

Department of Legislative Services  
Maryland General Assembly  
2017 Session

FISCAL AND POLICY NOTE  
Enrolled - Revised

Senate Bill 41

(Chair, Education, Health, and Environmental Affairs  
Committee)(By Request - Departmental - Health and  
Mental Hygiene)

Education, Health, and Environmental Affairs

Health and Government Operations

State Board of Nursing - Nurse Licensure Compact - Revisions

This departmental bill amends statute to conform the existing Nurse Multistate Licensure Compact to the new and enhanced Nurse Licensure Compact (eNLC) adopted by the National Council of State Boards of Nursing (NCSBN). The bill (1) defines terms; (2) requires specified background checks; (3) clarifies rules and procedures for the discipline of licensees; (4) establishes an interstate commission to administer the compact; (5) provides rules for multistate licensure; and (6) makes other technical, stylistic, and clarifying changes.

Uncodified language prohibits the bill from taking effect until a substantially similar bill has been enacted in at least 26 states or December 31, 2018, whichever occurs first. If 26 states enact similar legislation before December 31, 2018, the State Board of Nursing (BON) must notify the Department of Legislative Services within five days after the twenty-sixth state has enacted legislation.

Subject to the above restrictions, the bill takes effect July 1, 2017.

Fiscal Summary

**State Effect:** The bill is not anticipated to impact State operations or finances.

**Local Effect:** The bill is not anticipated to impact local government operations or finances.

**Small Business Effect:** The Department of Health and Mental Hygiene has determined that this bill has minimal or no impact on small business (attached). The Department of Legislative Services concurs with this assessment. (The attached assessment does not reflect amendments to the bill.)

## Analysis

**Bill Summary/Current Law:** While the majority of the bill makes technical, stylistic, and clarifying changes, major substantive provisions are highlighted below.

### *Definitions*

The bill adds definitions for “commission,” “encumbrance,” “licensing board,” “multistate licensure privilege,” and “single-state license.” The bill also repeals the definition for “remote state action.”

### *General Provisions and Jurisdiction*

The bill requires that all party states (states that have adopted the compact) require a federal and state criminal history record check (CHRC) for all applicants for an initial multistate license or licensure by endorsement. Maryland currently requires CHRCs to be submitted with initial applications, as well as with renewal applications at least once every 12 years.

### *Additional Authority Invested in Party State Licensing Boards*

The bill clarifies the authority of party state licensing boards. Specifically, the rules governing a state taking action against a compact privilege to practice are clarified. BON advises that some states that had not joined the compact expressed concern that they would not be able to protect the public if a nurse working on a compact privilege violated the state’s individual practice act. The bill clarifies that a party state may take adverse action against the privilege to practice and that all violations are to then be referred to the home state of the licensee for discipline in accordance with the home state’s practice act. As the home state issues the compact license, the home state has the authority to take action against a license. BON advises that it currently handles disciplinary actions in this fashion.

### *Coordinated Licensure Information System and Exchange of Information*

The bill clarifies provisions governing the exchange of information. Currently, all member states are required to provide specified information on the licensure and disciplinary history of each nurse. The bill clarifies that the Interstate Commission of Nurse Licensure Compact Administrators will establish rules for collecting and making the data available to member states.

### *Establishment of the Interstate Commission of Nurse Licensure Compact Administrators*

The bill establishes the Interstate Commission of Nurse Licensure Compact Administrators and recodifies and clarifies the authority of the commission. Additionally, the bill clarifies

provisions related to the qualified immunity, defense, and indemnification for specified individuals.

### *Rulemaking*

The bill establishes the commission's rulemaking authority and procedures in several areas including (1) the designation of effective dates; (2) publication and notice; (3) comment periods; (4) hearings; (5) emergency rulemaking; and (6) amending specified documents. The procedures closely follow the rulemaking process currently in use in Maryland. BON advises that it considers the enhanced procedure to be an improvement as it establishes a formal rulemaking process and provides for greater transparency.

### *Oversight, Dispute Resolution, and Enforcement*

The bill clarifies that the commission has (1) legal standing in specified matters related to the eNLC and (2) authority to notify a party state that it has defaulted in its duties and to then require a plan of correction. A state's membership can be terminated if the default is not corrected. The commission has the authority to attempt to resolve disputes between party states, promulgate rules for mediation and resolution of disputes, and make a final determination. If a dispute is resolved by arbitration, the decision of the majority of the arbitrators is binding. Enforcement can be sought by legal action in the U.S. District Court for the District of Columbia or the federal district in which the commission has its principal offices.

### *Effective Date, Withdrawal, and Amendment*

The bill specifies that the eNLC will become effective when it has been adopted by 26 states or December 31, 2018, whichever occurs first. The eNLC supersedes the current compact. Any state that was also party to the prior compact that has not adopted the eNLC will be deemed to have withdrawn from the prior compact six months after the effective date of the new compact.

### *Construction and Severability*

The bill provides for the severability of any provision that conflicts with state or federal law. If the compact is found to be in conflict with the law in any party state, it remains in full force and effect in all other party states.

**Background:** The existing compact, administered by NCSBN, enables multistate licensure for registered nurses and licensed practical nurses. The compact allows nurses to practice across state lines, enables cooperation among state boards of nursing, and attempts to improve enforcement of licensure laws across state boundaries.

Twenty-five states are party states, including Maryland, which was the first state to adopt the compact in 1999. According to BON, about 1,950 advanced practice registered nurses work in Maryland on multistate licenses from party states.

The new eNLC, approved by NCSBN in 2015, amends the existing compact to include provisions which are, in part, designed to address concerns of nonmember states. As of January 19, 2017, 10 states have enacted eNLC legislation, including 3 that are not parties to the existing compact. Another 8 states are considering eNLC legislation during their 2017 legislative sessions, including Maryland and 2 that are not parties to the existing compact. If Maryland does not adopt the eNLC, nurses from other party states working in the State, as well as BON licensees working in other party states, lose their compact privilege and the portability it provides.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Department of Health and Mental Hygiene; National Council of State Boards of Nursing; Department of Legislative Services

**Fiscal Note History:** First Reader - January 24, 2017  
kb/jc Third Reader - February 7, 2017  
Enrolled - May 4, 2017  
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**ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES**  
**Department of Health and Mental Hygiene**  
**Session 2017**

**TITLE OF PROPOSAL:** **State Board of Nursing – Nurse Licensure Compact**

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**(Program\Unit)** **DHMH – State Board of Nursing**

**PART A. ECONOMIC IMPACT RATING**

This agency estimates that the proposed bill:

WILL HAVE MINIMAL OR NO ECONOMIC IMPACT ON MARYLAND  
SMALL BUSINESS

OR

WILL HAVE MEANINGFUL ECONOMIC IMPACT ON MARYLAND  
SMALL BUSINESSES

**PART B. ECONOMIC IMPACT ANALYSIS**

The existing on-line licensure programs are designed to issue single state or compact state licenses to applicants. A fee increase is not anticipated for the compact. No additional requirements are imposed on the MBON by the eNLC.