. Adverse actions;
4. Nonconfidential information related to alternative program participation, which is nondisciplinary monitoring or practice remediation approved by a licensing authority to address practitioners with impairments that impact practice, such as drug or alcohol dependence and mental health impairments;
5. Denial of application for licensure and the reasons for the denial;
6. Presence of current significant investigative information; and
7. Other information as determined by the rules of the Commission.

Member states must report any adverse action against a licensee to the Commission and are required to monitor the database to determine if adverse action has been taken against a licensee. Adverse action and current significant investigative information pertaining to a licensee will be available to other member states. Member states also may designate information that may not be shared with the public.³²

Rulemaking

The Commission has the power to adopt rules pursuant to the criteria and process set forth in the Compact. Commission rules have the force of law in each member state; however, if such a rule conflicts with member state laws, regulations, or standards that govern the practice of social work, as held by a court of competent jurisdiction, the Commission rule is ineffective in that state to the extent of the conflict.³³

The Compact includes requirements related to the rulemaking process, including regarding public notice, comments, and hearings. Prior to adopting a rule, at least 30 days advance notice of the public hearing must be provided on the Commission's website. The notice must indicate how public testimony or written comments may be submitted.

Emergency rules may be adopted in limited circumstances, such as in the case of an imminent threat to public health or safety. 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 effect or force.³⁴

Commission oversight, dispute resolution, and enforcement

The Compact provides that the executive and judicial branches of government for each state must enforce the Compact and take necessary actions to implement it.³⁵

³² Section 11.

³³ Section 12.B.

³⁴ Section 12.

³⁵ Section 13.A.

If the Commission determines that a member state has defaulted under the Compact, the Commission is required to provide written notice to the state and offer training and specific technical assistance regarding the default. If the state fails to cure the default, that state may be terminated from the Compact by a majority vote of all member states. The Compact contains additional details regarding the termination process as well as the right to appeal. If a state is terminated, it must continue to recognize all licenses granted under the Compact for a minimum of six months from the date of the notice of termination.³⁶

Withdrawal

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

Construction and severability

The Compact provides that it is to be liberally construed and its provisions are severable.³⁸

Consistent effect and conflict with other states

The Compact does not prevent the enforcement of any other law of a member state that does not conflict with the Compact. The Compact provides that any laws in a member state in conflict with the Compact are superseded to the extent of the conflict. All permissible agreements between the Commission and the member states are binding in accordance with their terms.³⁹

HISTORY

Action	Date
Introduced	03-22-23

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³⁶ Section 13.

³⁷ Section 14.B.

³⁸ Section 15.

³⁹ Section 16.