



MULTI-STATE NURSE LICENSURE

In 2005, the Ohio Board of Nursing (Board) examined issues and learned about the experience of some Compact states participating in multi-state licensure. Although the Board recognized that multi-state nurse licensure could be advantageous for occupational health nurses, traveling nurses, or employers, the Board discussed that potential risks of harm to the public outweigh the potential benefits. With multi-state licensure, nurses could be practicing in Ohio when they have not been held to the same standards of safe practice that Ohio has deemed important for public safety. For example, Ohio requires criminal records checks for licensure, but not all Compact states had the same requirement. Also, Ohio statute specifies that there are absolute bars to licensure. If an applicant has been convicted of certain crimes such as Murder and Rape, among others, the applicant cannot be considered for licensure in Ohio. The majority of Compact states either do not bar violent felonies, or impose only time-limited, rather than absolute, bars to licensure.

Over the years, the Board reviewed the actual experience of other states and identified the potential impact of multi-state licensure on public safety. We were advised of nurses with multi-state licenses relocating to states as soon as they find themselves under investigation in their home state. While in theory, the home state would immediately report the investigation to the next state, the reality is neither state may learn of the relocation for a significant period of time. Furthermore, not all states had laws like that in Ohio permitting sharing of investigative information with other governmental entities. In addition, when the nurse moves to another state, the home state does not always continue its investigation. This means that Ohio would not receive vital information unless Ohio attempted to conduct an out-of-state investigation and this is not realistic. In fact, it is unclear whether Ohio would have the ability to compel the production of out-of-state documents or witnesses necessary to prepare a case.

On September 16, 2005, the Board voted to delay action seeking the introduction of multi-state compact legislation until such time more information is available to assure that the benefits of multi-state licensure outweigh any risks related to public safety.

Since 2005, the Board has discussed multi-state licensure at numerous meetings and continuously has worked at the national level to address Ohio's concerns. Annually the Board has discussed the Compact and has reaffirmed its belief that the potential risks of harm to the public outweigh the potential benefits because nurses with multi-state licenses could practice in Ohio without meeting the current statutory and regulatory standards established by the General Assembly and the Board to protect the public. The Board continues to address these issues through the National Council of State Boards of Nursing (NCSBN).

NCSBN voted to approve new Compact model legislation, known as the enhanced Nurse License Compact (eNLC). During the NCSBN Annual Meeting in August 2015, an information session for state attorneys, regarding the legal implications of the eNLC, was provided by the Compact Special Counsel and NCSBN Legal Counsel. In January 2018 the eNLC became effective.

The Board reviewed the eNLC to weigh the benefits and potential risks. Concerns regarding the eNLC include (but are not limited to) the following: (i) the eNLC would establish a Commission that would be funded by state revenue, but would not be subject to state transparency requirements (open meetings/open records acts); (ii) the Commission could adopt rules binding on Compact member states without undergoing state rule-making processes; (iii) concern was expressed that state would be ceding their legal authority to a privately operated Commission.

Further, the Board continues to be concerned about public safety issues due to differences between states that are not addressed in the eNLC, such as mandatory reporting and complaints/investigations. Mandatory reporting is not a requirement for eNLC states as it is in Ohio. Also complaints and investigations are handled differently. For example, some eNLC states require clear and convincing evidence to substantiate a violation of their Nurse Practice Acts. Ohio requires a preponderance of evidence. Because clear and convincing evidence is a higher standard than proof by a preponderance of the evidence, those boards may not investigate complaints that the Ohio Board of Nursing would investigate.

The Board is aware of the importance of increasing the mobility of nurses and has implemented an expedited reciprocity process, including issuing temporary permits to work in five-seven business days.

The Board recognizes that an adequate and safe nursing workforce is vital during times of emergencies. However, non-membership in the eNLC does not impede the deployment of licensed nurses from other states to Ohio during a disaster, or the deployment of Ohio licensed nurses to declared disaster areas in other states. The Nurse Practice Act, Section 4723.32(G)(7), ORC, allows nurses who hold an active, valid license in another state to come to Ohio in the case of any declared disaster. Further, under Section 4723.32, ORC, providing emergency assistance does not require a nursing license in Ohio.

During emergencies in other states, the Board has encouraged and facilitated Ohio participation by Ohio nurses in disaster relief through enrollment in the Medical Reserve Corp (MRC)/Red Cross (ARC). The ARC verifies state licensure status, provides emergency relief training, and organizes deployment by matching a nurse's area of expertise to the area of need. The ARC has negotiated reciprocal licensing agreements with each state, so if nurses with active, valid licenses in one state are activated through ARC, they are able to practice in other states without having a license to practice in that state.

The Board is committed to its mission of public protection, following the laws enacted by the State legislature, and enforcing regulations promulgated for patient safety.