



February 3, 2021

Senate Health Committee  
Chairman Stephen Huffman  
1 Capitol Square  
Columbus, Ohio 43215

RE: Senate Bill 3 – Nurse Licensure Compact

Good morning Chairman Huffman, Vice Chair Antani, Ranking Member Antonio, and Members of the Senate Health Committee. Thank you for allowing the Ohio Nurses Association to provide comment on Senate Bill 3- a bill that aims to add Ohio to a list of states that offers the Nurse Licensure Compact. Due to COVID-19, we are unable to testify in person today, however, we would be happy to schedule virtual meetings to discuss ONA's position in the coming weeks.

First, we would like to acknowledge Senator Roegner's ongoing efforts to address our concerns with the Nurse Licensure Compact. We worked tirelessly over several interested party meetings with the Senator, along with a representative from the National Council of State Boards of Nursing (which oversees the Compact), and the Ohio Board of Nursing, to add amendments that are now included in the current version you read today. Although ONA identified and prioritized top concerns with the bill last General Assembly and worked on amendments we supported, we believe there are still unanswered questions regarding implementation, cost, discipline processes, and the authority of Interstate Commission.

During an Ohio Board of Nursing (Board) meeting held on January 11<sup>th</sup>, the Executive Director shared information with members of the Board regarding the impact of Ohio entering the Nurse Licensure Compact. Of top concern to her was the financial impact on Ohio nurses and the state. According to preliminary information, the Board stated that:

*Based on data obtained from the Ohio eLicense system, for RNs and LPNs with Compact state addresses, the loss of revenue is estimated to be **\$1,930,010.00** over a one-year period. Compact state residents with multi-state licenses would no longer reinstate, reactivate, or renew in Ohio. For example, Compact nurses are required to renew in their home state/state of residence. Therefore, for nurses with addresses in Compact states who practice in Ohio, it is likely they will have or will obtain multi-state licenses. In these cases, the nurse will renew in their home state and no longer renew in Ohio. Ohio will lose the renewal fees previously paid. The same applies if their license lapses or is made inactive – they will not reinstate or reactivate their license in Ohio and those fees will be lost.*

While language has been included in Senate Bill 3 that allows the Board to charge additional fees for nurses choosing to apply for a Compact license, the revenue generated from this new Compact license would not sufficiently offset the loss in revenue from multi-state licensees. Therefore, ONA believes this loss in revenue would be passed on to Ohio nurses choosing a single, home state license or to the state of Ohio.



In addition, ONA still has concerns regarding the disciplinary process in Compact states. The mission of the Ohio Board of Nursing is to actively safeguard the health of the public through the effective regulation of nursing. However, the Compact would not require that out-of-state nurses seeking to practice in Ohio be licensed in the state of Ohio, which means that the Board would no longer be allowed to exercise its existing authority to independently review and approve license applications from out-of-state residents seeking to care for Ohioans. We believe this restricts the Board's ability to do its due diligence to protect Ohio patient safety. In addition, the effects of how disciplinary actions would work in practice in other Compact states are unclear. Because a nurse would have jurisdiction to work in a remote state without meeting that state's licensure requirements, it is unclear how that remote state would know to check an individual nurse's license and previous disciplinary actions.

During one of our interested party calls, a representative from the National Council stated that disciplinary action is two-fold for states who join the Compact. The remote state Board of Nursing would have authority to discipline a non-Ohio nurse through privilege to practice restrictions, but only the home state Board of Nursing would have the authority to take action on the license itself. Thus, the Ohio Board of Nursing would not have the authority to place licensure restrictions or take action on an out-of-state Compact license. It is unclear how the remote state would stay in constant contact with each home state's licensees and how regulators would know what disciplinary actions have been taken on the license itself, and vice versa. As stated in the January 11<sup>th</sup> Ohio Board of Nursing meeting materials, "If the remote state does not know the nurse is practicing in their state, it is not clear how the remote state would know to check the individual nurse's license/discipline in Nursys (an online license system used by some states)?"

Furthermore, Ohio is a mandatory reporting state- which means that employers are mandated to report nurses to the Board of Nursing for potential practice violations. Mandatory reporting, however, is not a requirement of the Nurse Licensure Compact. According to the Ohio Board of Nursing documents shared on January 11<sup>th</sup>, "The lack of this requirement in other states impacts Ohio because employers and others may not report potential violations. This increases the possibility that nurses with multistate licenses (MSLs) may not have been reported to their home state board of nursing and these nurses will be practicing in Ohio."

While ONA respects the perspective of the Compact that this system must be successful because 34 states have chosen to join the Compact, we believe the lack of state registration requirements and disciplinary action tracking does not provide adequate data to determine if Compact license is truly successful and **safe**.

Lastly, ONA continues to be very concerned with the authority and power of the Interstate Commission. The Compact language states, "The Commission shall have the following powers: 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." Essentially, the Commission has the power to enact rules that are binding on each state in the Compact by a simple majority vote. ONA agrees with the following Ohio Board of Nursing comments during their January 11<sup>th</sup> meeting: "Each State would be subject to administrative rules not reviewed under the same State processes as other rules and not passed or reviewed at the State level. This provision may violate the Ohio Constitution and possibly federal



anti-trust laws requiring “active state supervision” depending on the rule.” The Compact language also allows the Commission to “convene in a closed, non-public meeting” for certain reasons and this is

concerning to ONA. While we appreciate the fact that most Compact meeting materials and agendas are available to the public online, we remain concerned about the ability of the Commission to use the exceptions to the public meeting provision to flout transparency. Additionally, the Commission has immunity/defenses to lawsuits and is not subject to any independent auditor or legal authority with oversight over its operations or finances. From ONA’s perspective, this setup gives power and control to a non-governmental entity that receives money from a not-for-profit organization that also develops the nursing licensure examination taken by nurses across the country. Rather than removing unnecessary big government from the licensure process, the Compact, in ONA’s opinion, transfers this power to an independent national organization with little accountability. In fact, many states have questioned whether the Interstate Commission violates individual state constitutions and interferes with state sovereignty. In December, the Michigan governor vetoed the Nurse Licensure Compact, stating that the Compact would take “away the state’s authority to regulate the nursing profession”.

Again, we have greatly appreciated working with Sen. Roegner and all the other interested parties to try to make this bill better. We support the changes the sponsor agreed to make to the bill since it was introduced last General Assembly. However, based on the above remaining concerns and unanswered questions regarding the financial impact and disciplinary processes, **ONA respectfully asks the committee to withhold a vote on Senate Bill 3 as we continue to work with Senator Roegner and other interested parties.** Additionally, we would like time to properly vet all new and continued information with our new ONA leaders. We appreciate the ongoing conversations with Senator Roegner, the Ohio Board of Nursing, the National Council of State Boards of Nursing and the Ohio Legislative Service Commission to address ONA’s concerns.

We would be happy to schedule follow-up virtual meetings to answer any questions you may have regarding ONA’s concerns with the Nurse Licensure Compact.

Thank you for your time and consideration.

In Good Health,

A handwritten signature in black ink, appearing to read "Tiffany D. Bukoffsky".

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