

**THE AMERICAN NURSES ASSOCIATION
PROPOSED LICENSURE MODELS
TO FACILITATE NURSING PRACTICE ACROSS STATE LINES AS
REQUESTED BY THE 1999 ANA HOUSE OF DELEGATES**

**MODEL #1 - FACILITATION OF PHYSICALLY PROVIDING NURSING SERVICES ACROSS
STATE BOUNDARIES**

RAPID ENDORSEMENT	
Components	Comments
<ul style="list-style-type: none"> • A set of common data elements is identified; • The model nurse practice act would be the basis of licensure uniformity; • Consistency in causes of action would be applied; • A central disciplinary bank would be available and would be connected to the electronic verification system; • Technology would be utilized to reduce processing time and; • A current license to practice would be required in each state where practice occurs. 	<ul style="list-style-type: none"> • Allows each state to retain their traditional power to set and enforce standards that best meet the needs of the local population. • Requires minimal legislation for implementation; • Builds upon the existing regulatory structure and concepts; and • Assures consumer protection.
SPECIAL SITUATIONS	
<p>A. Trauma nurses and educators</p> <ul style="list-style-type: none"> • Provides an exemption for nursing practice that is intermittent, infrequent, limited in number of visits and does not create an ongoing nurse/patient relationship. 	<ul style="list-style-type: none"> • Based upon uniformity of state law and facilitates the provision of care that is infrequent yet it still gives recognition within the practice act for possible disciplinary action as required.
<p>B. Disaster nurses</p> <ul style="list-style-type: none"> • Would include nurses who provide emergency nursing care in a state where the governor has declared a state disaster; • Would require nurses to register (in oral or written form) with the board of nursing in the state of licensure and include information such as name, licensure number, home address and phone number. 	<ul style="list-style-type: none"> • Establishes accountability of out-of- state providers; and • Assures consumer protection.

<p>The board of nursing would provide the registration information to the board of nursing in the disaster state.</p>	
---	--

MODEL #2 FACILITATION OF PROVIDING NURSING SERVICES ACROSS STATE BOUNDARIES THROUGH THE USE OF TELEHEALTH

REGISTRATION	
Components	Comments
<ul style="list-style-type: none"> • Allows the state to identify who is providing telehealth service; • Out-of-state provider is accountable to the board of nursing; • Authorizes the provision of services and discipline of provider; • Creates additional jurisdiction over provider in the registration state that can accept or prohibit practice; • Provides a mechanism for communication between the board and provider; • A central disciplinary data bank would be available and would be connected to the electronic verification system and • Registration would include name, address, state of licensure, phone number, license number, affidavit acknowledging any pending disciplinary causes of action and criminal causes of action and includes submission of jurisdiction to the state of registration. 	<ul style="list-style-type: none"> • Maintains strong presence of the board of nursing; • Administrative ease; • Accountability required of out-of-state providers; • Requires no new regulatory scheme; • Builds upon current licensure system; • Assures consumer protection; and • Meets the criteria set forth in the ANA Core Principles of Telehealth.

MODEL #3 FACILITATION OF PROVIDING NURSING SERVICES ACROSS STATE BOUNDARIES THROUGH THE USE OF TELEHEALTH

SITE OF PROVIDER	
Components	Comments
<ul style="list-style-type: none"> • Provision of services would be defined as the site of the provider when practicing via telecommunication technologies; • Site of provider determination assumes uniform licensure laws; • A central disciplinary bank would 	<ul style="list-style-type: none"> • Requires no new regulatory scheme; • Reflects the federal reimbursement model that defines site of services as the site where the provider is practicing - i.e. Transports the patient to the provider; • Expands the current licensure system

<p>be available and would be connected to the electronic verification system;</p> <ul style="list-style-type: none"> • Site of provider determination creates a blanket authority to practice telehealth however, individual providers would not be identified; and • Site of provider determination reinforces authority of the state where the provider is located. 	<p>by defining the practice of telehealth while the board of nursing would retain the same jurisdictional authority;</p> <ul style="list-style-type: none"> • Would require only one license; and • Could be burdensome to the consumer and might not assure consumer protection.
---	---

Other opportunities for expansion of work on this issue include:

- Development of a model informed consent to be utilized by current nurse providers of telehealth services. This is related to liability and protection for the provider.
- Development of a questionnaire to be sent to each individual board of nursing to determine how long it takes for endorsement of licensure to occur. Explore their temporary licensure system.
- Development of telehealth systems guidelines including equipment, imaging, lines etc. to assure care can be delivered safely with quality transmissions ensuring accurate diagnosis and assessment.
- Implement the model nurse practice act in all states to ensure uniformity of licensure laws.

**THE AMERICAN NURSES ASSOCIATION
PROPOSED LICENSURE MODELS
TO FACILITATE NURSING PRACTICE ACROSS STATE LINES**

Evaluated using the House of Delegates 14 Points

THE HOUSE OF DELEGATES 14 POINTS	Model #1 - Physically practicing across state boundaries RAPID ENDORSEMENT (meets all 14 points articulated by ANA HOD)	Model #2 - Practicing via Telehealth REGISTRATION (meets all 14 points articulated by ANA HOD)	Model #3 - Practicing via Telehealth SITE OF PROVIDER (meets 9 of 14 points articulated by ANA HOD)
<p>A. Interstate practice legislation should clearly define key terms and be precisely drafted to ensure that the primary objective to be accomplished by interstate practice is achieved, i.e., asserting jurisdiction over out-of-state nurses practicing in a state;</p>	<p>Key terms have been defined by ANA. Those definitions may be used. Endorsement as a regulatory model utilizes existing definitions which are known and recognized by BON and nurses.</p> <p>This model requires licensure wherever the nurse practices.</p>	<p>Utilizes definitions which already exist in ANA model practice act and are known and recognized by BON and nurses.</p> <p>This model requires one license and registration in states where other sites of practice exist.</p>	<p>Utilizes definitions which already exist in ANA model practice act and which are known and recognized by BON and nurses.</p> <p>This model incorporates a reliance on a federal HCFA definition of jurisdiction recently enacted 11/2/98. Statutory and case law defining jurisdiction for appellate review would have to be changed.</p> <p>This model requires one license, but does not preclude multiple licensure in other sites where one may physically practice.</p>
<ul style="list-style-type: none"> The rule-making process to implement any interstate practice legislation should be clearly spelled out in 	<p>Rule making process would remain the same as existing process and is clearly spelled out in state administrative procedures act.</p>	<p>Rule making process would remain the same as with existing law and it is not envisioned that additional definitions which would require additional rule making.</p>	<p>Rule making process would remain the same as existing process and is clearly spelled out in state administrative procedures act.</p>

<p>the legislation, and proposed implementation regulations of key provisions should be developed simultaneously with any legislation;</p>			
<p>C. Clear parameters should be established related to the confidentiality of any information shared with other states as well as who shall have access to such information;</p>	<p>Confidentiality would be controlled by state and federal law. State law varies with jurisdiction, but all are written to provide protection to nurses while disciplinary actions are pending. Final actions would be reportable.</p>	<p>Confidentiality would be controlled by state and federal law. State law varies with jurisdiction, but all are written to provide protection to nurses while disciplinary actions are pending. Final actions would be reportable.</p>	<p>If the licensee is licensed in more than one state, the model does not clearly indicate that all states of licensure would be required to share information; and information may be limited to the state where practice occurs without granting access to such information in the state where the licensee resides.</p>
<p>D. The sharing of any information related to disciplinary matters, other than final orders and emergency suspensions, should be prohibited unless there is a clear and convincing need to do so to protect the public;</p>	<p>Confidentiality would be controlled by state and federal law. State law varies with jurisdiction, but all are written to provide protection to nurses while disciplinary actions are pending. Final actions would be reportable.</p>	<p>Confidentiality would be controlled by state and federal law. State law varies with jurisdiction, but all are written to provide protection to nurses while disciplinary actions are pending. Final actions would be reportable.</p>	<p>If the licensee is licensed in more than one state, model does not clearly indicate all states of licensure would be required to share information; and information may be limited to the state where practice occurs without granting access to the state where licensee resides.</p>
<p>E. The process for selecting an entity to conduct data collection or provide other services related to implementation of interstate practice shall be open and competitive;</p>	<p>The selection process would remain open and competitive, however any entity selected would have to adhere to state and federal confidentiality requirements.</p>	<p>The selection process would remain open and competitive, however any entity selected would have to adhere to state and federal confidentiality requirements.</p>	<p>The selection process would remain open and competitive, however, there would be questions about how the state would assure accurate and unduplicated information on licensees. Other</p>

			models provide better methods for tracking conduct which warrants discipline.
F. Before any immunity from liability is extended to non-governmental entities, there should be careful scrutiny to ensure those entities are appropriately accountable for their actions;	Liability from immunity would not be extended to non-governmental entities.	Liability from immunity would not be extended to non-governmental entities.	Liability from immunity would not be extended to non-governmental entities.
G. Mechanisms should be established to ensure that the process used by any entity collecting data be reconciled with state law and procedures regarding collecting, maintaining and distributing licensure and disciplinary information;	Using existing regulatory structure, state law would govern the procedures related to collecting, maintaining and distributing licensure and disciplinary information. Like existing model, could identify all states of practice.	Using existing regulatory structure, state law would govern the procedures related to collecting, maintaining and distributing licensure and disciplinary information. Registry allows identification of all states of practice.	Unless all states accept this model there would be problems with duplication of information and assuring accuracy of one national database. Other models provide better mechanisms for tracking practice.
H. The right of individual nurses to a fair hearing of any disciplinary matter must be protected; and, no unfair or undue burden, financial or otherwise, should be placed on a nurse's exercising his/her right to a fair hearing;	As this disciplinary process expands existing law, there is a retention of the right to due process and fair hearing.	Using a registry, the state of practice would have the right to prohibit practice by the nonresident nurse, and the affirmative obligation to send information to the state board of licensure related to discipline. State board of licensure would be responsible for discipline.	The licensee would retain the right to due process and a fair hearing, but there is the issue of whether there can be comprehensive investigation of actions which occur outside of state of the provider. The consumer, a nonresident, may have the right but not easy access to participate in the disciplinary hearing and investigation process. This regulatory structure allows licensees practicing in the same state to be disciplined differently -- both are held to the standards of their place of licensure (which are often different)

			although they are practicing in same state.
I. Approaches to interstate advanced practice nursing should be addressed for consistency in connection with interstate practice for other RNs;	Building on existing regulatory model, consistency would be possible.	Registry allows same treatment of LP/VN, RN and APN.	Building on existing regulatory model, consistency would be possible.
J. Mechanisms should be in place that ensure nurses have ready and ongoing access to practice-related information, including current board of nursing policies;	With expedited licensure, the affirmative obligation to know and understand the law of state of licensure.	With registry, BON of state of practice would know who is practicing in the state and could mandate through affirmation upon registration knowledge of law of state of practice.	This model requires knowledge of state law where licensee is located. State where the licensee is practicing gives blanket permission for entry into the state by out-of-state providers. State cannot identify who is actual providing care through telehealth measures within its boundaries.
K. Mechanisms should be in place to ensure that a board of nursing knows who is practicing in its state under authority of a license granted by another state or through an interstate practice agreement;	This expanded use of exist(g law would assure knowledge of those practicing in state.	Registration was designed to assure knowledge of those practice in state. Telehealth permit option would provide knowledge of those practice in state.	State where the licensee is practicing gives blanket permission for entry into the state by out-of-state providers. State cannot identify who is actual providing care through telehealth measures within its boundaries.
L. The state of predominant practice should be the state of licensure; if the nurse is not practicing, the nurse should be licensed in his/her state of residence;	This expanded use of existing law could be structured to assure that predominant place of practice would be state of licensure.	This expanded use of the registry existing law could be structured to assure that predominant place of practice would be state of licensure. Telehealth permit option would clarify temporal nature of practice.	The dominant practice could be accomplished with this model, but additional language would have to be included in act to clearly define "predominant practice" and provide alternative methods for allowing one to practice outside the area of predominant practice.
M. Employers must be held accountable for ensuring that they	Additional statutory authority would be created with this model to hold	Additional statutory authority would be created with this model to hold	No additional duty has been created to assure knowledge of state law

<p>utilize staff who are licensed (or otherwise authorized to practice) under state law;</p>	<p>institutions responsible for using staff licensed or appropriately registered in the state of practice. Additionally, BON can use existing authority to challenge institutional licensure process when inappropriately using unlicensed staff. Additional staff work is needed on informed consent models to provide protection to nurses who practice across state lines.</p>	<p>institutions responsible for using staff licensed or appropriately registered in the state of practice. Additionally, BON can use existing authority to challenge institutional licensure process when inappropriately using unlicensed staff. Additional staff work is needed on informed consent models to provide protection to nurses who practice across state lines.</p>	<p>where consumer/patient is located.</p>
<ul style="list-style-type: none"> Interstate practice must not be implemented in a way that allows persons to circumvent or contravene existing public policy as expressed by a state's laws or policies, including laws on the use of strikebreakers and striker replacement or initial and continuing licensure requirements. 	<p>Expedited licensure does not circumvent or contravene existing public policy related to use of strikebreakers or strike replacements. The nurse may obtain a license, but the institution has affirmative obligation to comply with antistrike breaker law.</p>	<p>Registration does not circumvent or contravene existing public policy related to use of strikebreakers or strike replacements. The nurse may obtain a license, but the institution has the affirmative obligation to comply with antistrikebreaker law.</p>	<p>Site of Provider determination does not circumvent or contravene existing public policy related to use of strikebreakers or strike replacements. The nurse may obtain a license, but the institution has the affirmative obligation to comply with antistrikebreaker law.</p>