

## **BILL ANALYSIS**

Senate Research Center

H.B. 1342  
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Health Services  
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Committee Report (Amended)

### **DIGEST**

Currently, a registered nurse, a licensed practical nurse, or a licensed vocational nurse must obtain a license to practice in each state in which the nurse practices. Licensure requirements are the same from state to state. H.B. 1342 would implement a multistate licensure compact for registered nurses, licensed practical nurses, and licensed vocational nurses to allow licensed nurses to practice in other participating states without obtaining an additional license.

### **PURPOSE**

As proposed, H.B. 1342 sets forth provisions regarding an interstate licensure compact for registered nurses, licensed practical nurses, and licensed vocational nurses.

### **RULEMAKING AUTHORITY**

Rulemaking authority is granted to the Party State Nurse Licensing Boards in SECTION 1 (Article 6(a)(1), V.T.C.S.); to the compact administrators in SECTION 1 (Article 8(c), V.T.C.S.); to the Board of Nurse Examiners and the Board of Vocational Nurse Examiners in SECTION 1 (Section 3, Article 11, V.T.C.S.) of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Title 71, Chapter 7, V.T.C.S., by adding Article 4528b, as follows:

#### **ARTICLE 4528b NURSE LICENSURE COMPACT**

Sec. 1. Provides that the Nurse Licensure Compact (NLC) is enacted and entered into with all other jurisdictions that legally join in the compact, which is as follows:

#### **NURSE LICENSURE COMPACT**

**ARTICLE 1. FINDINGS AND DECLARATION OF PURPOSE.** Sets forth the findings of the party states. Sets forth the general purposes of the compact.

**ARTICLE 2. DEFINITIONS.** Defines “adverse action,” “alternative program,” “coordinated licensure information system,” “current significant investigative information,” “home state,” “home state action,” “licensing board,” “multistate licensing privilege,” “nurse,” “party state,” “remote state,” “remote state action,” “state,” and “state practice laws.”

**ARTICLE 3. GENERAL PROVISIONS AND JURISDICTION.** Provides that a license to practice registered nursing issued by a home state to a resident in that state will be recognized by each party state as authorizing a multistate licensing privilege to practice as a registered nurse in the party state. Provides that a license to practice licensed practical nursing or licensed vocational nursing issued by a home state to a resident in that state will be recognized by each party state as authorizing a multistate licensing privilege to practice as a licensed practical nurse or vocational nurse in the party state. Requires an applicant to meet the home state’s qualifications for a license and license renewal as well as all other applicable state laws, to obtain or retain a license. Authorizes a party state, in accordance with state due process laws, to limit or revoke the multistate licensing privilege of any nurse to practice in the party state and to take any other necessary actions under the party state’s applicable laws to protect the health and safety of the party state’s citizens. Requires the party state to promptly notify the

administrator of the coordinated licensure information system, if a party state takes this action. Requires the administrator of the coordinated licensure information system to promptly notify the home state of any such actions by remote states. Requires a nurse practicing in a party state to comply with the state practice laws of the state in which the patient is located at the time care is provided. Provides that the practice of nursing includes patient care and all nursing practice defined by the party state's practice laws. Provides that the practice of nursing will subject a nurse to the jurisdiction of the nurse licensing board, the courts, and the laws of the party state. Provides that this compact does not affect additional requirements imposed by states for advanced practice registered nursing. Requires however, a multistate licensing privilege to practice registered nursing granted by a party state to be recognized by another party state as a license to practice registered nursing, if the state's law requires the license as a precondition for qualifying for advanced practice registered nurse authorization. Authorizes individuals not residing in a party state to apply for a nurse license under the laws of a party state. Provides that, however, the license granted to these individuals will not be recognized as granting the privilege to practice nursing in any other party state, unless explicitly agreed to by that party state.

**ARTICLE 4. APPLICATION FOR LICENSE IN A PARTY STATE.** Requires the licensing board in a party state to ascertain, through the coordinated licensure information system, whether the applicant has held or is the holder of a license issued by another state, a restriction exists on the multistate licensing privilege, and any other adverse action by any state has been taken against the license, once an application for a license is submitted. Requires a nurse in a party state to hold a license that is issued by the home state in only one party state at a time. Authorizes a nurse who intends to change the nurse's primary state of residence to apply for a license in the new home state in advance of the change. Provides that however, a new license will not be issued by a party state until a nurse provides satisfactory evidence to the new home state's licensing board of a change in the nurse's primary state of residence. Sets forth provisions that change a nurse's primary state of residence.

**ARTICLE 5. ADVERSE ACTIONS.** Requires the licensing board of a remote state to promptly report to the administrator of the coordinated licensure information system a remote state action and the factual and legal basis for the action, if known. Requires the licensing board of a remote state to promptly report any significant current investigative information yet to result in a remote state action. Requires the administrator of the coordinated licensure information system to promptly notify the home state of these reports. Requires the licensing board of a party state to have the authority to complete a pending investigation of a nurse who changes the nurse's primary state of residence during the course of the investigation and to take appropriate action. Requires the licensing board to promptly report the conclusions of the investigations to the administrator of the coordinated licensure information system. Requires the administrator of the coordinated licensure information system to promptly notify the new home state of any action. Authorizes a remote state to take adverse action affecting the multistate licensing privilege to practice in that party state. Provides that however, only the home state has the power to impose adverse action against the license issued by the home state. Requires the licensing board of the home state to give the same priority and effect to reported conduct received from a remote state as it would to conduct occurring in the home state, for purposes of imposing adverse action. Requires the licensing board to apply its state laws to determine appropriate action, in so doing. Authorizes the home state to take adverse action based on the factual findings of the remote state only, if each state follows its own procedures for imposing the adverse action. Provides that the compact does not affect a party's state decision that participation in an alternative program be used instead of licensing action and that the participation shall remain non-public, if required by the party state's laws. Requires party states to require a nurse who enters an alternative program to agree not to practice in any other party state during the term of the alternative program without prior authorization from the other party state.

**ARTICLE 6. ADDITIONAL AUTHORITIES OF PARTY STATE NURSE LICENSING BOARDS.** Provides that party state nurse licensing boards have the authority to issue certain provisions and adopt uniform rules, notwithstanding any other powers. Requires a subpoena issued by a nurse licensing board in a party state for the attendance and testimony of witnesses or the production of evidence from another party state to be enforced in the non-issuing party state by a court of competent jurisdiction in accordance with the practice and procedure

applicable to subpoenas issued in proceedings pending before the court. Requires the issuing authority to pay any witness fees, travel expenses, mileage, and other fees required by the service statutes of the state in which a witness or evidence is located.

**ARTICLE 7. COORDINATED LICENSURE INFORMATION SYSTEM.** Requires all party states to participate in a cooperative effort to create a coordinated database of all licensed registered nurses, licensed practical nurses, and licensed vocational nurses. Provides that this system will include information on the licensing and disciplinary history of each nurse, as contributed by party states, to assist in the coordination of nurse licensing and enforcement efforts. Requires all party states' licensing boards to promptly report to the coordinated licensure information system adverse actions, actions against multistate licensing privileges, any current significant investigative information yet to result in adverse action, and denials of applications and the reasons for the denials, notwithstanding any other provision of law. Requires current significant investigative information to be transmitted only to party state licensing boards through the coordinated licensure information system. Authorizes all party states' licensing boards that contribute information to the coordinated licensure information system to designate information that may not be shared with non-party states or disclosed to other entities or individuals without the express permission of the contributing state, notwithstanding any other provision of law. Prohibits any personally identifiable information obtained by a party state's licensing board from the coordinated licensure information system from being shared with non-party states or disclosed to other entities or individuals, except to the extent permitted by the laws of the party state contributing the information. Requires information contributed to the coordinated licensure information system that is subsequently required to be expunged by the laws of the party state contributing that information to be expunged from the coordinated licensure information system. Requires each compact administrator to act jointly and in consultation with the administrator of the coordinated licensure information system to formulate necessary and proper procedures for the identification, collection, and exchange of information under this compact.

**ARTICLE 8. COMPACT ADMINISTRATION AND EXCHANGE OF INFORMATION.** Requires the presiding officer of the nurse licensing board of a party state or the presiding officer's designee to be the administrator of this compact for the state. Requires the compact administrator of each party state to furnish to the compact administrator of each other party state information and documents including certain information to facilitate the administration of the compact. Authorizes compact administrators to have the authority to develop uniform rules to facilitate and coordinate implementation of this compact. Requires uniform rules to be adopted by party states under Article 6(a)(4) of this compact.

**ARTICLE 9. IMMUNITY.** Provides that a party state or an officer, employee, or agent of a party state's nurse licensing board who acts in accordance with the provisions of this compact is not liable for any good faith act or omission that occurs while the person is performing the person's duties under this compact. Provides that good faith in this article does not include wilful misconduct, gross negligence, or recklessness.

**ARTICLE 10. EFFECTIVE DATE, WITHDRAWAL, AND AMENDMENT.** Provides that this compact enters into force and takes effect for a state when the state enacts this compact as law. Authorizes a party state to withdraw from the compact by enacting a statute repealing the compact, but a withdrawal takes effect six months after the date the withdrawing state gives notice of the withdrawal to the executive heads of all other party states. Requires no withdrawal to affect the validity or applicability by the licensing boards of states remaining party to the compact of any report of adverse action occurring prior to the withdrawal. Provides that this compact does not invalidate or prevent any nurse licensing agreement or other cooperative arrangement between a party state and a non-party state that is made in accordance with the other provisions of this compact. Authorizes this compact to be amended by the party states. Provides that an amendment to this compact is not effective or binding on the party states unless and until all party states enact the amendment into the law of each state.

**ARTICLE 11. CONSTRUCTION AND SEVERABILITY.** Requires this compact to be liberally construed to effectuate the compact's purposes. Provides that this compact is severable. Provides that the validity and applicability of the remainder of the compact to a government, agency, person, or circumstance is not affected, if a phrase, clause, sentence, or

provision of this compact is declared to be contrary to the constitution of a party state or the United States or the applicability of this compact to a government, agency, person, or circumstance is held invalid. Provides that the compact remains in full force and effect for the other party states and in full force and effect for the party state affected for all severable matters, if the compact is held to be contrary to the constitution of a party state. Sets forth the composition of an arbitration panel to settle disputes under the compact. Requires the decision of a majority of the arbitrators to be final and binding.

Sec. 2. Provides that the executive directors of the Board of Nurse Examiners (BONE) and the Board of Vocational Nurse Examiners (BVNE) are NLC administrators for this state. Provides that the executive director of BONE is responsible for administering matters relating to registered nurses. Provides that the executive director of BVNE is responsible for administering matters relating to licensed vocational nurses.

Sec. 3. Authorizes BONE and BVNE to adopt rules necessary to implement this article.

Sec. 4. Defines “nurse,” “registered nurse,” and “vocational nurse.” Provides that nurses practicing in this state under a license issued by a state that is a party to the NLC have the same rights and obligations as those imposed by the laws of this state on license holders of the BONE and BVNE, unless the context indicates otherwise, or doing so would be inconsistent with NLC. Provides that BONE and BVNE have the authority to determine whether a right or obligation imposed on license holders applies to nurses practicing in this state under a license issued by a state that is a party to NLC unless that determination is inconsistent with NLC.

Sec. 5. Provides that BONE and BVNE are the state agencies responsible for taking action against registered and vocational nurses practicing in this state under a license issued by a state that is a party to NLC as authorized by NLC. Requires the action to be taken in accordance with the same procedures for taking action against registered and vocational nurses licensed by this state.

Sec. 6. Requires BONE and BVNE to provide a registered or vocational nurse licensed by this state with a copy of information regarding the nurse maintained by the Coordinated Licensure Information System (CLIS) under Article 7 of NLC, on request and payment of a reasonable fee. Provides that BONE and BVNE is not obligated to provide information not available to the BONE and BVNE or information that is not available to the nurse under the laws of the state contributing the information to CLIS.

Sec. 7. Requires practice-related information provided by BONE or BVNE to registered or vocational nurses licensed by this state to be made available by BONE or BVNE on request and at a reasonable cost to nurses practicing in this state under a license issued by a state that is a party to NLC.

Sec. 8. Authorizes BONE and BVNE, in reporting information to CLIS, to disclose personally identifiable information about the nurse including social security number. Prohibits CLIS from sharing personally identifying information with a state not a party to the compact unless the state agrees not to disclose that information to other persons.

Sec. 9. Authorizes the governor to withdraw this state from NLC if BONE or BVNE notifies the governor that a state that is party to the compact changed, after January 1, 1999, the state’s requirements for licensing a nurse and that the state’s requirements, as changed, are substantially lower than the requirements in this state. Authorizes the governor to completely withdraw this state from the NLC or to limit withdrawal of the application of the compact to registered nurses or licensed vocational nurses.

Sec. 10. Provides that NLC expires on December 31, 2005, unless this section is repealed or the expiration date is extended.

SECTION 2. Amends Section 4, Article 4518, V.T.C.S., to require any person practicing or offering to practice professional nursing in this state for compensation, hereafter to be required to submit evidence to the BONE or BVNE that the person is qualified to practice and to be registered as provided by this law, unless the person is entitled to practice in this state under NLC under Article 4528b, V.T.C.S.

SECTION 3. Amends Section 1, Article 4519a, V.T.C.S., to require BONE, instead of issuing an order, to notify the petitioner in writing listing each ground of potential ineligibility and BONE's determination, if BONE finds that a ground for ineligibility does not exist. Makes conforming changes.

SECTION 4. Amends Title 71, Chapter 7, V.T.C.S., by adding Article 4525.01, as follows:

Art. 4525.01. ADDITIONAL GROUNDS FOR DISCIPLINARY ACTION. Provides that a person is subject to being refused admission to a licensing examination, to denial of a license, or to disciplinary action by BONE, if the person's privilege to practice nursing in another jurisdiction is revoked, suspended, denied, or subjected to any other disciplinary action. Provides that a certified copy of the order of denial, suspension, or revocation of the privilege or the other action by the jurisdiction is conclusive evidence of that action.

SECTION 5. Amends Section 3, Article 4527a, V.T.C.S., to provide that this section does not apply to a person practicing professional nursing under NLC under Article 4528b, V.T.C.S. Makes a conforming change.

SECTION 6. Amends Section 2(a), Article 4528c, V.T.C.S., to provide that this subsection does not apply to a person practicing vocational nursing under NLC under Article 4528b, V.T.C.S.

SECTION 7. Amends Section 10(a), Article 4528c, V.T.C.S., to make a conforming change.

SECTION 8. Amends Section 12, Article 4528c, V.T.C.S., to require any institution desiring to conduct a course in vocational nursing to apply to the State Board of Medical Examiners (BME), and accompany the application with evidence that the institution is prepared to give a course approved by the BME, rather than a course of not less than 12 months, for the education of vocational nurses.

SECTION 9. Requires BONE and BVNE to participate in an NLC evaluation initiative designed to evaluate the effectiveness and operability of NLC, no later than January 1, 2000. Requires the evaluation initiative to be conducted by a qualified researcher. Requires a component of the evaluation initiative to be a state practice identification system through which nurses designate the states in which they practice and that provides for updating the information at the time of issuance and renewal of licenses. Requires the evaluation initiative to continue at least through June 1, 2004, after which a report shall be produced and submitted for comment by BONE and BVNE. Requires the report and BONE and BVNE comments to be submitted to the legislature no later than October 1, 2004, in the form of an NLC evaluation report. Authorizes BONE and BVNE to accept and spend money made available by the federal or state government or by another public or private source to fund participation in the evaluation initiative.

SECTION 10. (a) Effective date: January 1, 2000.

(b) Effective date for Article 4528b, V.T.C.S., as added by this Act: January 1, 2000, unless the governor, on the recommendation of BONE and BVNE, determines a later date would be in the best interest of the state.

SECTION 11. Emergency clause.

## **SUMMARY OF COMMITTEE CHANGES**

SECTION 1.

Amends Section 8, Article 4528b, V.T.C.S., to authorize BONE and BVNE, in reporting information to CLIS, to disclose personally identifiable information about the nurse including social security number. Prohibits CLIS from sharing personally identifiable information with a state not a party to the compact unless the state agrees not to disclose that information to other persons. Authorizes the governor to withdraw this state from NLC if BONE or BVNE notifies the governor of certain changes regarding a state that is a party to the compact. Authorizes the governor to completely withdraw this state from the NLC or to limit withdraw to the application of the compact to registered nurses or licensed vocational nurses. Renumbers subsequent sections.

Amends Section 9, Article 4528b, V.T.C.S., to authorizes the governor to withdraw this state from NLC if BONE or BVNE notifies the governor of certain changes regarding a state that is a

party to the compact. Authorizes the governor to completely withdraw this state from the NLC or to limit withdrawal of the application of the compact to registered nurses or licensed vocational nurses. Renumbers subsequent sections.

SECTION 8.

Amends Section 12, Article 4528c, V.T.C.S., to require any institution desiring to conduct a course in vocational nursing to apply to the State Board of Medical Examiners (BME), and accompany the application with evidence that the institution is prepared to give a course approved by the BME, rather than a course of not less than 12 months, for the education of vocational nurses. Renumbers subsequent SECTIONS.