



**Secretary of State
Office of Professional Regulation**

**MULTI-STATE NURSING LICENSURE COMPACT:
THE COSTS AND BENEFITS FOR VERMONT**



In accordance with 2017, No. 144 (Adj. Sess.), § 19:

The Board of Nursing and the Office of Professional Regulation shall assess the costs and benefits of participation in licensure compacts for nurses at various levels of licensure.

Submitted to the House and Senate Committees on Government Operations

March 15, 2019

This reports finds that there are significant benefits to participating in licensure compacts for nurses, including interstate portability of licenses, interstate collaboration, and access to information about licensees. However, there are also costs to joining such compacts. A significant number of nurses currently licensed in Vermont will be eligible for licensure under a nursing compact, thus shifting funds away from State licensing bodies and potentially increasing costs for remaining Vermont-only licensees. There are also operational costs associated with implementing nursing compacts and adapting Vermont's regulatory and disciplinary structure to the compact requirements. Participating in licensure compacts for nursing is good policy, but there are substantial costs associated with such participation.

Introduction

Increased general demand for nursing care and specific technological developments in healthcare delivery, such as telehealth and remote case management, have increased demand for the provision of nursing services across state boundaries. But nurse licensure, like most occupational and professional regulation, is administered by individual state governments, each overseeing the practice of nursing within its geographic territory. Interstate nursing compacts, implemented by standard legislation in participating states, facilitate license portability by allowing a compact-licensed nurse to practice lawfully in the territories of all other states party to the same compact.

The fluidity enabled by the nurse compact licensure has several benefits. Interstate licensure may help to ease the burden of nursing shortages by permitting nurses to work in multiple states and allowing traveling nurses to more easily fill nurse vacancies. Fluidity means that supply meets demand more quickly, a condition typically indicative of a functioning and efficient market. Compacts also facilitate interstate collaboration to address licensure issues that may impede nurse recruitment, and compacts tend to promote consistent administrative and disciplinary procedures.

Though compacts unquestionably improve labor-market fluidity, fluidity does not guarantee inflow. A more portable workforce is empowered to leave as well as to come in search of higher wages and more hospitable working and living conditions. It is not known if compact participation will increase the supply of trained nurses; it will make trained nurses more portable.

Compact participation introduces administrative expense, as a portion of licensing fees must be paid to the compact administrator to finance its operation. Unfortunately, this expense would not be offset by a commensurate reduction in work at the level of the state. In all Board-regulated professions, the cost of regulation is borne by licensees. In the non-compact administrative model prevailing today, all persons who wish to practice nursing in Vermont contribute to the regulatory pot through fees paid with initial license applications and biennial license renewal applications. If Vermont were to become a compact state, only Vermont residents would contribute to the same regulatory pot. Traveling nurses with compact licenses, as well as non-traveling nurses with Vermont workplaces but residences in compact states, would

no longer pay fees used to finance State regulation of nursing.¹ In the simplest telling, a Vermont license fee is determined by regulatory expense divided by active licensees. Regulatory expenses, driven by internet technology, administrative personnel, investigation, and discipline, would remain unchanged. The pool to through which those expenses are distributed would shrink. With a static numerator and shrinking denominator, the license fees for Vermont residents would increase as a necessary consequence of compact participation.

Compact participation would result in transition costs related to communication and outreach to stakeholders, as well as conforming updates to internet technology infrastructure, forms, and administrative processes.

This report assesses participation in the enhanced Nurse Licensure Compact (eNLC), a compact for the licensure of registered nurses (RN) and licensed practical/vocational nurses (LPN/VN), as an illustrative case study of the benefits and costs of participating in a nursing compact. Our assessment finds that the policy benefits of participating in eNLC are significant but there are also substantial costs associated with participation in the eNLC.

Background and History

Currently, there are approximately 25,600 active nursing licenses in Vermont. The Vermont Secretary of State's Office of Professional Regulation (OPR) is responsible for the licensing administration and conduct enforcement of nurses in Vermont. The Vermont State Board of Nursing exists as a public body within OPR, through which nurses and public members appointed by the Governor develop administrative rules and adjudicate contested cases concerning licensing and discipline.

In the late 1990s, the National Council of State Boards of Nursing introduced a Nurse Licensure Compact (NLC) to facilitate nurse mobility and patient access to care across state borders while maintaining the public protection ensured by state licensure. This original compact was adopted beginning in 2000 by 25 states. The enhanced NLC (eNLC) is an updated version of the original NLC and sets forth a set of Uniform Licensure Requirements that a state must adopt to participate in cross-state mobility of licensees. Participation in the eNLC would allow RNs and LPNs to have one multistate license with the privilege to practice in their home state and other states that are participating in the eNLC (Compact States).² In short, the eNLC allows a qualified nurse who resides in a Compact State to obtain a license allowing practice in any other Compact State without obtaining a separate license until that nurse permanently relocates to the host state.

The eNLC is governed by the eNLC Interstate Commission, composed of commissioners from all the Compact States, each of whom has full voting authority.³ Rulemaking is accomplished by the eNLC Interstate Commission. Rules are adopted directly by the eNLC Interstate Commission and

¹ New Hampshire is a compact state; New York and Massachusetts are not.

² Advanced Practice Registered Nurse (APRN) licensure is subject to a separate compact.

³ The Vermont Executive Officer of the Board of Nursing would be the eNLC Commissioner for the State of Vermont.

are legally binding in all Compact States. Procedural requirements for eNLC rulemaking include notice to the public of proposed and adopted rules, an opportunity to comment, a public hearing, consideration and voting upon the proposed rules, and responding to comments received.

The eNLC contains eleven Uniform Licensure Requirements and conditions for licensure for all multistate license holders, including federal criminal background check.⁴ All states participating in the eNLC must agree to abide by these Uniform Licensure Requirements. However, Compact States retain the authority to discipline nursing professionals practicing within their borders.

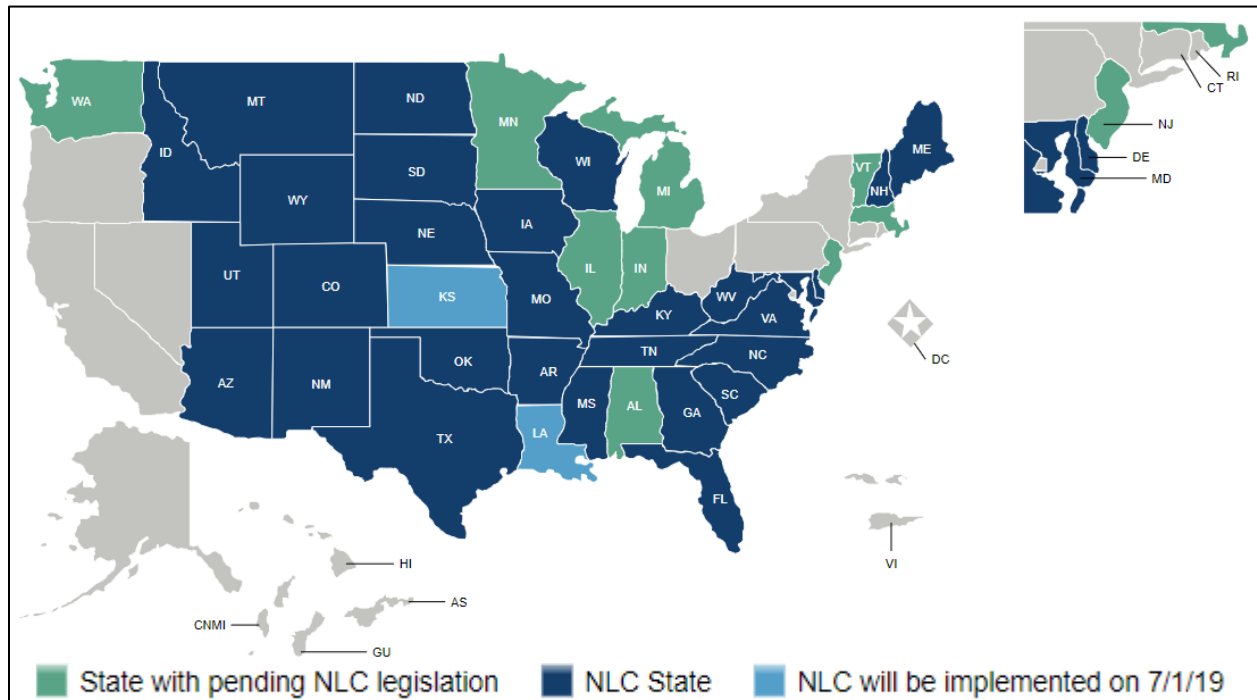


Figure 2: The current membership of the eNLC.⁵

On May 8, 2017, the Vermont Board of Nursing voted to support joining the eNLC. Vermont health care facilities and associations such as American Nurses Association, Vermont (ANA-VT), Vermont Association of Hospitals and Health Systems (VAHHS) and a majority of Vermont-licensed nurses also support joining the eNLC. A 2014 Commitment to Ongoing Regulatory Excellence (CORE) report from the National Council of State Boards of Nursing (NCSBN) asserts that 100% of Vermont employers surveyed and 77% of non-union Vermont nurses responded in favor of Vermont joining the eNLC.⁶

National organizations supporting the eNLC include the National League for Nursing, the American Association of Colleges of Nursing, Citizen Advocacy Center, the National Military Family Association, the U.S. Chamber of Commerce, the National Governors’ Association Center

⁴ See, Appendix A.

⁵ www.nursecompact.com

⁶ This survey did not include information regarding the potential for increased licensing fees. Such information may impact the support for the eNLC.

for Best Practices, the American Organization of Nurse Executives, and the American Telehealth Association. Support from these organizations rests generally upon the expectation that Compact penetration among the states will lead to improved license portability and secondarily that it will reduce costs of hiring, recruitment, and relocation.

Benefits of the eNLC in Vermont

The benefit of eNLC participation is large and singular: Interstate portability. As noted above, the eNLC enables the holder of a Compact License to practice in any Compact State without obtaining any other license. The removal of the licensure barrier to practice in Compact States carries particular benefits for traveling nurses and military spouses, as well as in cases of disaster, labor action, or other surges in demand for nurse inflow.⁷ Compact licensing also facilitates e-health and telehealth access, thereby improving the continuity of care.

Enhancing the mobility of licensees may also help Vermont to relieve nursing shortages, particularly where those occur suddenly as a result of external phenomena. According to a recent informal survey of Vermont's nursing executives from the acute care, long-term care, and home care settings, there are already shortages in certain nursing specialties, including in the fields of operating room, medical-surgical, emergency, intensive care, home care, hospice care, and nursing home/long-term care.⁸ If Vermont joins the eNLC, nurses from other Compact States will

⁷ By separate acts in 2000, the General Assembly minimized the risk that professional and occupational licensing requirements could impede emergency response.

Under the Emergency Management Assistance Compact, to which all states are party:

A person from a party state rendering aid under this compact who holds a license, certificate, or other permit issued by that party state indicating that the person is qualified in some professional, mechanical, or other skill, shall be deemed licensed, certified, or permitted in the state requesting aid to render aid related to the license certificate or permit for a declared emergency or disaster, subject to limitations and conditions prescribed by the governor of the requesting state.

--20 V.S.A. § 104(b) (implemented by 1999, Adj. Sess., No. 133, § 2).

Separately, the Title-3 laws of professional regulation were amended to provide for emergency licensure:

In addition to any other provisions of law, a board may ... [i]ssue temporary licenses during a declared state of emergency. The person to be issued a temporary license must be currently licensed, in good standing, and not subject to disciplinary proceedings in any other jurisdiction. The temporary license shall authorize the holder to practice in Vermont until the termination of the declared state of emergency or 90 days, whichever occurs first, as long as the licensee remains in good standing. Fees shall be waived when a license is required to provide services under this subdivision.

-- 3 V.S.A. § 129(10) (implemented by 1999, Adj. Sess., No. 138, § 1).

During a recent labor action OPR was able to quickly process license applications. Frequently within one or two days.

⁸ This information was obtained from an informal email survey sent to 24 Vermont acute care Chief Nursing Officers and Directors of Nursing or Human Resource Directors of long-term care and home care organizations across the State.

be able to provide services in Vermont without encountering the deterrent of obtaining an additional license. Without these barriers to practice, nurses may be more likely to fill nursing vacancies in Vermont; however we find no studies or other data conclusively demonstrating that participation in the eNLC will alleviate state nursing shortages. As noted in the general discussion of compact licensure above, labor portability translates to increased labor supply only in the presence of competitive wages, living- and working conditions. Traveling nurse companies will also be able to assign nurses to fill vacancies in Vermont more easily and quickly. However, cost savings realized by traveling nurse companies are unlikely to be passed on to Vermont health care providers, which are still likely to pay a premium to employ traveling nurses.

The eNLC is structured conservatively to protect the public. Under the eNLC, when a complaint is filed against a nurse in a remote or home state an analysis is completed by the receiving state if a significant threat to the public exists. If a significant threat exists than the receiving state places a flag on the nurses file in Nursys. This flag does not prevent multi-state practice; it only prevents permanent relocation to avoid discipline. Vermont currently participates in Nursys; however, Vermont is unable to see flags placed by the Compact States.

Finally, the enhanced Nurse Licensure Compact may provoke improved collaboration between state regulators on policy matters. Compact States work together in establishing rules for licensure and in protecting public safety in all participating states.

The eNLC in Vermont: Potential Costs

There are also costs to participating in the eNLC. There are more nurses working in Vermont from other Compact States than Vermont resident nurses who work in other Compact States. There are approximately 4,705 Vermont licensees (about 25% of the total number of Vermont nurse licensees) who will no longer need to obtain a Vermont State nursing license if Vermont joins the eNLC.

Profession Type	eNLC Net Licensure Impact
Registered Nurse (RN)	-4,368
Practical Nurse (PN)	-337
Total	-4,705

Figure 4: Vermont’s estimated loss of licensure due to joining the eNLC.

With these licensees no longer paying fees to OPR for licensure, there will be a significant and ongoing loss of revenue from nurse licensing.⁹ As a result of joining the eNLC, the reduction in total licensees would be mean a loss of \$932,575 of revenue to the Vermont State Board of Nursing (Figure 5), against a total budget of approximately \$4,000,000 per biennium.

⁹ The Compact Administration recommends that when a state joins the Compact that the state charges the same for a compact license as it does for a single-state license.

Profession Type	eNLC Net Licensure Impact	eNLC Financial Impact
Registered Nurse (RN)	-4,368	-\$873,600.00
Practical Nurse (PN)	-337	-\$58,975.00
Totals	-4,705	-\$932,575.00

Figure 5: The loss of licensing revenue as a result of joining the eNLC.

Nurses seeking Vermont-only licenses are likely to see licensing fees increase as these licensees bear a greater proportion of the State licensing administration and enforcement costs. Due to the anticipated revenue loss the Office can forecast that prior to Compact adoption or shortly thereafter the Office will need to see a fee increase in this profession even after the proposed fee increase in the 2019 Legislative Session. See **Figure 6**.

Profession Type	Current Renewal Fee	Proposed Renewal Fee ¹⁰	Renewal Fee Needed to Join eNLC ¹¹
Registered Nurse	\$140.00	\$200.00	\$280
Practical Nurse	\$140.00	\$175.00	\$245

Figure 6: The estimated fee increases for Vermont-only licensees necessary to account for joining the eNLC.

The eNLC may also result in OPR and the Board of Nursing having a decreased awareness of who is practicing nursing in the state. A nurse from another Compact State who chooses to practice in Vermont would not be required to notify OPR or the Board of Nursing that he or she was practicing in Vermont. The moment of State licensure creates an opportunity to notify and educate incoming professionals of significant idiosyncrasies of State law, such as the opiate prescribing rule.¹² Eliminating that moment of regulatory contact will shift the burden of informing nurses of State-specific regulatory responsibilities and disciplinary considerations to employers.

There will also be administrative costs to participating in the eNLC. Vermont will be obligated to communicate and enforce the rules and requirements of the eNLC in addition to Vermont-only nurse licensure and enforcement rules. The eNLC will require Vermont to make changes to its nurse licensure and enforcement rules, as well. Further, there is a \$6,000.00 annual eNLC membership fee. OPR must reconfigure the online licensing system to accommodate single-state and multi-state licenses with the ability to move between them. Required IT system

¹⁰ Vermont BON currently faces a funding gap that is being addressed in the 2019 fee bill. This proposes required fee increases *prior to* considerations of joining the eNLC.

¹¹ Estimated fees required in order for the Vermont State Board of Nursing to maintain a positive fund balance after the loss of licensure from joining the eNLC.

¹² The eNLC does not pertain to APRNs, for whom a separate and less mature compact exists. eNLC nurses would work with and among prescribers, but none would be a prescriber.

updates may cost anywhere from \$10,000.00 to \$50,000.00, depending on the final model. OPR will also need to obtain funding for additional, temporary staff positions, as OPR does not currently have capacity to provide additional services during the transition to the eNLC. It is likely that OPR could obtain a one-time grant from the Compact administrator to cover some of these start-up costs. There will also be outreach and communication costs associated with the eNLC, though federal grant funds may be available to mitigate outreach expenses.¹³

Finally, portability benefits of compact participation for Vermont are blunted somewhat by poor uptake in the Northeast. The eNLC enjoys excellent penetration in the mid-Atlantic, Midwest, and Mountain West, but poor penetration in New England and at the West Coast. In the Northeast, only Maine and New Hampshire are Compact States. Because the eNLC benefits traveling nurses and represents a significant delegation of governmental authority to a non-governmental body, it has been unpopular with organized labor in some states, as well as with policymakers particularly concerned about state regulatory sovereignty.¹⁴ Few or no observers expect that New York or California will join the eNLC. Adoption is uncertain in Massachusetts.¹⁵ Consequently, our most populous regional neighbors are not sources of Compact nurses, and Vermont nurses holding Compact licenses would be unable to realize the benefits of portability in most states closest to us.

Conclusion

Vermont will likely realize policy benefits from participating in the eNLC. Such participation will encourage interstate cooperation and facilitate the exchange of information about licensees. A reduction in interstate licensing barriers has the potential to encourage more nurses to practice in Vermont and may reduce the number of nursing position vacancies. That said, there are substantial costs associated with participation in the eNLC. Nurses who are able to obtain multistate licenses will no longer pay fees to the State of Vermont, thus resulting in a reduction in revenue available to fund the nurse licensure program exactly as the program becomes more technically complex. Other Vermont-only nursing licensees will likely realize an increase in licensing fees as a result of this loss of revenue. There are also administrative, implementation and outreach costs that the State will bear as a result of its participation in the eNLC. Compact adoption in Massachusetts could represent a significant inflection point and should be monitored closely. Stakeholders have been supportive of participation in the eNLC so far but have not been given the opportunity to consider the fee, revenue, and service-delivery consequences associated with such participation. OPR supports the Compact in principle; however, given the significant benefits and costs to participating in eNLC, OPR offers a neutral action recommendation at this time.

¹³ DoL Licensing Reform grant July 2018 through June 2021, budget provides for contracted hires totaling \$75,000/year for all areas of the grant.

¹⁴ It is not anticipated that a Vermont collective bargaining unit would resist adoption of the eNLC.

¹⁵ The Massachusetts General Court has entertained but has not yet passed several bills proposing to place that State in the eNLC.

Uniform Licensure Requirements for a Multistate License

An applicant for licensure in a state that is part of the eNLC will need to meet the following uniform licensure requirements:

1. Meets the home state's qualifications for licensure or renewal of licensure, as well as, all other applicable state laws;
2. Has graduated or is eligible to graduate from a licensing board-approved RN or LPN/VN prelicensure education program; or has graduated from a foreign RN or LPN/VN prelicensure education program that (a) has been approved by the authorized accrediting body in the applicable country and (b) has been verified by an independent credentials review agency to be comparable to a licensing board-approved prelicensure education program;
3. Has, if a graduate of a foreign prelicensure education program not taught in English or if English is not the individual's native language, successfully passed an English proficiency examination that includes the components of reading, speaking, writing and listening;
4. Has successfully passed an NCLEX-RN® or NCLEX-PN® Examination or recognized predecessor, as applicable;
5. Is eligible for or holds an active, unencumbered license;
6. Has submitted, in connection with an application for initial licensure or licensure by endorsement, fingerprints or other biometric data for the purpose of obtaining criminal history record information from the Federal Bureau of Investigation and the agency responsible for retaining that state's criminal records;
7. Has not been convicted or found guilty, or has entered into an agreed disposition, of a felony offense under applicable state or federal criminal law;
8. Has not been convicted or found guilty, or has entered into an agreed disposition, of a misdemeanor offense related to the practice of nursing as determined on a case-by-case basis;
9. Is not currently enrolled in an alternative program;
10. Is subject to self-disclosure requirements regarding current participation in an alternative program; and
11. Has a valid United States Social Security number.

