

**House Human Services Committee
North Dakota Board of Nursing Testimony
HB 1044 Advanced Practice Registered Nurse Licensure Compact**

Chairman Weisz and members of the Committee. I am Dr. Stacey Pfenning, Executive Director for the North Dakota Board of Nursing.

HB 1044 is an agency bill filed by the Board of Nursing to amend and reenact 43-12.5-01 of the ND Century Code, relating to the Advanced Practice Registered Nurse (APRN) Licensure Compact, to reflect revisions adopted August 2020 by the National Council of State Boards of Nursing. The APRN Licensure Compact aligns with the Board of Nursing mission through facilitation of a vetted, quality, accessible, and cost-effective nursing workforce.

Background (See Appendix A):

North Dakota enacted the original APRN licensure compact in 2017; however, the compact failed to gain traction. After many meetings and taskforces, the revised APRN licensure compact was adopted in the hopes of reducing barriers and encouraging other states to join. Key changes: 1) inclusion of uniform licensure requirements similar to the Nurse Licensure Compact (NLC); 2) requirement for 2,080 hours of practice prior to qualifying for a multistate license; and 3) implementation at 7 states vs. 10.

APRN Licensure Compact a Mutual Recognition Model (See Appendix B, C):

- APRNs would have one multistate license to practice (physically & via technology) in home state and other compact states. ND would retain autonomy and authority.
- Accessibility to nursing services and mobility for nurses.
 - Access to nurse faculty for online nursing education programs.
 - Mobility of qualified APRNs during disaster/state of emergencies.
 - Supports nursing's role in the rapidly expanding telehealth industry.
 - Benefits military spouses with APRN licenses who relocate often.
- Grants necessary legal authority to facilitate interstate information sharing and investigations in the event of adverse actions to ensure public protection.
- Eliminates redundancy, duplicative regulatory processes, and unnecessary fees for licensee and facilities/employers.

Please note Letters of Support in Appendix D. Thank you in advance for your consideration of HB 1044 and for your attention. I am open for questions.

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Mobility on Deck for Advanced Practice Registered Nurses

Nicole Livanos, JD, MPP

On August 12, 2020, the National Council of State Boards of Nursing (NCSBN) convened a virtual Delegate Assembly. The agenda included the adoption of a new interstate licensure compact for advanced practice registered nurses (APRNs). The proposal received support from the majority of NCSBN delegates, and the journey toward licensure mobility for APRNs can begin once again (NCSBN, 2020a).

A previous rendition of the APRN Compact, approved in 2015, failed to gain traction. Among the roadblocks were the varied state laws governing APRN practice and regulation. The variation exists in states with restrictive practice for APRNs as well as in many states that worked tirelessly to remove the restrictions but were forced to make political concessions, which resulted in patchwork statutes and regulations across states (American Nurses Association, 2020). Uniformity is pivotal in achieving mobility in an interstate compact. The newly adopted APRN Compact act provides uniformity that enables APRNs to obtain a multistate license and practice under the compact; it also makes various additional changes to aid multistate licensure in becoming a reality sooner.

What Changed?

Codifying the APRN Consensus Model

Since its adoption in 2008, states have worked toward adopting the various elements of the APRN Consensus Model, including the national standards for safe APRN practice and regulation. Drafters of the new APRN Compact incorporated those elements into the uniform licensure requirements needed to obtain and maintain a multistate license, as well as into provisions governing practice by multistate licensees (NCSBN, 2020b).

The APRN Consensus Model elements included in the uniform licensure requirements are as follows:

- The applicant must hold an active, unencumbered license as a registered nurse.
- The applicant must graduate from an accredited program or approved foreign APRN education program in a recognized role and population focus.
- The applicant must obtain and maintain national certification in a role and population focus.

Uniformity With the Nurse Licensure Compact

Many uniform licensure requirements mirror the Nurse Licensure Compact (NLC), the interstate licensure compact for registered nurses and licensed practical nurses. For instance, applicants for multistate licenses must meet the licensure requirements in their home states, submit to a criminal background check, and have no felony conviction or misdemeanors related to the practice of nursing. Furthermore, those APRNs actively participating in an alternative-to-discipline program are ineligible for a multistate license until they have completed their program (NCSBN, 2020b). The consistency between the two compacts makes sense, as two-thirds of the states have adopted the NLC and APRNs must hold licensure or a privilege to practice as a registered nurse in those states that join the APRN Compact.

Practice Hour Requirement

Under the newly adopted compact, applicants must have at least 2,080 hours of practice as a licensed APRN in the role and population focus congruent with their education and certification before they can receive a multistate license (NCSBN, 2020). The practice hour requirement was included in the compact language owing to the prevalence of transitions to practice in state law. Since 1995, the majority of states that have passed laws allowing APRNs full practice authority have included what is often referred to as a "transition-to-practice" period (American Nurses Association, 2020). This transition to practice is predominately negotiated during the legislative process as a way to appease physician groups opposing a full practice bill. For example, nurse practitioners are required to have 4,000 practice hours under a collaborative agreement with a physician before they can practice independently. These transitions to practice presented a unique challenge to the implementation of the compact. For the compact to operate as efficiently as possible, the transitions to practice needed to be addressed while maintaining uniformity and operating without the need for any physician collaboration or supervision.

It's important to note that the 2,080-hour practice requirement under the APRN Compact is distinctly different from a transition-to-practice period; the language reads that in order to qualify for a multistate license, the APRN must have "practiced for at least 2,080 hours as an APRN in a role and population focus congruent with the applicant's education and training" (NCSBN,

2020b). Supervision or collaborative practice is not required. The 2,080 hours of practice are completed by the applicant in the state where he or she hold a single-state license and is thus subject to the practice laws of that state. Inclusion of the 2,080-hour practice requirement is a practical compromise that will increase the likelihood that more states can join the APRN Compact.

The Path to Seven

The newly adopted compact will become effective once seven jurisdictions enact the legislation. Having a threshold number of states for the compact to become effective is common among interstate licensure compacts. For example, the APRN Compact shares the same trigger number as the Psychology Interjurisdictional Compact (PSYPACT), which reached its seven-state threshold in April 2019 (PSYPACT, 2019). Similar to other interstate licensure compacts, the legislative trigger spurs the formation of the commission, a quasi-governmental agency. The composition of the commission is one member from each party state, and that member is the head of the state licensing board or their designee (NCSBN, 2020b). Upon adoption of rules governing implementation and operations of the APRN compact, it will be fully operational and member states can begin processing applications for multistate licensure.

The Need for Mobility Now

Before COVID-19, the need for APRNs to have licensure mobility was great. Once the pandemic changed the healthcare landscape, the need ballooned. During the pandemic, the majority of states authorized practice by out-of-state licensees through either a full waiver or temporary licensure or permit (Hentze, 2020). The goal of the provisions is to permit healthcare practitioners the flexibility to assist with the pandemic relief wherever an acute need surfaced—for example, the northeastern United States in the early months and the southern and western states in Summer 2020 (Yeip, 2020). Some temporary permits authorized practice with pared down application requirements, whereas waivers generally authorized practice as long as the nurses held licensure *somewhere* (Hentze, 2020). The policies were introduced at different times, and each has its own specifications and expiration date, which can make navigating and understanding the processes confusing and difficult for facilities and practitioners alike (Costich & Scheer, 2020).

We can contrast the instability of state emergency actions to that of an interstate compact like the NLC. Registered nurses and licensed practical nurses across 33 states that are party to the NLC were able to be mobilized immediately in March as the first wave of the virus hit, without waiting for the complex and variant emergency policymaking. The 34th state, New Jersey, partially implemented their law to mobilize the existing multistate workforce (NCSBN, 2020c). However, APRNs who wanted to provide critical services in states other than where they held licensure were required to navigate complex and patchwork regulatory structures created by statutes, regulations, and the plethora of executive orders.

This pandemic has demonstrated just how vital the safe and free movement of healthcare professionals are for the health of the nation. APRNs, like many other healthcare professions, should enjoy an interstate compact to facilitate their practice and increase access to care for patients. The newly adopted APRN Compact is just that, and state legislatures can make joining the compact a reality.

References

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Conflicts of interest: None.

Key Provisions of the APRN Compact



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Article I Findings and Declaration of Purpose

- Facilitate the states' responsibilities to protect the public's health and safety;
- Ensure and encourage the cooperation of party states in the areas of APRN licensure and regulation, including promotion of uniform licensure requirements;
- Facilitate the exchange of information between party states in the areas of APRN regulation, investigation and adverse actions;
- Promote compliance with the laws governing APRN practice in each jurisdiction;
- Authorizes all party states to hold an APRN accountable for meeting all state practice laws in the state in which the patient is located at the time care is rendered through the mutual recognition of party state privileges to practice;
- Decrease redundancies in the consideration and issuance of APRN licensure; and
- Provide opportunities for interstate practice by advanced practice registered nurses who meet uniform licensure requirements.

Article II Definitions

Reference model legislation at aprncompact.com.

Article III General Provisions and Jurisdiction

- Conduct criminal background checks for applicants for initial APRN licensure or APRN licensure by endorsement.
- Meet home state's requirements for obtaining and retaining a single state license, in addition to meeting the following Uniform Licensure Requirements (ULRs):
 - Graduates from:
 - A graduate-level accredited education program; or
 - An approved foreign APRN education program.
 - Passes an English proficiency examination (applies to graduates of an international education program not taught in English or if English is not the individual's native language).
 - Passes a national certification examination that measures APRN, role and population-focused competencies and maintains continued competence as evidenced by recertification in the role and population focus through the national certification program.
 - Holds an active, unencumbered license as a registered nurse and an active, unencumbered authorization to practice as an APRN.
 - Has successfully passed an NCLEX-RN® examination or recognized predecessor, as applicable.
 - Has practiced for at least 2,080 hours as an APRN in a role and population focus congruent with the applicant's education and training.
 - Has submitted to state and federal fingerprint-based criminal background checks.
 - Has not been convicted or found guilty, or has entered into an agreed disposition, of a felony offense under applicable state, federal, or foreign criminal law;
 - Has no misdemeanor convictions related to the practice of nursing (determined on a case-by-case basis).
 - Is not currently a participant in an alternative program.
 - Is required to self-disclose current participation in an alternative program.
 - Has a valid United States Social Security number.
- An APRN multistate license is recognized as authorizing the APRN to practice in each party state, under a multistate licensure privilege, in the same role and population focus as in the home state.
- An individual may apply for a single-state license, instead of a multistate license, even if otherwise qualified for the multistate license.



- An APRN multistate license shall include prescriptive authority for non-controlled prescription drugs. An APRN shall satisfy all requirements imposed by the state for each state in which an APRN seeks authority to prescribe controlled substances.
- An APRN multistate license holder is authorized to practice independent of a supervisory or collaborative relationship with any healthcare provider.
- Authority to take adverse action against a multistate licensure privilege with application of state due process laws.
- APRN compliance with state practice laws.

Article IV Applications for APRN Licensure in a Party State

- Verification of licensure information via the coordinated licensure information system.
- Limitation to one home state license.
- Outlines process for change of primary residence/home state.

Article V Additional Authorities Invested in Party State Licensing Boards

- Provides authority to:
 - Take adverse action against a multistate licensure privilege.
 - Allow cease and desist orders to limit privileges.
 - Issue subpoenas.
 - Obtain and submit criminal background checks.
- Requires deactivation of multistate licensure privileges when license is under discipline.

Article VI Coordinated Licensure Information System and Exchange of Information

- Requires participation in Coordinated Licensure Information System.
- Requires prompt reporting of adverse action, current significant investigative information and participation in alternative to discipline programs when known to the board of nursing.
- Provides for exchange of information with other party states.

Article VII Establishment of the Interstate Commission of APRN Compact Administrators

Establishes the governing body as a public agency known as an "Interstate Commission." This term is commonly used by other interstate compact governing bodies.

Article VIII Rulemaking

Allows for rules to be adopted directly by the Commission. Such rulemaking is legally binding in all party states. There is no requirement that rules be ratified or adopted by individual states. Such rulemaking authority has been permitted and exercised by other interstate Compacts. The procedural requirements are based on the national Model Administrative Procedures Act, which is similar to most state APAs and includes:

- Provision for notice to the public of proposed and adopted rules.
- Opportunity for comment.
- Opportunity for public hearing.
- Consideration and voting upon proposed rules.
- Responding to comments received.



Article IX Oversight, Dispute Resolution and Enforcement

Ensures compliance with the Compact by member states. The procedures to be followed in the event of a failure by a party state to comply with the Compact include:

- A period of technical assistance in curing the default.
- Improved dispute resolution processes; and
- Termination from the Compact in the event no other means of compliance has been successful.

Article X Effective Date, Withdrawal and Amendment

- Addresses the method for states to enter, withdraw from or amend the Compact.
- Effective when Compact has been enacted into law in seven (7) party states.

Article XI Construction and Severability

Provides for the Compact to remain valid in a state when any provision is declared to be contrary to a party state's constitution.

APRN COMPACT

Issue

Modern health care delivery requires that safe and quality care provided by advanced practice registered nurses (APRNs) be dynamic and fluid across state boundaries. The 100-year-old model of nursing licensure is not flexible, enough to best meet this need.

Solution

The Advanced Practice Registered Nurse Compact (APRN Compact) increases access to care, protects patient safety and reduces costs while supporting state-of-the-art health care delivery. The APRN Compact allows for APRNs with 2,080 hours or more of practice to have one multistate license in their home state, with the privilege to practice in other APRN Compact party states without obtaining additional licenses. To join the APRN Compact, states need to enact the APRN Compact model legislation and implement a federal criminal background check for APRN licensure.

Safe and Efficient

- Facilitates the protection of public health and safety by:
 - Codifying uniform licensure requirements mirroring the national APRN Consensus Model to ensure applicants meet licensure standards for participation.
 - Facilitating the exchange of information between party states in the areas of APRN regulation and investigation whenever an issue arises.
 - Ensuring that party states have the authority to hold an APRN accountable in meeting state practice laws.
- Encourages efficiency by:
 - Decreasing redundancies in applying for and maintaining multiple APRN licenses.
 - Promoting and encouraging interstate practice by APRNs.

Benefits of the APRN Compact

- **Access to Care:** Increases access to APRN services across the country quickly and efficiently, which is essential for the health of many rural and underserved communities.
- **Telehealth:** Enables APRNs to practice in person or provide telehealth services to patients located across the country seamlessly and efficiently
- **Disaster/Pandemic Relief:** Allows APRNs to immediately cross state borders and provide vital services in the event of an emergency, without the need to wait for executive declaration.
- **Military Families:** Allows military spouse APRNs to seamlessly continue working upon relocation and change of employment.
- **Online Education:** Facilitates online nursing education.
- **Cost Effective:**
 - **For APRNs:** APRNs do not have to obtain additional nursing licenses, making practicing across state borders affordable and convenient.
 - **For Employers:** The APRN Compact also removes a burdensome expense for organizations that employ APRNs and may share the expenditure of obtaining and maintaining multiple licenses.
- **Flexible Licensure:** Allows APRNs to obtain or maintain a single state license if preferred.



Solution 4: Legislative support for APRN Nurse Licensure Compact bill.

The Advanced Practice Registered Nurse Compact (APRN Compact) increases access to care, protects patient safety and reduces costs while supporting state-of-the-art health care delivery. The APRN Compact allows for APRNs with 2,080 hours or more of practice to have one multistate license in their home state, with the privilege to practice in other APRN Compact party states without obtaining additional licenses.

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- **Military Families:** Allows military spouse APRNs to seamlessly continue working upon relocation and change of employment.
- **Online Education:** Facilitates online nursing education.
- **Efficient:** Eliminates redundant, duplicative regulatory processes and unnecessary fees.
- **Cost Effective:** APRNs do not have to obtain additional nursing licenses, making practicing across state borders affordable and convenient. The APRN Compact also removes a burdensome expense for organizations that employ APRNs and may share the expenditure of obtaining and maintaining multiple licenses.
- **Facilitates Interstate Information Sharing:** Grants the necessary legal authority to facilitate interstate information sharing and investigations in the event of adverse actions to ensure public protection.
- **Flexible Licensure:** Allows APRNs to obtain or maintain a single state license if preferred.



Key Points for North Dakota's Legislative Bill

Repeal-and-replace/Revise

The APRN compact we adopted did not get enough states to become effective. In order to create licensure mobility for APRNs, we need to enact the new APRN Compact.

This compact increase transparency by ensuring every multistate licensee meets the uniform licensure requirements in article III. These requirements mirror many of those in our successfully operating NLC and represent the national standards for APRN regulation.



Effective date

This compact will become effective sooner—once 7 states have enacted the legislation, down from 10 in the previous compact. Several states have expressed interest and plan on introducing the legislation in the upcoming legislative sessions. The changes made to the new language increase the pool of states eligible and interested in enacting the law.

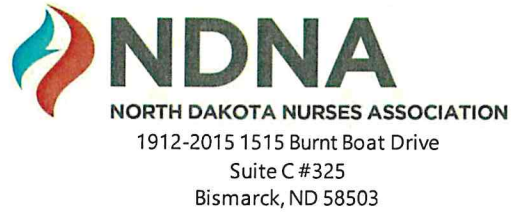
COVID-19

Had the APRN Compact been enacted prior to the COVID-19 pandemic, there would have been an immediately available workforce to assist in compact states. In an emergency such as a pandemic—one that is impacting the entire country, having a mobile workforce to respond to hot spots as they arise would have helped both facilities respond to patients with severe illness and also to increase the primary care workforce that we know is critical for testing and less-acute illness. For practitioners, the options for practicing via telehealth would help to keep their practices afloat all while increasing access to care for our residents and those across the country.

We can contrast this with registered and licensed practical nurses. Nurses in 34 states that are party to the NLC were able to be mobilized immediately, while APRNs who wanted to provide critical services in states other than where they are licensed had to navigate complex and patchwork regulatory structures created by statute, regulation, and the many executive orders and emergency regulations that lacked uniformity across states in both purpose and duration.

For more information about the ND APRN Nurse Licensure Compact Contact: Dr. Stacey Pfenning, Executive Director, North Dakota Board of Nursing at spfening@ndbon.org

Appendix D



December 14, 2020

Dear Dr. Stacey Pfenning,

Thank you for reaching out to the North Dakota Nurses Association (NDNA) regarding the Advanced Practice Registered Nurse (APRN) Compact. We have reviewed the materials you shared with us and have had discussions within the NDNA board of directors as well as with the American Nurses Association on the compacts.

The North Dakota Nurses Association is pleased to offer the North Dakota Board of Nursing our support for the APRN Compact. The American Nurses Association as well as the North Dakota Nurses Association strongly support full practice authority for all APRNs. We agree with the benefits it will provide to telehealth and nurses (including APRNs) as described by the National Council of State Boards of Nursing.

We are pleased to be collaborating with the North Dakota Board of Nursing on these compacts. Please feel free to reach out to NDNA for any further questions or needs. We feel it is important to be a united as nurses in the great state of North Dakota!

Sincerely,

Sherri Miller, BS, BSN, RN
Executive Director
North Dakota Nurses Association