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## Emergency Regulation and Notice of Intended Regulatory Action (NOIRA) Agency Background Document

<b>Agency name</b>	Board of Nursing, Department of Health Professions
<b>Virginia Administrative Code (VAC) citation</b>	18 VAC 90-30
<b>Regulation title</b>	Regulations Governing the Licensure of Nurse Practitioners
<b>Action title</b>	Implementation of nurse licensure compact
<b>Document preparation date</b>	

This form is used when an agency wishes to promulgate an emergency regulation (to be effective for up to one year), as well as publish a Notice of Intended Regulatory Action (NOIRA) to begin the process of promulgating a permanent replacement regulation.

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 21 (2002) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

### Preamble

*The APA (Code of Virginia § 2.2-4011) states that an “emergency situation” is: (i) a situation involving an imminent threat to public health or safety; or (ii) a situation in which Virginia statutory law, the Virginia appropriation act, or federal law requires that a regulation shall be effective in 280 days or less from its enactment, or in which federal regulation requires a regulation to take effect no later than 280 days from its effective date.*

- 1) Please explain why this is an “emergency situation” as described above.
- 2) Summarize the key provisions of the new regulation or substantive changes to an existing regulation.

The adoption of an “emergency” regulation by the Board of Nursing is required to comply with the second enactment clause of Chapter 49 of the 2004 Acts of the Assembly, which states “That the Board of Nursing shall promulgate regulations to implement the provisions of the Nurse Licensure Compact to be effective within 280 days of the enactment of this act.” The date of enactment was March 4, 2004, the day the Governor approved HB 633.

Regulations for initial licensure as a nurse practitioner and for renewal or reinstatement of that license require that a person hold a current Virginia license as a registered nurse. Amended regulations include a multistate licensure privilege as an acceptable alternative to the license as a registered nurse.

### Legal basis

*Other than the emergency authority described above, please identify the state and/or federal legal authority to promulgate this proposed regulation, including: 1) the most relevant law and/or regulation, including Code of Virginia citation and General Assembly chapter number(s), if applicable, and 2) promulgating entity, i.e., agency, board, or person. Describe the legal authority and the extent to which the authority is mandatory or discretionary.*

Regulations are promulgated under the general authority of Chapter 24 of Title 54.1 of the Code of Virginia. Section 54.1-2400 (6), which provides the Board of Nursing the authority to promulgate regulations to administer the regulatory system:

***§ 54.1-2400 -General powers and duties of health regulatory boards***

*The general powers and duties of health regulatory boards shall be:*

...  
 6. *To promulgate regulations in accordance with the Administrative Process Act (§ 9-6.14:1 et seq.) which are reasonable and necessary to administer effectively the regulatory system. Such regulations shall not conflict with the purposes and intent of this chapter or of Chapter 1 (§ [54.1-100](#) et seq.) and Chapter 25 (§ [54.1-2500](#) et seq.) of this title. ...*

The specific legal mandate to promulgate the regulation for implementation of the Nurse Licensure Compact is found in:

*§ [54.1-3005](#). Specific powers and duties of Board.*

*In addition to the general powers and duties conferred in this title, the Board shall have the following specific powers and duties:*

*14. To enter into the Nurse Licensure Compact as set forth in this chapter and to promulgate regulations for its implementation; ...*

### Purpose

*Please describe the subject matter and intent of the planned regulatory action. Also include a brief explanation of the need for and the goals of the new or amended regulation.*

In 2003, the General Assembly enacted Chapter 249, which created the authorization for Virginia's membership in the Nurse Licensure Compact effective January 1, 2005. Sections 54.1-3030 through 54.1-3040 provide the legal basis for the Compact and specific statutory language for participation and administration. Amended rules will ensure that persons who are

seeking license, renewal or reinstatement as nurse practitioners will be able to do so, whether they hold a license as a registered nurse or a multistate licensure privilege to practice in Virginia as a registered nurse. The amendments are essential to conform the nurse practitioner regulations to the implementation of the Nurse Licensure Compact and ensure that there is no disruption in the ability of nurse practitioners to become licensed or to renew their licenses.

**Substance**

*Please detail any changes that are proposed. Please outline new substantive provisions, all substantive changes to existing sections, or both where appropriate. Set forth the specific reasons why the regulation is essential to protect the health, safety, or welfare of Virginians. Delineate any potential issues that may need to be addressed as a permanent final regulation is developed.*

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change and rationale
80	n/a	Establishes qualifications for initial licensure	Adds to the requirement that a person be currently licensed as a registered nurse in Virginia the alternative of holding a multistate licensure privilege as a registered nurse.
100	n/a	Establishes the requirements and schedule for renewal of a nurse practitioner license	Currently, the renewal of a nurse practitioner license is tied to the renewal schedule of one’s license as a registered nurse; the two are renewed at the same time. Since some nurse practitioners will not have a “license” to practice as a registered nurse in Virginia but will be practicing under a multistate licensure privilege, the amended regulation establishes the renewal schedule for a nurse practitioner who holds a privilege that follows the current pattern of biennial renewals in the birth month on odd or even years.
110	n/a	Establishes the requirements for reinstatement of a nurse practitioner license	Adds to the requirement that a person be currently licensed as a registered nurse in Virginia the alternative of holding a multistate licensure privilege as a registered nurse.

**Alternatives**

*Please describe all viable alternatives to the proposed regulatory action that have been or will be considered to meet the essential purpose of the action.*

There were no alternatives to the adoption of an amended regulation; it was specifically required in the second enactment clause of Chapter 49 of the 2004 Acts of the Assembly for the Board to promulgate regulations as required for implementation of the Compact.

Under the Compact, the Board will issue a multistate privilege if a nurse declares Virginia as his primary state of residence. If a nurse currently holds a Virginia license but resides in another Compact state, he will declare that state as his primary state and be issued a multistate privilege by that board. In either scenario, a person holding a current multistate licensure privilege to practice as a registered nurse in Virginia will be eligible for initial or continued licensure as a nurse practitioner. Therefore, regulations cannot continue to require a current license as a registered nurse without the alternative of a multistate licensure privilege.

If a nurse currently holds or applies for a Virginia license but resides in a non-Compact state, he will retain or be issued a Virginia license as a single-state license. In that scenario, the current regulation is applicable.

### Family impact

*Please assess the impact of the emergency regulatory action on the institution of the family and family stability.*

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There is no impact of the emergency regulatory action on the institution of the family and family stability.