



ANA ISSUE BRIEF

*Information and analysis on topics affecting nurses,
the profession and health care.*

Nursing Licensure Portability

Options and Information for Registered Nurses

Key Points

Changes from more traditional practice behaviors necessitate examination of options for licensure portability. This document is intended to provide nurses with information about current and potential processes for nursing licensure portability, enabling them to engage in informed discussions and influence decision-makers for the benefit of the profession and health care consumers/health care consumer/patients.

Background

All states have established measures to protect the public by determining minimum qualifications for licensure that includes graduation from an accredited nursing program and successful completion of the NCLEX examination. Although uniformity exists for determining minimum competence for entry practice, no agreement has been reached in the nursing community concerning how best to measure continued competence. Thus, states have pursued varying requirements for licensure renewal. Regardless of the additional standards set forth, registered nurses are responsible for knowing the provisions of the Nurse Practice Act and associated rules and regulations in the state or states in which they are practicing.

Historically, the provision of nursing care was limited by physical proximity. A nurse would provide direct care to health care consumers/patients in the nurse's state of residence; obtaining licensure in another state was usually limited to a physical relocation or to individuals who lived near an adjoining state. However, with the implementation of telehealth technologies, nurses are increasingly practicing beyond traditional geographic limitations, and may provide services to health care consumers/patients in many states in the course of their duties as a telehealth provider.

Registered nurses with a valid license in one state may seek a license in another state by the **endorsement** process. This conventional approach can be expensive, complicated, and time-consuming—particularly for a nurse seeking to practice in multiple states. Each endorsing state can require an applicant to meet additional requirements to be consistent with that state's rules and regulations, and when combined with the time required for processing the application, securing the privilege to practice could take weeks or even months to complete.

Another often-overlooked reason for examining licensure portability is the mobility of registered nurses. This is particularly true of military spouses, where a partner's geographic reassignment can necessitate repeated relicensing for the registered nurse who practices outside of the military system, creating financial and administrative burdens.¹ Registered nurses rank third among the top 20 occupations for military spouses in the labor force, and military spouses are ten



times more likely than the general population to have moved across state lines in the last year.²

The Issue

As a consequence of increased mobility and the application of new technologies, licensure portability has become a pressing issue for many registered nurses, healthcare employers and businesses. Our current state-based licensure model originates from the assumption that relocation and multi-state practice are rare exceptions to the norm. For nurses practicing in more than one state, either by design or choice, obtaining and maintaining a license to practice can be cumbersome, time-consuming, and expensive.

Both the public and private sectors are seeking to create “a safe, high-quality, efficient health care system ... with an eye toward creative approaches that allow us to harness technologies, new relationships, [and] redesigned health system features.”³ One of the primary features of a more efficient health care system is an expanded reliance on telehealth and other innovative electronic-assisted health care consumer/patient services. Subsequently, the telehealth industry is interested in federal action to support their growth and new methods for delivery of care. Legislative initiatives at both the federal and state levels, influenced largely by the private sector, call for the nursing profession to review options for license portability and the associated considerations. Other interested entities seek to influence these changes. Registered nurses can and should lead these efforts and provide guidance to decision-makers at all levels.

Options for Licensure Portability

This document will discuss three alternative licensing models: mutual recognition, national licensure, and federal licensure. These models not only offer the potential for registered nurses to practice across state lines, both in person and electronically, with increased efficiency, but also to promote safe, high-quality practice, and professional accountability.

Mutual Recognition

Mutual recognition is a form of state cooperation in which “the licensing authorities voluntarily enter into an agreement to legally accept the policies and processes (licensure) of a licensee’s home state.”⁴ The foundation for this agreement is a shared consensus on standards for nursing licensure and professional practice. Once a registered nurse obtains a license in her or his “home” state, (home state is based upon the state of residence), this license is recognized by any of the other “mutual recognition” states. Should the state of residence change, a new license must be obtained. The universal acceptance of drivers’ licenses granting the privilege to drive in any state is a familiar example of the use of mutual recognition agreements.

The Nurse Licensure Compact (NLC), is an example of the mutual recognition

licensure model. Since The National Council of State Boards of Nursing (NCSBN) Delegate Assembly's adoption of model NLC legislation and rules in 1997, a total of 24 state legislatures authorized their respective states to participate in the NLC. (2013) NCSBN created model legislation and rules which serve as a basis for what states need to enact when considering joining the NLC; however, adoption of the NLC does not change or supersede its Nurse Practice Act or the state's administrative procedural rules. "The NLC gives states additional authority in such areas as granting practice privileges, taking actions and sharing investigative information with other NLC states prior to taking disciplinary action against a nurse."⁵

A number of states have considered legislation authorizing the NLC; however, for a variety of reasons the bills were either killed during session or died upon adjournment. Some have argued the confusion and inequity resulting from inconsistencies between states with regard to qualifications for licensure and requirements for re-licensure have thwarted NLC efforts. For example, varying requirements exist for continuing education. Equalizing education standards is more difficult given the ongoing debate regarding how to best measure continued competence. NCSBN acknowledged: "there is no consensus on which method is the most effective measure of continued competence."⁶ The type and degree of criminal background check also varies by state, as well as what constitutes an infraction and resultant disciplinary actions (especially related to substance abuse).

The Nurse Licensure Compact has systems in place to identify nurses who are subject to discipline or monitoring agreements. Nursys[®] is the NCSBN's national nurse licensure database, which alerts other NLC states when a licensee is under investigation. Non-NLC states have the ability to subscribe to Nursys for licensure verification and disciplinary tracking as well. All but four Boards of Nursing participate: Alabama, Hawaii, Louisiana Practical Nurse Board, and Oklahoma. As of 2013, an expanded e-alert feature to Nursys is available to deliver directly to interested subscribers, any real-time changes, regarding license status, renewals, and expirations as well as disciplinary action and resolve.

It is believed the NLC model results in both cost efficiencies as well as added expenditures. For the registered nurse, the NLC is cost-saving since no additional application fee is required when leaving the home state to practice in a participating NLC state. It should be noted that registration/re-registration fees vary considerably between states. The costs to state Boards to implement the NLC are associated with an investment in information and communication technology, for which some support may be available from the NCSBN. Anecdotally, the NCSBN and some Boards reported that potential revenue losses from licensure fees by "party" states has not proven to be an issue. Those states have foregone the cost of processing so the lost revenue from registration fees is not missed. What remains outstanding for many states is the funding for investigations and disciplinary actions, particularly for the party state which is not a recipient of



licensing/re-registration fees for nurses practicing in their state under the Nurse Licensure Compact. Traditionally, these cases were limited to a nurse and a health care consumer/patient, or to health care consumers/patients from the same state, and would be funded entirely within that state per the regulations of that state.

Alternative Licensure Models

The two models discussed next have yet to be employed by any American health care profession. Therefore, unlike the mutual recognition model, there is no experience from which to draw. The questions that follow may be used as a springboard to promote discussion among nurses and further the national conversation on this issue.

National Licensure

National licensure is a model in which universal licensing criteria is set at the national level, but is administered by each individual state. This model relinquishes some state control over licensing criteria and would oblige states to negotiate and come to agreement on a complex series of regulatory issues ranging from nursing competencies to investigation and discipline. Some of the many questions that surround the national licensure model are:

- What body would be designated to work with states/stakeholders to establish the criteria?
- Would any state/jurisdiction be able to seek an exemption, particularly if a requirement is resource intensive?
- Would regulation of the profession still be supported by licensing fees and how would that work?
- How would fees be set, who would set them, and would they be universal across states?

If fees are universal, what accommodations would be made for larger states with a greater number of licensees to be regulated?

Federal Licensure

A federal licensure model would create a single license for all registered nurses, granted and administered by the federal government. This option varies most from the others in that it removes the states from the regulatory role entirely. Many of the same questions posed regarding national licensure could also be applied to this model. Some additional considerations:

In what ways, if any, would consumers be affected? (For example: the ease with which to report complaints; the transparency of investigations and disciplinary actions; improved access to care and services.)

Would the rights of nurses be impacted?

How would employers, their relationship with the licensee, and federal licensing body be affected?

How would the variations between state laws to which nurses are accountable (other than the Nurse Practice Acts), be rectified? (For example: What constitutes a violation, the prosecutorial process, and the penalty? Possibilities: Abuse and associated state reporting requirements; assault of a healthcare worker and related penalty.)

In theory, the national and federal models would eliminate the barriers to practice across state lines, facilitating RN mobility and the provision of telehealth services. These models, however, warrant further examination given the dramatic change and untested ground they pose.

A shift in the regulation of providers from the state level to the federal level represents a challenge to state sovereignty as well as the inability to account for regional differences. Some state Attorneys General have published opinions in opposition to the NLC mutual recognition model, which poses the least threat to states' rights. This pathway to the harmonization of standards requires a level of trust and cooperation that may be difficult to achieve.

Conclusion

The advent of telehealth and the growth of multistate or regional integrated practices, as well as increased mobility in the population, have led to a call for improving the portability of a registered nurse's license across state boundaries. Prompted by calls from industry, state and federal legislators and regulators are considering various options for increasing the portability of nurse licensure. Nurses should take a leading role in educating decision-makers about the considerations and consequences of these options as they relate to nursing practice and health care consumer/patient safety.

The current lack of uniformity between states with regard to licensure requirements and associated responsibilities has prompted some of the discourse around how licensure portability should be best accomplished. Some of the state variations include:

- Differences in educational qualifications and requirements
- Diversity in continuing education requirements
- Parameters for nurse delegation
- Criminal background check requirements
- Definitions of what constitutes an infraction, unprofessional misconduct, associated disciplinary procedures, and subsequent enforcement.

Another inconsistency from state to state is the available resources to each state's Board of Nursing in terms of staffing, technology, and funding. In some states, the licensing fees go into a licensing fees collected by the Board of Nursing go into a

general fund and are not necessarily available to support the work of the Board. This can interfere with timely issuance of a license as well as investigation of complaints against a licensee. One might also assume that states that are under-resourced might have difficulty with implementing new requirements and systems.

There is also some debate as to whether it is preferable to *regulate* nurses based on their state of residence (as with the mutual recognition model) or, alternatively, where the nurse provides a service (where the health care consumer/patient is). There is no known legal opinion or standard depicting where practice occurs: where the nurse is located versus where the health care consumer/patient is. Regardless of the licensure model, a nurse practicing in multiple jurisdictions remains responsible to the laws, rules, and regulations of each state in which she/he is providing care or services, just as each Board of Nursing is responsible for regulating all nurses practicing in their state.

What is not debatable is that any modification to licensure law to improve portability must ensure health care consumer/patient safety first, consistent with nursing's professional code of ethics.⁷ Additionally, licensure processes should be clear and transparent with regard to requirements and expectations for registered nurses, employers, and health care consumers. These considerations are not exclusive, creating a context for further evaluation and discussion within the nursing community and beyond.

As advocates for the profession and health care consumers/patients, nurses should thoughtfully consider how their practice and priorities might be affected by these different license portability models. It is up to nurses to engage in the effort to ensure that changes in licensure policy reflect the profession's needs, values, and commitment to health care consumer/patient safety.

Department of Nursing
Practice and Policy

Phone: 1-800-274-4ANA

Email: npp@ana.org

www.nursingworld.org

Author: Congress on Nursing
Practice and Economic
Licensure Portability Work-
group

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⁷American Association of Nurses. Code of Ethics for Nurses. <http://nursingworld.org/codeofethics>

