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Fireside Chat: Q&A Interview and Dialogue About the NLC Video Transcript ©2022 National Council of State Boards of Nursing, Inc.

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- [Jim] All right. Well, thank you for joining us, Mr. Knight. Good afternoon. And we're going to go ahead and get started, if you're ready.

- [Fred] I'm ready.

- Okay. So in this Fireside Chat, we'd like to talk about the Nurse Licensure Compact and specifically about some of the requirements which lead to eligibility for a multi-state license, things that would make a nurse ineligible for a multi-state license, which we might call a disqualifier to a multi-state license as well as a little bit about the discipline process, which is something you're very familiar with in your former role with the Arkansas Board of Nursing and as an attorney.

So, let me go ahead and get started with a few questions that we've prepared for you. And we appreciate your candid responses. One of the hallmarks of a multi-state license in the Nurse Licensure Compact, the current nurse compact, is that it has statutory uniform licensure requirements, and these exist across all Compact states.

Can you describe just what this means in a layperson's terms? What do we mean by statutory reform license requirements?

- There's a lot of different ways to look at it and the uniqueness of it, but I think sometimes, first, you need to stop and think, "We have 50 state boards of nursing. We have U.S. territories."

- Fred, one moment. I believe you were muted somehow.

- Is that better?

- Yes, you're back now.

- Okay. Sorry about that.

- Somehow you accidentally got muted. Okay.

- Well, it may be operator's fault. As I was saying, you know, one of the unique things about the interstate compact is, one thing we have 50 states, we have U.S. territories. They all have a state board

of nursing. And all of these various state boards of nursing have similar attributes, that's evolved over many, many years.

I mean, we've had boards of nursing that have had statutory authority for over a hundred years. And one thing that's happened, they have a lot of similarities, but they are not exactly alike. And we're always talking about that.

You know, when you're in a meeting, whether it's annual, mid-year, or special meetings, "Well, this is how we do it in our state." Or an issue will come up, "Oh, no, we do it this way in our state." So they address the issues, but they address them in different ways. The unique thing about this compact is that the ULRs, Uniform Licensure Requirements, I think we were probably the first licensing board in the history of the United States to do this, but they created a compact.

And if you look at Article 3C, it's a good start place, 1 through 11. They created 11 requirements, 11 minimum requirements to have this multi-state license. And the beauty of it is these 11 requirements are something they all agreed to, and they are identical.

And it's not one of those things of, "This is how we do it in our state," it's, "If you join the Compact, every party state has agreed to do it exactly the same and to meet these requirements exactly the same." So if you think of it as a board game, we've all agreed to play by the exact same rules. And I think that is a great thing for a variety of reasons.

And if you need to jump in, Jim, and ask me another question, that's fine. But I think one of the great things about this, from a layperson's standpoint, what does it do? Well, it brings you consistency and continuity between these boards in how they're handling issues, how they're sharing information, and how they work together.

And I think anytime you have this kind of consistency amongst the boards, I think the boards operate better, I think we do better at protecting the public. And believe it or not, I think it's an asset to the practicing nurses out there. It encourages and it simplifies the communications between the states.

It helps the states to work together, and it's just, overall, it really assists the states in getting the job done, the job that they were set up and created to do. And I think you cut out a lot of wasted time between the various boards.

- Sure. Fred, thank you. When you were talking about, "They all agreed to these terms in the Compact," I'm assuming you're referring to all the various states, right?

- Yes. It's my understanding when the states were working on the Compact, I think initially it was called the Enhanced Compact, and there were a lot of meetings. We all know about the walk-in-the-wood meeting, but there were a variety of meetings. There were subgroups working on this.

And everybody had an opportunity at that time to say, "This is my concern." Or, "This is something I think that's important for the Compact." So they spent a couple of years, as I understand it, working through all of these issues. And ultimately, they came up, as far as the ULRs are concerned, with the 11 that we have today.

And of course, one of the most important of the 11 that we never stop and think about sometimes is the very first one. And that is you continue to follow all of your other state licensure requirements plus these, if that makes any sense.

And that, I think that was important to all the states.

- So you're saying for an applicant in a Compact state, they not only need to meet the Uniform License Requirements that the Compact requires, but they also have to meet that state's requirements for licensure?

- Absolutely. Every nurse making initial licensure request or endorsing in has to meet the home state's requirements, and if they want that multi-state license, they've got to meet Uniform Licensure Requirements set out in Article three.

- I see. So it sounds like this Compact brings about some uniformity when it comes to license requirements to obtain a multi-state license. What do you think are some of the...? You talked about states, each state doing their own thing, having their own requirements.

What are some of the key differences from states that if they had to come to an agreement on common requirements, what are some of the outliers? What are some of the things that differed between states that they had to, you know, accept for better or for worse a common term?

- Well, right off the bat, there were a variety of things, but right off the bat, criminal background checks. I mean, if you go back 18, 19, 20 years ago, virtually no states were requiring criminal background checks. That was sort of the initial incubation period of when started looking at it.

And so if you're going to join this and you're going to provide for your nurses to have the opportunity to have a multi-state license, they're going to have to do a criminal background check. So that was something new for them. We all had English proficiency requirements and foreign education requirements, but one of the things, if you were going to join the Compact, these things have to have an independent verification process.

And I think most states were probably doing that already, but there were some states that were not. Other things that was agreed to in this was how to handle that initial licensure process. And especially, looking at criminal background checks.

You had states that were licensing nurses. Obviously, some of them were not doing criminal background checks. They might ask the question, "Have you ever committed a crime with a felony misdemeanor?" They worded them different ways, but they didn't do anything to back it up to see if the nurse was actually being candid on their application.

So with felonies and misdemeanors, especially misdemeanors related to the practice of nursing, the states are uniform on that now. They have to ask that question. They have to know what's going on. And that criminal background check gives them the type of information they need.

- So, even though each state is charged with protecting the public, and each state had their own requirements, as they enter the Compact, they were able to agree on uniform requirements without risking any of the public protection element.

So, in other words, there's still that high level of public protection even though all states are agreeing to the same requirements.

- Exactly. And I would make the argument because this mandates a criminal background check for the first time. When states were not requiring that, or many states were not. The public is better protected than it ever has been for the states that are currently in the Compact because of that.

And the ability to share information because prior to this Compact, and you move out of just...there are other requirements that they've all agreed to. They're not all contained in the Uniform Licensure Requirements. But doing that criminal background check, having the ability to share with other boards information you've discovered, can set up protections for the public probably better than in the history of nursing in this country.

- That's a very big statement and big for public protection. My next question pertains to residency. Since the multi-state license is only available in Compact states, and it's only available to residents of a Compact state, what are some of the ways that the state board of nursing can actually know or determine whether an applicant is a resident or not?

- Well, obviously, the very first thing, and I actually think the most important thing, strangely enough, is on your applications, whether it's first-time licensure or your endorsement applications or your renewal applications, maybe not quite as much, but yes, still on your renewal applications, is that you have a specific questionnaire, short and clean, concise, making, asking, requesting, whatever you want to call it, that nurse to declare what their primary state of residence is.

And I think when that's on that application, and it has to be for you to know, the burden of being honest, and maybe we don't think of honesty as a burden, but maybe if you're trying to cover something up, a lot of times, I think when you're filling out an application for licensure, maybe if you've been thinking about not being honest, when you're going to sign that and you're doing the attestation at the end of it, I think it makes you think long and hard about being honest on that application about your primary state of residence.

Other things, fortunately, we have a lot of guidance in the Compact. If you look at the rules, especially I believe it's Rule 4024, and Jim, you may have to correct me on that. Sometimes I get them a little confused. But we have guidelines there for the states to follow. And I think everybody's really familiar with this, so I won't spend too much time on it.

But, you know, you can look at the driver's license, you can look at better registration, tax returns, military documents, W2s. And then we've got the big catchall, we allow each state to ask any additional questions that make them comfortable, that give them comfort in deciding to give this individual, not only a single-state license in all fairness, but to give them that multi-state license.

And that they are doing it to a properly vetted individual who is truly a resident of their state.

- So if I hear you correctly, you're saying that not only does an applicant sign a legal attestation but the Board of Nursing may ask for supplemental documents to back that up?

- Absolutely. When I was in Arkansas, Jim, a lot of things we might ask about, we might ask for utility bills, you know, whether it was phone, whether it was electric, gas, whatever the case may be. I even

asked sometimes when we thought we were dealing with an individual that might be manipulating us a bit, for not only their address, but the apartment manager's name and phone number.

I didn't hesitate to pick up the phone and call them. And I will tell you, there were times when the apartment manager didn't have a clue as to who that individual was.

- It sounds like you caught one there.

- But you do occasionally catch a few. I always remind people, I always want to remind people, especially the new states, there weren't many to catch because 99% of them are honest just as nurses generally are, almost always are, they're honest about the information.

- So it sounds like the bottom line is that the nurse needs to prove their state of residency to the satisfaction of the Board of Nursing, and whatever items or pieces of proof the board may require, the nurse needs to submit.

Would that be accurate?

- That would be accurate. And I think that's... So, an important part of the rule is that it gives states a lot of leeway as to what type of information they want to request.

- Sure. And I think that's an important aspect that allows for differences among states, because ultimately, they're ensuring the residency of that individual in order to protect the public of their state. We haven't touched on this, but I would imagine that although we've been focusing on the Board of Nursing side, on the employer side, I imagine they have their own due diligence to ensure that a nurse is appropriately licensed, meaning has taken the necessary steps for renewal or changing their license in the event that they move to another Compact state.

And I don't know what you can speak to that, but there's got probably some responsibility or some due diligence on the part of the employer as well.

- Absolutely. The employer's due diligence is not only to them themselves, but it's to their patients and everybody involved in their facility. First of all, always remember that the Compact mandates, as a matter of law, that the individual, the individual nurse that is moving to get licensed in their new primary state of residence.

It is for them to contact that Board of Nursing to get the application, probably online, to make the declaration that's the new state and start the process. Of course, as we know, it doesn't have to happen immediately. If they still have an active license in the state they're moving from, they can work on that until they get the process completed in their new state.

Why it becomes very important? There's two levels of extreme importance here, in my mind, one, to the employer. It's very important for the employer to monitor this if they've got a good HR department. I think most of them do. It's not an area I'd want to work in, but a lot of people love that field.

But it's important for that HR department or whomever oversees this process at the place of employment, to make sure that this nurse ultimately changes at primary state of residence. And the reason, we all know the reason.

The reason is, at some point that other state's license is going to expire, and it will not be renewed. And this individual, the nurse will be working, we all know about Medicare and Medicaid billing, and if that individual is not licensed, then the employer will not be reimbursed. And it's not a matter of just not being reimbursed.

Let me tell you, the government will go after them for prior reimbursement. And I dealt with that a few times in Arkansas. And it can be costly. And I had one case, I won't mention the hospital, but the settlement was over \$150,000. I don't think there was any ill intent.

It was just a failure to do what you should have done. There's another person that is extremely at risk of working and letting that license lapse, and that's the nurse themselves. Because here's what happens, that license lapse, they're working without a license in the new home state, guess what?

Read the boilerplate language in your malpractice insurance policies. Whether the nurse carries one or whether they're working under the umbrella policy of the employer, I'm going to tell you right now, if they're not licensed, they don't have to pay malpractice. That's not only costly to the employer, that can be financially devastating to the nurse.

So both of them have a great deal, or they're at tremendous risks if they don't mandate this and follow this.

- Well, it sounds like a lot of serious consequences to not being appropriately licensed or to practicing unlicensed. But I think this is a perfect segue to my next question, which is, since the NLC is based on the same model of licensure as the driver's license, which also happens to be a Compact, how does moving and changing the primary state of residence for legal purposes impact a multi-state license holder?

And I think that, you know, there's some common misunderstandings in this area. How is this similar or different to the requirements for a driver's license when someone is moving?

- Well, in the simplest of forms, they're quite similar. If you just keep it at the very basic level, there's not a lot of difference. If we move to a new state, we're required if we're going to operate a motor vehicle, we are required to get a new license in that state in a certain period of time.

And there's a reason for that. And that time varies from jurisdiction to jurisdiction. Also, it's the same if you're moving from state to state and you're a nurse. You have a period of time.

Although we do not set a date specific to have it completed. I think everyone can agree it must, at the bare minimum, be completed before their prior home state's license lapses. There could be an exception.

I mean, if you've moved and your license is lapsing in four days, then it's a possibility that nurse may have to renew down there or in their previous state until they can get this process completed. Unless you are from a state that works in record speed and can complete that process. But I don't think in a short period of time that's probably going to happen. So the requirement to get that new license is the same.

I will say this, and this may surprise some of the viewers today, you know, we worry, we're pretty flexible with nurses on how much time they have to get it done. But I'll tell you, you go pull that driver's license compact up, and you start looking at the 44 or 45 states that are in that compact, strangely, there's about 5 that are not in it.

But you look at that, every single one of those states, I think I'm correct in saying this, mandates a time specific to get that new driver's license. And they generally, I said generally, run, I think from anywhere from about 20 to 30 days, up to, I believe, the maximum time might be 3 months.

And I may be wrong about that, so tell me. But it's a narrow window of opportunity to get in there and get it done. And I think that's public protection. They're wanting to know who's in their state, they're wanting to make sure that you're carrying driver's insurance. Another that's very much a public protectant.

So the two are a lot alike in that area.

- Okay. Well, I think that it sounds to me like the key trigger to the need to obtain a new license is changing your primary state of residency for legal purposes. Meaning, if I'm a nurse in Arizona and I moved to Maryland, that's my new state of residency.

Obviously, other things are irrelevant, whether I found the perfect house to buy or whatever. I'm there for the foreseeable future as a permanent move. I should go ahead and get a new nursing license.

- And, Jim, this is not just unique to your nursing license or your driver's license, this involves a lot of legal issues that impacts us. If I'm living in a condo or an apartment in Arkansas and I have insurance on the interior of it and all of my belongings, and I pick up next week, and let's say I move to Miami, that insurance policy is not going to be the same.

I can assure you right now, when insurance, flood insurance in Miami is radically different, and unfortunately, radically more expensive than it is in Little Rock, Arkansas. So there are a multitude of things, including our nursing licenses and my law license, that we have got to do when we make a move.

And we should not treat the nursing license any less than we treat our driver's license, our insurance policies, or any other thing, we are legally required to check in with the new state and make additions to.

- And I think as everyone knows the common thing that we see with any type of license is that we tend to think that we're able to wait until that one is about to expire before we take any action, even though we've just moved.

- Yes. And sometimes it's because you're really busy, you have children, you have family, you have whatever. And sometimes, and this would be very applicable to me, if my former boss is listening, I'm sure she's shaking her head, it's called procrastination. I'm a notorious procrastinator.

And I would fall probably in that category. Now, the only thing I might pat myself on the back with was I would be so fearful of losing my law license or messing that up. I don't think I've ever been late. Well, no, I don't think, I have never been late on renewing that license. Those things are too important.

Your nursing license is too important.

- Right. So, it's important to note that even though the license hasn't expired yet when you've moved, that's not a reason to not take the necessary steps to get a new license.

- Absolutely.

- Just whether people want to save money or whatever it might be, the triggering event is the fact that you moved, your intent is to make this your new state of residency, and nothing else matters. That now it's time to get a new nursing license, get a new driver's license, etc. Register to vote in the new state.

Always the key events to becoming a resident and getting established as resident in a new state.

- Yes. And I think the Compact drafters were brilliant and kind in taking into consideration the complexities of moving from one state to a new state and doing the criminal background checks or whatever required.

And they, because of that, in this Compact, they specifically allow individuals to start the process early, even before they move. They can start submitting forms. They can probably start submitting criminal background checks. There's a variety of things they can do before they ever move. And that's allowed as a matter of law.

- Fantastic. So we've been talking about the Uniform Licensure Requirements, but I would just like to make it clear, you mentioned there's 11 uniform requirements to get a multi-state license. If a nurse or an applicant does not meet one or more of those requirements, I mean, does this mean the nurse is out of a livelihood?

- Absolutely not. That nurse, depending on the state and other state requirements, may always be eligible for that state, their home state for a single-state license. They may not be eligible for a multi-state license, but hopefully, they will meet all the other requirements that the state has for a single-state license.

Ultimately, that's going to depend on the state they're in because that is going to vary a bit from state to state. And, you know, I think we've all seen this, we're all aware of it, it may be that they are not eligible for a single-state license in one state, but maybe if they're willing to move to another state, they might be eligible for a single-state license in that state.

And always remember, there might be a few probably when you get into the criminal conviction issue, but there is always a possibility that when they initially get that single-state license, there may be a path down the road that they can cure whatever the issue is with the ULRs, and ultimately, be eligible for a multi-state license down the road.

That will just depend on what the underlying issue is and is there a possibility for a cure.

- Okay. So, you don't meet the requirements for a multi-state, you might be eligible for a single-state. And if your job requires you to be licensed in multiple states, I guess that puts you in a situation of having to apply for multiple single-state licenses. Is that correct?

- That's absolutely correct. And states know how to do that. Most nurses that have been practicing, well, know how to do that because we were doing that for years.

- Well, this discussion on eligibility takes me to probably one of the most important requirements for multi-state license, and that's the one that pertains to felonies. So I just would like to get some clarity on this. When an applicant has a felony conviction, my understanding is that they cannot get a multi-state license.

But the question is, is there any way around this? Are there any exceptions? Anything that an applicant can do when they need a multi-state license but have a felony conviction to the record?

- Well, sort of, yes. The answer, obviously, is yes here. The first rule is if you have a felony conviction, you absolutely cannot have a license. But then to every hard rule, often we will have exceptions. And this is no exception.

First of all, expungements. If they have the ability based on the type of conviction they have, and depending on how the expungement laws are written in a particular state, they can go back before that judge or a judge and have their criminal record expunged, assuming that the definition of expungement in a particular state meets the requirements.

At that point in time, they get everything expunged. They meet all of the other ULRs. They meet all of the other state requirements. And at that point, they would be eligible to a multi-state license. And this one may not be as absolute, but sealed records.

Often, in many states, a sealed file works very much like an expungement. You may need to look at how the law is written in a particular state. I think most states attorneys for their boards, whether they're in-house or they're with the AG's office, they pretty much understand sealed records in their state.

I hate to always rely on my experiences in Arkansas, but, you know, you talk about what you know. And in Arkansas, generally, sealed records apply to people 18 or under. There are exceptions to that too. But if they did everything they were supposed to, that record was sealed.

Those individuals would generally be eligible for a multi-state license if everything else was met. This one is not quite another exception that's not quite as solid, the pardon. The power of pardon from a state.

Generally, it's vested with the governor. There are a couple of minor exceptions to that, I believe. But pardons don't always clear the conviction. And in a lot of states, what a pardon does is it restores rights. It restores maybe your right to bear arms, so they can go hunting.

Their right to vote. Maybe their right to have access to certain types of loans, strange enough. So what it normally does is restoring rights, but not always clearing a conviction. I come from a state that a pardon rarely clears a conviction.

And I know people that have been in meetings with me before are aware that I've dealt... well, only two or three times with presidential pardons. And even in those, they did not open the way for clearing a conviction. And one president, in particular, I'm just, to this day, so surprised by it.

I read the entire pardon. It was very impressive. It restored so many rights. But the very last paragraph said, "This pardon cannot be used as a clearing of criminal convictions in order to obtain licensure in your state."

And I thought that is detailed and...

- That cleared it up.

- Cleared it up very quickly.

- It sounds like the pardon may not help someone when it comes to removing a felony conviction from the record, but potentially, an expungement or a ceiling will help maybe, depending on that particular state's laws. And it really sounds like you're saying there's a lot of variance from state to state with the impact or effect of an expungement or sealing of records.

- Absolutely. And another aspect of it that is of no fault of the boards. You have some states that judges are hesitant to expunge, and you have other states where expungements come fairly easy, and that's just the luck of the draw.

- Yep. Yeah. I think ideally you'd hope to never have to deal with that situation of having a felony conviction. Let me move on, as time is passing quickly, to another question that I have about alternative to discipline programs. And there are a couple of, I noticed, a few of the Uniform License Requirements pertaining to alternative to discipline programs.

But I do think, for our audience, it's a term that many people don't understand, especially applicants for licensure may not understand alternative to discipline program. Especially because in many states the program goes under a certain acronym type of a name for the program.

And so we, in the Compact, use a generic term to pertain to all programs. But can you explain what this program is? Who typically is participating in it? And how does that relate to someone who wants a multi-state license?

- Well, an alternative to discipline program, and that is sort of the catchall for the various names of the programs. It's a program that is established by the board and by the, generally, legislative approval. It's normally set out the statute and then often the details...the devil's in the details.

And that's often set out in your rules, your state rules governing that program. And there's sort of two general types of programs. There are those programs that are operated somewhat in-house by the board and the board staff, or at least some of their staff run those programs and are familiar with all the participants.

The other type is what I would sort of think of, although it's board-created, it's completely independent of the board. And the board and the board staff may have absolutely no knowledge of who's in those programs until they default to the individual nurse who's a participant, defaults in some form or fashion in the program.

The programs are almost always, and I'm sure someone out there does something a little different or a little differently than what we did and many states do, but generally, they are covering individuals with substance abuse issues. And many of them go ahead and cover mental health issues too. The two are often intertwined, as most people know that have dealt with this and worked with it.

And so the goal here is to try not to punish or add to the stress and anxiety of an individual who has mental health issues and/or substance abuse issues. And it's to get those individuals into a program, get them counseling, assist them on treatment. Generally, we don't have treatment programs within the board.

Some may. But it's to help them. And it's not to add another layer of stress and burdens that go hand-in-hand with "discipline." And disciplining that individual for those types of issues. I've always, always, I had a problem with disciplining someone with a mental health issue.

That's a health issue. We don't discipline people with broken legs, broken arms. They've had to have stents placed in their heart. And to me, it never made sense to discipline someone with a mental health issue. So those are the programs that they're embarrassed as to what they are and what they do.

I think where it gets complicated for members of the Compact of those states that have no involvement with the program until the individual has been, so to speak, booted out of the program for non-compliance. But there are processes and procedures for dealing with that.

And I think that is probably Article 3, seems like, down around C-10 maybe, or 9. Maybe 9 and then 10. There is a bit of burden we place on the nurse. For the nurse that are in these programs, that the boards are not aware of, there is an obligation and a legal requirement.

Remember, this is statutory. There is a legal requirement for that nurse to report to the new state, the new primary state residents that he or she is already in an alternative discipline program in the state they're coming into. And so it's very, very important you put that question on your application and ask them on any applications, "Are you currently in?"

Because it's mandated that they do that.

- So, Fred, I hate to interrupt, but you're saying that someone at the point of application for a multi-state license may be already in a program in another state perhaps, and as they're applying for license by endorsement, obviously, the new state needs to know that, right?

- Absolutely. And that's not a rare occurrence. It happens. And what's going to happen is we all know in the Compact, if you are in an ATD, then you're not eligible while you're in that program for a multi-state license. Now, if you successfully complete the program, and again, I always fall back on this language, and you meet all the other ULR requirements and that state's other additional requirements, then it's been cured and you will, most likely, be eligible for a multi-state license at that point.

But when you're transferring or moving into a new state and you're currently under an alternative discipline program in another state, it's going to be up to that new state as to whether they're going to issue a single-state license or they're going to make you wait until you've completed the process in your other state.

And that's going to vary from state to state. One thing I'd like to add, for the states and the Compact, because that's really all that matters today, when you draft your contracts or your agreements or whatever you call them in your alternative to discipline programs, if you are not doing it, something you might want to think about is adding the statement in there that you shall successfully complete the alternative to discipline program.

And if you don't, you are subject to discipline at that point in time. And you can word it any way you want. But I think you need to have that successful completion language in there.

- Well, that seems to make sense because that's the goal of the program, right? Successful completion of the program. So, you're saying that being in a program and a multi-state license are not two things that go well together? So if someone were to enter a program subsequent to being issued a multi-state license, then they're no longer eligible?

- Exactly.

- Okay.

- Exactly.

- And then they may or may not be eligible for a single-state license.

- Exactly. And you know what? I could move to a state and get a multi-state license in that state. But it's a party state. And at the moment I got it, I was completely eligible for it. And it's conceivable that I also have a license in a non-Compact state. And I get into trouble in that state and enter into an alternative to discipline program in a non-Compact state, you still can't have a multi-state license in the new state, in the primary state of residence because it covers all states.

- So it sounds like the mere participation in an alternative to discipline program disqualifies you from a multi-state license?

- Absolutely. And, Jim, the sole purpose of this and the foundation of this is public protection.

- Got you. Fred, I'd like to switch gears just a little bit on our final question of the day, of the hour and talk about the discipline process. I hate for it to be a loaded question because I'm sure you could talk about this for half a day if given the time.

But my question is, how does the discipline process work when a nurse violates the law in a Compact state that's not her home state, his or her home state? And as an example, I'm a nurse whose home state is Maryland, however, I'm practicing in another Compact state, which is Florida as a travel nurse.

And while I'm in Florida, I violate the practice laws in Florida. How is that discipline process carried out, assuming that the hospital where I'm working in Florida files a complaint against me with the Florida Board of Nursing?

- I think the first thing you do is you look at the complaint exactly the same as you would look at a complaint you received on a nurse who was licensed in Florida. That that was their primary state of residence. First of all, remember, the nurse's working on a privilege to practice license, that language actually appears in the Compact.

We get a little lost sometimes that this privilege to practice is less than an actual license. It's different. It's not less than, it's just different. And so, Florida, of course, they get the complaint, they're going to review that complaint like they would any other complaint coming into their office.

Once they've reviewed it, they make a determination whether this is something that is a violation of the Florida State Nursing Board's Practice Act. And they would start the exact same process that they would have if the individual's home state had been Florida. They would, I imagine, and I don't know the inner workings of Florida, but I know Joe knows and he probably is listening.

But you would send it to your investigators. Your investigators would start the investigative process. They would contact the facility. Let's say it's a drug diversion case from a hospital. They're going to go in, they're going to look at the documentation, they're going to look at Pyxis records, they may look at video footage in the hallways, maybe in the med rooms.

Whatever they do on any other case of that nature that is filed with them, they're going to treat it exactly the same way. They will then draft, put the file together. They would put together a report of what

happened. They are going to attach all the relevant documents and exhibits. And Florida may take action on the privileged practice.

They may take her before their board. They may issue a cease and desist. They may do an emergency hearing or summary suspension. But when they're done with all that, at that point in time, they send that file to the home state. In this case, I believe, you said Maryland. And at that point, Maryland needs to treat this case, and this is very important, just as if it had occurred in Maryland.

And take the same type of action in Maryland that they would've taken if the incident had occurred there.

- So, are you saying that Florida can take away this person's multi-state license?

- Florida can't do anything to the underlying license. They have no jurisdiction over the license.

- They cannot?

- They cannot. Only Maryland can take action under this scenario against the license. But what Florida can do, they can take any action available to them against the privilege to practice license.

- I see. So, in other words, that nurse's privilege to practice in Florida, that's what they're going to impact, therefore protecting the people of Florida.

- That's all they can do, is restrict the privilege of practice in Florida. Let's say wanted...

- I'm assuming because they didn't issue the license.

- That's right. And so if they're worried about this nurse working on a privilege in North Carolina, Florida can't help them with the North Carolina privilege, that would be up to North Carolina to address.

- Okay. So, you said they're going to send the report of the investigation to Maryland. Maryland can take action on the license. And I'm assuming then when they do as the state that issued the license, that then is going to protect the rest of the states?

- Exactly. Because at that point, once they take action on the license, the individual will lose the multi-state licensure privilege at a minimum while they're under the order of Maryland.

- I see. Assuming there's some level of encumbrance, right?

- Sure, absolutely. There has to be. Whatever Maryland does, it has to rise. Once it rises to the level of an encumbrance, then at that point they're going to lose the multi-state license privilege. Fred, I just have one follow-up question to this. As this nurse, in your example, my example, diverted drugs in Florida, and then there was a complaint filed against her in Florida, him or her.

If this nurse were to leave Florida immediately upon hearing about that complaint, would that relieve the duty for that remote state, whether it be Florida or any other state? Does that relieve the duty from them to investigate it and report it?

- Absolutely not. The law says they shall complete the investigation and put the report together. And if you think about it, we're all concerned about protecting the public. If Florida doesn't complete the

process, and we're not picking on Florida, it applies to all states. If that state doesn't complete that investigative process, there's nothing to send to Maryland.

Maryland has no ability at that point to take action against the license to protect the citizens of other states. That's very powerful. And the other thing, Florida or any other state should always remember, if you don't complete that process and get that to the home state, in this case, Maryland, what's to stop that individual four weeks later, unbeknownst to you, to drive right back into Florida?

He or she may think, "Well, look, hey, I got away with a lot of fentanyl." It's very popular right now. "Nothing happened to me. They stopped once I left that place of employment. I'm going back down, maybe this time I'll go down to the Florida Keys. I hear there's [inaudible] down and not really busy. Maybe I won't get reported."

They can come back on you. But remember it's, do unto others as you would want done to you. And ultimately, our jobs are to protect the public. So, complete that report. You're not going to have that many of them anyway. Complete it, put it together, contact Maryland, see exactly what they need, and send it to them.

- Fred, thank you so much. And I just want to reiterate what you said that the states we're using as examples are purely examples. None of this is intended to implicate any particular state. Thank you. We are out of time. I want to thank you for your guidance and expertise in this area, and for sharing your time with us.

We do have a few minutes left to take questions, and for that, I want to turn it back over to our facilitator, Lisa.

- [Lisa] Thank you, Jim. Thank you, Fred. If anyone has a question, please unmute yourself or you can type your question into the chat. Any questions out there? Check the chat.

Explore. Again, if anyone has a question, please unmute yourself, or you can type your question into the chat box.

We do have a question. Explain privilege to practice versus license?

- Well, privilege to practice is as close to licensure as you can get without actually having a specific license in that state. And what you're saying is in effect is that we're so comfortable with the licensing process, your ULRs in the state you're in, that we're going to let you work in our state on that license.

You're working on a license. But while they are practicing in the remote state, they are working under what the framers of this particular compact decided to call or identify that ability as the privilege to practice license.

And so it carries all the same rights and abilities as a license does. Remember, you've always got to meet the requirements of the state in which you're actually practicing in. But it carries exactly the same rights as you had in the other state.

As long as those rights are available in the particular state in which you're working, and that's where the patient's located. So there's not a lot of difference, legally, in the two, but as we noted in our discussion today, only the home state can take any kind of disciplinary action on the physical license because they're the one that issued it.

And interesting, I didn't touch upon it, and I'll try to be quick. I'm not noted for being quick. But remember, it's only the remote state that can, in some ways, take action against the privilege in their state. The home state should deal with the license. They have the ability to suspend the privilege to practice but they can't tell your state, the remote state, what to do to the privilege in that state.

It's up to that state.

- So, Fred, as I'm listening to this, I'm thinking of other words that might apply, and as I'm trying to piece it together, a license would give me the authority to practice in a state. If I wanted to work in a remote state, the privilege is my authority to practice in that state.

Would that be a good way, a correct way to say it?

- Yeah, that's a very good way of saying it. And it's there because state legislators and governors said, "As a matter of law, we're doing this and you have the right to do that. We're recognizing that."

- And earlier we were talking about the driver's license compact, and that's another place where I've seen the word privilege related to driving privileges and privileges being revoked or taken away. So you have a driver's license, but it seems that your ability or authority to drive in another state is a privilege that can be taken away.

But it authorizes you as long as you have it to drive in some other state. And it sounds like a parallel to this, when we use the word privilege to practice compared to privilege to drive. It authorizes you to do so, but it's something that can be taken away.

- Correct.

- Lisa, any other questions?

- Does anyone else have any questions? You can unmute yourself or type it in the chat. So, no more questions in the chat.

- Fred, I didn't want to cut you off there, did you have any closing comments?

- I would just say this on the privilege. I think it helps folks to think of it as a different layer of licensure. But with exactly the same rights as far as what you can and can't do, as long as that's allowed in the remote state you're working in.

Jim, it's not unlike when we have a national emergency. We just went through a horrific pandemic in this country. We're still dealing with it. All over the countries, Governors were lifting in certain areas licensure requirement to get nurses into hotspots and physicians.

And it didn't mean you could go to that new city and just do anything you wanted to. It meant you didn't have to stop at the border and get a license, but you were still bound by the laws of the state in which you were practicing and the requirements of the profession in the state you were practicing as toward the patients you were taking care of.

So there are a variety of ways we see this privilege used. The term we use is privilege to practice for this particular compact.

- Sure. Thank you. Lisa, one more check with you on questions.

- No more questions in the chat. Does anyone else have a question? I think that's all.
- Okay. Well, I think we went right about one full hour, and thank you. And Lisa, we'll turn it back to you.
- Thank you, everyone, for attending This session will be on the website, on the NLC website in the next couple two or three weeks. And thank you for attending.
- Thank you. Thanks again, Fred.
- Thank you. Thanks, everybody.