

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, April 4, 2024

Time: 10:00 a.m.

In-Person Meeting Location: Queen Liliuokalani Conference Room, First 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/81510503497>

Zoom Phone Number: (669) 900 6833
Meeting ID: 815 1050 3497

Recording Link: <https://www.youtube.com/watch?v=WQ9yEcFSG8U>

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

Members Present: Carrie Oliveira, Chair
Diana Jill Riggs, RN, MSN, Vice Chair
Karen Boyer, RN, MS, FNP
Sheri Shields-Hanson, MSN, RN
Bradley Kuo, DNP, APRN, FNP-BC, CARN-AP, PMHNP
Terrence Aratani, Public Member

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

Guests: Laura Reichhardt, Executive Director, Hawai'i State Center for Nursing
Paige Heckathorn Choy, Associate Vice President, Government Affairs, Healthcare Association of Hawaii
Judith Lynne Arnold
Joanne Auskern
Tamika Nicholson
Zebora Perryman
Leah Swift
Thomas Moynihan

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.

After taking roll, quorum was established, and the meeting was called to order at 10:06 a.m.

Chair's Report:

Pacific Business News 2024 – Best Workplaces

The Chair acknowledged and congratulated Mr. Kuo on his company Wellness Partners Hawaii, Inc. on being on the list of the Pacific Business News 2024 – Best Workplaces

The Chair announced the next agenda item as approval of the open session minutes of the March 7, 2024 meeting.

Approval of Minutes:

Approval of the Minutes of the Open Session and Executive Session Minutes of the March 7, 2024 Meeting

The Chair asked if there were any corrections/amendments in regard to the open session minutes of the March 7, 2024 meeting.

Seeing none, the Chair asked for a motion in regard to the open session minutes.

Upon a motion by Mr. Kuo, seconded by Ms. Boyer, it was voted on and unanimously carried to approve the minutes of the March 7, 2024 meeting as circulated.

The Chair deferred the approval of the executive session minutes for the March 7, 2024 meeting.

The Chair announced the next agenda item as Ms. Boyer's report of her attendance at the NCSBN's Midyear meeting as well as the recommendations from the March 3, 2024 Education Committee meeting and asked if there was anyone attending wishing to testify on this agenda item.

Report by Karen Boyer:

Report on Attendance at NCSBN Midyear Meeting

Ms. Boyer reported on her attendance at the NCSBN Midyear Meeting, March 11 -14, 2024 in Atlanta, Georgia:

Day 1 – Attended the NLC Mid-year meeting at which time Fred Knight from Arkansas provided updates on some of the articles they are working on mostly to strengthen the language and educate nurses of the requirement if the primary state of residency changes, the licensee has 60 days to change their primary state of residency.

They are also trying to strengthen the language for individuals under investigation or the process for criminal background checks so that between states it's a little more clear and/or the communication is more timely.

Day 2 – Leadership Day: Reimagining discipline, Maryanne Victoria Priola, PsyD presenter. Reported on how stressful the nursing workplace is right now and how it has increased during the last 5 years and so when Board's are presented with cases of negligence or malpractice, things that fall out of normal practice that we try to imagine the workplace that the nurses are working in, i.e. staffing shortages, patient population more challenging, nurses being monitored for productivity on a regular basis.

Ms. Boyer referred to the National Service Organization who receives the malpractice claims against nurses and that 24% failed to follow nursing practice, 32% boundary (judgement) violations; 9% patient abuse; failure to treat or care 9%; and documentation errors or omissions close to 10%. Dr. Priola also provided clinical diagnosis related to human errors and risky behaviors including anxiety and depression and some PTSD or concurrent substance use or abuse.

She reported that when we have people that we are not sure of their functioning, whether it's cognitive, psychosocial or combination, to consider a clinical evaluation to help determine if the nurse may have some of these personality disorders and/or reckless behavior. The anti-social type such as criminal activity, lying, conning, impulsive, lack remorse, highly versatile, is probably the most dangerous type of nurse or healthcare practitioner to have. She also reported that Boards were encouraged to reflect on our own biases, implicit, explicit and hidden and "availability bias" which is based on your own experiences

Day 3 – Regulatory Day – Peggy Benson, Alabama wrote a grant regarding 15 – 16 unregulated healthcare providers practicing in their state, i.e. psych techs, nurse aides, medication aides, nursing students (paid roles) and that she's trying to get nursing support technicians (NST-C) certified where she can standardized the curriculum, testing and certification, level I and level II.

The Model Act and Rules – Maryann Alexander, NCSBN, led a discussion on deleting or amending to be in compliance with the ADA, "mentally and physically competent to practice nursing, the Board may issue a license to the applicant."; delete "for the possession, use, or sale of any controlled substances" in regard to reporting requirements.

Operation Nightingale – Jim Cleghorn, NCSBN, provided an update on Operation Nightingale and that how states are responsible for reviewing applications received and the multiple lists of individuals who are on the FBI lists and that there have been a few licenses that have been rescinded. He also wanted to emphasize that if the nurse had a fraudulent undergrad, and then had gone to a graduate school, that they are both invalid.

The Chair clarified that the undergrad transfer credits would have had to be considered.

Mr. Kuo asked if that was the same recommendation ASN to BSN degrees.

Mr. Boyer stated that wasn't addressed however, if the ASN transcript is considered fraudulent and was used towards the BSN degree, then that should be considered.

Day 4 - Education Day – AACN essentials and that UH@Manoa has been on this for a couple of years, so through the consortium, they hold regular meetings regarding AACN essentials and the competencies associated with that.

Lastly, Mr. Boyer reported on remote proctoring. She related that Steve Viger, NCSBN, using artificial intelligence, in the future, people will be taking their licensure exams in their homes that would require certain software for facial recognition, 360 environmental scan, no talking, drinks or gum, they are watching your eye movement, hands, key stroke. Test security is the priority.

Recommendations from the March 3, 2024 Education Committee Meeting – Karen Boyer

Ms. Boyer reported on the following recommendations from the Education Committee's March 3, 2024 meeting:

Hawaii Nursing Programs

Annual Reports Recommend approval of the following annual reports:

University of Hawaii – Maui College
University of Hawaii@ Manoa/GEPN
Hawaii Pacific University
Chaminade University
Hawaii Community College
Kapiolani Community College

Faculty Applications

University of Hawaii (Manoa) NAWSON – Recommend Approval
Chloe Hasegawa
Cori-lyn Miyasato
Kelly Ann Bayudan
Adrianna Bentz

Kauai Community College – Recommend Approval:

Tracy Stogner
Julie Mosely
Jasmine Yukimura

New Administrator

Chaminade University of Honolulu – Dr. Lorin Ramocki – Recommend Approval

Program/Curriculum

University of Hawaii – Maui College – Recommend Approval
CNA-PN Bridge Program

University of Hawaii (Manoa) NAWSON - Recommend Approval
Phase II Report for DNP-PMHNP

Request from SpanTran for Board approval as a credentials evaluator of foreign educated nurses – Recommend Approval/Recognition as a Board-approved credentials evaluator

The Chair asked for a motion to accept the recommendations from the Education Committee's March 3, 2024 meeting.

Upon a motion by Mr. Kuo, seconded by Mr. Aratani, it was voted on and unanimously carried to accept the recommendations from the Education Committee's March 3, 2024 meeting.

The Chair asked if there was anyone wishing to provide testimony on this agenda item.

Mr. Yoshimura stated that no one has raised their hand.

The Chair announced the next agenda item as the Executive Officer's Report.

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 – Board's Discussion of Public Hearing and Decision

EO Teshima recapped the testimony from the public hearing that preceded the Board meeting this morning.

There were 5 testimonies submitted from the following individuals/organizations:

- Healthcare Association of Hawaii – Paige Heckathorn Choy, Associate Vice President, Government Affairs
- Queens' Health System – Jacce Mikulanec, Director, Government Relations
- Hawaii Pacific Health – Amy Thomas, System Chief Nurse Executive
- Hawaii State Center for Nursing – Laura Reichhardt, Director
- Hawaii Association of Professional Nurses (HAPN) – Jeremy Creekmore, HAPN President

Although there was no testimony in clear "opposition", the main and common concerns and recommendations from the Healthcare Association of Hawaii, Queens' Health System and Hawaii Pacific Health were:

1. That the updated rules would decouple the temporary license application from a full licensure application. Under the current rules, any licensure application submitted for a temporary license is granted as a step towards full licensure. By decoupling these two processes, it will add expense and time to individual nurses and healthcare organizations—especially smaller organizations such as home health agencies or clinics.

And recommended that any temporary licensure process continue to provide an option by which a nurse could also apply for full licensure at the same time, creating a more efficient process by which a nurse would only have to apply for a license one time.

2. The license will only be valid for six months. This means that a nurse could have to apply for a temporary license multiple times, which would increase costs to the individual nurse or healthcare organization.

And recommended allowing an option so that any temporary licensure process would lead directly into a full licensure process so that only one application has to be completed would be ideal.

3. That any proposed rules must contain a deadline by which a temporary process is approved. Without any type of deadline, there will be no material improvement to the issuance of temporary permits in a timely fashion.

And recommend that a deadline of ten days be inserted into the proposed rules to ensure the issuance of a temporary license in a timely fashion.

Furthermore, "Many of the suggestions that we are making above would reflect language that made it through both the **State Senate and State House in SB 63**, Relating to Nurses. This legislation represented a consensus position between agencies, providers, health plans, and other key stakeholders because it addressed the core issues related to the temporary nurse licensure process. We would support the adoption of the key changes outlined above that are included in SB 63 in order to ensure an efficient, expeditious temporary licensure program that will support nurses and organizations big and small in the healthcare industry."

EO Teshima stated that in regarding to the language in SB 63, she compared the language in SB 63, SD2, HD3 to the language in the proposed rules and the requirements are either the same or very similar except for the 10-day processing deadline.

The Chair asked the members if there was any questions or discussion.

There being none, EO Teshima further explained the following in response to the testimonies provided at the public hearing:

Prior to COVID, when an individual applied for a temporary nurse permit, because the temporary permit was under the "endorsement" requirements, i.e. Nursys verification, CBC & NPDB, applicants were submitting both the temporary permit and permanent license application even though they were not required to do so, it's just that the requirements were the same.

Nothing prohibits an individual from applying for a temporary nurse permit to also apply for a permanent license.

With the proposed amendments, the requirements for a temporary nurse permit and permanent license will be different. The only "common" requirement for the temporary nurse permit and a permanent license requirement is the Nursys license verification. The application for the permanent license will still require the NPDB and CBC in addition to the Nursys license verification.

The proposed rules also recognize a multistate license, which was also included in SB 63.

Understanding the concern regarding the processing time of applications, including temporary Nurse permits, however, due to a severe staffing shortage, we are hoping that with the new requirements, the process for the issuance of a temporary nurse permit will be more efficient.

Regarding the recommendation to include a 10-day processing time for the issuance of a temporary nurse permit.

We would not be able to guarantee a specific processing time due to variables such as staffing issues, pandemic, natural disaster or other issues beyond our control that would prevent us from issuing a temporary nurse permit, however, based on what we are proposing, other requirements have been deleted, i.e. National Practitioner Databank – Self Query Report and Criminal Background Check that would help to streamline the process.

After COVID when staff was working in the office and remotely, we were unable to process temporary permits as the demand for nurse licenses took precedence.

Prior to the COVID pandemic, the number of temporary permits issued:

2017 (December only)	35
2018 (Jan-Dec)	360
2019 (Jan-Dec)	209
2020 (Jan-Mar)	36

Averaging about 30 temporary permits a month for various facilities with processing time of 3-5 working days at a cost of \$50 and valid for 3 months. The proposed rules extends the period for the temporary permit to 6 months. So if an individual accepts an extended assignment and wish to continue working in this State, this gives them ample time to apply for a permanent license.

The Chair wanted to clarify that the presumption is that an application for a temporary permit leads automatically to an application for regular license but that's not the case.

EO Teshima said yes.

The Chair stated it's just that the requirements for the temporary permit and endorsement application are identical, so we're not actually "decoupling" anything.

EO Teshima said that's correct.

The Chair added that there also appears to be a presumption that you had to apply for a temporary permit in-person, but that is not the case. So that there is nothing in the current or proposed rules that would require applying in-person.

EO Teshima said that's correct, that was never a requirement. She also added that besides the Nursys verification for a temporary nurse permit, the other requirement that is the same as the current requirement is that the Hawaii employer still needs to sign the temporary permit application and that with our new licensing system, we may be able to issue it through our licensing system and keep track instead of issuing it manually.

Ms. Boyer asked if the temporary nurse permit will be available to file online.

EO Teshima said no because you will need the Hawaii employer to sign the application.

The Chair asked the members if there were any questions or further discussion.

Seeing none, the Chair called for a motion to approve the revisions to the administrative rules for nursing related to temporary permits.

Upon a motion by Mr. Aratani, seconded by Ms. Shields, it was voted on and unanimously carried to approve the revisions to the administrative rules for nursing related to temporary permits.

EO Teshima wanted to clarify that the Board is not revising the draft for which the public hearing was held but approving the proposed draft without revisions recommended by testifiers.

The Chair stated that is correct.

Governor Green Issues Tenth Proclamation Relating to Wildfires

EO Teshima reported that on or about March 5, 2024, Governor Green issued his 10th emergency proclamation (EP) relating to wildfires that continues to include a waiver the licensure requirements for out-of-state nurses, LPNs, RNs and APRNs, to practice in this State without a Hawaii license. The 10th EP also continues to provide civil liability for health care professionals, including nurses licensed pursuant to chapter 457, who in good faith comply completely with all state and federal orders regarding the wildfire emergency, for any death or injury to persons, or property damage allegedly to have been caused by any act or omission by the health care professional while rendering assistance to the State, unless it is established that such death or injury to persons, or property damage was caused by willful misconduct, gross negligence, or recklessness of the health care professional.

Random Audit – Status Report

EO Teshima reported that there are 2 boxes and that she is almost done with reviewing one of the boxes and should complete review of the submissions by the May meeting.

2024 Legislative Session

EO Pang reported on the status of the following legislative measures:

HB 2415, HD2, SD1 (or latest version of the bill) Relating to the Nurse Licensure Compact
Authorizes 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. Beginning 7/1/2026, authorizes the State Board of Nursing to charge different fees customarily and historically charged for registered nurses and licensed practical nurses who hold a multistate license issued by the State. Takes effect 7/1/3000; provided that the Nurse Licensure Compact shall become effective and binding in the State after enactment of this Act. (SD1)

On 4/2/2024 – The Senate joint committees on Commerce and Consumer Protection and Judiciary heard the bill and passed out with technical amendments. The SD2 is still not available. This bill will then go back to the House at which time the House will agree or disagree with the amendments made the by Senate side and if the House disagrees, this bill may be scheduled for a conference hearing.

SB 2492, SD2 (or latest version of the bill) Relating to the Nurse Licensure Compact
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 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 multistate license issued by the State. Takes effect 7/1/2040. (SD2)

This bill crossed over to the House but was not scheduled for hearing.

HB 2079, HD2 (or latest version of the bill) Relating to Health
Relaxes the requirements for prescribing certain controlled substances as part of gender-affirming health care services. Expands the protections established under Act 2, SLH 2023, to include gender-affirming health care services. Clarifies jurisdiction under the Uniform Child-Custody Jurisdiction and Enforcement Act for cases involving children who obtain gender-affirming health care services. Effective 7/1/3000. (HD2)

This bill crossed over to the Senate and was referred to HHS/CPN, JDC/WAM, however, no hearings have been scheduled.

HB 1675, HD1, SD1 (or latest version of the bill) Relating to the General Excise Tax
Exempts from the general excise tax amounts received by a hospital, infirmary, medical clinic, health care facility, pharmacy, or a medical practitioner for health care related goods and services purchased under Medicaid, Medicare, or TRICARE. Takes effect 12/31/2050. Sunsets 1/1/2026. (SD1)

This bill crossed over to the Senate and referred to HHS/CPN and WAM.
3/20/2024 HHS/CPN held hearing and passed out with amendments and referred to WAM.

Mr. Kuo stated that another bill to keep in mind is SB 1035 that was in process last year and Finance Committee was the only holdout for the GET bill and that they finally heard this bill yesterday and passed unamended.

HCR 187/HR 167, HD1 (or latest version of the reso) Requesting the Department of Health to Convene and Health Care Facilities Labor standards Working Group to Research, Assess, and Make Recommendations on Best Practices in Labor Standards that Can Be Implemented at Hospitals, Care Homes, and Dialysis Facilities in the State – Names the Chair of the Board of Nursing or designee, to Chair this Working Group

On 3/20/2024 the House Health Committee passed with the following amendments:

- Change the Health Care Facilities Labor Standards Working Group to a study conducted by the Legislative Reference Bureau;
- Inserting language to specify the contents of the study;
- Amending the title to reflect the change from a working group to a study; and
- Making technical, nonsubstantive amendments for the purpose of clarity, consistency, and style.

On 4/2/2024 the House FIN Commission passed unamended.

The Chair asked if there was any questions or discussion. She asked if there was anyone attending wishing to testify on this agenda item.

Seeing none, the Chair announced the next agenda item as reports from the Hawaii State Center for Nursing, Hawaii American Nurses Association and the Hawaii Association of Professional Nurses.

Reports:

Hawai'i State Center for Nursing – Laura Reichhardt, Executive Director

Ms. Reichhardt reported:

- The workforce supply report out by the end of the month. The data tables are available but the supplier report always has additional insights and a reflection about the overall environment;
- Progress in relation to the nurse residency programs and specialty transition to practice initiatives. They continue to have nurses train under the funding they received for good jobs and the DOH Opioid Branch and that it is significantly changing the professional environment in our State because for so long if you wanted to be a specialty nurse you had to go out of state so this is really going to be a strong retention tool;
- Fall events include a nursing research evidence-based practice and symposium and submission of abstracts have been extended.

Hawai'i American Nurses Association – Linda Beechinor, Executive Director

No report.

Hawai'i Association of Professional Nurses – Jeremy Creekmore

No report.

The Chair announced the next agenda item as applications. She asked any applicants attending to please raise your hand now so that we know that you are in attendance and the Board will call you on the number indicated on your application if they have any questions.

The following applicants raised their hands:

Judith Lynne Arnold
Joanne Auskern
Tamika Nicholson

Executive
Session:

The Chair asked for a motion to move into executive session in accordance with HRS §92-4 and §92-5(a)(1) and (4) "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".

Upon a motion by Mr. Kuo, seconded by Mr. Aratani, it was voted on and unanimously carried to move into executive session at 10:39 a.m.

Upon a motion by Mr. Kuo, seconded by Mr. Aratani, it was voted on and unanimously carried to move out of executive session at 11:57 a.m.

Applications:

Ratification Lists

The Chair moved to accept/approve the ratification list for:

LPNs – 20972-20999 (27)
RNs – 117583 – 118132 (549)
APRNs – 4482 – 4527 (45)

The motion was seconded by Ms. Boyer, voted on and unanimously carried to accept/approve the ratification lists for LPNs and RNs.

Applications

Licensed Practical Nurses

The Chair called for a motion in regard to the application for Crystal Miller.

The Vice Chair moved to deny the following application for LPN license based on the application and documents submitted pursuant to HRS sections 457-12(a)(3), (6), and (8) and HAR sections 16-89-60(6)(C) and (7)(A):

Crystal Miller

The motion was seconded by Ms. Shields, voted on and unanimously carried to deny the application.

The Chair called for a motion in regard to the application for Queen Freeman.

Upon a motion by the Vice Chair, seconded by Mr. Kuo, it was voted on and unanimously carried to approve the following application for LPN license:

Queen Freeman

The Chair called for a motion in regard to the application for Tamika Nicholson.

The Vice Chair moved to deny the following application for LPN license based on the application and documents submitted, her oral testimony, and the disciplinary action taken by the Oregon Board and pursuant to HRS sections 457-12(a)(1), (3), and (8):

Tamika Nicholson

Registered Nurses

The Chair announced that the following applications are deferred for additional information:

Brian Rickard

The Chair moved to approve the following application with the condition that she complies with the monitoring agreement with Pu'ulu Lapa'au pursuant to HRS section 436B-19(3):

Leah Swift

The motion was seconded by Mr. Kuo, voted on and unanimously carried.

The Chair moved to approve the following application subject to receipt of verification from her employers that she has worked as a registered nurse within the past 5 years:

Zebora Perryman (deferred from March 7, 2024 meeting)

The motion was seconded by the Vice Chair, voted on and unanimously carried.

The Chair called for a motion in regard to the following applications:

Claudia Manning
Judith Lynne Arnold
Frances Clark
Jennifer Anne McLean
Joanne Auskern
John Fortner (including his APRN application)
Shawana Gibson
Halie Love
Steven Adams

Upon a motion by Mr. Aratani, seconded by Ms. Boyer, it was voted on and unanimously carried to approve the applications for RN license.

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

Mr. Yoshimura stated no one raised their hand.

The Chair announced the next agenda item is a Chapter 91 matter.

HRS Chapter 91 In the Matter of the License to Practice Nursing of **Nicole Linton; RNS 2022-854-L**; Settlement
Adjudicatory Agreement Prior to Filing of Petition for Disciplinary Action and Board's Final Order; Exhibit "1"
Matter:

The Chair moved to accept/approve the Settlement Agreement/Board's Final Order for Nicole Linton, RNS 2022-854-L.

The motion was seconded by the Vice Chair, voted on and unanimously carried to approve/accept the Board's Final Order.

There being no further agenda items, the Chair announced the next Board meeting.

Next Meeting: Date: Thursday, May 2, 2024
Time: 9:00 a.m.
Place: In-Person: Queen Liliuokalani Conference Room
King Kalakaua Building, 1st Floor
335 Merchant Street
Honolulu, Hawaii 96813
Virtual: Zoom Webinar

Adjournment: The meeting was adjourned at 12:02 p.m.

Taken by:

Reviewed by:

/s/ Lee Ann Teshima
Lee Ann Teshima
Executive Officer

/s/ Alexander Pang
Alexander Pang
Executive Officer

[] Minutes approved as is.

[] Minutes approved with changes; see minutes of _____

4/22/24