

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

SENATE COMMITTEE SUBSTITUTE FOR **SENATE, Nos. 954 and 1699**

with committee amendments

STATE OF NEW JERSEY

DATED: FEBRUARY 7, 2019

The Senate Budget and Appropriations Committee reports favorably a Senate Committee Substitute for Senate Bill Nos. 954 and 1699, with committee amendments.

This substitute, as amended, would enter New Jersey in the enhanced multistate Nurse Licensure Compact (eNLC), which was implemented as of January 19, 2018.

The eNLC provides for a mutual recognition model of nurse licensure (for registered professional nurses and licensed practical nurses), in which a nurse only needs to obtain one license from the nurse's state of residence in order to be permitted to practice nursing in any other state that is a party to the compact, as long as the nurse complies with the state practice laws of the state in which the patient is located at the time that care is rendered. Currently, a nurse is required to be licensed in, and by, each state in which the nurse chooses to practice.

Under the eNLC, a nurse who applies for licensure is required to meet the qualifications for licensure and license renewal of the nurse's state of residence. While a nurse may be licensed in any state or states that are not parties to the compact, a nurse may only be licensed in one state that is a party to the compact. The eNLC authorizes a state that is a party to the compact to limit, suspend, or revoke the multistate licensure privilege of any nurse to practice in that state and may take any other actions under the applicable state laws necessary to protect the health and safety of the citizens of the party state. All party states are authorized to take actions against a nurse's privileges to practice in the state, including, suspension, revocation, or probation.

The eNLC also establishes a coordinated licensure information system that will include a database on the licensure and disciplinary history of all nurses licensed in the party states. The party states will be required to report to the coordinated system all adverse actions against nurses, including actions against multistate licensure privileges, any current significant investigative information yet to result in an adverse action, and denials of applications and the reasons for the denials. This information will be shared with party states

unless the state submitting the information designates information that may not be shared or disclosed without the permission of the contributing state. The coordinated licensure information system is to be administered by a nonprofit organization composed of and controlled by state nurse licensing boards.

The eNLC is intended to address the expanded mobility of nurses and the use of advanced communication technologies (telemedicine) by nurses, which requires greater coordination and cooperation among states in the areas of nurse licensure and regulation. The eNLC also is intended to facilitate the exchange of information between states in the area of nurse regulation, investigation and adverse actions.

The eNLC will also establish the Interstate Commission of Nurse Licensure Compact Administrators as a joint public instrumentality of the party states. However, nothing in the compact is to be construed as a waiver of sovereign immunity. Each party state will be required to have its compact administrator, which is to be the head of the state licensing board, or that individual's designee, participate as a member of the commission. The commission will be required to meet at least once a year.

The compact grants the commission broad powers to: (1) promulgate uniform rules, which will have the effect of law, in order to facilitate and coordinate implementation and administration of the compact in the party states; (2) bring and prosecute legal proceedings in the name of the commission; (3) appoint advisory and other committees comprised of administrators, state nursing regulators, state legislators, consumer representatives, and other interested parties; and (4) cooperate with other organizations that administer state compacts related to the practice of nursing. The commission will further be authorized to identify defaults in the performance of a party state in meeting its obligations or responsibilities under the compact; to provide training and technical assistance to a party state in order to assist the party state in curing any defaults; and to terminate a defaulting party state's membership in the compact if all means of securing compliance have been exhausted. The compact also authorizes the commission to levy, and collect from each party state, an annual assessment to cover the cost of commission operations, activities, and staff. All of the administrators, officers, employees, representatives, and the executive director of the commission will be immune from liability, either personally or in their official capacities, for any civil claims arising out of any actual or alleged act, error, or omission that occurred, or that the accused had a reasonable basis for believing had occurred, within the scope of commission employment, duties, or responsibilities, except in the case of intentional, willful, or wanton misconduct.

The substitute requires the Attorney General to submit a report to the Governor and to the Legislature, one year after New Jersey becomes a party to the compact, evaluating whether the State's

continued participation in the compact is in the best interest of the health, safety, and welfare of its citizens. At a minimum, the report is to: (1) describe the beneficial and detrimental effects resulting from the State's participation in the compact; (2) describe any potential long-term effects that are likely to result from the State's continued participation in the compact; (3) indicate whether any other party state has changed its licensure requirements in the preceding year to make them less stringent than the requirements in New Jersey; and (4) provide a recommendation as to whether the State should remain a party to the compact. The Legislature may withdraw the State from the compact if the Attorney General's report indicates that another party state has changed its licensure requirements to make them substantially lower than the requirements of New Jersey, or that withdrawal from the compact is in the best interests of the health, safety, and welfare of the citizens of New Jersey.

New Jersey entered into a prior version of the multistate NLC through the enactment of P.L.2001, c.340 (C.45:11A-1 et seq.). However, that law was temporary in nature and expired on January 1, 2007, without being implemented. The National Council of State Boards of Nursing has since adopted a revised version of the compact, known as the enhanced compact. Accordingly, the substitute incorporates the provisions of the enhanced NLC, as adopted by the National Council of State Boards of Nursing on May 4, 2015, and implemented on January 19, 2018, with 29 member states as of that date.

COMMITTEE AMENDMENTS:

The amendments remove language from section 2 that is unnecessary under the provisions of the enhanced compact, and delete sections 4 and 5, which provided that the compact would not abrogate or supersede the provisions of Title 45 and Title 34 of the Revised Statutes or in any other law applicable to the practice of nursing in this State, or to labor practices, workforce strikes, or the resolution of labor disputes.

FISCAL IMPACT:

The Office of Legislative Services (OLS) finds that the substitute will cause indeterminate increases and decreases in annual State expenditures and revenues. The OLS cannot quantify the two fiscal effects on the Board of Nursing, given the lack of sufficient information regarding: 1) the increase in board operating expenses from joining the Nurse Licensure Compact (NLC) and regulating additional out-of-state NLC nurses who practice in New Jersey; and 2) the decrease in license fee revenues from an unknown number of nurses practicing in this State who reside in other NLC states who will no longer apply for a New Jersey license.

Annual Board of Nursing operating expenditures will increase, in part, from the payment of an annual assessment to the Interstate Commission of Nurse Licensure Compact Administrators, which is currently \$6,000 per participating state, and sending a representative to the commission's annual meetings.

Compact participation may result in one-time expenditures from any modification that may have to be made to nurse licenses to comply with compact requirements and the production of an evaluative report after New Jersey's first year of compact participation.

As the board is statutorily required to pay for its operating expenses out of its fee collections, the OLS notes that the board can be expected to adjust its license fee amounts, if necessary, to account for any significant changes in its finances as a result of joining the NLC.