

Notice Enhanced NLC Proposed Rules And Notice of Public Hearing

1. Summary of Proposed Action

Introduction:

The Interstate Commission of Nurse Licensure Compact Administrators proposes uniform rules pursuant to Article VIII of the Enhanced Nurse Licensure Compact (eNLC). The proposed rules are necessary to effectuate the implementation of the eNLC and provide proper guidance and clarification to licensees and applicants of the party states that will promote compliance with the eNLC.

Public Hearing:

The Interstate Commission of Nurse Licensure Compact Administrators (ICNLCA) will hold a hearing on proposed rules via teleconference at 2:00 P.M. (Central Standard Time) on December 8, 2017, and at the National Council of State Boards of Nursing headquarters:

111 East Wacker Drive
Suite 2900
Chicago, IL 60601-4277

Any interested person may present verbal comments on the proposed rules by attending the public hearing or via teleconference at 2:00 p.m. Central on December 8, 2017. Additional in-person and teleconference participant information is posted at www.ncsbn.org/enlcrules.

Written Comments:

Interested persons may electronically submit written comments regarding the proposed rules at www.ncsbn.org/enlcrules. Parties wishing to make a comment for consideration may do so by clicking the rule they wish to comment on and fill in the information requested along with the comment. Written comments on the proposed rules must be submitted by 2:00 p.m. Central on December 8, 2017.

If electronic submission is not possible, verbal comments will be permitted at the public hearing referenced above.

2. Statutory Authority for Rule Adoption:

Authorizing statute: ICNLC: ART. VIII RULEMAKING

(a.) The Commission shall exercise its rulemaking powers pursuant to the criteria set forth in this Article and the rules adopted thereunder. Rules and amendments shall

become binding as of the date specified in each rule or amendment and shall have the same force and effect as provisions of this Compact.

Implementing statutes:

ART. III; GENERAL PROVISIONS AND JURISDICTION (g):

(g) A nurse who fails to satisfy the multistate licensure requirements in Article III.c. due to a disqualifying event occurring after this Compact's effective date shall be ineligible to retain or renew a multistate license, and the nurse's multistate license shall be revoked or deactivated in accordance with applicable rules adopted by the Interstate Commission of Nurse Licensure Compact Administrators ("Commission").

ARTICLE VII ESTABLISHMENT OF INTERSTATE COMMISSION NURSE LICENSURE COMPACT ADMINISTRATORS (d) (g) & (h)

(d). The Commission shall publish its bylaws and rules, and any amendments thereto, in a convenient form on the website of the Commission.

(g) The Commission shall have the following powers:

1. To promulgate uniform rules to facilitate and coordinate implementation and administration of this Compact. The rules shall have the force and effect of law and shall be binding in all party states.

(h) The Commission may also levy on and collect an annual assessment from each party state to cover the cost of its operations, activities and staff in its annual budget as approved each year. The aggregate annual assessment amount, if any, shall be allocated based on formula to be determined by the Commission, which shall promulgate a rule that is binding upon all party states.

3. Entire Text of Proposed Rules, Sections 100 through 500:

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, and/or reinstatement.

(9) "Prior Compact" means the Nurse Licensure Compact that was in effect until January 19, 2018.

(10) "Unencumbered license" means a license in good standing with no current discipline, conditions or restrictions.

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 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.

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 in good standing 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 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) 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 licensee who holds a multistate license changes primary state of residence to a non-party state, which has been verified by the 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 unless the applicant has passed the NCLEX-RN, NCLEX-PN, or recognized predecessor examination and provides evidence of submitting fingerprints or other biometric data for the purpose of obtaining criminal history record information from the Federal Bureau of Investigation and the state agency responsible for retaining the state's criminal records, along with evidence of payment of the required fee.

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 non-native English speaking foreign nurse graduates of a prelicensure program of nursing not taught in English.

(2) The party state shall verify successful completion of an English proficiency examination that includes all four of the components of reading, speaking, writing, and listening.

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.

4. The contact person who can answer questions about the rulemaking:

Name: Jim Puente, Director, Nurse Licensure Compact

Address: National Council State Boards of Nursing (NSCBN)

Telephone: Include area code, (xxx) xxx-xxxx

Fax: (if applicable), include area code, (xxx) xxx-xxxx

E-mail: (if applicable)

Web site: (if applicable)

5. Reason for the Rule Proposal:

The ICNLC Commission justification for rules is to formulate, implement and interpret the Nurse Licensure Compact July 20, 2017 enacted laws and describe the procedures or requirements.

The ICNLC Commission adopted a new Definitions, requirements for Coordinated Licensure Information System; procedures for Implementation; requirements for Licensure and Administration to further add clarity to regulations consistent with the Nurse Licensure Compact.

6. The preliminary summary of the economic, small business, and consumer impact:

The proposed rules provide additional clarity to the regulated public and are not expected to have measureable economic impact on the Commission, party state Boards of Nursing or regulated parties. The rulemaking poses no additional burden on Registered Nurses or Licensed/Vocational Nurses.