



THE STATE  
of **ALASKA**  
GOVERNOR MIKE DUNLEAVY

## Department of Commerce, Community, and Economic Development

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March 10, 2020

The Honorable David Wilson  
Chair, Senate Health and Social Services Committee  
Alaska State Capitol Room 115  
Juneau, Alaska 99801

RE: SB 179 Follow-up Information

Dear Senator Wilson:

Thank you for the opportunity to hear invited and public testimony on Senate Bill (SB) 179 in the Senate Health and Social Services Committee on Friday, March 6. Below are the outstanding answers to questions that were posed by Senator Giessel:

**What regulatory authority is being turned over to the National Council of State Boards of Nursing (NCSBN) Compact Commission?**

The NCSBN and the Interstate Commission of the Nurse Licensure Compact Administrators (NLC Commission) are two different entities. There is no regulatory authority that is passed to the NLC Commission. The NLC Commission does not license or discipline nurses; all licensing and discipline authorities remain with the state boards of nursing. The Commission does have a limited rulemaking ability, but that rulemaking can only pertain to the operations of the Compact and cannot affect nursing practice or licensing at the state level.

The NCSBN is an independent, not-for-profit organization, through which nursing regulatory bodies act and counsel together on matters of common interests and concerns affecting public health, safety, and welfare. This includes the development of the national nurse licensure examinations. The Alaska Board of Nursing has been a member of NCSBN for many years.

**SB 179 states that a fee will be set by the Commission. What limits are in place to ensure the fees will not be increased?**

The fee to participate in the Commission is \$6,000. The fee could only be increased by a Commission vote. Since all Commissioners are state employees or board members (Executive Directors or Chairs of the state boards of nursing), they all have the same duty to act fiscally responsibly and keep fees at a minimum. The Alaska State Legislature has the right to withdraw from the Compact through legislation. The department will assess any expenditures associated with multistate licensure to holders of that license type.

**In what other areas does Alaska not only pay an out-of-state private organization (in this case, located in Illinois) but allow that private entity to set State of Alaska standards?**

The Commission is not able to set any Alaskan standards and has no authority over Alaska's licensure

requirements or practice laws/standards. As noted above, the Commission's authority resides only with the functions of the compact. It should be noted that the NLC Commission is not an out-of-state private organization; it is a public entity (see Article VII of SB 179, page 21 lines 6-15). The Commission is considered a quasi-governmental agency as it is made up of government employees, but is not a government agency itself.

Alaska is currently a member of many compacts that have a similar construction as the Nurse Licensure Compact (NLC), including the Interstate Compact on the Educational Opportunity for Military Children.

**What liabilities could be envisioned if the Commission fails in its fiduciary responsibilities?**

The Commission is audited annually by a third-party accountant, and the results of that audit are shared in the NLC's Annual Report. The finances of the Commission, as well as all rulemaking and voting, are transparent and available to the public. If a state is not satisfied with the workings of the Commission, the state can withdraw itself from the Compact.

**Has Legislative Legal identified any traps or loopholes in the nurse licensure compact; or any legal concerns about Alaska joining the compact?**

Our department cannot speak to whether Legislative Legal has identified any issues with this legislation, as we do not work directly with that agency. However, the State Department of Law drafted this legislation and did not identify any "traps," "loopholes," or any other issues with the current language.

**How and when will Alaska receive notice when there is a change in regulations or rulemaking; and will there be an opportunity for Alaska to give public comment?**

Alaska will know when a change in regulations or rulemaking has been proposed and will have an opportunity to give public comment. This will be provided, at the very least, to the member board.

SB 179's Article VIII (on page 27) covers all rulemaking authority. The NLC Commission has familiar rulemaking provisions, with requirements for a 60-day public notice for proposed rulemaking and the ability for interested parties to comment. The notice is made available on the Commission's website and many states choose to post the notice on their board of nursing website, as well. The public notice requirements are modeled after the Federal Administrative Procedure Act.

**Will the Commission be subject to the public records act?**

The NLC Commission is a public agency; all meetings and documents are public. While the Commission is not subject to *Alaska's* Public Records Act, any communication about the commission from an Alaska state employee is subject to the Alaska Public Records Act.

**Please clarify what state has jurisdiction over a grievance, and who would pay for legal proceedings?**

Practice takes place where the patient is located. If there is a nursing violation, it is reported to the board of nursing in the state where the patient is receiving the care. The boards of nursing (BONs) are then required per the NLC to work together. The BON where the violation occurred will most likely do the investigation since the evidence and witnesses will be easier to access. That board may then act on the nurse's privilege to practice in that state. That BON will then share the investigative information with the nurse's home-state BON (i.e., where the nurse is licensed). The home-state BON will then use the investigative information to determine whether it will discipline the nurse's license. If a nurse's license is under discipline, his/her privilege to practice in other compact states will be suspended or revoked.

Example: A nurse is reported for diverting medication in Texas. The nurse is an Alaska multistate licensee. Texas will investigate and send that investigative information to Alaska. Texas will perform its own due process and decide whether to discipline the nurse's privilege to practice in Texas. Alaska will

use the investigative information it received from Texas to perform its own due process on the nurse's license.

SB 179's Article V (on page 18) discusses investigative procedures, as well as cost. The cost of the investigation would be incurred by the state that is doing that investigation. Article V notes that if otherwise permitted by state law, the costs of investigations and disposition of cases resulting from any adverse action taken against a nurse can be recovered from that affected nurse. This is greater than Alaska licensing law allows. It is important to note that because of the stringent licensing requirements related to discipline, there have been a small number of investigative cases on multistate nurses.

**What is the process when a state wants to remove itself from the compact? What financial repercussions would there be to Alaska?**

A state can remove itself from the compact through legislation that repeals the compact language. There is a six-month transition period where a state will then work with the NLC Commission to give proper notice to nurses that their licenses will be changing from a multi-state back to a single state license. There are no financial repercussions. It's important to note that no state has ever opted to withdraw from the NLC.

**What will change under the NLC, as far as licensing Alaska nurses? Won't nurses licensed in AK (with or without the multi-state privilege) go through the exact same process used today?**

The process to obtain a multistate license is similar to the process to obtain a single-state license. The Alaska licensing process will remain the same, as one of the first licensure requirements for a multistate license applicant is to meet the home state's requirements and the uniform licensure requirements outlined in the compact, including a FBI criminal background check. Existing Alaska nurses who wish to convert to a multistate license will experience a shorter conversion timeline.

Under the NLC, a nurse will only need one license rather than obtaining a license in each state where they practice or have a patient. Once the nurse has met the requirements and obtained the multistate license, they can then practice in all NLC member states without needing to go through the licensure process again. For example, if a dialysis patient is traveling in another state, the patient's Alaska nurse could still assist him/her from Alaska (if the state is a part of the NLC). In the event of an emergency, multistate nurses from other states could come to Alaska and begin working as soon as they arrive, rather than waiting the few weeks (and sometimes months) to obtain their licenses. The same is true for Alaska nurses who want to practice in other member states. Once Alaska joins the NLC, we suspect that the total volume of license applications will decrease each year as multistate license holders in other states will not need to have a separate license.

**Wasn't state law was amended in the last few years to allow expedited review for military, which apparently means you go to the head of the line? How much time does that save? I assume these nurses still need to complete the second background check to work at hospitals and other providers subject to this requirement?**

Yes, spouses of active duty military personnel with Alaska orders can request that their licensing applications be expedited by submitting the necessary form with their license application. That form will move the military spouse's application to the "head of the line." However, the amount of time that saves is different for each applicant. The greatest obstacle to an efficient licensing process, expedited or not, is an incomplete application. After a nurse submits an application, the hold-up is with the documents that must come directly from a third-party source (such as verification of licensure or educational transcripts). The department cannot process the application until these required documents are received, which can sometimes take months. While we can't speak for the hospitals or other facilities, we understand that those facilities do tend to do their own background checks on incoming nurses.

**If Alaska joins the NLC, does anyone from outside coming up to Alaska to work under a multi-state license still need to go through the second background check required to work at most facilities?**

**How long does that typically take? How often do you have to do the check?**

While we can't speak for the facilities, we know that facilities licensed by the Department of Health and Social Services require an employee background check every 5 years. Facility credentialing is usually extensive.

**The fact that a high percentage of applicants fail to accurately complete their first submission form is rather surprising. If that is true, that begs the question, what is wrong with our application form? Can it be improved for a higher success rate? Has the Division reviewed this and suggested any changes?**

The division's nurse licensing team has evaluated the application for its readability and adherence to statutes and regulations within the last year. The team asked several registered nurses to read the application and provide feedback on how they could streamline the application or change the verbiage to be clearer. Where necessary, changes have been made to the application. However, as stated above, most applications are incomplete due to the documents that must come from the third-party source(s), rather than an error by the applicant.

**Describe the state's ability to bring in nurses during a health emergency, the use of courtesy license and/or emergency license, and who gives the authorization.**

During an emergency, a courtesy license may be issued to a registered or practical nurse who meets the criteria of having an active and discipline-free license in another state. One courtesy license can be issued per individual within an 18-month period. It is valid for a period specified by the board that may not exceed 30 consecutive days (with one renewal option). To obtain the courtesy license, the applicant must submit a complete, signed, and notarized application, a \$50 fee, and verification of a current license in good standing in another state or jurisdiction. The Board of Nursing Executive Administrator can authorize that license.

We do offer temporary permits, but the applicant must submit a fully completed application (as required for permanent license), so we do not issue those licenses in urgent situations.

Per AS 26.23.020(e), if a state of emergency is proclaimed by the governor, the Board of Nursing is part of the Emergency Management Assistance Compact. If healthcare workers are deployed by this compact for intrastate mutual aid, there will be license reciprocity. The division is working with the Department of Health and Social Services to evaluate how the license reciprocity will be tracked.

**If a military nurse changes his/her address to Alaska, and is eligible to receive a Permanent Fund Dividend (PFD), will that trigger the requirement that they pay for an Alaska license?**

At this time, a license is not triggered by or tethered to the PFD. However, a multistate license must be obtained in a nurse's resident state. If a nurse is claiming residency in Alaska in order to obtain the PFD, the applicant will be instructed to change their residency to Alaska upon renewal of the license.

**What is the significance of the survey results?**

The survey was sent to all nurses licensed in Alaska (over 16,000) and received 3,573 responses. Generally, a data set is statistically significant when the set is large enough to accurately represent the population sample being studied. This survey exceeded the statistically valid sample size with a confidence level of 99% and a confidence interval of +/- 2%.

Of the 3,573 responders, 2,018 (56%) hold primary residency in Alaska and 749 (22%) of the responders are members of the union. Eighty-nine percent of the responders who hold primary residency in Alaska

stated they would like Alaska to join the compact (with 5% who answered no and 6% who had no opinion). Eighty-seven percent of the union-member responders stated they'd like Alaska to join the compact (with 8% who answered no and 6% who had no opinion).

**Will Alaska nurses leave the state if we join the NLC?**

Multiple sources, including *Forbes Magazine*, have reported that geographic mobility is a crucial component of a well-functioning economy. Where people live might not always align with where the jobs are or where the need is greatest. We believe and have heard that the opposite is true: the longer we are not a part of the NLC, the less attractive our state is for new nursing graduates and the more we risk limited patient access to healthcare professionals.

**Why did the Washington Legislature vote against joining the NLC?**

The Washington Legislature did not vote against the Nurse Licensure Compact legislation (SB 5460 and HB 1882); rather, the bills did not advance out the assigned committees this session. HB 1882 was introduced on February 4, 2019 and had 15 sponsors. SB 5460 was introduced on January 21, 2019, had eight sponsors, and received its first hearing in the Senate Committee on Health and Long-Term Care on February 1, 2019.

The News Tribune reported that the senate bill died in committee, “despite overwhelming support at the public hearing for the bill.” The Washington Nursing Care Quality Assurance Commission (the WA equivalent to the Alaska State Board of Nursing) voted to pursue legislation to join the NLC in May 2015 and continue to support it. We expect to see NLC legislation introduced in the Washington Legislature’s again in the 2021-2022 legislative session.

Please let me know if you have any additional questions or require additional information. We look forward to continuing the discussion of SB 179 with the members of the Senate Health and Social Services Committee on Wednesday, March 11.

Sincerely,

A handwritten signature in blue ink that reads "Sara Chambers". The signature is fluid and cursive, with the first name "Sara" and last name "Chambers" clearly legible.

Sara Chambers  
Director