

BOARD OF NURSING

Professional and Vocational Licensing Division
Department of Commerce and Consumer Affairs
State of Hawaii

MINUTES OF MEETING

The agenda for this meeting was filed with the Office of the Lieutenant Governor as required by Section 92-7(b), Hawaii Revised Statutes (“HRS”).

Date: Thursday, February 1, 2024

Time: 9:00 a.m.

In-Person Meeting Location: PVL Exam Room, Third Floor
HRH King Kalakaua Building
335 Merchant Street
Honolulu, Hawaii 96813

Virtual: Virtual Videoconference Meeting – Zoom Webinar (use link below)
<https://dcca-hawaii-gov.zoom.us/j/84922721699>
Zoom Phone Number: (669) 900 6833
Meeting ID: 849 2272 1699

Zoom Recording Link: <https://youtu.be/4x6INOIMuDc?si=K3zWLovHEsp17YwE>

Agenda: The agenda was posted on the State electronic calendar as required by HRS section 92-7(b).

Members Present: Carrie Oliveira, Chair
Karen Boyer, RN, MS, FNP
Sherri Shields-Hanson, MSN, RN
Bradley Kuo, DNP, APRN, FNP-BC, PMHNP-BC, CARN-AP
Terrance Aratani, Public Member

Member Excused: Diana Jill Riggs, RN, MSN, Vice Chair

Staff Present: Chelsea Fukunaga, Executive Officer (“EO Fukunaga”)
Alexander Pang, Executive Officer (“EO Pang”)
Lee Ann Teshima, Executive Officer (“EO Teshima”)
Randy Ho, Executive Officer
Shari Wong, Deputy Attorney General (“DAG”)
Marc Yoshimura, Secretary

Guests: Laura Reichhardt, Hawai'i State Center for Nursing
Linda Beechinor, Hawai'i American Nurses Association
Jeremy Creekmore, President, Hawai'i Association of Professional Nurses
Sherry Stone
Jacce Mikulanec – QHS
John G
Lani Tsuneishi
Bonnie

Pamela Smith
Jen Pastiglione

For purposes of this hybrid meeting, the Chair will take roll call of the Board members to establish quorum and for motions that require a vote of the Board members.

Virtual Meeting
Instructions:

A short video regarding virtual meetings was played for attendees.

The Chair provided information on internet and phone access for today's virtual meeting and announced that today's meeting was being recorded and that the recording will be posted on the Board's web page.

Call to Order:

The Chair took roll call of the Board members.

In accordance with Act 220, SLH 2021, all Board members attending virtually confirmed that they were alone in their nonpublic location.

After taking roll, quorum was established, and the meeting was called to order at 9:10 a.m.

Chair's Report:

The Chair reported on the NCSBN President's Call as follows:

One of the questions was about how states are handling investigations of nurses who are already licensed and whose names appear on the Nightingale List.

Maryland, she thought it was Maryland, expressed frustration that they have addressed a large number of cases for which they have had to add a day to their monthly meeting to accommodate the hearings, to investigate nurses who are licensed and on the Nightingale list. Of particular frustration is that these nurses hold multistate licenses in another NLC jurisdiction but the home states are not actively pursuing investigations. Because the home state is not investigating or taking action against these nurses, then every other party state in the NLC has to separately discipline the nurses' privilege to practice.

Additionally:

- At least one state does not use emergency suspension as a way to quickly remove a nurse from the workforce because they perceive the use of emergency suspension as a violation of due process, an argument EO Fukunaga made during the NLC working group meetings. As a result, they have encountered several situations in which nurses who are under investigation for being on the Nightingale List have left the state to practice in another NLC jurisdiction which means that a) the investigation is more difficult to complete, and b) another party state has to deal with the problem of a potentially educationally unqualified nurses working in their state.
- Some states are opting not to record the voluntary surrender of a license or the multistate privilege as a result of a nurse's appearance on the Nightingale List as a disciplinary action. So although the nurses are flagged in Nursys for appearing on the Nightingale List, the missing indication of a disciplinary action could prevent other jurisdictions from having the grounds to take reciprocal disciplinary action.

So, we have a real life, actively occurring situation in which the NLC is creating some significant investigative and disciplinary issues related to the Nightingale List. Our

membership in the NLC would introduce those issues to our state to a greater degree than the Nightingale list has already affected us.

Approval of the December 7, 2023 Open and Executive Session Meeting Minutes

This agenda item was deferred.

Executive Officer's Report:

Amendments to Hawaii Administrative Rules ("HAR") Chapter 89, Relating to Nurses – Proposed Amendments to HAR §16-89-22, Pertaining to Temporary Permits – Status Report

EO Teshima reported that she is still waiting on the Governor's approval to hold a public hearing.

Random Audit – Status Report

EO Teshima reported that they are still receiving submissions and she will provide a report at the next scheduled Board meeting.

The Chair announced the next agenda item as the 2024 Legislative Session.

EO Teshima stated that EO Pang will go through the bills listed and that there are some bills that we will need the Board's position on, including but not limited to the nurse licensure compact bills, whether the Board appreciates the intent of the bill, etc. and that after the summary, she will call on each Board member for their position.

EO Pang reported on the following:

2024 Legislative Session

SB 3104 Relating to the Nurse Licensure Compact (Companion bill HB 2415)

Allows the Governor to enter the State into the multistate Nurse Licensure Compact, which will allow a nurse who is licensed by a home state to practice under a multistate licensure privilege in each party state, effective 1/1/2026. Beginning 1/1/2026, allows the State Board of Nursing to charge different fees for registered nurses and licensed practical nurses who hold a multi-state license issued by the State.

HB 2415 Relating to the Nurse Licensure Compact (Companion bill SB 3104)

Allows the Governor to enter the State into the multistate Nurse Licensure Compact, which will allow a nurse who is licensed by a home state to practice under a multistate licensure privilege in each party state, effective 1/1/2026. Beginning 1/1/2026, allows the State Board of Nursing to charge different fees for registered nurses and licensed practical nurses who hold a multi-state license issued by the State.

HB 2158 Relating to the Nurse Licensure Compact

Adopts the nurse licensure compact. Beginning 01/01/2026, requires nurses who hold multistate licenses issued by a state other than Hawai'i to complete demographic data surveys. Authorizes the Board of Nursing to assess different fees for registered nurses and licensed practical nurses who hold a multistate license issued by the State.

SB 2492 Relating to the Nurse Licensure Compact

Allows the Governor to enter the State into the multi-state Nurse Licensure Compact, which will allow a nurse who is licensed by a home state to practice under a multi-state licensure privilege in each party state, effective 1/1/2026. Beginning 1/1/2026, allows the State Board of Nursing to charge different fees for registered nurses and licensed practical nurses who hold a multi-state license issued by the State.

SB 321, SD1 Relating to the Advanced Practice Registered Nurse Compact

Establishes a working group to study the feasibility and effects of the State adopting the Advanced Practice Registered Nurse Compact. Requires a report to the Legislature. Effective 12/31/2050. (SD1) (Carry-over from 2023 session)

HB 667 Relating to the Nurse Licensure Compact (Companion bill SB 670)

Allows the Governor to enter the State into the multi-state Nurse Licensure Compact, which will allow a nurse who is licensed by a home state to practice under a multi-state licensure privilege in each party state. (Carry-over from 2023 session)

SB 670 Relating to Nurse Licensure Compact (Companion bill HB 667)

Allows the Governor to enter the State into the multi-state Nurse Licensure Compact, which will allow a nurse who is licensed by a home state to practice under a multi-state licensure privilege in each party state. (Carry-over from 2023 session)

SB 63, SD2, HD3 Relating to Nurses

Authorizes the board of nursing to issue temporary permits for six-month periods to out-of-state licensed practical nurses and registered nurses or who hold a multistate license issued by another state, territory, or foreign country, under certain circumstances. Provides an exception from licensing requirements to nurses who are licensed in another state, territory, or foreign country and accompanying a patient from out-of-state for a period of less than two weeks and who are not employed or affiliated with a health care entity in the State. Appropriates funds. Effective 6/30/3000. (HD3) (Carry-over from 2023 Session)

SB 2669 Relating to Gender Affirming Care

Excepts certain in-person consultation and examination requirements to establish a provider-patient relationship for the purposes of gender affirming treatment via telehealth. Excepts certain in-person consultation and examination requirements to establish a provider-patient relationship for issuing prescriptions for the purposes of gender affirming treatment. Prohibits certain boards from taking adverse action against individuals possessing or applying for a license to practice medicine and surgery or nursing for providing gender affirming treatments in the State in compliance with the laws of the State or being disciplined by another state for providing gender affirming treatments. Prohibits certain insurers from taking adverse actions against health care providers for providing gender affirming treatments. Prohibits court clerks from issuing subpoenas in connection with out-of-state subpoenas related to gender affirming treatments that are provided in

compliance with the laws of the State. Requires the Department of Health to establish a public health campaign that educates the public on gender affirming treatment services statewide. Declares that the general fund expenditure ceiling is exceeded. Makes an appropriation.

HB 2775 Relating to Health Care (Companion bill SB 3330)

Establishes a candor process through which patients and their families, health care providers, and health care facilities can engage in open communication about how an adverse care health incident occurred, how it will be prevented in the future, and what compensation, if any, will be offered to the patient or their family. Establishes notice and confidentiality requirements for open discussions.

SB 3330 Relating to Health Care (Companion bill HB 2775)

Establishes a candor process through which patients and their families, health care providers, and health care facilities can engage in open communication about how an adverse care health incident occurred, how it will be prevented in the future, and what compensation, if any, will be offered to the patient or their family. Establishes notice and confidentiality requirements for open discussions.

HB 1675 Relating to the General Excise Tax

Beginning 1/1/2025, exempts medical services provided by physicians and advanced practice registered nurses acting in the capacity of a primary care provider from the general excise tax.

SB 2634 Relating to Health Care Education

Makes appropriations for the expansion of the certified nurse aide to practical nurse bridge program at the University of Hawai'i Maui College, including funding for instructional costs and student aid.

EO Teshima added that SB 3104 and HB 2415 are part of the Governor's package.

The Chair wanted to clarify that there are 6 bills relating to the nurse licensure compact including the carry-over bills from 2023 but they are materially different whereas some of them require demographic data.

EO Teshima called on Mr. Aratani regarding his thoughts, position, concerns or comments on the nurse licensure compact bills.

Mr. Aratani stated he has no comment at this time.

EO Teshima asked if he was in support or oppose or appreciate the intent.

Mr. Aratani replied that as a public member, he will defer to the "licensed" members for their opinion on legislation.

EO Teshima called on Mr. Kuo.

Mr. Kuo stated he appreciates the intent of these bills, however, with what is happening in the country at this time relating to investigation of nursing schools that are on the Operation Nightingale list, he believes that entering into any kind of compact could

adversely affect the residents of this State. He stated that there are other avenues that could be entertained in regard to multi-state licenses from other states, however, he does not believe that this would improve the safety and security of our processes but more importantly the residents of this State.

He asked if he can directly oppose these bills as he opposes all the compact bills.

Ms. Boyer stated that overtime, Hawaii will enter the compact and as a Board member and nurse, she just wants assurances that safety features, as referred to by Mr. Kuo, are assured for nurses practicing in this State. She further stated that we should examine that carefully.

Ms. Shields-Hanson stated that she appreciates the intent of trying to advance nursing across the country however she is concerned that a state as small as ours, may have some difficulty identifying risks to our residents. She further stated that this is her concern as a nurse and resident but does believe that we are trying to move forward and therefore appreciates the intent.

The Chair was asked for her position/opinion on the compact bills.

The Chair stated that she wrote down her comments regarding the compact bills and read the following statement relating to public safety implications of the NLC:

“The sole mission and purpose of the Hawai‘i Board of Nursing is to protect the public, to the best of its ability, from the hazard that incompetent or unprofessional nurses may pose. While the question of whether Hawai‘i should join the NLC is complex, my responsibility as a member of the BON is to evaluate the extent to which I believe the NLC protects the safety, health, and welfare of the people of Hawai‘i.

As such, I wish to raise two issues that suggest that the NLC does NOT provide the same level of public protection that is provided by Hawai‘i’s current approach to nurse licensure. First, in December of 2023, the Hawai‘i BON reviewed an application for nurse licensure by endorsement for an individual who held an active multistate license while also having a revoked single state license in a different, non-NLC jurisdiction. Despite clear language in the NLC model act and additional guidance from NLC’s legal counsel that ANY adverse action against a license – including a revocation – makes a nurse ineligible for multistate licensure, this individual was improperly awarded a multistate license. If Hawai‘i were a member of the NLC, this nurse would have been permitted to practice in the state unbeknownst to the BON. However, because Hawai‘i is not a member of the NLC, the nurse had to apply for a single state license. The BON reviewed and discussed the applicant’s disciplinary history and testimony, and ultimately voted to deny the applicant a Hawai‘i nursing license. This case highlights that NLC member states may not be consistently and correctly evaluating nurses for eligibility for multistate licensure. As a result, Hawai‘i’s membership in the NLC would mean that Hawai‘i’s patients could be cared for by nurses that this board would vote not to license.

My second concern stems from a discussion held during the January 2024 National Council of State Boards of Nursing meeting of Board Presidents and Chairs. The discussion was related to how NLC states are handling discipline of nurses who hold multistate licenses and whose names have been flagged as part of Operation Nightingale,

the Department of Justice's investigation into a fraudulent nursing transcript scheme. During the discussion, it became clear that many NLC jurisdictions have not investigated or disciplined nurses on the Nightingale List to whom they have issued multistate licenses. This means that nurses who may have failed to meet the minimum educational requirements for nurse licensure or who have obtained a nursing license through fraud are permitted to practice in every NLC state that has not revoked their privilege to practice. Hawai'i's current nursing license process has already prevented dozens of individuals implicated in Operation Nightingale from practicing in our state. If Hawai'i were to join the NLC, every nurse on the Nightingale List with an active multistate license would be allowed to practice in Hawai'i, again resulting in Hawai'i's residents potentially receiving nursing care from nurses that this board would vote not to license. Proponents of the NLC consistently maintain that there are sufficient safeguards in place that prevent incompetent or unprofessional nurses from negatively affecting patients in multiple jurisdictions. Though this is true to some extent, the examples I have provided here indicate two current, ongoing issues related to multistate licensure that could have a significant negative impact on the residents of Hawai'i. When compared head on, it is clear to me that although Hawai'i's current approach to nurse licensure is not perfect, it does provide a greater level of public protection than does the NLC."

EO Teshima reiterated the Board members positions are "no comment", oppose, appreciate the intent, concerns and support intent with concerns, and that she's not sure the 5 members have a unified position for testimony should these bills be scheduled for hearing.

EO Teshima stated that she had some questions for the DAG.

Executive Session:

At 9:28 a.m., upon a motion by the Chair, seconded by Mr. Kuo, it was voted on and unanimously carried to move into executive session in accordance with HRS §92-4 and §92-5 "To consider and evaluate personal information relating to individuals applying for professional or vocational licenses cited in section 26-9 or both;" and "To consult with the Board's attorney on questions and issues pertaining to the Board's powers, duties, privileges, immunities, and liabilities;" and that the Board will vote on the applications after coming out of executive session.

At 11:55 a.m., upon a motion by the Chair, seconded by Mr. Kuo, it was voted on to move out of executive session.

The Board resumed their discussion on the 2024 Legislative Session bills.

The Chair asked if there was anyone attending who would like to provide testimony on this agenda item.

Seeing none, the Chair reported on the discussion in executive session that included public safety concerns by joining the compact and whether or not the compact provides the same level of public protection as a single-state licensure does, handling discipline cases, investigative burden, etc. She stated that although the Board has concerns, they do appreciate the intent that joining the compact will expand access to care and recognize that important function of the NLC.

EO Teshima asked the Chair to reiterate her previous statement on the public safety implications.

EO Teshima asked for clarification that is it the Board's position that joining the compact will expand access to care and recognize that important function of the NLC but still have concerns.

All members responded "yes".

EO Teshima asked if the Board was okay with the demographic data and delayed implementation date.

The Chair stated yes to the demographic data and defer to staff in regard to the delayed implementation date.

The Chair then proceeded with the gender affirming bills, SB 2669 and asked the Board if would support this bill that would provide protection for APRNs by prohibiting certain boards from taking adverse action against individuals possessing or applying for a license to practice medicine and surgery or nursing for providing gender affirming treatments in the State in compliance with the laws of the State or being disciplined by another state for providing gender affirming treatments and prohibit certain insurers from taking adverse actions against health care providers for providing gender affirming treatments.

All Board members responded "yes".

The Chair stated this position would also pertain to the companion bill.

That Chair asked if the Board would support HB 2775, that would establish communication and optimal resolution process through which patients and their families, health care providers, and health care facilities can engage in open communication about how an adverse care health incident occurred, how it will be prevented in the future, and what compensation, if any, will be offered to the patient or their family and establish notice and confidentiality requirements for open discussions, engage in health care providers.

The Board members agreed to support this bill.

Reports:

Hawai'i State Center for Nursing – Laura Reichhardt

Ms. Reichhardt reported on the following:

- Released annual report in December 2023 that highlighted achievements;
- In 2023, large number of new graduates in residency program, over 300 hundred;
- 97% retention rate, alot of hiring;
- Recognize HSCN NLC study posted on the Legislative Reference Bureau and UH Government Relations web site;
- Upcoming activities, workforce supply report and launching wellness initiatives, faculty professional development to sustain efforts for retention.

Hawai'i American Nurses Association – Linda Beechinor

Ms. Beechinor reported on the following:

- Almost met 500 membership drive goal in 2023;
- New Board members;
- Expanding in social media and newsletter and Advocacy Committee;
- Agreement with Board's position on NLC bills.

Hawai'i Association of Professional Nurses – Jeremy Creekmore, President

Mr. Creekmore reported on the following:

- Poki'i Balaz President-elect, remain President-elect;
- Align with Boards concerns regarding NLC and watching APRN compact, restricted practice.

The Chair announced the next agenda item and noted that the Board will be deferring the following applications for additional information:

**Lovely Petiote
Cadette Osne
Bonnie Flaming**

The Chair asked if there was anyone attending who wish to provide testimony.

Staff reported that no one raised their hand.

Applications:

Ratification Lists

Upon a motion by the Chair, seconded by Ms. Boyer, it was voted on and unanimously carried to approve the following ratification lists:

LPNs, license numbers 20875-20930 (55);
RNs, license numbers 115843-116915 (1,072); and
APRNs and APRNs with prescriptive authority

Applications

In regard to the other applications, the Chair asked for motions regarding the applications.

Licensed Practical Nurse:

Upon a motion by Ms. Boyer, seconded by Mr. Kuo, it was voted on with Ms. Boyer, Mr. Kuo, Mr. Aratani, Ms. Shields voting yes and the Chair voting no to deny the following application based on HRS 457-12(a)(8):

Jennifer Lynn Barker

The motion did not carry as there was not a majority vote. This application was deferred.

The Chair reported that the application for Delingcy Guillaume that was deferred from the December 7, 2023 meeting does not require any action by the Board at this time.

Registered Nurses:

Upon a motion by Ms. Boyer, seconded by Mr. Kuo, it was voted on and unanimously carried to approve the following application for license upon the condition that the applicant retake and pass the NCLEX-RN based on HRS 457-7(b)(2):

Elizabeth Lonergan

Upon a motion by Ms. Boyer, seconded by Mr. Kuo, it was voted on and unanimously carried to approve the following applications:

**Kelley Revels
Joselyn Gibson
Panta Abrahimi
Deidre Sterghos
Mark Andrew Beattie
Kendra L. Munerlyn
Kersandra Chatman
Aretha S. Whilby
Ona Dee Ellingson
Eric Carroll Hannon
Melissa Beth Farley
Jesse James Freeburg
Lisa Gay Malecki
Tiffany Myers Jones
Ikenna Mbachu
Suzan Chandler**

Advanced Practice Registered Nurse:

Upon a motion by Ms. Boyer, it was seconded by Mr. Kuo, it was voted on and unanimously carried to approve the following application:

Susan Chandler

Next Meeting:

Date:	Thursday, March 7, 2024
Time:	9:00 a.m.
In-Person:	Queen Liliuokalani Conference Room, First Floor King Kalakaua Building 335 Merchant Street Honolulu, Hawaii 96813
Virtual:	Zoom Webinar

Adjournment: With no further business to discuss, the Chair adjourned the meeting at 12:17 p.m.

Taken by:

Reviewed by:

/s/ Lee Ann Teshima

/s/ Marc Yoshimura

Lee Ann Teshima
Executive Officer

Marc Yoshimura
Secretary

Minutes approved as is.

Minutes approved with changes; see minutes of _____

2/28/24