

Update regarding the Nurse Licensure Compact and Rulemaking

House Bill (HB) 2950 was enacted by the 85th Texas Legislature and became effective September 1, 2017. HB 2950 enacts the Nurse Licensure Compact, which currently includes twenty six (26) states. Texas was a member of the original Compact, which was enacted in 2007 and was codified as Texas Occupations Code Chapter 304. The newly enacted Nurse Licensure Compact (Enhanced NLC) will take the place of the original Nurse License Compact. The Enhanced NLC allows registered nurses and licensed vocational nurses to utilize one multi-state license to practice in other states belonging to the compact, without the necessity of obtaining separate licenses in each compact state.

The Enhanced NLC is governed by the Interstate Commission of Nurse Licensure Compact Administrators (Commission). The Commission is tasked with drafting rules and policies to govern the operations and implementation of the Enhanced NLC. Pursuant to Article VIII of the Enhanced NLC legislation, the Commission proposed uniform rules to effectuate the implementation of the Enhanced NLC and to provide proper guidance and clarification to licensees and applicants of the party states that will promote compliance with the Enhanced NLC. The Commission held a public hearing on the proposed rules, via teleconference, on December 8, 2017, at the National Council of State Boards of Nursing headquarters and received several written comments on the proposed rules. A copy of the written comments received are included as Attachment "A".

The final rules were adopted by the Commission on December 12, 2017, and will become effective on January 19, 2018. A copy of the final adopted rules are attached as Attachment "B". Effective January 19, 2018, Texas nurses will be required to comply with the Commission's adopted rules.

REPORT OF THE ENLC RULES COMMITTEE ON COMMENTS RECEIVED OCTOBER 11 THROUGH DECEMBER 11, 2017

Twenty-four comments were received on the NCSBN web site. Of those, twelve were considered substantive comments on the proposed rules. Twelve were essentially emails not related to the proposed rules but were about the commenter's personal situation. One commenter submitted several substantive comments separately.

The substantive comments were on rules 100, 201, 202, 302, 303, 402, 403, 405, 406, and 407. No comments were received at the Public Hearing on December 8, 2017 at 2pm CST.

RULE 100

Sara Scott (IA BON) commented that the definition of licensure in 100(8) should be changed to add the word "reactivation".

RESPONSE: Rules Committee agrees with the comment and recommends that the change be made.

Sara Scott commented that the definition of unencumbered license in 100(10) should be changed to read as follows: "a license that authorizes a nurse to engage in the full and unrestricted practice of nursing."

RESPONSE: Rules Committee agrees with the comment and recommends that the change be made.

RULE 201

Sara Scott commented that 201(2) should be changed to read as follows: "The public shall have access to items (1)(a) through (g) and **information about a licensee's** participation in an alternative program to the extent allowed by state law."

RESPONSE: Rules Committee agrees with the comment and recommends that the change be made.

Sara Scott commented on 201(4) asking "fifteen calendar days of what event?"

RESPONSE: Rules Committee recommends amending to add "of the date on which the action is taken" to the end of the rule.

RULE 202

Margaret Armagost (IA BON) commented that 202(1) reads that a party state must query the Coordinated Licensure Information System (CLIS) for examination candidates. She commented that this is unnecessary.

RESPONSE: Rules Committee reaffirms that the query is necessary as mandated by NLC law.

RULE 302

Margaret Armagost commented that 302(1)(b) requires a party state to revoke or deactivate a multistate license (MSL) if there is a disqualifying event. She commented that it would be less disruptive and less labor intensive to revoke or deactivate just the multistate privilege, not the license.

RESPONSE: Rules Committee recommends that the language stay as presented because the suggested change would conflict with the law. Only the home state can take action on a multistate license.

Kathy Weinberg (IA BON) and Sara Scott commented that 302(3) should be changed to read: "During the transition period, a licensee who holds a single state license in a Compact state that was not a member of the prior Compact and who also holds a multistate license in a party state, may retain the single state license until it lapses, expires or becomes inactive."

RESPONSE: Rules Committee agrees with the comment and recommends that the change be made.

Sara Scott commented on 302(1)(a) that the term "in good standing" is not defined and asked whether it meant unencumbered.

RESPONSE: Rules Committee agrees that "in good standing" should be replaced with "unencumbered."

RULE 303

Mark Majek (TX BON) commented that 303(5) should be changed to add the following language to the end: "within fifteen (15) calendar days."

RESPONSE: Rules Committee reaffirms current proposed language without changes.

RULE 402

Lori Scheidt commented that 402(2) should be changed to read: "A change in primary state of residence is deemed to have occurred when a nurse declares to be a resident of the state and obtains privileges not ordinarily extended to nonresidents of the state, including but not limited to those listed in 402(4)(a) – (e)." She also commented that there should be a new subsection in 402 that reads as follows: "A nurse who changes primary state of residence to another party state shall apply for a license in the new party state within ninety (90) days."

RESPONSE: Rules Committee reaffirms current proposed language without changes.

Richard Wilson (SC BON Alternative Program) commented that 402(6) may violate the Americans with Disabilities Act and raises privacy issues. He suggested that the following language be added to the end: “if such participation is known to any licensing board.”

RESPONSE: Rules Committee reaffirms current proposed language without changes.

Jay Douglas (VA BON) commented that she supports 402 as written.

RESPONSE: The Rules Committee thanks Ms. Douglas for the comment.

RULE 403

Paula Schenk (KY BON) commented that 403(1) should be changed to read: “A nurse who changing primary state of residence from one party state to another party state may continue to practice under the former home state license and multistate licensure privilege during the processing of the nurse’s licensure application in the new home state for a period not to exceed ninety days.”

RESPONSE: Rules Committee reaffirms current proposed language without changes.

Mark Majek commented that 403(2) should be changed to add the following language to the end: “within fifteen (15) calendar days.”

RESPONSE: Rules Committee reaffirms current proposed language without changes.

Sara Scott commented on 403(3) asking what the term “verified” is referring to. She suggested that 403(3) be changed to read as follows: “If a party state verifies that a licensee who holds a multistate license changes primary state of residence to a non-party state, the party state shall convert the multistate license to a single state license within fifteen (15) calendar days, and report this conversion to the Coordinated Licensure Information System.”

RESPONSE: Rules Committee agrees with the comment and recommends that the change be made.

RULE 404

Lori Scheidt (MO BON) commented that 404 should be changed to read: “A temporary permit, license, or similar temporary authorization to practice issued by a party state to an applicant for licensure shall not grant multistate licensure privileges.” In the alternative, she suggested adding language to the proposed rule as follows: “...unless the applicant has passed the NCLEX-RN, NCLEX-PN, or recognized predecessor examination, *answers no to all possible disqualifying event questions...*”

RESPONSE: Rules Committee reaffirms current proposed language without changes.

RULE 405

Margaret Armagost commented that this rule requires that a party state clearly identify whether a license is a single state or multistate license. She asks whether the availability of this information on a party state’s website would satisfy the rule or must it be printed on the card?

RESPONSE: The Rules Committee affirms that the data on the website satisfies the requirement.

RULE 406

Stacey Pfenning (ND BON) commented that 406 should be changed to read: “(1) A party state shall verify that an independent credentials review agency evaluated the credentials for graduates as set forth in Article III (c) (2) ii.

(2) The party state shall verify successful completion of an English proficiency examination for graduates as set forth in Article III (c) (3).”

RESPONSE: The Rules Committee agrees with the comment and recommends that the rule be amended accordingly.

Sara Scott commented on 406(1) and (2) stating that the phrase “that initially licenses a foreign nurse graduate” should be added after “The party state”.

RESPONSE: The Rules Committee will consider the comment at the next round of rulemaking.



The Interstate Commission of Nurse Licensure Compact Administrators

Final Rules

Adopted Dec 12, 2017

Effective Jan 19, 2018

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SECTION 100. DEFINITIONS

- (1) "Commission" means the Interstate Commission of Nurse Licensure Compact Administrators.
- (2) "Compact" means the Nurse Licensure Compact that became effective on July 20, 2017 and implemented on January 19, 2018.
- (3) "Convert" means to change a multistate license to a single-state license if a nurse changes primary state of residence by moving from a party state to a non-party state; or to change a single-state license to a multistate license once any disqualifying events are eliminated.
- (4) "Deactivate" means to change the status of a multistate license or privilege to practice.
- (5) "Director" means the individual referred to in Article IV of the Interstate Commission of Nurse Licensure Compact Administrators Bylaws.
- (6) "Disqualifying Event" means an incident, which results in a person becoming disqualified or ineligible to retain or renew a multistate license. These include but are not limited to the following: any adverse action resulting in an encumbrance, current participation in an alternative program, a misdemeanor offense related to the practice of nursing (which includes, but is not limited to, an agreed disposition), or a felony offense (which includes, but is not limited to, an agreed disposition).
- (7) "Independent credentials review agency" means a non-governmental evaluation agency that verifies and certifies that foreign nurse graduates have graduated from nursing programs that are academically equivalent to nursing programs in the United States.
- (8) "Licensure" includes the authority to practice nursing granted through the process of examination, endorsement, renewal, reinstatement and/or reactivation.
- (9) "Prior Compact" means the Nurse Licensure Compact that was in effect until January 19, 2018.
- (10) "Unencumbered license" means a license that authorizes a nurse to engage in the full and unrestricted practice of nursing.

SECTION 200. COORDINATED LICENSURE INFORMATION SYSTEM

201. UNIFORM DATA SET AND LEVELS OF ACCESS

- (1) The Compact Administrator of each party state shall furnish uniform data to the Coordinated Licensure Information System, which shall consist of the following:

- (a) the nurse's name;
- (b) jurisdiction of licensure;
- (c) license expiration date;
- (d) licensure classification, license number and status;
- (e) public emergency and final disciplinary actions, as defined by the contributing state authority;
- (f) a change in the status of a disciplinary action or licensure encumbrance;
- (g) status of multistate licensure privileges;
- (h) current participation by the nurse in an alternative program;
- (i) information that is required to be expunged by the laws of a party state;
- (j) the applicant or nurse's United States social security number;
- (k) current significant investigative information; and
- (l) a correction to a licensee's data.

(2) The public shall have access to items (1)(a) through (g) and information about a licensee's participation in an alternative program to the extent allowed by state law.

(3) In the event a nurse asserts that any Coordinated Licensure Information System data is inaccurate, the burden of proof shall be upon the nurse to provide evidence in a manner determined by the party state that substantiates such claim.

(4) A party state shall report the items in the uniform data set to the Coordinated Licensure Information System within fifteen (15) calendar days of the date on which the action is taken.

202. QUERYING THE COORDINATED LICENSURE INFORMATION SYSTEM

- (1) Upon application for multistate licensure, with the exception of renewal by a nurse, a party state shall query the Coordinated Licensure Information System to determine the applicant's current licensure status, previous disciplinary action(s), current participation in an alternative program, and any current significant investigative information.

(2) Upon discovery that an applicant is under investigation in another party state, the party state in receipt of the nurse licensure application shall contact the investigating party state and may request investigative documents and information.

SECTION 300. IMPLEMENTATION

301. IMPLEMENTATION DATE

The Compact shall be implemented on January 19, 2018.

302. TRANSITION

(1) (a) A nurse who holds a multistate license on the Compact effective date of July 20, 2017, and whose multistate license remains unencumbered on the January 19, 2018 implementation date and who maintains and renews a multistate license is not required to meet the new requirements for a multistate license under the Compact.

(b) A nurse who retained a multistate license pursuant to subsection (a) of this section and subsequently incurs a disqualifying event shall have the multistate license revoked or deactivated pursuant to the laws of the home state.

(c) A nurse whose multistate license is revoked or deactivated may be eligible for a single state license in accordance with the laws of the party state.

(2) A nurse who applies for a multistate license after July 20, 2017, shall be required to meet the requirements of Article III (c) of the Compact.

(3) During the transition period, a licensee who holds a single state license in a Compact state that was not a member of the prior Compact and who also holds a multistate license in a party state, may retain the single state license until it lapses, expires or becomes inactive.”

(4) After the implementation date, party states shall not renew or reinstate a single state license if the nurse has a multistate license in another party state.

303. RECOGNITION OF NEW PARTY STATES AFTER JANUARY 19, 2018

(1) All party states shall be notified by the Commission within fifteen (15) calendar days when a new party state enacts the Compact.

(2) The new party state shall establish an implementation date six (6) months from enactment or as specified in the enabling language and shall notify the Director of the date.

(3) Upon implementation, a new state licensee who holds a single state license in a Compact state that was not a member of the prior Compact and holds a multistate license in a party state, may retain the single state license until it lapses, expires or becomes inactive.

(4) At least ninety (90) calendar days prior to the implementation date, all other party states shall notify any active single state licensee with an address in the new party state that the licensee may only hold one multistate license in the primary state of residence. The licensee shall be advised to obtain or maintain a multistate license only from the primary state of residence.

(5) Each party state shall deactivate a multistate license when a new home state issues a multistate license.

SECTION 400. LICENSURE

401. PARTY STATE RESPONSIBILITIES

(1) On all application forms for multistate licensure, a party state shall require, at a minimum:

- (a) A declaration of a primary state of residence and
- (b) Whether the applicant is a current participant in an alternative program.

(2) (a) An applicant for licensure who is determined to be ineligible for a multistate license shall be notified by the home state of the qualifications not met.

- (b) The home state may issue a single state license pursuant to its laws.

(3) A party state shall not issue a single state license to a nurse who holds a multistate license in another party state.

402. APPLICANT RESPONSIBILITIES

(1) On all application forms for multistate licensure in a party state, an applicant shall declare a primary state of residence.

(2) A nurse who changes primary state of residence to another party state shall apply for a license in the new party state when the nurse declares to be a resident of the state and obtains privileges not ordinarily extended to nonresidents of the state, including but not limited to, those listed in 402 (4) (a) – (e).

(3) A nurse shall not apply for a single state license in a party state while the nurse holds a multistate license in another party state.

(4) A party state may require an applicant to provide evidence of residence in the declared primary state of residence. This evidence may include, but is not limited to, a current:

- (a) driver's license with a home address;
- (b) voter registration card with a home address;
- (c) federal income tax return with a primary state of residence declaration;
- (d) military form no. 2058 (state of legal residence certificate); or
- (e) W2 form from the United States government or any bureau, division, or agency thereof, indicating residence.

(5) An applicant who is a citizen of a foreign country, and who is lawfully present in the United States and is applying for multistate licensure in a party state may declare either the applicant's country of origin or the party state where they are living as the primary state of residence. If the applicant declares the foreign country as the primary state of residence, the party state shall not issue a multistate license, but may issue a single state license if the applicant meets the party state's licensure requirements.

(6) An applicant shall disclose current participation in an alternative program to any party state, whether upon initial application or within ten (10) calendar days of enrollment in the program.

403. CHANGE IN PRIMARY STATE OF RESIDENCE

(1) A nurse who changes his or her primary state of residence from one party state to another party state may continue to practice under the existing multistate license while the nurse's application is processed and a multistate license is issued in the new primary state of residence.

(2) Upon issuance of a new multistate license, the former primary state of residence shall deactivate its multistate license held by the nurse and provide notice to the nurse.

(3) If a party state verifies that a licensee who holds a multistate license changes primary state of residence to a non-party state, the party state shall convert the multistate license to a single state license within fifteen (15) calendar days, and report this conversion to the Coordinated Licensure Information System.

404. TEMPORARY PERMITS AND LICENSES

A temporary permit, license, or similar temporary authorization to practice issued by a party state to an applicant for licensure shall not grant multistate licensure privileges.

405. IDENTIFICATION OF LICENSES

A license issued by a party state shall be clearly identified as either a single state license or a multistate license.

406. CREDENTIALING AND ENGLISH PROFICIENCY FOR FOREIGN NURSE GRADUATES

(1) A party state shall verify that an independent credentials review agency evaluated the credentials of graduates as set forth in Article III (c)(2)ii.

(2) The party state shall verify successful completion of an English proficiency examination for graduates as set forth in Article III (c)(3).

407. DEACTIVATION, DISCIPLINE AND REVOCATION

A party state shall determine whether a disqualifying event will result in adverse action or deactivation of a multistate license or privilege. Upon deactivation due to a disqualifying event, the home state may issue a single state license.

SECTION 500. ADMINISTRATION

501. DUES ASSESSMENT

(1) The Commission shall determine the annual assessment to be paid by party states. The assessment formula is a flat fee per party state. The Commission shall provide public notice of any proposed revision to the annual assessment fee at least ninety (90) calendar days prior to the Commission meeting to consider the proposed revision.

(2) The annual assessment shall be due within the Commission's first fiscal year after the implementation date and annually thereafter.