The Nurse Licensure Compact: A Bad Option for Alaska

Position Statement by the Alaska Nurses Association

The Alaska Nurses Association (AaNA) is the recognized leader and voice of all nurses in Alaska and works with the Alaska Board of Nursing on issues that affect nurse licensure and practice in our state.

The National Council of State Boards of Nursing (NCSBN), a private, Chicago-based trade association, has created a Nurse Licensure Compact for multistate nursing practice. The Compact authorizes nurses in participating states to practice in all other Compact states under multistate privileges authorized by the nurse's state of residence without obtaining additional licensure in any additional states. Implementing the Compact in Alaska would allow nurses from other states to practice nursing in Alaska without obtaining an Alaska nursing license.

Currently, thirty-three states have joined the Nurse Licensure Compact. Alaska's participation in the Nurse Licensure Compact is subject to state legislative approval. AaNA has examined how this Compact licensure would affect registered nurses in our state if Alaska joined the Nurse Licensure Compact.

After careful review, the Alaska Nurses Association continues to have numerous concerns and remains strongly opposed to the adoption of the Nurse Licensure Compact in Alaska.

The Nurse Licensure Compact poses significant new complications for regulating nursing practice while eroding Alaska's state sovereignty and our carefully crafted laws and regulations, and, as such, threatens the public's health. The Compact is a bad option for Alaska, for Alaskan nurses, and for Alaskan patients.

Loss of State Sovereignty

The Nurse Licensure Compact is a states' rights issue. Alaska currently enjoys complete autonomy over the regulation of the profession of nursing, allowing local experts to make local decisions that are best for our state. Joining the Nurse Licensure Compact would erode Alaska's sovereignty. The Compact imposes complicated regulatory mechanisms including a powerful new "Interstate Commission" for the Compact with the power to adopt rules and assess payments from the states. The Commission's rules and decisions are binding on all member states. Yet there is no independent oversight or accountability for their decisions.

The Compact unnecessarily complicates state regulation, essentially creating two separate, simultaneously-functioning regulatory structures for the profession of nursing in Alaska – one system for nurses holding an Alaska license, and another for out-of-state nurses with Compact licenses. This unnecessarily complicates and impedes the State's regulatory abilities.

Additionally, the Commission's operations are not transparent. The Commission has the opportunity to hold closed, non-public meetings for certain reasons and would have

immunity to lawsuits. Procedures for rulemaking do not include any specific length for comment periods. The Compact also provides for emergency rulemaking, using a notably broad approach to determining when “emergency” rules are needed. Many of the provisions may in fact violate the Alaska Constitution and the Alaska Open Meetings Act.

If Alaska adopts the Nurse Licensure Compact, we will have ceded our right to determine and enforce the standards for practice that our policymakers have determined are necessary to protect the public.

Threat to Public Safety

Inability to Monitor Nurses and Discipline Unsafe Conduct

The purpose of the Alaska Board of Nursing is to protect the health and safety of the Alaskan public by regulating the practice of nursing in our state. Under the Compact, there is no way to track nurses coming into your state to practice from another participating state. The lack of such basic information hinders the State’s ability to protect the public.

Past experience shared by the Alaska Board of Nursing has shown a few nurses have tried to “escape” the Lower 48 to practice in Alaska. Because all nurses working in Alaska must apply for an Alaska nursing license, our dedicated Board of Nursing was able to deny their license applications and prevent them from functioning as a nurse in Alaska. By joining the Compact, Alaska would no longer approve or deny the license applications of out-of-state Compact nurses and would lose the ability to enforce Alaska’s high standards for quality nursing practice.

Besides the licensing of qualified candidates, the functions of the board of nursing include the investigation of complaints against licensees and hearings with administrative law judges. States vary in their disciplinary procedures and standards: conduct that would result in an investigation and discipline in one state may not do so in another state. Depending on the state in which the conduct occurs, it may not be reported at all. If Alaska investigates a nurse and finds that disciplinary action is warranted, but the Compact state does not agree, no action is taken against that nurse. This needlessly puts the Alaskan public at risk.

Lower Standards for Nurses = Worse Care for Patients

States participating in the Nurse Licensure Compact are required to operate under the National Council of State Boards of Nursing’s Uniform Licensure Requirements. These uniform licensure requirements are often less stringent than individualized state licensing requirements. Furthermore, license renewal requirements are controlled by the state that issues the Compact license, not by the state in which the nurse practices.

Disciplinary Action and Criminal Offenses

Although the uniform licensure requirements demand that a nurse must have graduated from an approved education program and can have no state or federal felony convictions, nor have any misdemeanor convictions related to the practice of nursing, there are worrisome inconsistencies between states in relation to these requirements, all of which impede the State’s ability to regulate practice in a constitutionally mandated manner and can create confusion for nurses. Of particular concern:

- Each state has different criteria for disciplinary action.

- Each state is able to make its own case-by-case determination of whether a misdemeanor conviction is related to the practice of nursing, and to decide whether –and to what degree and of which type– disciplinary action should be taken.
- Felony offense statutes are not standardized across states. What constitutes a misdemeanor in Arkansas may arise to the level of a felony under Alaska law, yet the State of Alaska would no longer have the ability to bar that nurse from coming to Alaska and caring for patients in our state.

Nursing Education Programs and Continuing Education

States vary widely in regard to nursing education program requirements, particularly with regard to requirements for supervised clinical experiences. In order to ensure that new nurses are highly educated and prepared to care for Alaskan patients, the State of Alaska requires each new nurse to have graduated from a nationally accredited school. Other Compact states do not have the same rigorous standards for nursing education programs. In other words, if Alaska were to join the Compact, Alaskan patients could be taken care of by new nurses who have received subpar education and have little hands-on experience with patients.

In terms of continuing education requirements, a nurse holding a Compact license must meet the continuing education requirements for his or her own state. Each state has different requirements and some states do not require any number of hours of continuing education. Alaska's license renewal requirements emphasize the fact that nursing requires constant learning. To demonstrate their continued competency, Alaskan nurses must meet two of the following criteria every two years:

1. Complete 30 hours of continuing education or be currently nationally certified in a specialty area of nursing;
2. Complete 60 hours of uncompensated volunteer nursing activities;
3. Work 320 hours.

The Compact would allow out-of-state nurses practicing here to circumvent Alaska's continued competency and education requirements.

Scope of Practice

Nurses practicing in Alaska must be knowledgeable of and operate under Alaska's Nurse Practice Act, which defines what nurses are and are not allowed to do, and under whose supervision they must work. Each state has its own Nurse Practice Act and a nurse's scope of practice differs in each state. For example, in most states, including Alaska, registered nurses cannot dispense medication or perform examinations. However, eight states allow one or both of these medical activities to be performed by registered nurses.

As a state not participating in the Compact, Alaska's current method of requiring Alaska licensure for every nurse practicing in our state ensures that nurses working in Alaska are knowledgeable of Alaskan standards and regulations. In joining the Compact, there would be no way to enforce or verify that nonresident nurses possess the same necessary regulatory knowledge as their Alaskan counterparts. This has the potential to create needless confusion and disagreement for nurses working side by side caring for a patient as to what specific care they are allowed to provide.

If an out-of-state Compact nurse were to violate Alaska's Nurse Practice Act, the Alaska Board of Nursing would have no ability to discipline the nurse. Rather, the decision to discipline would be left to the nurse's home state. If the home state declined to issue discipline for the scope of practice violation, the nurse could continue working in Alaska,

which would not only lead to a dilution of Alaska's Nurse Practice Act and current high standards for the profession of nursing, but also pose a clear threat to the Alaskan public.

The lack of comprehensive standardization between states coupled with the Nurse Licensure Compact's lowest common denominator approach to regulating the nursing profession seriously compromises public safety.

Loss of State Revenue & Increased Financial Burden to Alaskans

The Alaska Board of Nursing is currently required to be financially self-sufficient; the Board receives no funds from the Legislature to operate. Operational funds are derived from the collection of application and licensing fees.

Licenses issued to nonresident nurses represent a sizeable proportion of application and licensing fees collected by the Alaska Board of Nursing. If Alaska joined the Nurse Licensure Compact, travel agency nurses and other non-resident nurses would no longer need to obtain an Alaska nursing license to work in the state. This represents a significant loss of revenue to the Board of Nursing. After the state of Montana joined the Nurse Licensure Compact, the initial revenue loss for just the five-month period following the start of FY2017 totaled $447,321, according to a report from the Montana Nurses Association. In 2014, the Kansas Board of Nursing predicted a $376,667 loss of revenue if it joined the Compact, and declined to do so. Other states which have joined the Compact have experienced significant reductions in revenue as well.

In addition to declining revenue, joining the Nurse Licensure Compact would increase expenses to the Board of Nursing. Because the Board of Nursing is required to investigate complaints against licensees, these investigation expenses would remain with the Board of Nursing regardless of whether the nurse has paid licensing fees to the State. It is not fair for the Alaska Board of Nursing to pay for this investigative cost when the Compact nurse has not paid anything to work in Alaska. Because all disciplinary fines collected go to the State's general fund rather than to the Board of Nursing, the Board would be unable to recoup even a small portion of these investigatory costs. Additional funds would also be needed for the required Licensure Compact Administrator and increased operating expenses associated with participating in the Compact. The combination of reduced revenue and increased expenses could leave the Board of Nursing financially insolvent and require the Board of Nursing to receive funding from the Legislature or pass on an additional expense to Alaskan nurses in the form of higher licensing fees.

In fact, it is certain that Alaskan nurses would face increasing expenses if Alaska joined the Compact. Alaska has one of the highest licensing renewal fees in the nation. The current cost to renew an RN license in Alaska for a two-year period is $200. According to analysis reviewed by the Alaska Board of Nursing, an Alaskan nurse would see this fee increase by $46 to $83 at the next renewal period if Alaska joined the Compact (Alaska Board of Nursing Minutes, May 2018).

A large beneficiary of the nursing Compacts are out-of-state nurse travel agencies. Travel agencies cover nurses' travel costs along with all their licensing fees in the specific states they choose to work in. The Compact saves this business industry a lot of money in licensing fees that would otherwise would go to the individual states.

While the Nurse Licensure Compact is a financially advantageous situation for out-of-state companies, the State of Alaska and its residents would face increased financial burden.

Compact will not Solve Workforce Needs or Improve Access to Care

Despite claims that the Compact will solve workforce needs and improve access to care, there is no evidence that it would do so for Alaska. One common claim by proponents of the Nurse Licensure Compact is that some states have lengthy delays in issuing licenses to nurses. This is not true of Alaska. On the contrary, auditors have found that the Board of Nursing is able to issue licenses in a timely manner, with approximately 90 percent of the nursing applicants being issued licenses within 90 days of submittal. In comparison, in Illinois a new nursing graduate can take 3 to 6 months to get a license. The Board of Nursing also has regulations in place (12 AAC 44.318.) to grant courtesy nursing licenses in the case of emergent needs. A few years ago the Board exercised the use of courtesy licenses in order to meet an increased need for nurses caused by a respiratory syncytial virus outbreak in Barrow. In addition, the Board of Nursing can issue expedited licenses and temporary permits should an employer need assistance in obtaining nurses quickly.

The Compact does not suddenly nor magically create a pool of nurses to fill staffing vacancies at needy facilities. It would not create a sudden influx of nurses choosing to move and live and practice in Alaska. Nurses wishing to practice in Alaska on a temporary basis may already do so as travel nurses. Since licensing costs for travel nurses are covered by nurse staffing agencies, there is no financial cost to the individual nurse for taking travel assignments in the state of Alaska. Furthermore, there is no evidence suggesting that nurses wishing to move to and practice in Alaska on a permanent basis are dissuaded from doing so due to licensing costs or the necessity of obtaining an Alaska nursing license. Destabilizing the financial integrity of the Board of Nursing for a scheme that has no documented impact on addressing nursing workforce needs nor improving patients' access to care is a needless risk.

Conclusion

Unfortunately, policy makers who have concerns about any provisions of the Nurse Licensure Compact have no opportunity to address these problematic components. In order to join the Compact, Alaska would be forced to participate under the current and future binding requirements of the National Council of State Boards of Nursing's Interstate Commission.

Thus, the only two options available to Alaska are:

• To join the Nurse Licensure Compact as is, despite multiple serious concerns; or

• To reject the Compact.

The "one-size-fits-most" Nurse Licensure Compact is a bad fit for Alaska. The Alaska Nurses Association remains committed to working with the Alaska Board of Nursing and others on effective regulatory measures that are workable and realistic, that offer real solutions, and that respect state sovereignty. None of this, unfortunately, describes the Nurse Licensure Compact. The Compact would harm Alaskans. We can and must work toward better approaches that put Alaskans first.