Why Nurses Oppose Nurse Licensure Compact

And why you should oppose H.1211, H.1251, S.747

MNA℠ Massachusetts Nurses Association

Frequently Asked Questions

What is the Enhanced Nurse Licensure Compact ("Compact")?

The Enhanced Nurse Licensure Compact ("Compact") is an agreement adopted by states allowing registered nurses (RNs) and licensed practical/vocational nurses (LPN/VNs) to have one multistate license, with the ability to practice in both their home state and other Compact states. Compact originally began in 1998, when a private Chicago-based trade group for staff of state boards of nursing, called the National Council of State Boards of Nursing (NCSBN), developed what is known as the Nursing Interstate License Compact (NLC). Following a number of concerns raised by state nursing groups that this did not guarantee the competence of nurses who practiced across state lines and some bad actors using Compact to move from state to state despite disciplinary actions, the NCSBN passed the Enhanced Nurse Licensure Compact, but concerns still remain more than two decades later and evidence that this has improved nursing quality or increased the number of nurses practicing has not emerged. As recently as this year, concerns have arisen over nurses practicing in several states following the revelation they had obtained fraudulent diplomas from three now-shuttered nursing schools in Florida.

Bottom line: Compact would be a significant, structural change to the largest licensed healthcare profession in the Commonwealth with little benefit to nurses or patients and instead may have aided in individuals fraudulently practicing.

How are Massachusetts nurses licensed now?

The Massachusetts Board of Registration in Nursing (BORN) licenses nurses in Massachusetts. This allows the BORN to review each license for a nurse practicing in the state and to know what nurses are licensed to practice in the state. The standards of licensing, while similar across states, are not identical. For example, each nurse practicing in Massachusetts is beholden to the state's Nurse Practice Act, which governs the practice of nursing in the state. Each state has a different nurse practice act.

There are expedited licensure options available in certain circumstances, such as for the spouses of military members or in times of disasters emergencies.

Maryland joined Compact in 1999

Is Compact national licensure?

No! Compact is not national licensure. Rather, Compact allows nurses licensed in member states to practice in other member states, but the licensing standards are still those of the originating state, despite the nurse practicing and being held to the Nurse Practice Act of the state where care is delivered. This becomes complicated when each

Utah joined Compact in 2004

state has its own laws and regulations governing the practice of nursing. For example, in several Compact states it's permissible for nurses to delegate medication dispensing to aides. In Massachusetts that is against the law.

Doesn't Massachusetts need more nurses?

No! We have more RNs per capita than most states and well above the national average.

And Massachusetts has **grown RNs by 24% -nearly 29,000- over the last 3 years alone** and we have been projected to have a supply surplus by the end of the decade.[1]

We do not have a shortage of registered nurses in Massachusetts. Instead, we have a shortage of nurses willing to work under the current conditions in our hospitals. Compact does not change that. Massachusetts ranks near the top for nurses per capita and graduates over 3,000 nurses a year.

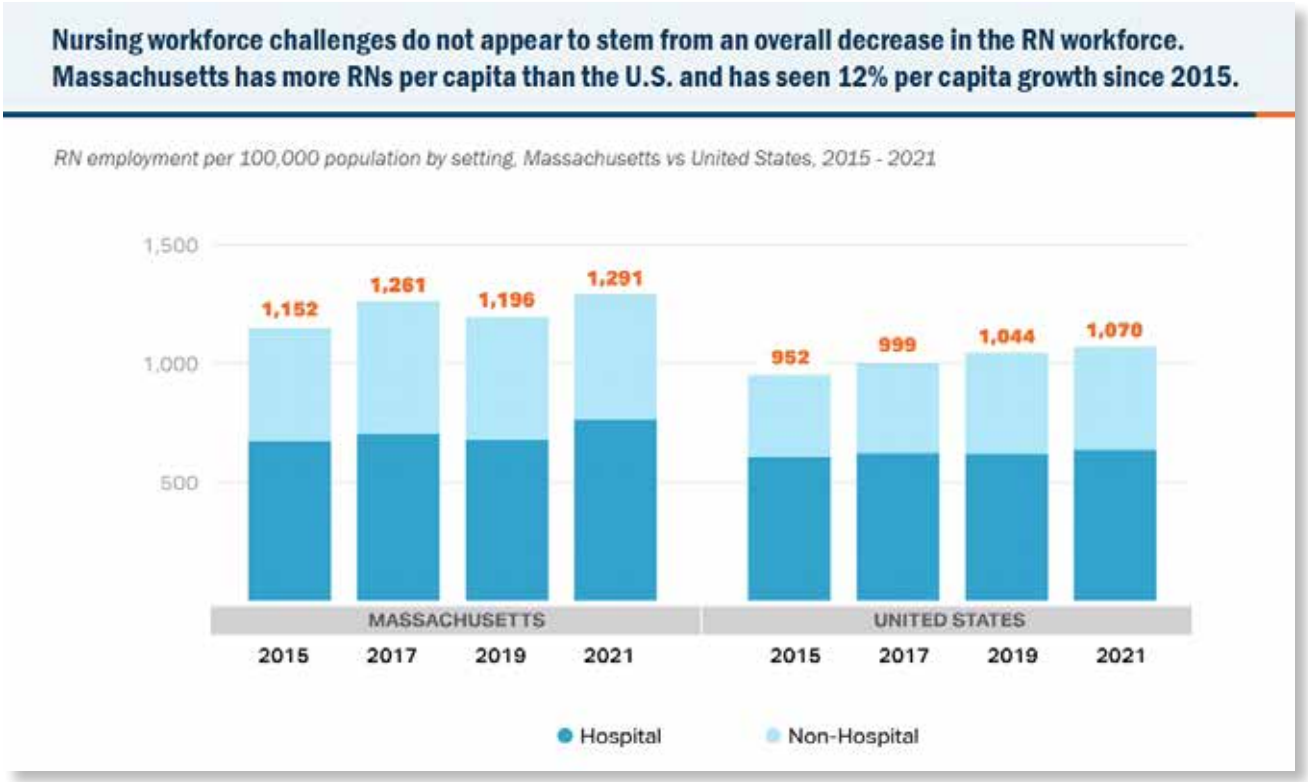
Has the Enhanced Nurse Licensure Compact solved nursing shortages in other states?

No! States with Compact are experiencing severe nursing shortages—Compact has not spared them. Even states that have had Compact for nearly 25 years, like Texas, are experiencing nursing shortages. If Compact was a solution, we would have seen it work by now. Additionally, a 2016 report on Compact found **"no evidence that reducing licensing barriers will increase the pool of workers from which hospitals draw or that it will bring nurses into the labor force. As a result, this reduction in licensing barriers does not appear to be a solution to an aggregate shortage of nurses."** [2]

What about responding to nurse vacancy issues?

Importing nurses from other states will not fix the current vacancy crisis. Our supply of nurses is superior than all but four other states. Instead of shuffling nurses in and out of the state we should be focusing on retaining the nurses we have- and enticing them to remain at the bedside. But rather than doing the hard work of retaining our existing nursing workforce, hospital executives simply want to replace one body at the bedside with another- with little regard for the conditions that are driving the nurses away.

Nursing workforce challenges do not appear to stem from an overall decrease in the RN workforce. Massachusetts has more RNs per capita than the U.S. and has seen 12% per capita growth since 2015.



Source: Health Care Workforce Trends and Challenges in the Era of COVID-19: Current Outlook and Policy Considerations for Massachusetts. 2023

1. https://www.wbur.org/news/2022/02/28/nursing-working-conditions-covid
2. https://www.nber.org/system/files/working_papers/w22344/w22344.pdf

And when the replacement nurse from out-of-state inevitably encounters the same abysmal conditions at the bedside and leaves, the solution is to just plug another body into her/his/their place. This assembly line approach to nursing is not sustainable nor desirable. It does not benefit nurses or patients and further exacerbates the problem.

Instead, healthcare employers and the Commonwealth should be looking to support those nurses currently working and investing in new graduate nurses. Longevity in the nursing profession is not aided by Compact. Longevity at the bedside is the result of improved working conditions, mentorship, supportive employers, and competitive compensation.

Has Compact addressed nursing shortages in other states?

No! In fact states that have adopted Compact have a worse crisis than Massachusetts. There is no evidence it solves the problem and NO evidence nurses move to other states because of it.

Compact has existed in some form or another since 1999 when Texas first adopted it. Nearly 25 years later we can definitively say that it has not alleviated nursing shortages nor left participating states in a better position relative to non-Compact states. Despite proponents repeatedly stating that Compact would address labor force issues, there is no evidence that it has done so in any of the states that have Compact. **Several of the states predicted to have the greatest deficit of nurses by the end of the decade are Compact states,** such as South Dakota (22.7% RN shortage predicted by 2030), South Carolina (16.6% RN shortage predicted by 2030) and Texas-the original Compact state (5.9% RN shortage predicted by 2030).[3] Entry into and long-time participation in Compact have not prevented a nursing shortage in these states. Across the country the results are mixed at best. In looking at a list of states predicted to have a surplus or a shortage, there is no clear pattern of association with participation in Compact. And an examination of press articles from recent months reveals headlines such as "North Texas Hospitals Cope with Ongoing Nursing Shortages While Fighting COVID-19",[4] "Statewide Nursing Shortages Persist as Many Leave Industry" in Montana "Concern Growing in

Virginia joined Compact in 2017

Licensed nurses in Massachusetts, 2019-2022

	As of June 30, 2019	As of June 30, 2020	As of Feb. 14, 2022
Registered Nurses (RN)	119,626	127,171	148,518
Registered Nurse Temporary	--	2,204	11,774
Certified Nurse Practitioner -- CNP	10,303	11,331	12,888
CNP Temporary	--	106	431
Certified Nurse Midwife -- CNM	507	533	539
CNM Temporary	--	7	12
Psych. Clinical Nurse Specialist -- PCNS	644	613	556
PCNS Temporary	--	0	2
Clinical Nurse Specialist -- CNS	70	71	76
CNS Temporary	--	3	3
Certified RN Anesthetist -- CRNA	1,323	1,394	1,443
CRNA Temporary	--	16	12
Licensed Practical Nurse	20,497	20,304	19,073
LPN Temporary	--	535	1,602

Source: The Massachusetts Board of Registration in Nursing

TEMPLATE CREDITS
Table by **Flourish team**

3. https://nursingeducation.org/states-that-will-need-nurses-the-most-by-2030

Maryland about 'Critical Shortage of Nurses'"[5] all from September 2021 in Compact states. This should raise concerns as to why Compact has not addressed nursing shortages in these, and most other, Compact states.

Additionally, scholarly research has found the same. In a 2016 study of 1.8 million nurses and healthcare workers revealed:

*"**no evidence that the labor supply or mobility of nurses increases following the adoption of the NLC**, even among the residents of counties bordering other NLC states who are potentially most affected by the NLC. This suggests that **nationalizing occupational licensing will not substantially reduce labor market frictions.**"*[6]

*This report went on to say that it found "**no effect of NLC adoption on a variety of labor market outcomes of nurses such as labor force participation**, employment levels, hours worked, earnings, and likelihood of working across state lines. This null effect persists even when focusing on those workers most likely to be affected by the NLC [Compact]."*[7]

*"We find no evidence that reducing licensing barriers will increase the pool of workers from which hospitals draw or that it will bring nurses into the labor force. **As a result, this reduction in licensing barriers does not appear to be a solution to an aggregate shortage of nurses.**"* [8]

Do we need Compact to address licensure for military spouses?

No! By law, the Massachusetts Board of Registration in Nursing (BORN) "will expedite the licensure process for military spouses who are licensed in other states and have left employment there to accompany a spouse relocated to the Commonwealth due to a military transfer" per M.G.L. c. 112, § 1B(d). And in 2022, this statute was updated to specify that "expedite" meant that the license shall be processed within 30 days. This meets the requirement of the Department of Defense which requires states to "allow for the transfer of such licenses and certifications granted by or in other States". It is also important to note that even states with Compact have in place provisions for expedited or temporary licensure for military spouses.[9] Additionally, expedited licensure ensures an equal playing field for all military spouses coming to and from Massachusetts- not just those residing in Compact states.

What about COVID-19 and other emergencies? Don't we need Compact to respond?

No! Massachusetts was able to successfully use existing laws and powers to respond to the COVID-19 pandemic and the temporary need for additional healthcare staff.

As Massachusetts was one of the first states to feel the impact of COVID-19, the Governor used Executive powers to ensure out-of-state nurses were granted temporary licensure to respond to a specific, time-bound event. Things worked as they were supposed to. COVID-19 provided an opportunity to run a real-time model to test the systems and the levers currently in place – and they worked. The same cannot be said for states already in Compact- many of which took the same emergency licensure action as Massachusetts. Once again, being in Compact did not alleviate challenges or make these states better prepared. In fact, analysis from Trust for America's Health (TFAH) already ranks Massachusetts in the highest tier with regards to emergency preparedness.[10] And an examination of the rankings does not show a correlation between Compact states and preparedness, with Compact states in the lowest preparedness tier and non-Compact states in the highest.

Beyond this, there are already other systems in place for disaster response. Under the National Disaster Medical System (NDMS), which is a federally coordinated healthcare system and partnership of the Departments of Health and Human Services, Homeland Security, Defense, and Veterans Affairs, registered nurses can volunteer to participate in the Disaster Medical Assistance Team (DMAT) which provides medical care during a disaster or other event. This is the coordinated medical effort that responds to disasters — it is not out-of-state nurses who show up unannounced and untrained to respond to disasters. In fact it is not recommended that nurses who have not been vetted or trained and registered as emergency responders show up at disaster sites. For cases that do not rise to the level of activating NDMS, there are enough nurses in Massachusetts to respond to that emergency. We do not need to import out-of-state nurses.

4. https://www.keranews.org/health-wellness/2021-09-13/north-texas-hospitals-cope-with-ongoing-nursing-shortages-while-fighting-covid-19
5. https://www.wbaltv.com/article/maryland-nurse-shortage/37681232#
6. https://www.nber.org/system/files/working_papers/w22344/w22344.pdf
7. Ibid
8. Ibid
9. https://www.dol.gov/agencies/vets/veterans/military-spouses/license-recognition#MA
10. https://www.tfah.org/report-details/readyornot2020



We should not upend a regulatory framework that works to accommodate events that we already have options to address.

How does Compact affect patient care?

Compact is bad for patient care. It undermines the continuity of care within facilities, disrupts the work environment for nurse staff on a floor and can be used to remove nurses from the bedside.

Compact encourages short-term nursing stints and a culture of "just in time" staffing, rather than an investment in the long-term future of a robust nursing workforce. The future of nursing should not be an "on demand" model popularized by companies like Uber. Good nursing care is based on skills, experience and a strong familiarity with and knowledge of not only the facility but the community served. Compact undermines that model of care. Nursing is not a "gig" it is a profession and should be treated as such.

Additionally, healthcare executives are looking to Compact as a way of removing Massachusetts nurses from the care setting and using technology to have a nurse in Kentucky, Mississippi or Oklahoma be responsible for the care of patients. While advances in technology can supplement patient care, they are not a substitute for the hands-on, eyes-on care that is central to the practice of nursing. Compact proponents tout removing Massachusetts nurses from the care setting and using technology to revolutionize nursing. And you do not have to take our word for it. Supporters of this legislation are on record saying that this interstate Compact "allows them to offer nurses to practice by phone or Internet" from several states away.[11]

This would remove care from patients where nurses provide vital clinical assessment and treatment. Imagine your loved one who has had surgery at a Massachusetts hospital being discharged, possibly earlier than he or she should be in order to turn the bed over quickly, and then receiving a phone call or skype from a nurse in Arkansas as follow up care. Or rather than a local VNA nurse visiting someone post-discharge to ensure that there are no complications and that the patient is correctly following the discharge plan, there is just a nurse checking in remotely from a call center seven states away. This would allow not only a lower standard of care, but a lower wage to be paid to the nurse. This is not the nursing care our patients deserve, but it is a financial incentive for proponents.

Massachusetts patients deserve better.

11. "A Battle Brews Over Nurse Licensing in the Digital Age", Wall Street Journal. April 26, 2016 https://www.wsj.com/articles/telemedicine-advocates-look-to-expand-nursing-licenses-range-1461663000

What are some examples of differences in licensure requirements in other states that would now be permissible in Massachusetts under Compact?

Each individual state has different standards for what activates a "red flag" on a nurse's license. So if Massachusetts were to enter into Compact, a nurse licensed in Virginia would be able to practice in Massachusetts hospitals on Massachusetts patients- despite the fact that in Virginia, according to their state's website, "Virginia law related to nursing licensure does not include any permanent bars to licensure."[12] In contrast, Ohio has several crimes that are "absolute bars" to practicing as a nurse. And in Massachusetts, the BORN is very stringent about interpreting and applying its standard of good moral conduct prior to granting licensure to nurses. In Massachusetts a nurse may be disqualified for a nursing license in the Commonwealth due to shoplifting, an arrest for driving under the influence, a fraudulent offense, failure to pay taxes, etc. The Commonwealth under Compact would have no assurance that nurses licensed in other states would have met these same stringent standards.

How does Compact affect Massachusetts nurses?

Massachusetts nurses have already seen themselves have to take a backseat to out-of-state travel nurses- the problem would only be exacerbated by Compact. These nurses often command much higher pay and since they have signed a short-term contract often guaranteeing them a salary, they are prioritized in terms of scheduling over permanent, Massachusetts-based nurses.

Unfair Burden for nurses. Compact's provisions to permit multiple and distant state action against a licensee places a significantly unfair burden on nurses attempting to defend

Georgia joined Compact in 2017


The Atlanta Journal-Constitution

"Georgia nursing shortage at crisis levels"

8/20/21

https://www.ajc.com/news/coronavirus/georgia-nursing-shortage-at-crisis-levels/G37X6GW2HRDEXGWB6OS6OBASKE/

their ability to practice safely, particularly when the complaint against them stems from retaliatory action by an employer, patient, parent, co-worker, ex-spouse or patient family member – all of which occur from time to time. Nurses have the right to a fair hearing of a disciplinary action without having to incur unreasonable financial costs to pursue that right. Nurses also have a property right in their license, with guarantees that procedural rights be provided to persons denied the right to practice their profession. Generally, Compact allows any party state to take action against the multistate licensure privileges of a nurse practicing in that state, meaning that a state can withdraw the *privilege* to practice in that state. However, only the home state may take action against the *license* itself (i.e., revocation or suspension of the license). Consequently, a nurse could experience two disciplinary processes - one related to multistate licensure privileges and a second related to privileges in the home state. Both the state of residence and the state of practice could bring simultaneous action and share evidence for use against the licensee. The licensee then must obtain legal counsel in both states, defend himself/herself, as well as pay each state's cost associated with discipline. Other states in the Compact where privileges exist but where the licensee does not practice also could bring action against the same licensee.

Premature posting of unproven information is not only permitted, but required by Compact. Compact requires participating states to share not only final discipline information, but communication of possible issues —information that may be false and which is prior to final action. Once "possible problem alerts" are posted across the country, nurses will have the burden of ensuring that each state has removed false alerts from employers to whom they may have forwarded the data. Nurses may not be aware of alerts that have been forwarded to states or to employers for years. This is a *nightmare* for nurses.

12. http://www.dhp.virginia.gov/Boards/Nursing/ApplicantResources/CriminalBackgroundChecks/CBCFAQ/index.html

Disparate treatment of nurses for the same harm. Compact dictates that the home state will make the final decision when there is a difference of opinion between two states on how to discipline a nurse. The problem here is that if two nurses involved in an incident in Massachusetts under Compact have two different home states, discipline which may be meted out for the same harm or error could easily differ because it will ultimately be determined separately by the two (or more) states.

Can out-of-state nurses obtain a license in Massachusetts?

Nurses from other states coming to work in Massachusetts currently **can secure a license in a timely manner** and we already have a process in place for reciprocity. If MA licenses are being delayed, this is an issue to address with the BORN, not a reason to jump into a dubious multi-state licensure arrangement.

As noted previously, the state also has the authority to expedite nurse licensure in certain circumstances such as declared emergencies and for military spouses.

Who administers Compact?

Instead of our state Board of Registration in Nursing (BORN) conducting appropriate licensure background checks of prospective RNs in MA, an outside third-party- the Interstate Commission of Nurse Licensure Compact Administrators (ICNLCA)- would now rake in big revenue from taking this over. Additionally, the Enhanced Nurse Licensure Compact Commission would be empowered to enact binding rules for Massachusetts RNs without oversight. Unlike now where the state has independent control over nurse licensure, Massachusetts would have only one vote about any changes to the rules governing licensure under Compact.

The ICNLCA provides extremely limited access to its operations to non-members. It is not subject to Massachusetts oversight or Massachusetts Open Meeting law. When New Mexico's legislature passed a law requiring the disclosure of documents related to the administration of Compact in line with the state's public disclosure laws and requiring the Board of Nursing in New Mexico to know exactly what Compact nurses were practicing in the state,

the Commission sent a letter reminding the state of New Mexico that by entering into Compact they had forfeited their right to act on these issues without all other Compact states being in agreement and threatening legal action. If Massachusetts joins Compact, the Commonwealth will find itself in this same position.

What is the economic impact of joining Compact?

In 2021, the Health Policy Commission estimated a $1.3M revenue loss to the Commonwealth would occur under Compact in lost licensing fees. But this does not account for the economic impact of flooding the state with nurses who might work for lower wages than local nurses who have been living, working and paying taxes in Massachusetts. Already, many Massachusetts nurses report having travel nurses being prioritized on the schedule over Massachusetts based nurses because there is an agreement in place that the out-of-state nurses are guaranteed a certain minimum of hours. This would be exacerbated under Compact. Additionally, farming local nurse jobs out of state via telehealth could further depress wages and lead to more Massachusetts nurses, the ones who live, work and pay taxes in Massachusetts, leaving the workforce. Leaving these issues unexamined underestimates the impact Compact might have on the Massachusetts economy.

What is the Massachusetts Nurses Association's position on Compact?

The Massachusetts Nurses Association, on behalf of the over 25,000 members we represent statewide, has consistently opposed Massachusetts joining Compact.

The Commonwealth already has in place standards and a process for nurse licensure. In the course of meeting with nurses across the state in every setting, the call for Compact is not something that we hear from nurses. Nurses talk about unmanageable patient loads, burn-out after three years on the frontlines of a pandemic, a lack of support from their employer and unsafe conditions in the workplace.

Instead, healthcare employers and the Commonwealth should be looking to support those nurses currently working and investing in new graduate nurses. Longevity in the nursing profession is not aided by Compact, it is the result of improved working conditions, competitive compensation, mentorship, and supportive public policy.