

Multistate Practice

Importance to Occupational Health

Occupational and environmental health nurses (OHNs) and others in the nursing profession find it increasingly necessary to practice in more than one state. For example: caring for employees who work outside their state of residence; drafting health policies for an employer with various worksites around the country; conducting regular consultations/communications (via telephone, email, fax, and teleconference) with healthcare providers in other states; and/or traveling to various work locations throughout the country.

To offer professional nursing services, the OHN must have proper state licensure, recognized endorsement or statutory waiver (typically limited to those working with the Veterans Administration or military service). A "license" is a legal document that permits the holder to offer special competencies and knowledge to the public in a particular jurisdiction, where such practice would otherwise be unlawful. Therefore, if a nursing assignment requires the OHN to "work" across state lines, the nurse may face a potentially serious legal challenge if not licensed to practice in that state since the Nurse Practice Act (NPA) for each state binds nurse licensure statutes.

The American Association of Occupational Health Nurses, Inc. (AAOHN) is keenly aware of the responsibility each state has for establishing and enforcing the licensure standards for health care professionals who provide health care services within that state. However, in a world of telecommunication and telehealth care, which is impervious to state borders, multistate licensure is the logical answer.

Issues to Consider

Licensure: Multistate licensure becomes an issue when services are provided across state lines, which has become increasingly common in today's global, hi-tech and fast-paced work environment. To determine whether an OHN is affected by multistate licensure, it is necessary to know the nurse's particular employment situation. If an OHN is licensed and employed by a company located within a state of multistate licensure and does not have any employees out-of-state, it is unlikely the OHN will have any practice issues. However, if an OHN works for a company with out-of-state offices, employees or worksites, it is necessary to determine the extent of the OHN's employment role and practice activities, which may extend across state borders.

Each state's NPA typically defines the term "professional nursing" as care requiring the specialized knowledge, judgment and competencies derived from the principles of biology and physiology, as well as behavioral, social and nursing sciences and research. Actions that typically fall within this definition include: identification of employee health problems, performance of health assessments, execution of care and/or treatment protocols, provision of personal health counseling and administration of medications.

Activities that probably do not fall within the definition of "professional nursing" include:

- Designing preventive health care programs.
- Reviewing policy manuals.
- Drafting forms for recording employee health information.

Activities that are probably likely to be within the definition and therefore require licensure include:

- Performing health screenings.
- Determining an employee's health care needs.
- Administering medications/vaccinations.
- Consulting with treating physician(s) and professional peer(s) regarding a specific employee's health issue.

NOTE: The above represents limited examples. All nurses are advised to check their individual state NPA (www.ncsbn.org/boards.htm). Nursing actions may be legal and within the scope of the NPA in the state in which the OHN is licensed. But, the actions may violate the law of the state in which the employee client resides. Not obtaining a license to practice in the state and providing health care (personally or electronically) may constitute a civil and/or criminal penalty.

If any of the tasks fall within the definition of "professional nursing," the OHN must obtain the NPA for each state their activities affect. By reviewing each individual statute, the OHN may be able to determine the need to obtain licensure for other jurisdictions. It is very important that all nursing professionals continue to proactively monitor and influence regulations related to nursing practice acts and multistate practice. Advanced practice nurses must also be cognizant of any additional regulatory requirements when practicing across state lines.

Endorsement: Health care professionals who have an active license in one state are often permitted to secure a license(s) in another state through a process known as

endorsement. The OHN who believes their practice crosses state boundaries may be the perfect candidate for state licensure reciprocity. This process can be time consuming and expensive, but may currently be the only option.

Telehealth: The practice of telehealth, which covers a broad variety of disciplines, uses any electronic signal to transmit health information from one site to another. This includes the transmission of such data by interactive video, videoconferencing, electronic or wireless communication or fax. For example, in a large occupational setting, it may not be surprising to see the OHN seek case consultation from a colleague miles away, receive managed care treatment approvals for employees covered by workers' compensation and provide case management services for an employee client in another state.

Although telehealth technology continues to change the way health care is delivered and contributes to the ever-widening boundaries of the OHN, there are principles in the delivery of care, which do not change:

- The basic NPA standards are not changed or altered.
- The OHN or health care professional cannot provide services that are not legal or authorized by the state NPA.
- The health and safety of employee clients and community must be ensured.
- Employee client confidentiality must be maintained.

Nurse Licensure Compact (NLC): According to the National Council for State Boards of Nursing (NCSBN) 2007, "The mutual recognition model of nurse licensure allows a nurse to have one license (in his or her state of residency) and to practice in other states (both physical and electronic), subject to each state's practice law and regulation. Under mutual recognition, a nurse may practice across state lines unless otherwise restricted. In order to achieve mutual recognition, each state must enact legislation or regulation authorizing the Nurse Licensure Compact. States entering the compact also adopt administrative rules and regulations for implementation of the compact." (<https://www.ncsbn.org/nlc.htm>)

Once the compact is enacted, each compact state designates a Nurse Licensure Compact Administrator to facilitate the exchange of information between the states relating to compact nurse licensure and regulation. Since 1998, the compact has included registered nurses (RNs) and licensed practical or licensed vocational nurses (LPN/LVNs). On August 16, 2002, the NCSBN approved the adoption of model language for a licensure compact for advanced practice registered nurses (APRNs). Only those states that have adopted the RN and LPN/LVN Nurse Licensure Compact may implement a compact for APRNs.

Conclusion

AAOHN supports the Nurse Licensure Compact where the

nurse's state of residence issues the nursing license and it is then recognized by other states that have entered into the interstate compact. Nurses residing in compact states would then be able to practice in other compact states without applying for a separate license.

Resources

American Association of Occupational Health Nurses, Inc. Multistate Licensure: http://www.aaohn.org/public_policy/state_advocacy/licensure.cfm

American College of Nurse Practitioners. (1999). The American Nurses Association's core principles on telehealth. Retrieved from <http://www.acnpweb.org/i4a/pages/index.cfm?pageid=3471>

American Health Information Management Association (AHIMA). To obtain *Telemedical records*, contact AHIMA at (312) 233-1100, www.ahima.org.

Center for Telemedicine Law - Studies and reports on legal issues central to the expansion of telehealth options in the United States. (220) 230-5090, [www.ctl.org](http://wwwctl.org)

Kaar, J. (2000). Telehealth: consulting across borders. *The Journal of Nursing Risk Management* 2000. Retrieved from www.afip.org/Departments/legalmed/jnrm2000/telehealth2.htm

National Council of State Boards of Nursing, www.ncsbn.org/nlc.htm

Office of Advancement of Telehealth (OAT) Health Resources Services Agency issued findings and recommendations on multistate licensure in June 2003. The report may be accessed at <ftp://ftp.hrsa.gov/telehealth/licensure.pdf>. Other reports from OAT are available at <http://www.hrsa.gov/telehealth/>

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