

**Title:** In Whose Best Interest: Nursing Regulation during a Crisis

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**Executive Summary:**

A nimble and flexible regulatory response regarding the nursing workforce is essential to a fully integrated public health approach to national crises and pandemics. The COVID-19 pandemic has drawn many comparisons to the 1918 Flu. Some of them are well-reasoned and grounded in evidence. Others are not. This study provides a historically contextualized analysis of how the 1918 flu pandemic helped shape Pennsylvania nursing’s current regulatory apparatus. We conclude that the state-based solutions that nursing registration represents are inadequate to deal with pandemics and crises with national, if not global, reach.

**Introduction and Background**

It seems almost a lifetime ago that hospitals across the country, including those in Pennsylvania, panicked about the acute need for registered nurses to staff their COVID-19 intensive care units and emergency rooms. In March 2020 Pennsylvania’s Department of State asked the Governor to temporarily revise regulations established by the state’s Board of Nursing.<sup>1</sup> It, like some other states, now authorized new nursing school graduates, to practice before they took the state licensing exam. It also gave temporary Pennsylvania licensure to nurses licensed by other states. At this moment in time, Pennsylvania seems to have met its acute need for nurses to treat COVID-19 patients through these measures similar to other states: by simultaneously, upskilling current practitioners, and by using experienced registered nurses through national staffing agencies.<sup>2</sup>

Philadelphia and Pennsylvania managed this initial wave of COVID-19. But what will happen when new outbreaks reach our city and state when an anticipated “second-wave” occurs? What will happen if another acute crisis strikes our health care system? Will stop-gap and/or temporary measures be sufficient to meet the need for nursing resources and should these temporary measures become permanent?

Every health-related crisis has drawn attention to the need for nurses. The 2020 COVID-19 pandemic has been no exception. This report looks at nursing regulatory responses to provide a window to consider how at times complementary and conflicting needs are negotiated in these times of crises. Historians of both medicine and nursing have long documented the place of registration in simultaneously protecting the public good by ensuring competent practitioners and also enshrining disciplinary self-interest by establishing boundaries that determine who and under what circumstances individuals can claim practice rights.<sup>3</sup> This study looks specifically to the issues surrounding nurse registration in Pennsylvania during and just after the 1918 Flu Pandemic to examine the effect and the effectiveness of these simultaneous processes. It also examines their impact on today’s nursing regulatory apparatus.

## **Findings: Past Precedent in Rapid Mobilization of Nurses**

### *Nursing Licensure in Pennsylvania in 1918*

When the United States, in general, and Pennsylvania, in particular, realized it had to mobilize nurses to fight the 1918-1919 Flu Pandemic, the process of nursing registration was still new and highly contested both within and outside of the profession. As with medical and other kinds of relatively new registration processes, each state had the statutory authority to regulate work that affected the public's interest. The nascent organized nursing profession, largely led by leading educators and administrators who had formed the new National League for Nursing Education and the American Nurses Association, believed that the process of state registration, similar to what medicine had achieved in the late 19<sup>th</sup> century, would provide the authority, autonomy, and disciplinary oversight about who could practice nursing, the elements of strong nursing education, and protection of their practice from others who might also claim the title "nurse" by virtue of reputation and experience.<sup>4</sup>

Pennsylvania nursing leaders began their battle for nursing registration in the opening years of the twentieth century. They had learned from New York's failure to maintain an early system of mandatory nursing registration. Furious and powerful opposition in New York came from physicians and the directors of specialty hospital training schools (including those of insane asylums) who believed the care of patients in their institutions (and their economic bottom line) would be compromised if they could not tailor nurse training to the specific needs of their institution or attract students. Opposition to registration also came from within nursing because leaders sought to implement a standardized clinical curriculum that many institutions could not meet. This rendered ineligible those nurses from programs that leaders believed were too short or inadequate. The compromise solution enacted by New York and quickly followed in Pennsylvania with its first nurse registration act in 1909, provided for voluntary registration, protection of only the formal title of "registered nurse," and a physician-controlled enforcement board. The subsequent 1915 amendment kept the initial structure intact but allowed a minority nursing presence on the board. It also provided some salary support for a nursing consultant who visited training schools wishing to improve standards to meet the criteria of voluntary registration.<sup>5</sup>

### *The 1918 Flu Pandemic in Philadelphia*

When the 1918-1919 flu arrived in Philadelphia, two crises merged. The need for nurses for the military for World War I had already mobilized the resources of the American Red Cross (ARC) as the officially designated recruitment body for the newly expanded Army Nurse Corps. Hospitals, where nurses trained, experienced severe shortages of students (who provided most of the care), and even experimental programs that offered nursing training to college women (such as the Vassar Training Camp), could not alleviate the need for nurses. And, at a time when the best in medical and nursing care took place at home, such families who could afford private duty nursing after surgery or during illness, often found them in short supply.<sup>6</sup>

Philadelphia's reactive, highly politicized, and, ultimately disastrous, response to the 1918 pandemic has been well-documented in the press at the time and subsequently by historians. Politically appointed health officials took few preparations before early September 1918, despite the fact that the morbidity and mortality from the flu in Boston and elsewhere in

the country was being widely publicized. Philadelphia, more crowded than usual because the city's industrial base and active port made it integral to the war effort, documented hundreds of ill soldiers by the third week in September. In addition, the war effort had already depleted the city's medical readiness, as more than ¼ of Philadelphia's physicians and 1/3 of its nurses were in the military.

The September 28<sup>th</sup> Liberty Loan Parade crowded 200,000 Philadelphians closely together on the city's major thoroughfare, Broad Street. In the ensuing weeks, the morbidity and mortality in the city from the flu exploded. Between the 8 weeks of September 20 and November 8, the flu comprised 40% of total annual number of deaths in the city. Rough estimates suggest that at least 10% of its almost 2 million people became sick, although it is impossible to know for sure because reporting mechanisms fell apart as the city's infrastructure collapsed.<sup>7</sup>

The infection quickly overwhelmed the city's ability to maintain even basic municipal services such as policing, firefighting, and garbage collection. In keeping with the nation's volunteer tradition, as the flu epidemic worsened dozens of private groups mobilized to supplement health department personnel and the city's municipal hospital, Philadelphia General Hospital. The ARC, in keeping with its disaster management charter, took charge of furnishing supplies, and mobilizing transportation to be used as ambulances.<sup>8</sup> The federal Council on National Defense, created during WWI to oversee civilian resources and industry to support the war effort, now turned to its Philadelphia and state-level branches to coordinate the work of dozens of charities, private hospitals, religious groups, nursing agencies, and Philadelphia General Hospital to provide medical and nursing care.<sup>9</sup> Both the ARC and the Council also supplied its own trained nurses, nurses' aides, and volunteers, as did many of the other private groups in the city.

Every morning the nurse leaders in each of seven districts established to manage the care of flu victims, received a report from a central office created by and overseen by the Council. The Council, along with the Philadelphia and Pennsylvania State Health Department, quickly realized a surprising and unintended benefit of nurse licensure and registration. As the only central repository of nursing personnel in Pennsylvania, officials had a record of the numbers of registered nurses in the state. In some places these files also contained information about women who had some nurse training who might be mobilized to serve as aides. The Council could use this list of graduate (registered) nurses as a "nucleus" around which all volunteer work, and flu-related health care delivery in Philadelphia, and throughout the state could occur. As a result of this record, nurses could be quickly deployed to emergency infirmaries, public hospitals, the Visiting Nurse Association, or wherever they were needed to provide direct care and supervise volunteers.<sup>10</sup>

Philadelphia's need for nurses was desperate and unremitting throughout October and November. Most patients were cared for at home and nurses sometimes visited 40 families a day. It was not unusual for them to arrive at a home to find a dead parent surrounded by frightened, hungry, and oftentimes sick children. People became so desperate for nursing care that the press observed that family members tracked nurses to their homes, begging them to go back out with them to care for sick family members.<sup>11</sup> Despite the unfolding catastrophe, Philadelphia's segregated social and health care system remained intact. Black Philadelphia flu victims were

primarily served by the physicians and nurses trained at the small Douglass Hospital and the newer Mercy Hospital.<sup>12</sup>

The situation was no less dire at Philadelphia General Hospital (PGH) which, as a public facility, could not turn anyone away. Even before the epidemic, the hospital's beds were almost always full. As the numbers of people stricken with the flu began to rise, the nursing superintendent quickly moved patients around to create flu isolation wards. Like other hospitals, PGH employed only a few trained nurses; student nurses delivered most of the care. Although PGH's supervisory nurses worked 18-hour days throughout the epidemic to coordinate the institution's effort, the students provided the backbone of direct care. Just as was occurring with nurses providing home care, many of the PGH students became ill, so many so that the new PGH residence for nurses was converted into a nurses' hospital.<sup>13</sup> At one point in October, the chief resident noted that nurses made up fully 10% of PGH flu patients.<sup>14</sup>

### *Nurse Regulation in the Wake of the 1918 Flu in Pennsylvania*

By early 1919, with both the war and the flu pandemic waning, Pennsylvania nurse leaders seized what they expected to be public support for their contributions to again amend the State Registration Act to give them more control over the profession. There was now more physician and legislator consensus that at least some nurses should be "registered" as having had completed a curriculum sanctioned by nursing leaders. And almost everyone in public health and hospital leadership believed that the state needed a record of all nurses, even those not qualified to be "registered." But while there was increasing recognition that the nurses' aides and volunteers who had nursed in the flu needed to practice under direction of registered nurses there was no mention of Black nurses who continued to practice in tightly segregated systems. Nursing leaders still could not gain majority representation on their own board. The 1919 amendment to the registration legislation reflected these dual realities and helped forge the template through which every element of Pennsylvania nursing practice needed to be negotiated and defined at regular intervals.<sup>15</sup>

## **Conclusion**

Over succeeding decades, the increasing sophistication of and necessity for nursing skills, judgements, and specialty practices supported revising registration legislation, not just in Pennsylvania, but in most states. Nursing education and licensure grew more complex after World War II as health care delivery became more bureaucratic and specialized. Many believed that health care in the United States was, by the 1950s, "post-infectious disease." First the HIV/AIDS epidemic and now the COVID-19 pandemic eradicated this world view. By 2020, a nurse seeking registration, now mandatory for all nursing practice in all states, had to graduate from an accredited nursing program meeting robust curricula requirements and pass a rigorous state-administered, but nationally constructed, exam.

This was the framework hospitals and health care systems had to work within when they confronted a serious shortage of skilled registered nurses in our current COVID-19 crisis. The legacy of state-based registration and registration lists left specific areas at a loss when local needs overwhelmed rosters of available clinicians. Governor Andrew Cuomo's early appeal to nurses from areas outside New York to come to his state – and, in return, New York nurses

would travel to those outside areas when they experienced their surges (without discussing this with New York nurses) – stands as a case in point of the current failure of state-based solutions.<sup>16</sup>

A national registration system (the COMPACT mechanism) has been slowly evolving since 2000, but the slowness and voluntary nature of this process points to the challenges of addressing both processes and entrenched issues in individual states. Pennsylvania is not a COMPACT state. This dependence on hospital systems and communities to meet their own immediate nursing needs creates significant imbalances in national supply and demand issues that have an impact on crises of national proportions.

The current and anticipated waves of the pandemic will eventually exhaust the current private market systems for providing emergency medical care. The private sector, grounded in individual health systems hiring nurses temporarily licensed to practice in other states, however effective in the short term, is not a long-term solution to the emergencies and crises created and will continue to be created by the rise of infectious diseases.

Nurse registration legislation arose in a specific historical context. The current state-based system in nurse registration is anachronistic, and all efforts should be made to move immediately toward a national system that is already emerging through the regional COMPACT system and the national examination mechanisms (see <https://nurse.org/articles/enhanced-compact-multi-state-license-eNLC/> ).

## **Recommendations**

1. The Secretary of Health and Human services should convene a work group to develop mechanisms to ensure the swift agreement of (at present) 25 states to swiftly join the COMPACT framework.
2. All State regulatory bodies should immediately put in place mechanisms to move to the national COMPACT system.
3. The federal government should develop a national database and plan using COMPACT data for identifying and coordinating the resources of a national nursing workforce during pandemics.

## Notes

<sup>1</sup> Pennsylvania Department of State, “Pennsylvania Waives Some Nurse Licensing Requirements During Coronavirus Emergency,” last modified March 20, 2020, <https://www.dos.pa.gov/Documents/2020-03-20-Nursing-Omnibus-Requirement-Waiver.pdf>; Pennsylvania Department of State, “Issuance of Temporary Licenses to Health Care Practitioners Not Licensed In Pennsylvania to be Expedited During Coronavirus Emergency,” last modified March 18, 2020, <https://www.dos.pa.gov/Documents/2020-03-18-Temporary-Licenses-Out-of-State-Practitioners.pdf>.

<sup>2</sup> Chris Keeley et al., “Staffing Up For The Surge: Expanding The New York City Public Hospital Workforce During The COVID-19 Pandemic,” *Health Affairs* 39 (2020), epub ahead of print, <https://doi.org/10.1377/hlthaff.2020.00904>.

<sup>3</sup> Barbara J. Safriet, “Health Care Dollars and Regulatory Sense: The Role of Advanced Practice Nursing,” *Yale Journal of Regulation* 9, no. 2 (1992): 417- 488.

<sup>4</sup> Susan Armeny, “Resolute Enthusiasts: The Effort to Professionalize American Nursing, 1880-1915” (PhD diss., University of Missouri-Columbia, 1983); Susan Reverby, *Ordered to Care: The Dilemma of American Nursing, 1850-1945* (New York: Cambridge University Press, 1987); Nancy Tomes, “The Silent Battle: Nurse Registration in New York State, 1903-1920,” in *Nursing History, New Perspectives, New Possibilities*, ed. Ellen Condliffe Lageman (New York: Teachers College Press, 1983), 107-132.

<sup>5</sup> Roberta West, *A History of Nursing in Pennsylvania* (Pennsylvania State Nurses Association, nd).

<sup>6</sup> Marian Moser-Jones, “The American Red Cross and Local Response to the 1918 Influenza Pandemic: A Four-City Case Study,” *Public Health Reports* 125, no.3 suppl (2010): 92-104; Arlene W. Keeling, “‘Alert to the Necessities of the Emergency:’ Nursing During the 1918 Influenza Pandemic,” *Public Health Reports* 125, no.3 suppl (2010): 105-112.

<sup>7</sup> Alfred W. Crosby, *America’s Forgotten Pandemic: The Influenza of 1918*, 2<sup>nd</sup> ed. (Cambridge: Cambridge University Press, 2003); John W. Barry, *The Great Influenza* (New York: Penguin, 2005); Nancy W. Bristow, *American Pandemic: The Lost Worlds of the 1918 Influenza Pandemic*, 2<sup>nd</sup> ed. (Oxford: Oxford University Press, 2017); James E. Higgins, “A Lost History: Writing the Influenza Epidemic in Pennsylvania, 1918-1922,” *Pennsylvania History* 85, no. 3 (2018): 394-405; “Philadelphia: How the Social Agencies Organized to Serve the Sick and the Dead,” *The Survey* (October 19 1918): 74-76; *Emergency Service of the Pennsylvania Council of National Defense in the Influenza Crisis: Report of The Vice-Director, Department of Medicine, Sanitation and Hospitals* (Harrisburg, PA: Pennsylvania Council of National Defense, 1918): 5; “Epidemic Statistics,” *Monthly Bulletin of the Department of Public Health and Charities* 4 (March 1919): 48.

<sup>8</sup> Moser-Jones, “American Red Cross”; Keeling, “Alert to the Necessities.”; *Southeastern Chapter of the American Red Cross in the Influenza Epidemic September-October 1918* (Philadelphia: American Red Cross, nd.).

<sup>9</sup> *Emergency Service of the Pennsylvania Council*; “What the Health Department Has Done To Curb the Epidemic of Influenza,” *Monthly Bulletin of the Department of Public Health and Charities of the City of Philadelphia* 3, no. 10-11 (October-November 1918): 1-27.

<sup>10</sup> *Emergency Service of the Pennsylvania Council*, 5; “What the Health Department has Done,” 1-27.

<sup>11</sup> “Nurses, More Nurses,” MC 5B, Box 52A, Scrapbook, page 16, article 3, Visiting Nurse Society of Philadelphia records, Barbara Bates Center for The Study of The History of Nursing, University of Pennsylvania, School of Nursing; S. Lillian Clayton, “Emergency Nursing of Influenza in the Philadelphia General Hospital,” *Monthly Bulletin of the Department of Public Health and Charities* 4 (March 1919): 39-42; Joseph C. Doane, “The Philadelphia General Hospital and the Influenza Epidemic,” *Monthly Bulletin of the Department of Public Health and Charities* 4 (March 1919): 42-44; A. A. Cairns, “Public Health Control of the Influenza Epidemic in Philadelphia,” *Monthly Bulletin of the Department of Public Health and Charities* 4 (March 1919): 34-37; Isaac Starr, “Influenza in 1918: Recollections of the Pandemic in Philadelphia,” *Annals of Internal Medicine* 85 (4 1976): 516-518; “Social Service and the Influenza Epidemic,” *Modern Hospital* 11 (November 1918): 390; “Philadelphia,” *The Survey*; “The Visiting Nurse Society in the Influenza Epidemic,” *Monthly Bulletin of the Department of Public Health and Charities* 4 (April 1919): 54.

<sup>12</sup> Vanessa Northington Gamble, “‘There Wasn’t a Lot of Comforts in Those Days:’ African Americans, Public Health, and the 1918 Influenza Epidemic,” *Public Health Reports* 125, no.3 suppl (2010): 114-125.

<sup>13</sup> Clayton, “Emergency Nursing.”

<sup>14</sup> Doane, “Influenza Epidemic.”

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<sup>15</sup> West, *Nursing in Pennsylvania*; “The Board of Examiners for Registered Nurses—Should it be Changed?” *Pennsylvania Medical Journal* 22 (February 1919): 326, 331. “Nursing News and Announcements,” *The American Journal of Nursing* 20, no. 5 (1920): 417-38.

<sup>16</sup> Shannon Young and Marie J. French, “Cuomo Directs Nurses to 'Enlist' as State Looks to Double Bed Capacity,” *Politico*, last modified March 23, 2020, <https://www.politico.com/states/new-york/albany/story/2020/03/23/cuomo-directs-nurses-to-enlist-as-state-looks-to-double-bed-capacity-1268726>.