

INFORMATION PAPER

SUBJECT: Mutual Recognition Model of Nursing Regulation and Interstate Nurse Licensure Compact

1. PURPOSE: To update Army Nurse Corps Senior Leaders on the Mutual Recognition Model of Nursing Regulation and Interstate Nurse Licensure Compact.

2. FACTS:

a. BACKGROUND:

(1) In 1994, The National Council of State Boards of Nursing began the research on five models of regulation: reciprocity, fast endorsement, mutual recognition, federal licensure and corporate credentialing. Mutual recognition emerged as the preferred regulatory model.

(2) The **mutual recognition model**, sometimes referred to as "multistate licensure privilege", **allows a nurse to have one license (in his or her state of residency) and practice in other states.** The nurse is held accountable for the nursing practice laws and other regulations of the state where the patient is located at the time the care is rendered. Under mutual recognition, practice across state lines would be allowed, whether physical or electronic, unless the nurse is under discipline or a monitoring agreement that restricts practice across state lines.

(3) In order to achieve mutual recognition, **each state enters into an interstate compact that allows nurses to practice in more than one state.** Individuals who reside in a state participating in the Compact will not longer be required to seek licensure in other states participating in the Compact. The one license reduces barriers to interstate practice, improves tracking for disciplinary purposes, and promotes cost effectiveness and simplicity for the licensee.

(4) Any licensee subject to disciplinary action that limits practice or requires monitoring must agree to not to practice in any other party state during the term of the disciplinary action without prior authorization from such party states.

b. DEFINITIONS (for the purpose of the Compact):

(1) **Board** means a state nurse licensing board.

(2) **License** means the authority to practice nursing granted by the home state.

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(3) **Primary State of Residence** means the state of a person's declared fixed permanent and principal home for legal purposes; domicile.

(4) **Home State** means state of licensure

(5) **Remote State** means state where nurse is practicing.

(6) **Party State** means any state that has adopted this Compact.

c. CURRENT STATUS:

(1) **Nine (9) states have adopted the Mutual Recognition Model to include:** Utah, Texas, Nebraska, South Dakota, Arkansas, Wisconsin, North Carolina, Iowa and Maryland.

(2) **Three (3) additional states have bills pending legislation:** Idaho, Mississippi, and Delaware.

d. MILITARY PRACTICE ISSUES:

(1) Under Department of Defense policy, a nurse who is a member of the armed forces must maintain a current, valid and unrestricted state license. Because, pursuant to military orders and 10 U.S.C. Section 1094, the nurse may be residing in a state other than the state of licensure, licensure renewal is not dependent on state of residency, but is instead dependent on the "state of domicile". Indicia of domicile include, but are not limited to where real property is located; where the service members pays state taxes, votes, and/or is licensed to operate a motor vehicle, etc.

(2) **Within the existing Compact, the definition of residency is unclear for members of the armed forces and clarification from the NCSBN was needed.**

d. ACTIONS:

(1) The Quality Management Directorate (QMD) is in dialogue with the NCSBN Compact Administrator, Ms. Donna Dorsey, to ensure the Mutual Recognition Model supports DoD Policy and military nursing practice.

(2) The Compact Administration Committee at the NCSBN have reviewed current DoD Policies and prepared a written legal clarification statement to present to the NCSBN Executive Committee on 24 April 2000. The proposal identifies "Military nurses Primary State of Residence will equate to "domicile" as defined by the current DoD policy. Thus, licensure renewal is dependent on the state of domicile, which includes the state where service members real property is located, pays state taxes, votes and/or is licensed to operate a motor vehicle, etc."

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1. PURPOSE: To clarify what affect the interstate compact has on the military nurse

2. FACTS:

a. To meet the needs of a changing health care delivery environment some state boards of nursing have taken a monumental step in the advancement of nursing regulation and have adopted the Mutual Recognition Model of Nursing Regulation". Geography has become less and less a barrier to the delivery of healthcare. Nurses today transport patients across state lines, travel the nation as employees of staffing companies and work for integrated delivery systems or managed care organizations that operate in many states.

b. The mutual recognition model allows a nurse to have one license (in his or her state of residency) and practice in other states, participating in the compact. The individual must acknowledge that he or she is subject to each state's practice laws and discipline. In order to achieve mutual recognition, each state would have to enter into an interstate compact that allows nurses to practice in more than one state.

c. Currently, nine (9) states have adopted the Mutual Recognition Model. These states are: UT, TX, NE, SD, AR, WI, NC, IA, and MD. Three (3) additional states have bills pending legislation: ID, MS, and DE.

d. For more than a century, nurses and other healthcare providers have had to be licensed in every state in which they practice. Switching the licensure system to one based on the nurse's residence, rather than the one in which she practices, requires nurses to be aware of their state's participation in the compact.

e. The compact administrators define primary residence in the compact rules and regulations. The sources used to verify primary residence may include, but are not limited to, driver's license, federal income tax return or voter registration.

f. Individuals who reside in a state participating in the Compact will no longer be required to seek licensure in other states participating in the Compact. The one license reduces the barriers to interstate practice; improves tracking for disciplinary purposes and promotes cost effectiveness and simplicity for the licensee.

g. Under Department of Defense policy, a nurse who is a member of the armed forces must maintain a current, valid and unrestricted state license. Because, pursuant to military orders and 10 U.S.C. Section 1094, the nurse may be residing in a state other than the state of licensure,

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licensure renewal is not dependent on state of residency, but is instead dependent on the state of domicile. Indicia of domicile include, but are not limited to: where real property is located; where the service members pays state taxes, votes, is licensed to operate a motor vehicle, etc.

h. Within the existing Compact, the definition of residency is unclear and for those members of the armed forces, clarification is needed. Currently, U.S. Army Medical Command, Quality Management Directorate, is in dialogue with the State of MD, at the recommendation of the National Council of State Boards. Maryland has agreed to take the lead on this issue, to facilitate licensure renewal for nurses within the military.

i. Nurses who are encountering problems with states participating in the Compact, must clearly identify themselves as members of the armed forces, and declare that the state they are requesting licensure in is their state of domicile.

j. A copy of each state compact legislation that is participating in the Mutual Recognition Compact is available on The National Council State Board of Nursing's web site:
<http://www.ncsbn.org/>

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Frequently Asked Questions

1. What is the mutual recognition model?

The mutual recognition model of nurse licensure would allow a nurse to have one license (in his or her state of residency) and practice in other states, as long as that individual acknowledges that he or she is subject to each state's practice laws and discipline. Under mutual recognition, practice across state lines would be allowed, whether physical or electronic, unless the nurse is under discipline or a monitoring agreement that restricts practice across state lines. In order to achieve mutual recognition, each state would have to enter into an interstate compact that allows nurses to practice in more than one state.

2. What is an interstate compact?

"An interstate compact is an agreement between two or more states established for the purpose of remedying a particular problem of multistate concern." (*Black's Law Dictionary*)

An interstate compact:

- supersedes state laws
- may be amended by all party states agreeing and then changing individual state laws

3. How many jurisdictions must enact a compact before it becomes effective?

A compact could be effective after only two jurisdictions enact it into law; however, the motion passed by the Delegate Assembly proposed that a state enacting the compact include an effective date no sooner than January 1, 2000. The compact's applicability would obviously be limited without broader participation by the states.

4. How would primary residency for licensure purposes be determined?

The compact administrators defined primary residence in the compact rules and regulations. The sources used to verify primary residence may include, but are not limited to, driver's license, federal income tax return or voter registration.

5. Why was residency, not practice location, used for determining jurisdiction?

Mutual recognition is similar to many other familiar activities based on state or place of residence, including obtaining a driver's license, paying taxes and voting. Given the many employment configurations in which nurses work, there is likely to be less confusion about where a nurse resides than about the location of his or her primary state of practice. Tracking down a nurse in the event of a complaint/investigation would be more readily accomplished with a residence link, or address, than an practice, or employment, link.

6. Why is an individual limited to one license at a time?

The one license concept has a number of advantages including:

- reduces the barriers to interstate practice
- improves tracking for disciplinary purposes
- promotes cost effectiveness and simplicity for the licensee
- acts as an unduplicated listing of licensed nurses
- facilitates interstate commerce

7. Can an individual hold both an RN and an LPN/VN license?

Yes, the mutual recognition model provides for this authorization (i.e. one license per each license type if permitted by

a home state).

8. Can the interstate compact "mandate" that an individual hold only one license of each type (RN and LPN/VN)?

Yes, the "one license limit" is a term of the compact, and all party states would agree and be bound to impose such a limit. The basic reason for this limit is public protection, in that one license assures that all pertinent information about a nurse's licensure and discipline, past and present, is integrated and readily accessible to boards in one place. This mandate does not apply to non-party states.

9. Will the mutual recognition model reduce the level of a state's licensure requirements?

No. Under mutual recognition, states will continue to have complete authority in determining licensure requirements and disciplinary actions on a nurse's license per the state's Nursing Practice Act.

10. How does the mutual recognition model address the varying scopes of nursing practice as authorized by each party state?

The mutual recognition model provides that the nurse is held accountable for the nursing practice laws and other regulations in the state where the patient is located at the time care is rendered. This accountability is similar to the motor vehicle driver who must obey the driving laws in the state where he or she is driving. The accountability is no different from what is expected today.

11. Does the interstate compact affect the authority of the home state to discipline?

As provided in the compact, both the state of licensure ("home state") and state where the patient is located at the time the incident occurred ("remote state") may take disciplinary action and thus directly address the behavior of the out-of-state nurse. The compact will not diminish current authority of the home state to discipline, but will actually enhance the home state's ability to discipline. The compact will enable ready exchange of investigatory information, allowing the home state to have the most current and accurate information in order to better determine the appropriate course of action in disciplinary cases.

12. How would violations be reported and/or be processed in a mutual recognition model?

Complaints would be addressed by the home state (place of residence) and the remote (practice) state. Complaints to the home state concerning a violation in the home state would be processed in the current system. A complaint to the home state concerning a violation in a remote state would be processed cooperatively. For example, the remote state may issue a cease and desist order to the nurse, and the home state may take disciplinary action against the license of that nurse. A complaint to the remote state concerning a violation in the remote state would be processed by the remote state and also reported to the home state. A coordinated licensure information system will enable the sharing of information. All information involving any action would be accessible to all party states. The Disciplinary Data Bank, which is a subset of the Coordinated Licensure Information System containing only final actions, would continue to be accessible to non-party, as well as party states under the current system.

13. What is meant by multistate licensure privilege?

Multistate licensure privilege means the authority to practice nursing in a remote state pursuant to the interstate compact. It is not an additional license.

14. What is meant by home state action?

Home state action means any administrative, civil, or criminal action permitted by the home state's laws which is imposed on a nurse by the home state's board of nursing or other authority, including actions against an individual's license. Only the home state can take action against the license.

15. What is meant by remote state action?

Remote state action is a new authority provided by the proposed interstate compact. Remote state action is any administrative, criminal or civil penalty imposed on a nurse by a remote state's licensure board or other authority, including actions against an individual's multistate licensure privilege to practice in the remote state. For example, under the compact, authority is given to issue cease-and-desist orders by the remote state or the remote state licensing board.

16. What disciplinary actions must a home state take based on a remote state action?

The home state will evaluate the nurse's behavior which led to the remote action and will respond based on the laws of the home state. The home state is required by the compact to evaluate the nurse's behavior in the same manner (i.e., "with the same priority and effect") as it would had the incident occurred in the home state, but the home state is not required to take any particular actions nor to enforce the remote state's laws.

17. Would every complaint received by the remote state(s) and results of the complaint investigation need to be shared with the home state?

The remote state will report to the administrator of the information system any remote state actions as well as the factual and legal basis for such actions. The remote state will also report any significant current investigative information yet to result in a remote state action. The administrator of the information system will notify the home state. The compact administrators will develop policies and guidelines for defining significant complaints, as it is recognized that many complaints are not substantiated and reporting these would increase workloads and may be nonproductive.

18. Concerning complaints, what information would be reasonably necessary to share with a party state?

Each party state may share information or documents relevant to a current, significant investigation.

19. How would individuals participating in alternative programs be affected by the compact?

Nothing in the compact shall override a party state's decision that participation in an alternative program may be used in lieu of licensure action, and that such participation shall remain non-public if required by the party state's laws. Party states must require nurses who enter any alternative programs to agree not to practice in any other party state during the term of the alternative program without the prior authorization from such other party state.

20. Will a state board have the authority to deny licensure by endorsement to an applicant who has had discipline action in another state?

Yes. The licensing authority in the state where an application is made may choose not to issue a license if the applicant does not meet the qualifications or standards for granting a license.

21. Why are advanced practice registered nurses (APRNs) not included in the mutual recognition model?

The Board of Directors endorsed mutual recognition for all nurses, with a different timeline for APRNs. The rationale for the different timeline of implementation for APRNs is that a base of comparable licensure requirements does not exist for APRNs.

22. Does the interstate compact affect states' collective bargaining rights?

The compact does not impact the statutory authority at the federal or state level for collective bargaining. This is not a regulatory issue. In terms of licensure process actually implemented by states when there were strikes in the recent past, there would be little or no practical difference in the ability of employers to bring in licensed nurses from other jurisdictions under mutual recognition.

23. When will the mutual recognition model be implemented?

State legislatures will first need to enact the interstate compact into state law. The motion adopted by the Delegate Assembly says state legislatures are encouraged to agree that implementation will not take place before January 1, 2000. This would enable Member Boards and National Council to accomplish the activities outlined in *Strategies for Implementation of the Mutual Recognition Model of Nursing Regulation*.

24. How does enactment of the interstate compact affect a state's current Nurse Practice Act?

Enactment does not change a state's Nurse Practice Act in any way. The compact gives states additional authority in such areas as granting practice privileges, taking actions and sharing information with other party states.

25. How does enactment of the interstate compact affect the individual licensee?

The individual RN or LPN/VN residing in a party state will be able to practice in all the party states, unless there is some restriction placed on the multistate licensure privilege. The individual RN or LPN/VN residing in a non-party state

will continue to be licensed in individual state(s), just as at present.

26. If a nurse lives in a party state and obtains a license in a non-party state, must she or he give up the license from the party state?

No. The license from the home state, which is a state that is a party to the compact, allows the nurse to practice in all the party states. The license obtained from the non-party state would allow practice in just that state.

27. Is there a time requirement for applying for a new license in a new home state when changing residence from one party state to another?

According to the interstate compact rules and regulations, a nurse changing primary state of residence, from one party state to another party state, may continue to practice under the former home state license and multistate licensure privilege during the processing of the nurse's licensure application in the new home state for a period not to exceed thirty (30) days.

28. The compact enables the compact administrators to develop rules and regulations to administer the compact. How do these rules and regulations provide authority in the individual party states?

The interstate compact is a legal contract between states that enables nursing practice across state lines. In each state that adopts the compact, the compact is an additional statutory layer above the individual state's Nurse Practice Act, which remains in place. The compact administrators develop the rules and regulations to administer the compact, and then individual state boards of nursing adopt the rules. If an individual state refuses to adopt the rules the compact administrators develop, that state would be in violation of the contract established by the interstate compact and thus could lose the status of party state to the compact.

29. How will an employer know that a nurse's license is no longer valid?

The burden will be on the employer, as it is now, to verify licensure at all significant times of change in the status of nurses who they employ. Under the interstate compact, these significant times will include any time a nurse changes state of residence.

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