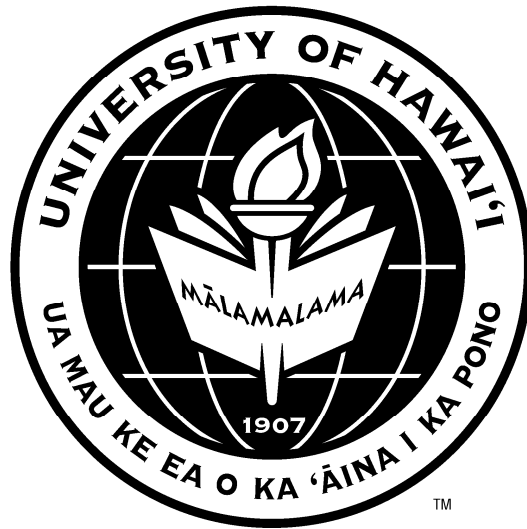


UNIVERSITY OF HAWAI‘I SYSTEM REPORT



REPORT TO THE 2024 LEGISLATURE

Report on the Feasibility and Impact of the State Adopting
the Nurse Licensure Compact

SCR 112 (2023)

December 2023

REPORT ON THE FEASIBILITY AND IMPACT OF THE STATE ADOPTING THE NURSE LICENSURE COMPACT

Report to the Hawai'i State Legislature Pursuant to the
Senate Concurrent Resolution 112, Session Laws
Hawai'i 2023.

Hawaii State Center for Nursing

REPORT ON THE FEASIBILITY AND IMPACT OF THE STATE ADOPTING THE NURSE LICENSURE COMPACT

Report to the Hawai'i State Legislature by the Working Group to Study the Feasibility and Impact of the State Adopting the Nurse Licensure Compact Pursuant to the Senate Concurrent Resolution 112, Session Laws Hawai'i 2023.

Convened by the Hawai'i State Center for Nursing
November 2023

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Alternate forms of this report will be provided upon request of HSCFN@hawaii.edu.

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REPORT ON THE FEASIBILITY AND IMPACT OF THE STATE ADOPTING THE NURSE LICENSURE COMPACT

Working Group

Working Group members represented the individuals or delegates named in the Senate Concurrent Resolution. Members of the public also attended meetings.

Working Group	Designees and Delegates
Hawai'i State Center for Nursing	Laura Reichhardt, Director Amy Ono (delegate)
(1) The Director of Commerce and Consumer Affairs, or the Director's designee;	Director Nadine Ando, Director Ahlani Quiogue (delegate)
(2) A representative from the Department of Commerce and Consumer Affairs' Regulated Industries Complaints Office;	Esther Brown Rina Chung (delegate)
(3) A representative from the Board of Nursing;	Lee Ann Teshima Chelsea Fukunaga (delegate)
(4) The Chairs of the Senate Standing Committees on Commerce and Consumer Protection and Health and Human Services, or the Chairs' designees;	Senators listed in the following two rows
Senate Standing Committee on Commerce and Consumer Protection	Sen. Keohokalole Julia Peleiholani, Office Manager (delegate)
Senate Standing Committee on Health and Human Services	Sen. San Buenaventura Anna Matsunaga, Office Manager (delegate) Amelia Castro, Committee Clerk (delegate)
(5) The Chairs of the House Standing Committees on Consumer Protection and Commerce and Health and Homelessness, or the Chairs' designees;	Representatives listed in the following two rows
House Standing Committee on Health and Homelessness	Rep. Della Au Belatti Tom Heinrich, Office Manager (delegate) Hector Venegas, Committee Clerk (delegate)
House Standing Committee on Consumer Protection and Commerce	Rep. Mark Nakashima Lori Hasegawa, Office Manager (delegate)
(6) A representative from the Healthcare Association of Hawai'i;	Paige Heckathorn Choy
(7) A representative from the Hawai'i Government Employees Association;	Jesse Sliva
(8) A representative from the Hawai'i Association of Health Plans; and	Jennifer Diesman Dawn Kurisu (delegate)
(9) A representative from the American Nurses Association – Hawai'i Chapter; and	Linda Beechinor Nancy Atmospera-Walch (delegate) BJ Bartelson (delegate)

Table 1 Working Group Members

The Working group convened between July and November 2023 at the Hawai'i State Center for Nursing and online, through a tele-video conference format. The working group met over 20 weeks of 2023 and held 16 hours of public meetings in which residents of the state with subject matter expertise in the local nursing workforce, regulation, and practice, as well as content experts across the nation, were invited provided insight into the feasibility of the Nurse License Compact for Hawai'i.

All meetings and meeting materials are posted on the Hawai'i State Center for Nursing website at: <https://www.hawaiiCENTERforNursing.org/policy-and-legislation/nlc/>.

The workgroup scheduled meetings focused on topics necessary to explore the themes of the study. Before each meeting, the Hawai'i State Center for Nursing provided relevant resources including model act language, nationally peer-reviewed articles with research findings, local studies, and more. Each meeting included subject matter experts from within Hawai'i, across the nation, or both. The minutes summarized the meeting findings. To ensure adequate inquiry into each theme, a crosswalk with the research themes on the left and each meeting date as a unique column was maintained with a sum of the total number of meetings each theme was discussed.

Study Components	July 10 Meeting 1	July 24 Meeting 2	August 7 Meeting 3	August 21 Meeting 4	Sept 5 Meeting 5	Sept 18 Meeting 6	October 2 Meeting 7	Oct 17 Meeting 8	Total
(1) The State's nursing workforce;	x		x			x	x		4
(2) Fiscal obligations of the State, including any fees or other costs;		x	x					2	2
(3) The potential for workforce migration into and out of the State, including job transfers, travel nursing, and telehealth nursing;			x	x		x			3
(4) The regulation of out-of-state nurses, including recouping costs arising from investigations of consumer complaints or other disciplinary actions;	x	x	x						3
(5) Disciplinary actions taken against a nurse with a multistate licensure privilege;		x	x	x					3
(6) Health care workforce research and planning efforts;	x	x			x	x	x		5
(7) Differences in licensure renewal and competency requirements between member states;							x	x	2
(8) Jurisdiction and regulatory oversight of nurses in the State; and			x				x		2
(9) Any other matters that the working group deems applicable to the evaluation of the State's adoption of the Nurse Licensure Compact; and		x			x		x	2	3

Figure 1 Crosswalk of study components to meeting dates.

Impetus for Working Group

In the thirty-second legislature, 2023, of the State of Hawai'i, the Legislature concurrently resolved to request that the Hawai'i State Center for Nursing convene a working group to study the feasibility of the impact of the state adopting the nurse licensure compact, through Senate Concurrent Resolution 112 (Addendum 1).¹ As reported in Senate Committee Report Number 1566², regarding S.C.R. No. 112, the Senate Health Committee "finds that there is a statewide shortage of nurses." This committee report goes on to state that the "Nurse Licensure Compact would enable nurses to practice in various jurisdictions without needing to obtain additional licensures and has the potential to increase the nursing workforce available to the State. While the Nurse Licensure Compact has the potential to alleviate the nurse shortage in the State, questions remain regarding the regulation of out-of-state nurses and the Compact's impact on the State's existing licensure infrastructure. Convening a working group to study the feasibility and implications of the State adopting the Nurse Licensure Compact would provide an opportunity to answer these questions and fully explore other concerns." The House, in Committee Reports 2197³ and 2235⁴ concur with the intent and purpose of S.C.R. 112. On April 24, 2023, the resolution was adopted in final form.

The Nurse Licensure Compact (NLC) enables a multistate license option for licensed practical nurses (LPN) and registered nurses (RN).

¹ Hawai'i State Legislature. (2023). Senate Concurrent Resolution 112. Retrieved from: https://www.capitol.hawaii.gov/session/measure_indiv.aspx?billtype=SCR&billnumber=112&year=2023

² Hawai'i Senate. (2023). Senate Committee Report No. 1566 regarding S.C.R. 112. Retrieved from: https://www.capitol.hawaii.gov/sessions/session2023/CommReports/SCR112_SSCR1566_.htm

³ Hawai'i House of Representatives. (2023). House Committee Report No. 2197 regarding S.C.R. 112. Retrieved from: https://www.capitol.hawaii.gov/sessions/session2023/CommReports/SCR112_HSCR2197_.htm

⁴ Hawai'i House of Representatives. (2023). House Committee Report No. 2235 regarding S.C.R. 112. Retrieved from: https://www.capitol.hawaii.gov/sessions/session2023/CommReports/SCR112_HSCR2235_.htm

Executive Summary

This Working Group investigated the feasibility of and impact on Hawai'i, should Hawai'i join the Nurse Licensure Compact (NLC). The Working Group found that though the current workforce is relatively stable, there are not enough nurses. This nursing shortage poses challenges to the long-term workload for available nurses and poses a threat to public safety during emergencies. While the Working Group could not conclude if the NLC will resolve the state's current nursing workforce shortages, the Working Group did find that the NLC, as well as other strategies, improves license portability.

Securing adequate nurses for employment in Hawai'i is no small challenge. Hawai'i Board of Nursing (BON) issued over 6,300 new licenses in Fiscal Year 2023 and over 2,300 in Fiscal Year 2024, to date, as well as decreasing the license processing times to within a month of application submission. Despite that, employers and nurse stakeholders report significant challenges with nursing staffing and nurse recruitment. Similarly, employers and nurse stakeholders report ongoing and pervasive challenges in securing the needed nurses across islands, settings, and roles, despite considerable efforts to maximize all local options like hiring and supporting the transition to practice for new graduates, developing professional development opportunities for existing nurses, supporting work innovation strategies, and more (Presentations in Meetings 1 and 7).

There is no conclusive data that describes increases in the nursing workforce due to the NLC, but rather that it facilitates states' access to a larger pool of nurses. To better understand the feasibility for Hawai'i, the Working Group then explored the greatest potential impacts for our state. The findings are summarized below:

- The NLC may improve the nursing workforce shortage by expediting the privilege to practice for nurses seeking to work in Hawai'i from NCL states. This may address instances of failed recruitment due to licensure processing delays.
- Nurses who are MSL holders and hold a Hawai'i license are nearly twice as likely to use their MSL for travel nursing (Smiley). When comparing NCSBN-reported findings to state licensing data, half of the out-of-state residents who hold a Hawai'i license also hold an MSL (NCSBN, BON).
- The NLC may facilitate nurses who live in Hawai'i but are not licensed in Hawai'i, like Military spouses, to seek nursing employment in the state (Marquiss).
- A survey by the HSCN found that when considering the potential for joining the NLC, 65% of nurses would consider securing an MSL, and of them, half would consider using it for nursing services outside of the state (travel nursing, telehealth, teaching in out-of-state programs) (Oliveira).

These findings indicate that there may be benefits, particularly to recruitment, should the NLC be adopted. There are already a considerable number of nurses who are actively licensed in Hawai'i and live in NLC states; these nurses may benefit from a reduced cost for licensure but the impact for Hawai'i from a workforce perspective is

negligible because they are already licensed in Hawai'i. The NLC may also exacerbate the nursing workforce shortage by increasing the job pool for Hawaii's nurses, facilitating departure from the state for nurses who are already inclined to leave. The NLC, if adopted with no other changes, would significantly decrease revenues to Hawaii BON, RICO, and Hawai'i State Center for Nursing (HSCN). Other states have resolved the fiscal impact by increasing the state fee for issuing a multistate license (MSL). A fiscal analysis of the needed fee increase to mitigate revenue loss was not completed, though estimates on potential license fee shifts are included in this report.

In addition to the potential impacts on the workforce and state revenue, the Working Group found that NLC changes fundamentally how state government interacts with and tracks nurses. The state's primary regulatory body – the Hawaii BON - will not have its information on any nonresident nurse who enters the state on a privilege to practice, because any nurse working under an MSL by an NLC state does not have to make an application to and register with the board of nursing in NLC states within which they practice. All nurses working under the NLC with an MSL must be recorded in Nursys, which the Hawai'i BON has access to. The Nursys information pales in comparison to the information gathered, reviewed, vetted, and maintained by the board of nursing in their respective licensing databases, which information is shared with RICO eventually when claims of misconduct surfaced. The absence of this key directory and substantive information will likely pose an undue burden on the regulatory environment.

Some states are requiring employers to require or request their nurses employed under an NLC to register into eNotify, an online nursing practice database, or a state's developed database. Guam, Louisiana, Washington, and Rhode Island all require this in different ways. Of the states that shared with the Working Group how this requirement is enforced, it appears based on the information provided by these states that there would be challenges with enforcing this requirement. It is unclear what penalties would be imposed or how to determine if penalties are warranted. The infrastructure to create and manage this data reporting requirement would need to be developed in Hawai'i.

The Working Group additionally prioritizes and emphasizes to the Legislature that expedited access to nurses is imperative. Regardless of whether the NLC is considered, enabling temporary permits for nurses that are issued on an expedited timeframe, and utilizing emergency proclamations to waive nursing licensure, as needed during emergencies, are mandatory components of a functioning healthcare system. Further, robust staffing within DCCA PVL and RICO are facilitators for both timely license application processing as well as timely investigations, in all scenarios.

Limitations to the study include time. The Working Group identified many challenges that may need to be addressed and gained improved knowledge about the feasibility, impact, and functions of the NLC. The Working Group in many scenarios identified other state's solutions to challenges or identified possible solutions for the state. However, to meet the reporting goal to the Legislature, the Working Group did not conclude if the NLC should be adopted or make specific statute change recommendations. However,

when considering the feasibility of the NLC, the Working Group does respectfully offer recommendations for consideration to the Legislature.

Recommendations of the Working Group

The Working Group does not specifically propose legislation or additions to any potential legislation. However, the Working Group did identify areas that need to be addressed based on various legislative scenarios. The Working Group recognizes that considerable work is needed to determine the exact conforming, enabling, and additional language should the NLC be adopted. All of the below-recommended considerations must be addressed in any discussion on Hawaii-specific language related to the NLC if the Legislature chooses to take action.

- Related to the NLC:
 - Conforming language:
 - Conforming amendments ensure that references in the NLC Model Act comport with existing statutes.
 - Some states include conforming amendments that specifically insert references to “multistate license” or “multistate licensure privilege” in their legislation to enact the NLC.
 - Not all 11 ULRs are currently in law, rule, or practice. These will have to meet compliance.
 - Add state administrator to definitions in HRS Chapter 457.
 - Enabling language:
 - A common enabling language that states have included in their legislation is language specifically stating that the NLC does not supersede existing state labor laws.
 - In some states, the state administrator is defined or addressed in enabling language. Should NLC be adopted, the state administrator, normally the EO of the BON, will have increased duties. However, currently, EOs have multiple assignments which may prohibit full oversight of state administrator duties. The NLC administrator should have secured time to fulfill this role.
 - A delayed implementation date will need to be established to allow for the review and revision of laws, rules, and procedures in order to ensure successful implementation.
 - Additional language to be considered:
 - Funding for NLC fees should be addressed – which state entity pays fees, and what is the source of funds? Increases to fees should address potential revenue losses to all three (3) organizations, to maintain operations and services to the state as they function today. Cost recovery for regulatory investigations, as allowed by the NLC Model Act, is a lesser preferred option for RICO because it puts the organization at risk for unrecouped costs of investigation.
 - Hawai'i nurse licensure requirements include 30 CEs or eight (8) other activities, but not designated training (like blood-borne

pathogens or sexual assault training). Is it in the interest of the state to require some standard of continuing competency for practice in Hawaii?

- The registry of nurses will be impacted, causing delays in RICO investigations. Hawai'i composition of state government is dissimilar to Washington and Louisiana, making assimilations of their registry approaches difficult. Need continued strategies to resolve this problem. The strategy used during the EPs to require employers to report regularly to the BON was successful, however, BON currently does not have the statutory authority to require a healthcare entity to report to them.
- HSCN should retain nursing workforce research duties; loss of autonomy of workforce supply will result in critical loss of state workforce knowledge. Because the workforce supply survey analyses nursing working in Hawai'i, the Hawai'i State Center for Nursing can continue its workforce supply survey through collaboration with the BON upon license renewal without significant impacts on the quality or representation of the data.
- Priorities, not related to the NLC.
 - Temporary permitting and robust funding and staffing in the DCCA PVL are paramount to complete license portability in all future licensing scenarios.
 - Standardizing EP language to include nursing employers' reporting of key directory information will improve public safety during times of necessary license waivers.
 - Supporting public and private nursing education expansion enables local residents to become nurses in Hawaii, which will increase the local workforce and improve local recruitment opportunities.
 - High cost of living and housing shortages further challenge nursing retention. Continued efforts to impact these issues will have benefits to the nursing workforce retention.

Summary of Findings

In Section 1, the Working Group found that Hawai'i has more licensed nurses than available nurses. Hawai'i has a nursing workforce shortage. The majority of nurses report intent to remain in Hawai'i (64%) in the next 12 months, indicating stability within the available workforce. The remainder includes 10% who report being likely or very likely to leave and 26% who report being uncertain. Of nurses with intent to leave, about half are planning for retirement. Employment is primarily in acute care and long-term care settings with the largest vacancy rates in specialty areas within the nursing profession.

About half of out-of-state nurses who have a Hawai'i license also have an MSL in their primary state of residence.

License processing times impact the recruitment of nurses. While license portability facilitates successful recruitment, there are still challenges with access to the total number of nurses needed for nursing care and services in Hawai'i. License portability comes in multiple forms: NLC, temporary permits, and emergency proclamations. Section 2 explored how and where Hawai'i nurses pay license dues, which include three fees. These fees include the Board of Nursing Fee, the Regulatory and Regulated Industries Complaints Office (RICO) Fee, and the Center for Nursing Fee. In addition, there are some instances in which RICO assesses fines as part of the disciplinary process. This is a variable source of funds, as the assessment of fees does not guarantee that the fines are paid.

Revenue loss to each of these organizations would have significant impacts on operations; however, revenue change is likely to not approximate to change in nursing workforce availability. Reduction in revenue to DCCA might force a change in the allocation of resources within PVL and RICO. These organizations may need to reduce the number of personnel assigned to nurses, due to revenue losses that support staffing, which may impact other professions that they oversee.

The NLC Model Act language allows privilege-to-practice states to investigate the conduct of nonresident nurses practicing under an MSL privilege-to-practice. The NLC Model Act language requires investigating states to pay for expenses incurred by individuals or organizations that are out of state and are subpoenaed as part of the investigation. The Model Act further enables states to seek recuperation of costs from the nurse for the costs of the investigation. Assessment of fees does not guarantee that the fines are paid.

Many other states that have enacted the NLC use a revenue loss mitigation strategy by increasing costs to in-state residents who seek an MSL. They have not typically increased costs to license fees for SSL holders.

Section 3 reviews the research on the NLC, which found that nurses were about 10% more likely to move within the NLC compact states. NLC benefits military spouses, as there is an 8%-25% increased probability of employment, depending on the source of

analysis. While NLC may facilitate telehealth practice by nurses, yet research shows patients are not increasing their utilization of telehealth therefore the impact is small. Currently 9.5% of MSL holders, nationwide use their MSL for travel nursing, whereas 17% of MSL holders who also hold a Hawai'i license use their MSL for travel nursing.

In addition to the fiscal considerations described in section 2, NLC changes how DCCA PVL and RICO have access to key directory information, which is the information about nurses working in the state. Currently, all nurses require a Hawai'i license, which means all contact information, past names, and license information from Hawai'i and other states supplied to BON as part of the application process. Nurses are expected to update their information with BON should changes occur.

The NLC does not allow for nurses to register with the BON. Instead, states are asked to rely on NURSYS for key directory information. Instead, nurses are granted the privilege to practice in all NLC states by way of holding an MSL. Other states require that nursing employers collect key directory information and submit it to the BON, register employment of a nurse with an MSL into eNotify, or other actions, in order to alleviate this data loss. It is unknown how complete and accurate these efforts are, though states reported active participation by nursing employers.

Section 4 explored the regulation of out-of-state nurses. BON does not have the statute to enable enforcement over employers. DLIR and DBEDT engage in labor data related to federal labor surveys. DOH oversees employers through SHPDA and OHCA but these organizations currently do not have licensee oversight in their scope. The data is needed by BON and RICO so assigning data collection outside of DCCA would require secure data transfer. Despite the questions about how this requirement may be designed in Hawai'i, healthcare employers have verbalized interest in and willingness to support data gathering through reporting of MSL hiring activities.

Discipline was investigated in Section 5. PSOR is the only state that can take discipline against an MSL. Party states, or states within the NLC only provide the privilege to practice; therefore, party states can only rescind the privilege to practice. Any state that acts against an MSL holding nurse (Home state against license, or party state against privilege to practice) is obligated to alert all NLC participating states through an electronic database. Hawai'i, if we join, Hawai'i can choose to investigate if the conduct violates Hawai'i laws. Hawai'i is aware that the home state or other party states can make the same choice or different, depending on their own state's laws.

NURSYS is the system for which nurse license information, including disciplinary action, is maintained. Hawai'i currently both inputs data into NURSYS and utilizes data from other states. Individual nurses and employers can utilize the public-facing system of NURSYS, which is called eNotify.

Workforce Research and Planning was the focus of Section 6. An important consideration from a workforce standpoint is that as much as we talk about the NLC as

an opportunity to bring nurses into Hawai'i from other jurisdictions, these data do suggest that there would be some risk of losing nurses to out-of-state practice.

NLC will not be a singular solution, many factors need to be considered when we look at the goal of nurse staffing stability, which is when we have the right number of students produced as well as retaining the workforce. Cost of living is a major challenge for recruitment and retention. Until Hawai'i can crack the high cost of living and housing issues, we're not going to have the level of success we need.

Hawai'i State Center for Nursing owns the research strategy, which utilizes national best practices in workforce research and applies these findings to support strategies to support quality outcomes, best practices, recruitment, and retention.

Nursing employers are working to their fullest capacity to hire recent nursing school graduates and retain the current nurses. Residencies, specialty training, and workplace innovation are all being implemented as mechanisms to improve both recruitment and retention. After this, there remains a nursing workforce demand that requires out-of-state recruitment. Delays in the ability to bring in nurses can pose threats to the ability of healthcare facilities to ensure adequate nursing coverage, and in some settings, have resulted in a reduction of staffed nursing beds. This delays or stops healthcare services.

In Section 7, the Working Group finds that Hawai'i has more qualifying continuing competency activities than is surveyed by NCSBN. Hawai'i recognizes Continuing Competency not just Continuing Education, which requires a higher level of engagement to clinical practice standards. Hawaii has a more cohesive use of criminal background checks across SSL applications and license renewal than other states.

Section 8 reviews the jurisdiction and regulatory oversight of nurses in the State. The NLC requires all party states to adopt eleven (11) Uniform License Requirements (URL). Hawai'i is already in compliance with six (6) of the requirements. The five (5) ULRs for which Hawai'i is not in compliance will likely require statutory or administrative rule amendments, collaboration, and consent by additional government agencies, and potentially give rise to constitutional challenges that may or may not be overcome. These requirements would be addressed through the adoption of the NLC Model Act.

Conforming language, or language may be needed for the following circumstances. Some states include conforming amendments that specifically insert references to "multistate license" or "multistate licensure privilege" in their legislation to enact the NLC.

The common enabling language that states have included in their legislation is language specifically stating that the NLC does not supersede existing state labor laws. In some states, the state administrator is defined or addressed in enabling language. Hawai'i may need to add state administrator to definitions in Chapter 457. Should NLC be adopted, the state administrator, normally the EO of the BON, will have increased duties. However, it should be considered that EOs have multiple assignments which

should be considered when establishing the administrator role. The NLC administrator should have secured time to fulfill this role. More information on the specific duties assigned can be discussed with other state partners or the NCSBN.

For additional language to be considered, should NLC be introduced, including funding for NLC fees should be addressed – which state entity pays fees, and what is the source of funds. Increases to fees should address potential revenue losses to all three (3) organizations, to maintain operations and services to the state as they function today. Cost recovery for regulatory investigations, as allowed by the NLC Model Act, is a lesser preferred option for RICO because it puts the organization at risk for unrecouped costs of investigation. Hawai'i nurse licensure requirements include 30 Continuing Education or eight (8) other Continuing Competency activities but do not designate training (like blood-borne pathogens or sexual assault training). Other states have addressed these scope and standard of practice changes by creating language that would ensure that education or training that is found to be critical must continue.

Section 9 explores other considerations. License Portability is a major theme throughout this report. Timely license processing is imperative to the successful recruitment of nurses, whether it be for long-term employment or to fill short-term needs. A delay in license processing that is equivalent to 2022 averages (approximately 90 calendar days) is untenable. Sustained improvements to the licensing system must be facilitated, regardless of the licensing options made available to the state.

Temporary permitting and robust funding and staffing in the DCCA PVL are paramount to complete license portability in all future licensing scenarios. NLC may improve license portability but will not be the sole solution, and actually may impose some risks, to the local workforce. Should the NLC be adopted, successful adoption still requires working through genuine issues such as the potential fiscal and data recording impact. Further, supporting public and private nursing education expansion and addressing the retention challenges caused by the high cost of living and housing shortages are key elements to addressing the ultimate issues with the healthcare workforce. Standardizing EP language to include nursing employers' reporting of key directory information will improve public safety during times of necessary license waivers.

Adequate staffing in the PVL office resulted in a return to pre-pandemic license processing times of within a calendar month.

HSCN should retain nursing workforce research duties; loss of autonomy of workforce supply will result in a critical loss of state workforce knowledge. Because the workforce supply survey analyses nursing working in Hawai'i, the Hawai'i State Center for Nursing can continue its workforce supply survey through collaboration with the BON upon license renewal without significant impacts on the quality or representation of the data.

Further, cost of living reductions and increased production of nurses through local schools of nursing will support the long-term stability of the nursing workforce.

Findings from Working Group Meetings

(1) The State's nursing workforce;

Licensure Options and Processing

Currently, there are four ways for nurses to become eligible to practice in the state. The first two are licensing options. Per Hawai'i Revised Statutes (HRS) Chapter 457, the Nurse Practice Act, nurses are licensed in two ways: by examination and by endorsement (Table 2). The process for LPNs is similar to the RN process, though the education minimum requirements differ. As of September 14, 2023, the Professional and Vocational Licensing Division of the Department of Commerce and Consumer Affairs⁵ reports that there are over 33,000 nurses licensed in the state, of which, 57% report being residents of Hawai'i.

§457-7 Registered nurses; qualifications; licenses; fees; title; existing licensed nurses; verification of licenses; eligibility.⁶

(b) Licenses shall be granted either by:

(1) Examination: The applicant shall be required to pass a written examination in nursing subjects as determined by the board. Upon the applicant's passage of the examination and compliance with the applicable requirements of this chapter and the rules of the board, the board shall issue to the applicant a license to practice nursing as a registered nurse; or

(2) Endorsement: The board may issue a license to practice nursing as a registered nurse by endorsement to an applicant who has been licensed as a registered nurse under the laws of another state, territory, or foreign country if the applicant has an unencumbered license and, in the opinion of the board, the applicant meets the qualifications required of registered nurses in this State at the time of graduation. Pending verification of a valid, unencumbered license from another state, territory, or foreign country, a temporary permit may be issued for employment with a Hawaii employer.

Table 2 HRS §457-7 Registered nurses; qualifications; licenses; fees; title; existing licensed nurses; verification of licenses; eligibility.

In addition, state law enables temporary permits to be issued to nurses who are applying for licensure by endorsement, which provides an expedited privilege-to-practice while licensure is being processed. Before the pandemic, temporary permits were issued within three (3) days of application submission; this option has not been implemented in Hawai'i since March 2020. The third option is a privilege-to-practice issued under emergency proclamations, which authorizes nurses to work in Hawai'i on a temporary, time-limited basis under the stipulation that they only work within the period of the proclamation and that the nurses must have an unencumbered out-of-state

⁵ Meeting 6

⁶ Hawai'i Revised Statutes. §457-7 Registered nurses; qualifications; licenses; fees; title; existing licensed nurses; verification of licenses; eligibility. Retrieved on Oct 28, 2023: https://www.capitol.hawaii.gov/hrscurrent/Vol10_Ch0436-0474/HRS0457/HRS_0457-0007.htm

license or former license in Hawai'i that was in good standing. This option was used heavily during the COVID-19 pandemic public emergency period and was more recently issued in response to the Maui wildfires in August of 2023. While the proclamations indicate one must have or previously had a license in good standing, the state does not conduct background checks, license verification, or disciplinary review. The waivers instead require the nurse to be employed in Hawai'i and they rely on employers to vet the qualifications of the nurse. In most, but not all, of recent instances the state has required employers to provide the BON with a list of nurses they are employing using the waiver option.

A fifth option for nurse licensure is a multistate license, or nursing permission-to-practice using a multistate license (MSL) is the focus of this study. The MSL is only available to nurses who are issued a multistate license in their primary state of residency (PSOR). Only states or territories that have joined the Nurse Licensure Compact (NLC) may issue the MSL. The MSL is only recognized by states which are also members of the NLC. Hawai'i is not a member of the NLC, and therefore Hawai'i does not authorize nurses' privilege-to-practice under another state's MSL, but rather out-of-state nurses must be issued a Hawai'i license, be issued a temporary permit, or work within the authority of an active emergency proclamation to work as a nurse in this state.

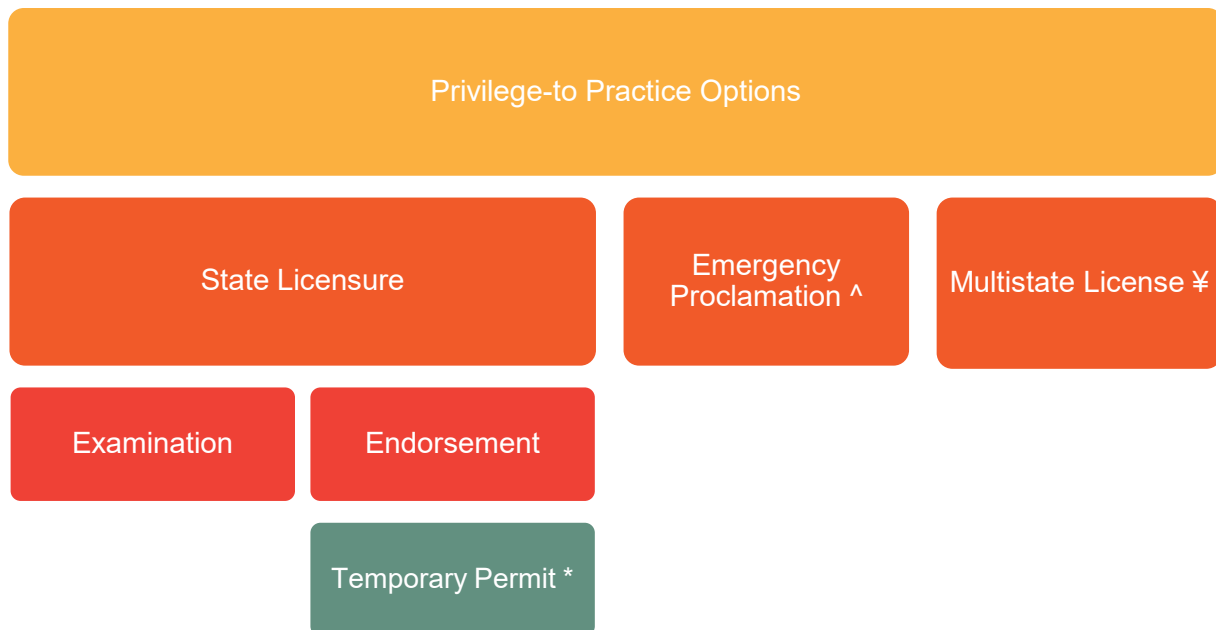


Figure 2 Privilege-to-Practice Options for Nursing Practice

Note:

* Temporary permits have not been issued since March 2020. Temporary, time-limited privilege-to-practice for nurses without a license in Hawai'i.

^ Emergency Proclamation: Requires a Governor to issue an emergency proclamation that authorizes licensure waivers using specific language; emergency proclamations are time-bound and must be related to a specific emergency or disaster event.

¥ Multistate License requires enactment of the Nurse Licensure Compact; the Nurse License Compact is not enacted in Hawai'i.

License processing time was identified as a critical component that impacts the State’s nursing workforce. Before the pandemic, license processing times were less than one month for license applications with no deficiencies. During the pandemic, application processing times increased dramatically. This was largely due to staffing shortages, COVID-related work condition changes (work from home, distancing, etc.), an increase in submitted applications for nursing licensure, and the volume of deficiencies, or incomplete or inaccurate information that requires licensing staff follow-up with the applicant to process the application and issue a license, among the total applications submitted. As a result, the time to issue licenses increased to a range of 45-60 business days.

Months	Average	Range
January-May	56.6 days	49-62 days
June - Aug	24.3 days	18-35 days

Table 3 License Processing Time in Calendar Year 2023 by Average and Range of Working Days⁷

Over 8,500 new registered nurse licenses have been issued from July 2022 through October 2024 (FY2024 to date). License portability does not guarantee an increased number of nurses in the state. The Hawai’i BON noted that though there was an increase in the number of nursing licenses processed and emergency proclamations, this is demonstrative that we had a lot of nurses coming in but choosing not to stay.⁸ One reason provided by employers for this is that Hawai’i was under intermittent EPs and, due to the lack of access to temporary or expedited licensure, all of the nurses brought in for even a short stay were obliged to apply for a full Hawai’i license so that their care would not be interrupted if an EP was not renewed.

Fiscal Year	Applications received	New licenses issued	Monthly average new nurse licenses issued
2023	8,523	6,366	530.5
2024	2,167	2,305	576.25*

Table 4 Applications and Licenses issued by fiscal year.

Note: * Through Oct 2023 Hawai’i BON meeting

Promisingly, license processing times have been cut in half in 2023.⁹ Factors that improved license processing time are primarily staffing within the PVL licensing department (see section 2). In addition to staffing initiatives, PVL is working to implement an online application form that will alert applicants of deficiencies in real time, which is intended to reduce the number of applications with missing documents therefore improving license processing times. The BON is already working on initiatives to address issues that the NLC is intended to resolve. Two proactive initiatives currently in progress aim to (a) increase the nursing workforce by updating the temporary permit process in the Hawai’i BON’s administrative rules and (b) shorten the timeframe for

⁷ Meeting 8

⁸ Meeting 8

⁹ Meeting 8

processing nurse license applications by fully digitizing the license application process. In addition, Hawai'i BON's processing time for nurse license applications was cut in half with the addition of eight (8) relief workers, which will almost certainly revert to longer processing times when the relief workers' contract expires in October. A long-term negative fiscal impact will exacerbate the problem and leave the BON with fewer staffing options. PVL staffing remains a major concern, and any efforts to implement a new system like the NLC should take into consideration fiscal impacts and consider how the other jurisdictions that adopted the NLC addressed this issue.

Before the COVID-19 pandemic, Temporary Permits were provided to nursing applicants. Nursing Temporary Permits are established both in state laws (HRS Chapter 457)¹⁰ and rules (Hawai'i Administrative Rules (HAR) Title 16, Chapter 89)¹¹ as an option for individuals who are applying for licensure by endorsement. Under current rules, Temporary Permits require a full license review. The BON reported that prior to the pandemic, Temporary Permits were issued within a few days of submission of a completed application. Early in the COVID-19 pandemic, Governor Ige issued Emergency Proclamations¹² authorized, in part, nurses from out-of-state, or who formerly had a license in Hawai'i that were in good standing, to work in Hawai'i without a license. As a result, the BON suspended issuing temporary permits at that time because the emergency proclamations paused the need for temporary permits. During the early stages of the COVID-19 pandemic, PVL experienced licensing staffing shortages, which delayed license processing. This prohibited resuming issuing temporary permits; the issuance of full licenses was prioritized.

Though the state's COVID-19 emergency proclamations ended, a dire nursing workforce shortage required urgent action. As a result, the state issued emergency Hawai'i Administrative Rules¹³ for the BON to issue temporary authority for nurses to practice in the state. In 2023, several bills were introduced to revise the temporary permit process. S.B. 63, S.L.H. 2023¹⁴ proposed to separate the temporary permits from licensure by endorsement in order to allow for only a select number of license application criteria to be met by applicants in order to qualify for a temporary permit, as well as fund positions within the licensing division of PVL. This measure also included important sections that would have required the turnaround of a temporary permit within a certain timeframe, and would not have required nurses to complete two (2) separate applications if they were interested in also receiving full licensure. This measure did not pass. The Hawai'i BON is pursuing HAR revision to revise the rules that will relieve the

¹⁰ Hawai'i Revised Statutes. (2023). Chapter 457, Nurses. Retrieved from: https://www.capitol.hawaii.gov/hrscurrent/Vol10_Ch0436-0474/HRS0457/HRS_0457-.htm

¹¹ Hawai'i Administrative Rules. (2018). Chapter 16-89, Nurses. Retrieved from: <https://cca.hawaii.gov/pvl/files/2013/08/HAR-89-C.pdf>

¹² Governor of Hawai'i (2020). Sixth Supplementary Proclamation Amending And Restating Prior Proclamations And Executive Orders Related To The Covid-19 Emergency. Retrieved on November 2, 2023 from: <https://dod.hawaii.gov/hiema/sixth-supplementary-proclamation/>

¹³ Hawai'i Department of Commerce and Consumer Affairs. (2022). Hawai'i Emergency Administrative Rules for Nursing. Retrieved on November 2, 2023 from: <https://cca.hawaii.gov/pvl/files/2022/08/2022-Nurses-Emergency-Rules.pdf>

¹⁴ State Legislature. (2023). Senate Bill 63 Relating to Nurses. Retrieved on November 02, 2023 from: https://www.capitol.hawaii.gov/session/measure_indiv.aspx?billtype=SB&billnumber=63&year=2023

staffing workload burden, which is needed to enable the licensing division to resume issuing temporary permits. The planned rule revision includes separating the temporary permit from licensure by endorsement and clarifying that the mandatory criteria for issuing the temporary permit are anchored to the nurse demonstrating they have an active license in good standing in another jurisdiction. There are no timeframes included in these updated rules.

Impact of Licensure Timeliness on The Nursing Workforce

The three (3) privilege-to-practice options currently established in law impact the availability of nurses. If employers experience vacancies in their nursing workforce, the result may be needing to assign more patients to individual nurses; asking or mandating nurses to work overtime to ensure nurses are on units around the clock, or closing beds because no nurse is available. The impacts of nursing vacancies include straining the nurses on staff and reducing access to nursing care which can have ripple effects on community health, community economy, and community stability. Therefore, the ability to access additional nurses expediently is of dire importance.

As visible in Figure 3, temporary permits and emergency authorizations (EPs or emergency HAR) offer expedited privilege-to-practice for nurses outside of the state to work. A significant difference, however, is the timeframe for which one is then authorized to work as a nurse. The temporary permit option offered privilege within days of application until a license by endorsement was authorized, which would then lead to the privilege to work until the license renewal period (June 30 of each odd year). EP or emergency HAR authorizations last only as long as the waiver language describes. The EPs offered waivers only within the period of the proclamations. For nurse who entered the state on day 80 of a 90-day waiver may work within the state for the remaining 10 days, but then would be unable to work as a nurse until a license was issued. Translated to calendar days, 45-60 working days is 68-89 calendar days. If the timeframe for issuing a nursing license was 45-60 working days, that nurse may have had to wait nearly three (3) months until their license was issued. This phenomenon prevented out-of-state and travel nurses without a Hawai'i license from accepting opportunities in Hawai'i if they were at risk of falling into this scenario.

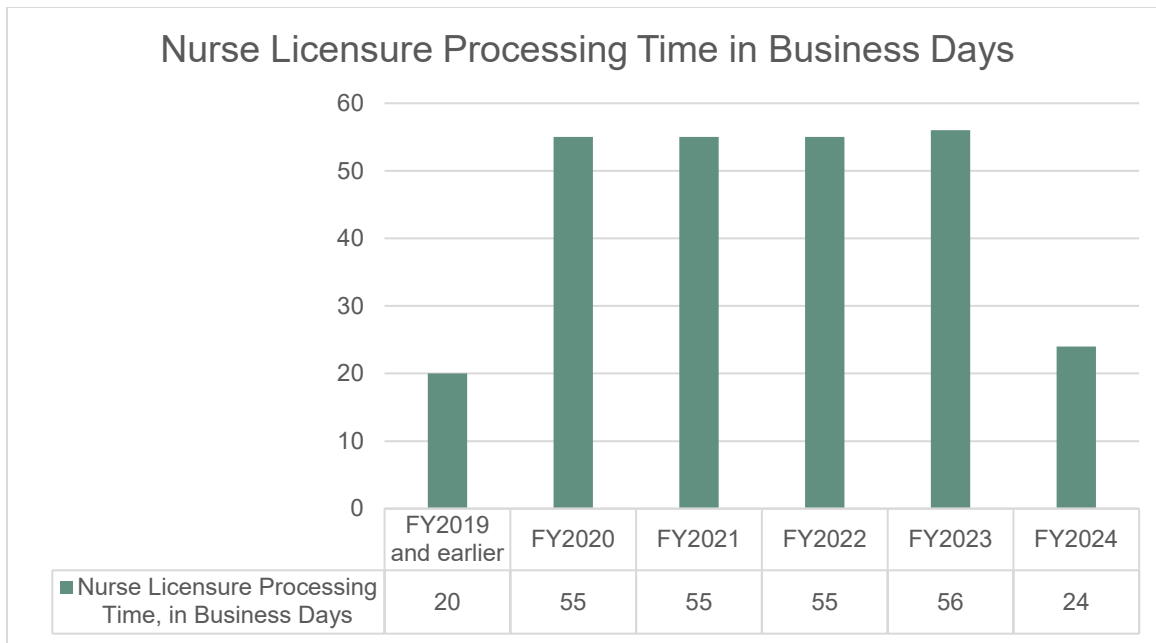


Figure 3 Nurse License Processing Times in Business Days

Before the pandemic, nurses received licenses within 21 business days of applying. Between 2020 and 2023, the timeframe increased to 45-60 business days. Currently, the license processing time is 24 business days, which is close to the pre-pandemic range of 21 business days.

Important to nursing employers is the 21-business day timeframe, as this translates to 30-35 calendar days. License processing within a calendar month facilitates long-term planning for vacancies or surges that are predictable. Examples of these include planning for staff expansion, regularly expected turnover, planned absences (like family leave after the birth of a new child), or regular surges (flu season). However, license processing that takes a calendar month does not allow for responsiveness to unplanned nurse needs, for instance, hurricanes or volcano lava flow impacts to counties or the state, the Maui Wildfires of 2023, or staffing impacts by unit COVID-19 outbreaks, sudden illness or other unforeseen absences or surges. With no rapid privilege-to-practice, nursing employers cannot respond to urgent, emergency, and non-scheduled nursing needs. This inability puts nurses, patients, the healthcare system, and communities at risk.

Nurses in Hawai'i

There are over 33,000 nurses licensed in this state; of those approximately 19,000 live in Hawai'i. Registered nurses are the largest population of nurses, representing 85% of nurses residing in Hawai'i. Hawai'i's nurses are the second highest-paid workforce in the nation. Yet when accounting for the cost of living, it brings Hawai'i nurses down to the lowest paid in the nation.¹⁵ This is a major issue that the healthcare industry has targeted.

¹⁵ Meeting 1

	LPN	RN	APRN	Total
Hawai'i	1,236	16,454	1,444	19,134
Mainland	416	13,157	1,010	14,583
Foreign	0	28	1	29
Total	1,652	29,639	2,455	33,746

Table 5 Number of Nurses Licensed by Hawai'i Board of Nursing as of September 14, 2023¹⁶

As reported in meeting six (6)¹⁷, according to the Hawai'i State Center for Nursing Workforce Supply Report, of the nurses who live in Hawai'i, approximately 14,800 individuals (90%) of nurses who live in Hawai'i work in a role relevant to their license. According to DBEDT, there are 11,800 registered nurses employed in Hawai'i in 2023, making registered nurses the 7th largest occupation in Hawai'i. However, according to the HAH Healthcare Workforce Initiative, as of December 2022, there is an additional need for 999 RNs.

The HSCN Workforce Supply Survey findings related to retention (Addendum 09)¹⁸ indicate that of registered nurses in Hawai'i, 64% of nurses are likely or very likely to remain in their current position for the next 12 months. The remainder includes 10% who report being likely or very likely to leave and 26% who report being uncertain. The likelihood of leaving does not vary by setting though nurses in LTC are more uncertain. Among the nurses who plan to leave their current job within 12 months, 13% plan to retire, and 13% plan to leave the state. By 2028, 15% of nurses plan to retire or leave the workforce for other reasons.¹⁹

HSCN conducted an additional survey (327 responses) using a convenience sample which asked Hawai'i nurses about their opinion as to whether the state should consider the NLC (Addendum 10). The majority of respondents currently practice nursing on O'ahu (59%) and were most likely to work in acute care hospitals (41%). Nurses working in long-term/post-acute care settings were slightly underrepresented and nurses working in "other" settings were slightly overrepresented in the sample as compared to the state's overall nursing workforce.

¹⁶ Meeting 6

¹⁷ Meeting 6

¹⁸ Hawai'i State Center for Nursing (2023). 2023 Hawai'i Nursing Workforce Supply Statewide Data Tables by License . Retrieved from: https://www.hawaiicenterfornursing.org/wp-content/uploads/2023/09/State-Data-Tables-v.Final_.pdf

¹⁹ Meeting 6, HSCN Presentation

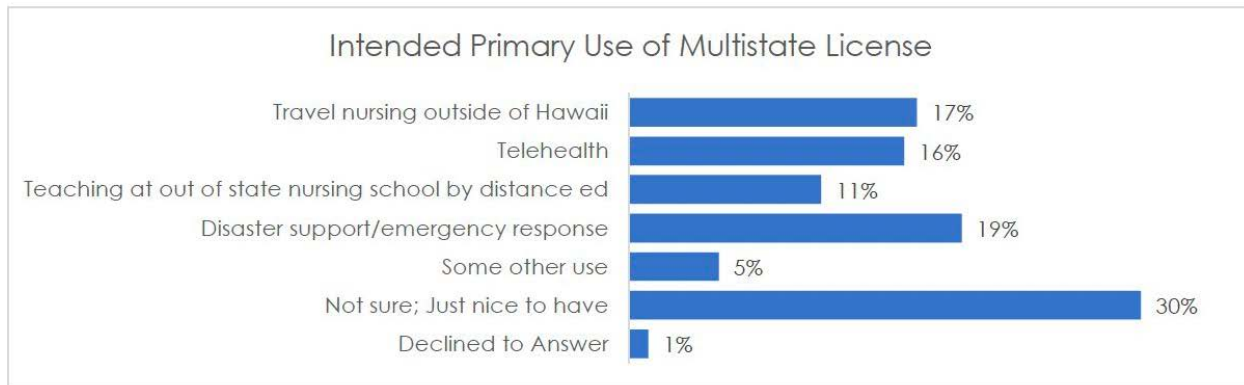


Figure 4 Intended Primary Use of Multistate License by Hawai'i Nurses

Data from this survey of Hawai'i nurses indicate that the majority (65%) of nurses are in favor of Hawai'i's membership in the NLC and would likely (70%) get a multistate license if they were eligible to do so. Half of the nurses who reported the intention to get a multistate license reported that they would use their multistate privilege to provide disaster relief or that they have no specific plans to cross jurisdictional boundaries. In other words, having a multistate license would have no impact on the primary employment status of 50% of nurses.

The remaining 50% of multistate license-holding nurses, however, represent a potential loss of nurses or nursing hours from the Hawai'i workforce. Findings also indicate that 28% of nurses would use their multistate privilege to do travel nursing outside of Hawai'i or that they would provide instruction for online programs offered by out-of-state schools of nursing. An additional 16% of nurses plan to use their multistate privilege to provide telehealth services. While these nurses would likely remain in Hawai'i, they would be caring for a population outside of the state. Considering this, we are not expecting a significant inflow of nurses as a result of Hawai'i joining the NLC.

There were some differences in nurses' intended plans for their multistate licensure depending on where they are currently employed. About 25% of nurses who are currently working in long-term/post-acute settings or who are not currently practicing nursing reported that they would use their multistate license to do travel nursing outside the state of Hawai'i.

Two professional associations provided presentations to the Working Group.

Hawai'i -American Nurses Association (Hawai'i-ANA) cites concern for the Nurse Licensure Compact due to loss of jurisdiction by the BON, loss of a complete registry of nurses who are practicing in the state, and concerns about the timeliness of the disciplinary action process and faster hiring of travel nurses due to avoidance of Hawai'i licensing processes. Linda Beechinor, Executive Director, noted that the organization prioritizes strategies and attention to the "actual causes of the critical nurse shortage in Hawai'i". Hawai'i-ANA prefers actions that support stability within the Hawai'i resident-nursing workforce and has concerns that the NLC may incent Hawai'i nurse out-migration.

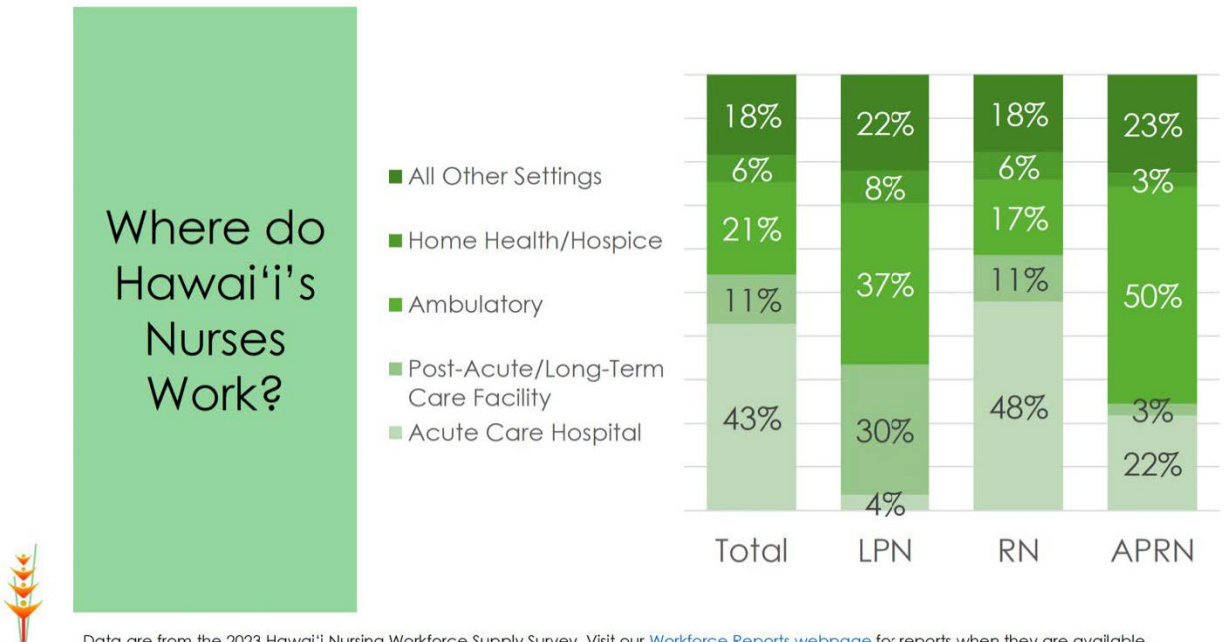
Newly graduated nurses who are alumni and former board members of the Hawai'i State Nursing Association (HISNA), which represents student nurse organizations across all in-person schools of nursing. Anna Jane Fujioka and Kelvin Manganaan, recent nursing graduates and members of HISNA emphasized that student nurses consider career opportunities, work environments including staff-to-patient ratios, as well as lifestyle considerations including the housing issue, and cost of living in Hawai'i. One representative highlighted the positive career opportunities in the state, such as new graduate nurse residency programs, as a motivating factor to stay in Hawai'i. The other representative emphasized that current Hawai'i alumna who choose career opportunities out-of-state have to use the licensure by endorsement option and that the Nurse Licensure Compact would give Hawai'i nurses more options on what they want to do moving forward after their initial experience, including ease in transferring employment out-of-state.

One clear theme from both organizations was the cost of living, and working group members did agree that this was a major issue in recruiting not only nurses to the state but also other healthcare professions including physicians. Members acknowledged that the NLC cannot resolve all of the workforce issues that are facing healthcare providers and communities, and that consideration by the legislature on core issues relating to affordability is needed.

Employment

HSCN Workforce Supply Survey related to retention (Addendum 9)²⁰ findings indicate that LPNs primarily are employed in ambulatory and post-acute/long-term care facilities and RNs are primarily employed in acute care hospitals.

²⁰ Hawai'i State Center for Nursing (2023). 2023 Hawai'i Nursing Workforce Supply Statewide Data Tables by License. Retrieved from: https://www.hawaicenterfornursing.org/wp-content/uploads/2023/09/State-Data-Tables-v.Final_.pdf



Data are from the 2023 Hawai'i Nursing Workforce Supply Survey. Visit our [Workforce Reports webpage](#) for reports when they are available.

Figure 5 Where do Hawai'i's Nurses Work?²¹

In an analysis of the healthcare workforce in 2022, HAH found that there were nearly 1,000 vacancies for RNs and an additional 211 vacancies for LPNs.²² Of RNs, the top ten (10) vacancies represent specialties across the healthcare setting continuum.

Specialty	Vacancies	Rate
Diabetes	2	40%
Wound Care	5	36%
Home Health	73	35%
Gerontology	109	24%
Women's Health	9	23%
Critical Care	113	22%
Rehabilitation	5	19%
Perioperative	65	16%
Mental Health	52	16%
Oncology	14	16%

Table 6 Top Ten (10) RN Vacancies in Hawai'i by Vacancy Rate, 2022

In meetings one (1) and seven (7) employers reported that many factors need to be considered when looking at the goal of nurse staffing. Employer strategies to support nursing staffing are multifactorial. Employers describe staffing considerations to include:

²¹ Hawai'i State Center for Nursing (2023). 2023 Hawai'i Nursing Workforce Supply Statewide Data Tables by License. Retrieved from: https://www.hawaii-center-for-nursing.org/wp-content/uploads/2023/09/State-Data-Tables-v.Final_.pdf

²² Healthcare Association of Hawai'i. (2022). Hawai'i Healthcare Workforce Initiative 2022 Report.

- The ideal environment is when we have the right number of students produced as well as retaining the workforce currently present.
- Safe and healthy work environments bring people in and support them to stay. Unsafe and unhealthy work environments contribute to people leaving. These impact both recruitment and retention.
- Even when organizations hire new grads, there's still a requirement to have a skill mix – the experienced workforce in Hawai'i is depleted and they already have jobs, so you must get them from somewhere outside of Hawai'i.
- The time it takes to hire someone, secure licensing, and then onboard is a barrier whether it's travel nurses or permanent employees is always considered.
- Contingency planning for seasonal surges, planned extended absences, or disruptions to service (technology changes, construction, etc.), all require advance planning. Emergency planning, which may include unforeseen surges or natural disasters, cannot be anticipated and yet may require contingency planning for additional staff.
- Sources of recruitment:
 - Employers recruit locally-educated new grads, nurses already working in-state, nurses from out-of-state, and some international nurses.
 - Change in license type (single state to multi-state) is likely to have negligible impact on the nursing workforce given the current number of out-of-state nurses with active licenses in Hawai'i.

Conclusions

- There are multiple pathways to gain the privilege to work as a nurse in the state. Nursing Licensure is the main pathway that offers the greatest amount of public safety.
- Expedited privilege-to-practice options are critical for ensuring safe nursing care and delays in accessing nurses pose threats to nurses, patients, and to Hawai'i.
- Local nurses indicate an interest in the MSL. About half of those interested in applying for an MSL would use it for nursing outside of Hawai'i. This may result in a loss of nurses or nursing hours from the Hawai'i workforce.
- Hawai'i licenses are being issued at pre-pandemic timeframes, however, without the temporary permits being issued, the expedited permission to practice option is inconsistent and reliant on emergency proclamations or rules.
- License portability does not guarantee an increased number of nurses in the state. The increase in licenses issued in Hawai'i in conjunction with continued nursing shortages is demonstrative of this concept. The increase in licenses was likely travelers whose contracts were temporary in nature.
- Hawai'i, despite the number of new licenses being issued in the state, is still in deficit of the number of nurses needed for comprehensive nursing care.
- Hawai'i is not expecting a significant inflow of nurses as a result of Hawai'i joining the Nurse Licensure Compact.

(2) Fiscal obligations of the State, including any fees or other costs;

Revenue Sources Related to Nurse Licenses

Hawai'i nurses pay license fees, which contribute to three (3) funds. These fees include the Board of Nursing Fee, the Regulated Industries Complaints Office (RICO) Fee, and the Center for Nursing Fee. Fees support organizational operations including staffing, administrative services, and functions and programs, generally, for each organization.

	Base Fee	Base Population (LPN and RNs)	Current Revenue (Fee Base)
BON	\$36.00	31,291	\$1,126,476.00
RICO	\$100.00	31,291	\$3,129,100.00
HSCN	\$60.00	31,291	\$1,877,460.00
Total	\$196.00	31,291	\$6,133,036.00

Table 7 Nurse Fees by Type and Estimated Losses Should Nurse License Compact be Enacted

Hawai'i's projected revenue loss is \$1.36 million (22%). Potential revenue gain of \$180,400 (3%). As described by NSCBN in meeting 2,²³ revenue changes are not equivalent to in-person nurse changes. NCSBN described three (3) scenarios in which revenue may be impacted: Nurses living in Hawai'i with a Hawai'i license and one or more licenses in an MSL state, nurses living in Hawai'i without a Hawai'i license and with one or more licenses in a state with an MSL, and nurses residing in an MSL state and with a Hawai'i license. When using the assumption offered by NCSBN of \$100 additional fees for an MSL, the potential revenue gains only resolve the 3% of the revenue losses: with an estimated 19% revenue loss to these organizations. However, the workforce gain is only 2%.

Further, there is additional potential revenue preservation that may be achieved by generating additional revenue by establishing a fee for the multistate license that is higher than the fee for the single state license. NSCBN uses an estimated \$100 fee increase for the MSL (i.e., for Hawai'i a change from \$196 to \$296) based on actions by other states. Delaware and Tennessee commented²⁴ that their fiscal impact was made negligible by way of increasing the fees for the MSL as compared to the SSLs. This method would need to be addressed in HAR Title 16, Chapter 53²⁵ for RICO and Hawai'i BON fees, and a statute change in HRS Chapter 457, section 9.5²⁶ for HSCN fees.

²³ Meeting 2

²⁴ Meeting 8

²⁵ Hawai'i Administrative Rules. (2016). Chapter 53, Fees Relating to Boards and Commissions. Retrieved from: https://cca.hawaii.gov/pvl/files/2013/08/HAR_16-53_FeesOct-2016.pdf

²⁶ Hawai'i Revised Statutes. (2023). Section 457-9.5, Center for nursing fee. Retrieved from: https://www.capitol.hawaii.gov/hrscurrent/Vol10_Ch0436-0474/HRS0457/HRS_0457-.htm

Nurse Residence	Nurse Licensure	License Counts	Impact to Workforce	Impact to Revenue	Revenue Change [^]	% \$\$ Change
Hawai'i Resident	Only one license (HI).	15,886	No change	No change	\$ -	0%
Hawai'i Resident	Multiple licenses, including NLC member states	858*	No change	Increase (if MSL greater fee than SSL)	\$ 85,800.00	1%
Hawai'i Resident	No HI license, with an out-of-state license in 1+ NLC state	946*	Possible increase	Increase (if MSL selected)	\$ 94,600.00	2%
Out-of-State Resident	HI license, 1+ other state licenses, including NLC member states	6,975*	No change	Loss	\$ (1,367,100.00)	-22%
Out-of-State Resident	HI license, 1+ other licenses, NO NLC member states	6,598	No change	No change	\$ -	0%
Out-of-State Resident, Foreign	HI	28			\$ -	0%
					31,291	\$ (1,186,700.00) -19%

Table 8 Change in revenue based on nurse residence and license characteristics

Note:

* Numbers provided by NCSBN Meeting 2

[^] Revenue gain for MSL options is using a \$100 fee increase calculation, as utilized by NCSBN in their presentation

The HSCN study of nurses' interest in the NLC showed that, of the small sample of respondents, 65% of nurses had an interest in an MSL, which may provide insight into adoption and potential fee generation.²⁷ However, the 2022 National Nursing Workforce

²⁷ Meeting 5

Survey findings indicate that MSL among RNs was 30.3%.²⁸ While it is impossible to guess all the factors that go into selecting an MSL or SSL for personal professional use, and impossible to predict exactly how many nurses in Hawai'i may opt for an MSL or how they will use it, there is a possible range of 35-65% uptake in the MSL.

Hawai'i BON retains full authority over nurse licensure, fee structure(s), and licensure options. NLC provides nurses with the privilege-to-practice in party states but does not affect a nurse's license. The actual fees, should the state adopt the NLC, may differ from the estimation by NCSBN.²⁹ Hawai'i BON's processing time for nurse license applications was cut in half with the addition of eight (8) relief workers, which will almost certainly revert to longer processing times when the relief workers' contract expires in October.³⁰ This was achieved through funds PVL received, totaling \$909,000.00, from the Coronavirus State and Local Recovery Funds (CSRF). Up to ten (10) CSRF relief workers were assigned to the BON to process applications between March 2023 to present with a projected end date of December 31, 2023.

Joining the NLC may lessen the PVL workload in some areas but increase it in others. There may be additional administrative expenses incurred by PVL, that are yet to be estimated at the time of this writing, to comply with data requirements. There may be fewer applications by endorsement that PVL receives, should the NLC be adopted. Another possible outcome may be that endorsement applications may lessen but any reduction may be offset by an increase in MSL applications. In addition, other license processing improvement efforts are underway. PVL is working on improvements to the application system including online application forms may result in workload reductions for PVL staff. PVL is working to revise the HAR for temporary licenses and reinstate this work effort. The Temporary Permits effort would establish a different application review process than the review of licensure by endorsement and will require dedicated staff for this review

It's unclear whether PVL will benefit from a lighter PVL workload in terms of reducing the number of applications coming in. While many possible options may impact the licensing environment, any reduction in revenue may affect staffing levels which will then impact staff and application processing times.³¹ Further, as an umbrella agency, the PVL staff are not solely responsible for nurse license verification, but all PVL licensed or certified professions.³² Impacts on overall staffing at PVL will impact all licenses and certificates processed by PVL, not nursing alone.

Investigations by RICO staff of MSL nurses believed to be engaging in misconduct here will take more resources but the cost of enforcement would not be funded or even offset by out-of-state MSL holders because, under the NLC, MSL holders pay licensing fees to

²⁸ Smiley, R. A., Allgeyer, R. L., Shobo, Y., Lyons, K. C., Letourneau, R., Zhong, E., Kaminski-Ozturk, N., & Alexander, M. (2023). The 2022 National Nursing Workforce Survey. *Journal of Nursing Regulation*, 14(1), S1–S90. [https://doi.org/10.1016/S2155-8256\(23\)00047-9](https://doi.org/10.1016/S2155-8256(23)00047-9)

²⁹ Meeting 3

³⁰ Meeting 7

³¹ Meeting 3d

³² Meeting 7 & 8

their primary state of residence only and not to Hawai'i. The resulting revenue loss to RICO may lead to a reduction in meaningful enforcement efforts such as reduced staffing and investigative expertise possibly, and less comprehensive investigations, to name just a few.³³

Hawai'i State Center for Nursing is primarily funded by nurse license fees. A 22% reduction in operating budget would have impacts on services, programs, and support the Hawai'i State Center for Nursing offers to nurses in the state.

Other Expenses

The Nurse Licensure Compact requires a \$6,000 annual membership fee paid by the state. However, the cost of joining NLC is not limited to the \$6,000 per year fee. For states that have opted to implement a reporting requirement through nursing employers, there is an additional cost of hiring personnel to manage the regulation of healthcare employers' collection of information from individual nurses. If Hawai'i were to consider this option, it would likely require an appropriation, a manager, and one to two office assistants, as well as the cost to develop and maintain the database infrastructure.

Other Fiscal Considerations

NLC has only two (2) salaried employees, an executive director and an associate. NCSBN provides additional staff and resources to support the work of the NLC at no additional cost to NLC party states. NLC Commission has a memorandum of understanding with NCSBN to help cover staff costs and some meeting costs.³⁴

The NCSBN Board of Directors adopted an NLC Grant Fund to assist member boards in their efforts to implement the NLC. This grant funding that is available to help with implementation and allowable expenses include: licensure system changes for compliance with NLC; data integrity projects; engaging temporary staff for project management of the licensure system changes; business analysis for requirements documentation; state verification portal to include multistate designation; website updates; and more. NCSBN reported that of the grants that have been issued, most have been used to cover technological updates to licensure systems and websites, temporary staff to process applications to convert licenses to multistate, data integrity projects, and marketing information related to implementation. No information about the application process, or the funding range available was provided by NCSBN.³⁵

Projected revenue loss is undeniably important but also important to consider a variety of tools for employers to recruit and retain nurses to provide healthcare during emergencies as well as non-acute periods. NLC may be just one tool in the toolkit. All potential impacts, including attrition of Hawai'i nurses out-of-state and ensuring health and safety for Hawai'i's people, need to be considered.

³³ Meeting 7 or 8

³⁴ Meeting 2

³⁵ Meeting 8 Resources

Other sources of nurse revenue include state income taxes, property taxes, lodging or housing rent, and contributions to the economy (purchasing, etc.) for nurses employed in Hawai'i full-time will be more than temporary residents (i.e. Travel nurses).³⁶

Other sources of nurse expenses include travel nurses, which is a costlier workforce option than employed nurses, thus increasing the cost of healthcare for nursing employers. This increased cost may be passed on to insurance, and then to consumers (private insurance) or the general public (public insurance).³⁷ Recruitment and attrition costs come at a cost to nursing employers, which increases the cost of healthcare.³⁸

Conclusion

- Hawai'i nurses pay license dues, which consist of three fees that fund separate but critical operations: The Board of Nursing, the Regulated Industries Complaints Office (RICO), and the Hawai'i State Center for Nursing (HSCN).
- Revenue loss to each of these organizations would have significant impacts on operations; however, revenue change is likely to not approximate to change in nursing workforce availability.
- Other states have increased the NLC fees to offset or make neutral the negative fiscal impacts to their respective jurisdictions, but whether an offset or neutrality would result in Hawai'i if it were to implore a similar practice is tenuous at best because other states may not have as large a population of non-resident nurses that paid license and renewal fees regularly to the BON as Hawaii does. Therefore, the drop-in revenue for other states may not be nearly as deep as what Hawai'i could be facing. Regardless, updated fees would need to be addressed in HAR Chapter 53 for RICO and BON fees, and a statutory change to HRS Chapter 457 for the HSCN fee.
- Secured funding for staffing has significantly improved license processing times at PVL, returning nurse license processing times to pre-pandemic timeframes.
- The NLC has additional annual fees of \$6,000 that the state would be responsible for paying.
- The NLC Commission offers implementation grants to PVL should the NLC be enacted.

(3) The potential for workforce migration into and out of the State, including job transfers, travel nursing, and telehealth nursing;

Research on Workforce Migration

Research on the impacts of the NLC on workforce migration patterns is few. Hawai'i's status as a remote island state makes the challenges Hawai'i faces unique. Strategies that were successful in other states, including the NLC, may not translate to success in our unique environment. Cultural considerations must be considered along with geographic and demographic factors.

³⁶ Meeting 1

³⁷ Meeting 7

³⁸ Meetings 1, 3 and 7

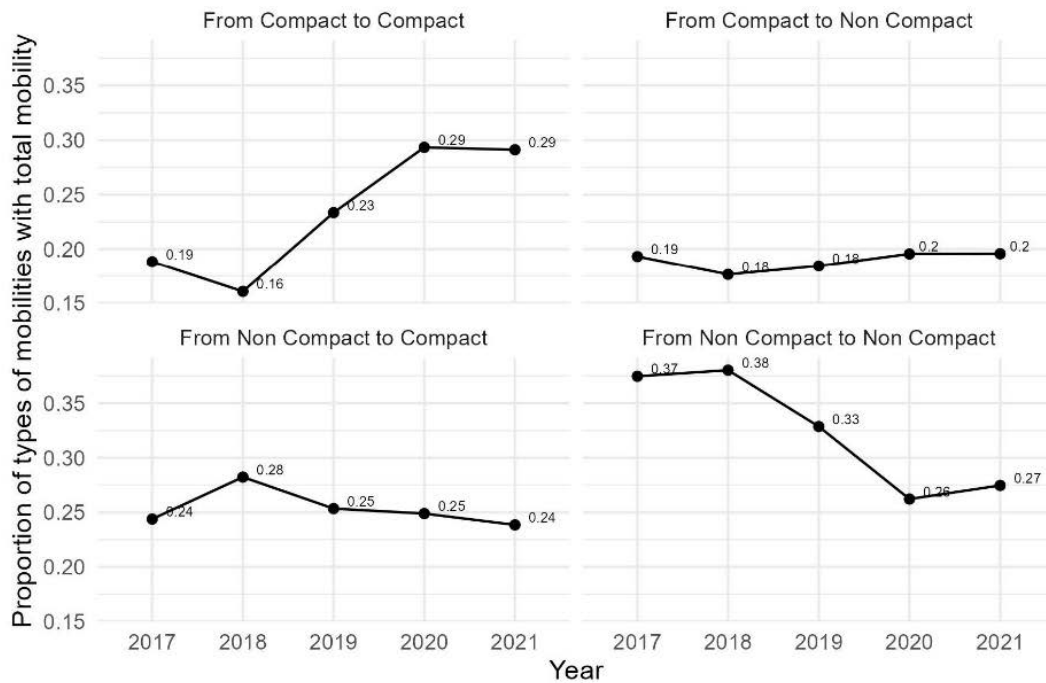
Most studies investigate interstate migration in the contiguous United States, including the phenomena of cross-state-line employment. This phenomenon is not only not an option for Hawai'i as a state but even for county-to-county employment. Nonetheless, the findings are informative and provide insight as to whether the NLC may have benefit, or not, for Hawai'i.

Interstate Mobility of the Nurse

In Meeting Four (4), Dr. Shishir Shakya explained how his research team studies the impacts of license mobility.³⁹ They found that nurses are about 10% more likely to move within the NLC states (Figure 6, top left graph). This 11% includes telehealth or the number of nurses commuting across the border due to work. Dr. Shakya posits that factors related to nurses' choice to migrate may be impacted by job satisfaction, healthcare access, healthcare quality, or reduced costs.

Results

Figure: Inter-state mobility of registered nurses and licensed practical/vocational nurses, within compact and non-compact states



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Figure 6 Interstate mobility of RNs and LPNs within compact and non-compact states.⁴⁰

Note: *10% includes telehealth or the number of nurses commuting across the border due to work.

³⁹ Meeting 4

⁴⁰ Shakya, S., Ghosh, S., & Norris, C. (2022). Nurse Licensure Compact and Mobility. *Journal of Labor Research*, 43(2), 260–274. <https://doi.org/10.1007/s12122-022-09333-2>

Mobility is movement from one location to another. This study does not indicate gains in a nursing workforce, but rather the likelihood of movement between different types of states: NLC and non-NLC states.

Employment Changes

Dr. Nick Marquiss presented his dissertation in law and economics from Vanderbilt which explored occupational licensing reforms in the healthcare sector, related to the workforce migration of the Nurse License Compact. Using the National Sample Survey of Registered Nurses data from 1992-present he found that the NLC causes:

- 1.8% reduction in the probability of being employed;
- 9.8% reduction in wages;
- 2% increased probability of working in a different NLC state than the primary state of residence (PSOR); and
- 3.3% increases the probability of moving to an NLC state.

He concludes that the NLC makes it easier to work across state lines so in-state nurses face more out-of-state competition. He also notes that if the labor pool is bigger, it may result in decreases in employment, wages, etc. However, Dr. Marquiss further noted that while the NLC increases access to the supply of nurses, Hawai'i's status as an island state makes it especially unique and that it would be difficult to say with certainty how Hawai'i, would be affected.

Military Spouse Employment

Dr. Marquiss continued his doctoral study by focusing on military spouses. He notes "Military spouses are more likely than other workers to be caught up in the country's patchwork of occupational licensing laws, both because they are more likely to move across state lines and because they are disproportionately employed in occupations that require a license", Council of Economic Advisors."⁴¹ He notes that a purported benefit of the NLC is to improve outcomes for military spouses. Military spouse nurses move to a new state, and due to the ability to practice under their MSL, may start working right away.

Using the American Community Survey as the data source, he found that the NLC is very beneficial for military spouse nurses and causes a

- 5% increase in the likelihood of participating in a labor market
- 8% increase in the probability of employment
- 7% increase in the probability of working last week
- No statistically significant effect on wages or hours worked.

Marquiss concludes that the NLC makes it easier for military spouse nurses to find work and remarks that though the results rely on data from all states, Hawai'i's abundance of military bases may especially benefit from the NLC.

In addition, the United States Air Force Academy Department of Economics and Geosciences published a report "Nurses Without Borders: The Impact of Licensing

⁴¹ Meeting 4

Barriers on Employment". This study finds that military spouses have significant reductions in departures from the labor force and names SSL as the cause of labor market inefficiencies.⁴² More specifically, the report finds that the absence of any license reciprocity negatively impacts the likelihood of working. License reciprocity improves a military spouse's participation in the labor market by 0.2. If the move is within NLC participating states, the increased probability of work is 0.23 if the military spouse has children or 0.3 if the spouse does not have children. At the high end, the report estimates a 25% or more increase in employment for military spouses in NLC-adopting jurisdictions.

Telehealth

Though not presented during the agenda, several articles were identified related to the impact of NLC on telehealth.

Norris and Nandy (2023) find that state-level licensing laws create regulatory barriers to interstate practice.⁴³ Their study further finds that though the NLC is designed to facilitate cross-state treatment of patients, the NLS is not able to significantly increase telemedicine usage from out-of-state providers. Specifically, the researchers noted that while the NLC makes it easier for RNs to provide telemedicine, it does not increase patient utilization.

Massachusetts Health Policy Commission found that COVID-19 highlighted the importance of and potential for telehealth. Removing licensing barriers was identified as a possible facilitator to strengthen the ability of the health care system to adopt care delivery models and improve the flexibility of health care delivery.⁴⁴

Travel Nursing

In Meeting Six (6),⁴⁵ Richard Smiley of NCSBN provided additional analysis related to travel nurses using the findings from the 2022 National Nursing Workforce Survey.⁴⁶ Smiley noted that there are an estimated 1,013,135 RN multistate license holders out of the entire population of nurses, out of which 122,483 (12.1%) are travel nurses. Secondly, he found that out of those 122,483 RN travel nurses, 96,538 (78.8%) use the MSL for travel nursing. Finally, Smiley elaborated that while nationally, 9.5% of the entire multistate population use the license for travel nursing, when you look at who has a Hawai'i license, that proportion becomes 17.1%. He clarified that the National Nursing Workforce Survey is a national survey and that the findings for Hawai'i are using a sample that is designed to look at nurses who have licenses in Hawai'i, not just those nurses living there. In other words, 17.1% are residents of other states, all of whom hold a license in Hawai'i, an MSL license, and use their MSL for travel nursing. It was

⁴² Portlock, A. (2022). Nurses without Borders: The Impact of Licensing Barriers on Employment. United States Air Force Academy Department of Economics and Geosciences.

⁴³ Norris, C., & Nandy, P. (2023). The Nurse Licensure Compact's Effect on Telemedicine Usage. *Journal of Patient Experience*, 10, 23743735231179060. <https://doi.org/10.1177/23743735231179060>

⁴⁴ Massachusetts Health Policy Commission. (2021). Evaluation of the Commonwealth's Entry into the Nurse Licensure Compact: A REPORT TO THE MASSACHUSETTS LEGISLATURE.

⁴⁵ Meeting 6

⁴⁶ Smiley, R. (2023). R. Smiley 2022 National Nursing Workforce Survey -- Hawai'i Presentation. Retrieved on October 06, 2023 from:

emphasized at this meeting that these nurses are currently contributing revenue to the state due to their Hawai'i license not being an MSL.

Potential Hawai'i Workforce Migration

There is a distinct difference between projected fiscal impact and projected workforce impact. As noted in Section 1, adopting the NLC might not have a significant impact on increasing the nursing workforce in Hawai'i and is likely to have a negative impact on revenue and the entities that rely on that revenue should the NLC be enacted without addressing these revenues. In addition, in Section 1 we see that there has been increased nurse licensure in the past two years. In the Travel Nursing focus, above, there is also a greater proportion of nurses with a Hawai'i license who hold an MSL and use it for travel nursing than the general population have an MSL license. However, there are still workforce shortages in Hawai'i. Therefore, despite having licensed nurses in Hawai'i, there remains an inadequate workforce to provide nursing services in this state.

How, then, may migration be impacted by the NLC?

Research and data to inform the Working Group about the possible implications of in- and out-migration of nurses to Hawai'i are limited, in part because Hawai'i's unique, remote geography makes certain phenomena, like cross-border employment, not applicable. The four sources of data used in the table below are a patchwork of information that when looked at together, give a broader understanding that no one source of data can provide.

In meeting two (2), NCSBN provided information related to nurses licensed in Hawai'i with consideration of other state licensure and other state multistate licensure.⁴⁷ In meeting five (5), the Hawai'i State Center for Nursing reported on the convenience sample survey which asked nurses' interest in the NLC. In meeting six (6), the Hawai'i State Center for Nursing reported on the workforce supply survey which asked nurses intent to leave the workforce. In meeting six (6), NCSBN reported findings from the National Nurse Sample Survey done in conjunction with the National Forum of State Nursing Workforce Centers (Forum), which included findings about nursing utilization of the NLC. All four reports to the Working Group used different analysis approaches, and the implications of each finding should be taken concerning the study method.

⁴⁷ Meeting 2

Source	Finding	Workforce Gain	Neutral	Workforce Loss
NSCBN Licensure Presentation	6,975 (48%) out-of-state nurses with a Hawai'i license have an MSL in their primary state of residence.	It is reasonable to assume some nurses in this category provide either temporary in-person care or telehealth services.	Hawai'i's access to these nurses may not change whether they have an MSL or if they have a Hawai'i license.	N/A
NSCBN Licensure Presentation	858 (2.7%) are Hawai'i residents with a Hawai'i license and license in one or more NLC states.	N/A	Hawai'i's access to these nurses may not change whether they have an MSL or if they have a Hawai'i license.	N/A
NSCBN Licensure Presentation	948 (3%) are residents of Hawai'i and hold an SSL in an NLC state.	Hawai'i's may gain access to a percentage of these nurses if an MSL is available.	Hawai'i's access to these nurses may not change whether they have an MSL or if they have a Hawai'i license.	N/A
HSCN Supply Survey⁴⁸	1,500 (10%) of RN respondents are likely or very likely to leave their primary position within the next 12 months	N/A	Of the 1,500, 87% did not indicate plans to migrate.	Of the 1,500, 195 (13%) plan to live outside the state in 12 months. ⁴⁸
HSCN Supply Survey⁴⁹	655 (4%) of RN respondents plan to live outside of	N/A	13,890, 96% did not indicate plans to migrate.	655 (4%) of RN respondents plan to live outside of Hawai'i within 12 months (Nurses in

⁴⁸ Meeting 6

⁴⁹ HSCN (2023). 2023 Nursing Workforce Supply Survey Data Tables. Retrieved on October 29, 2023 from: https://www.hawaiiicenterfornursing.org/wp-content/uploads/2023/09/State-Data-Tables-v.Final_.pdf

	Hawai'i within 12 months			the cell above are a subset of this statistic).
HSCN NLC Survey⁵⁰	212 (65%) of respondents indicated they had an interest in the NLC	N/A	Just over 50% reported the intention to get an MSL for uses would have no impact on the primary employment status.	Just below 50% would use it for travel nursing, telehealth, or instruction for online programs offered by out-of-state schools of nursing. This is equivalent to 32.5% of the total.
NCSBN/Forum Survey⁵¹	Out of the 1,013,135 RN multi-state license-holders, 96,538 (9.5%) use the multi-state license for travel nursing.	N/A	91,6887 (90.5%) do not use MSL for travel nursing.	96,538 (9.5%) of MSL holders use it for travel nursing. Of MSL holders who also have a Hawai'i license, 17% stated they use it for travel nursing.

Table 9 Potential Workforce Gain or Loss to Hawai'i Nursing Workforce⁵²
 ^: 14,545 RNs responded to the HSCN Supply Survey.

Conclusion

- Hawai'i, as a non-NLC state, falls within the category of states with relatively neutral mobility to and from non-NLC and NLC states.
- There is greater mobility of nurses between NLC states. This is the mobility of a nurse moving to one state from another state, not net gain in overall nurses.
- Research found that nurses were about 10% more likely to move within the NLC compact states; and may include telehealth and cross-border employment where a nurse lives in one state and works in another.
- There is a small increased probability of working in and moving to NLC states.
- Unemployment slightly increases with the adoption of NLC. Wages decreased by nearly 10% with the adoption of NLC. Both phenomena were attributed by the

⁵⁰ HSCN (2023). Survey of Nurses: Should Hawai'i Join the Nurse Licensure Compact? Retrieved on September 05, 2023 from: <https://drive.google.com/drive/folders/1EL72MJJsv0dMM7bNa3rBPfLqsGT084V4>

⁵¹ Smiley, R. (2023). R. Smiley 2022 National Nursing Workforce Survey -- Hawai'i Presentation. Retrieved on October 06, 2023 from: https://docs.google.com/presentation/d/1fDP9E0kQMpHv43CNUhtlOBw0lCz67UTC/edit?usp=drive_link&ouid=110428437443849028538&rtpof=true&sd=true

⁵² Sources: NSCBN Licensure Presentation (Meeting 2); HSCN 2023 Nursing Workforce Supply Survey (Meeting 4); HSCN NLC Survey (Meeting 5); NSCBN/Forum 2022 National Nursing Workforce Survey (Meeting 6)

researcher to greater competition among nurses due to a larger applicant pool available.

- NLC benefits military spouses, as there is an 8%-25% increased probability of employment, depending on the source of analysis.
- Currently 9.5% of MSL holders, nationwide use their MSL for travel nursing, whereas 17% of MSL holders who also hold a Hawai'i license use their MSL for travel nursing.

(4) The regulation of out-of-state nurses, including recouping costs arising from investigations of consumer complaints or other disciplinary actions;

Regulation of Licensees in Hawai'i

In other states, regulatory bodies of vocational and professional industries, such as their BON equivalent, perform the important work of setting standards and issuing licenses with enforcement functions too, such as investigating and prosecuting licensees before them, any licensees who are claimed to have misbehaved. That is not the case in Hawai'i. In Hawai'i, the 52 regulatory boards, commissions, and programs inclusive of the BON, that currently exist within DCCA's Professional and Vocational Licensing Division (PVL), set standards for the profession and issue licenses but they do not perform any of the investigative or prosecutorial functions like some of their mainland counterparts do. Here in Hawai'i, the enforcement functions of investigating and prosecuting matters for all 52 regulatory boards are performed exclusively by one entity: the RICO. RICO is therefore a separate umbrella agency in that it is distinct from the PVL division's regulatory bodies, and it investigates and prosecutes cases for all of the 52 industry boards that are under the PVL division. Both the PVL division and the work of the regulatory boards and commissions, and the RICO, are funded by fees that are paid at initial licensure and when licenses are renewed.⁵³

Hawai'i nurses, therefore, are regulated through a partnership consisting of the BON and RICO. Most nurses will never hear of or from RICO because they will continue to meet the standards, experience, and requirements needed to maintain a license in good standing. RICO gets involved only when allegations of misconduct have surfaced. When that happens, RICO can investigate the matter, and where warranted, RICO can pursue a prosecution before the BON and make a disciplinary recommendation. The BON makes the final decision on whether to discipline the license for misconduct, as well as

⁵³ Meeting 3, 7

the discipline to be imposed, through public final orders. (See section 8).⁵⁴

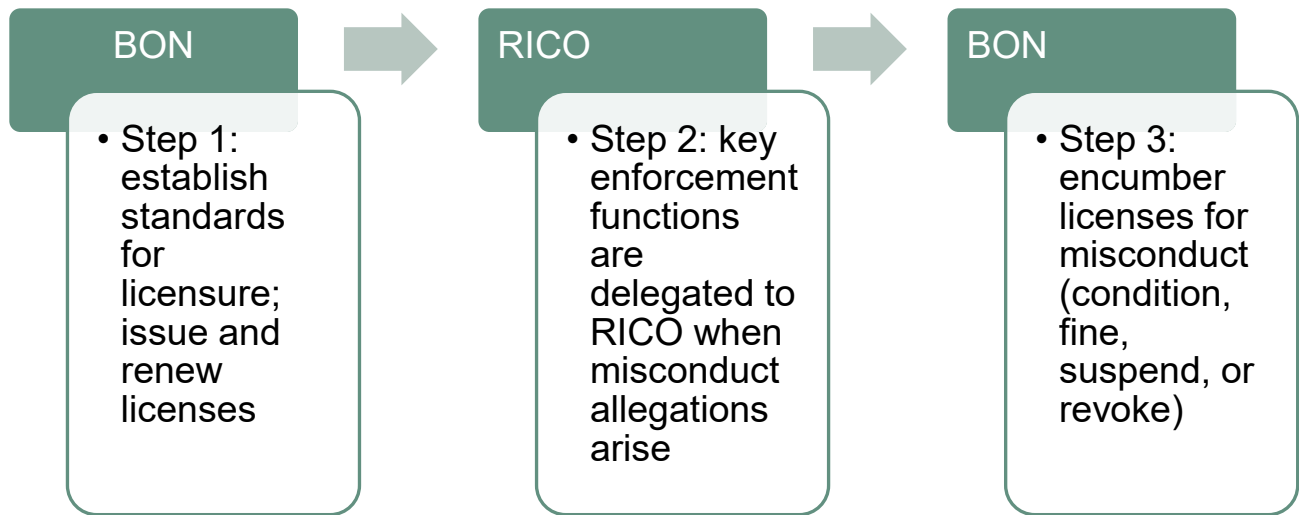


Figure 7 Regulatory Organization Related to Enforcement⁵⁵

Board of Nursing

The authority and duties of the BON include developing the standards for initial licensure, renewal, as well encumbrance of Hawai'i nursing licenses, as well as the scope and standards of nursing practice.⁵⁶ As part of their powers and duties and to safeguard the life and health of the public, the BON is to establish the minimum requirements for an individual to practice in this state with minimum competency level, i.e. education, exam, etc., and require individuals to submit evidence that the person is qualified to practice.⁵⁷

Regarding step one, this includes determining the scope and standards for which a nurse is expected to practice in Hawai'i, which are described in both HRS Chapter 457 and HAR Chapter 89. For example, when reviewing applications for licenses by endorsement or by foreign applicants, the BON will consider education requirements. If the BON discovers a deficiency, they will recommend that the applicant complete a course needed to close the deficiency before the license application can be reconsidered.

During the licensure by endorsement application process, the Hawai'i BON reviews applicants' other licenses for any disciplinary action or past infringement on their licenses in other jurisdictions. Since approximately 2010, Hawai'i has accessed other state's reports on Nursys to verify the status of applicant's licenses. Hawai'i started participating in Nursys in 2016, in which the state entered into an agreement with

⁵⁴ Meeting 3

⁵⁵ Meeting 3, Presentation by RICO

⁵⁶ Meeting 2

⁵⁷ Meeting 7

NCSBN to provide them a daily upload of license data, including the license number of the individual issued a license. BON also provides disciplinary action to Nursys as do other states. For example, if Hawai'i approves a settlement agreement or any board's final order, that information is automatically reported to Nursys so other states can also receive an alert. Denials of applications are also reported to Nursys, for which other states will receive notice as a disciplinary action.⁵⁸

An example of how this information is used in practice is the current Operation Nightingale⁵⁹ regarding allegedly fraudulent transcripts issued by a large number of Florida nursing programs, which has been a nightmare because some of these individuals have already been licensed in other states. Anywhere from 5,000-7,000 nurses have been affected which is in turn affecting the nursing population and possibly providing unsafe health care. BON is working diligently and fast to have processes in place for the licensing branch to check applicant names against the list provided by the FBI and Office of Inspector General. Checking the list would occur when the application is received and once more before the license is issued.⁶⁰

In addition, the BON supports the licensing process, in collaboration with the licensing staff of PVL. As described in Section 1, the BON works in process improvements to benefit the timeliness and accuracy of the licensing process. The BON also updates licensing criteria to be reflective of state and national licensing best practices. This includes innovating the application system to be automated and online, as well as revising the process for temporary permits to be more expedient and efficient.⁶¹

Regulated Industries Complaints Office

Hawai'i's laws and rules provide clear legal authority for RICO to initiate investigations and prosecutions involving nurse licenses issued by the BON.⁶² RICO noted in meeting three (3) that the main sources of authority for the Board imposing disciplinary action against nurse licensees are HRS Chapter 457 (nurses), HAR Chapter 89 (nurses administrative rules), HRS Chapter 436B (Model Licensing Act that covers all of the professions and vocations that are regulated by a board affiliated with the PVL division of the DCCA).

RICO is primarily funded by license fees and is the umbrella enforcement agency for the 52 boards, commissions, and programs affiliated with the PVL division of the DCCA, including the BON. RICO has jurisdiction to investigate and prosecute anyone who holds a license issued by the BON, including nonresidents, and individuals who perform work in the state that requires a nurse license. As an umbrella enforcement agency, more than 4,000 separate statutes and rules fall within RICO's purview, and annually the agency processes an average of approximately 2,500 new matters or complaints.

⁵⁸ Meeting 7

⁵⁹ U.S. Department of Health and Human Services Office of Inspector General. (2023). 2023 Operation Nightingale Enforcement Action. Retrieved on November 06, 2023 from <https://oig.hhs.gov/newsroom/media-materials/nightingale/>

⁶⁰ Meeting 1

⁶¹ Meeting 7

⁶² Meeting 3

RICO's work is conducted independently, is insulated from outside influence, and is confidential. Therefore, only public information is shared outside of RICO. Initially, the BON may provide information to RICO that relates to a complaint alleging misconduct, including license information (number, issue date, status), holder information (name, address, contact information), and other relevant information like records or data from the licensee or even another state. RICO then reviews the information as part of an investigation into the licensee's fitness and can prosecute the matter through negotiated settlements or contested case proceedings. The BON can then adopt a negotiated settlement as their final order, and accept the findings from a contested case proceeding as their public decision too.⁶³

RICO reported that over five years, nursing averages 302 cases processed per year, which is approximately 12% of total complaints processed. Of the nursing cases processed, less than 10% of these result in formal discipline.⁶⁴

Key Information Obtained During the Application Process for Regulation

In meeting three (3), RICO described the potential changes to their work process should the state become a member of the NLC. First, with regard to exercising jurisdiction over individual nurses, the NLC will not be disruptive to enforcement. Currently, in the absence of NLC membership, RICO has enforcement jurisdiction over nurses who hold a license issued by the Hawai'i BON or anyone else who performs work in the state that requires a nursing license. Under the NLC, enforcement jurisdiction is automatic for any licensed nurse who is a member of a compact state. In other words, the nurse's privilege-to-practice in NLC-member states other than the nurse's home state will not require pre-approval to practice by the boards of nursing of other member states.

However, the speed and maintenance of a good investigation will be affected by NLC membership. Many of RICO's reviews and investigations begin with information that is furnished to RICO by the BON, like contact or directory information, licensure status information, prior public history or records of discipline, education and credentialing information, and even correspondence from the nurse too. The bare minimum required to commence a good investigation, therefore, is key directory information to assure, consistent with due process requirements, that it is investigating the correct license holder and the correct license number, and that it can reach the correct person to allow them to participate in and defend against the allegations. Currently, the BON obtains the bare minimum directory information (residence address, work address, telephone number, email address) from licensees through the application/registration and renewal process as well as other key information to determine whether the practitioner is still competent to practice, so that if allegations of misconduct surface in Hawai'i, the information can be easily and quickly provided to RICO, as needed.⁶⁵ The BON can also pull and provide to RICO license information from other states from the Nursys database, should a nurse hold licenses in additional states or jurisdictions. Without an

⁶³ Meeting 3

⁶⁴ Meeting 3

⁶⁵ Meeting 3

application and registration process for MSL nurses, none of this information will be readily available to kick-start a prompt and defensible investigation.

Within the three pathways for privilege-to-practice (Figure 8), only applying for licensure with the BON in Hawai'i will ensure a complete and key directory and other information that could bear on an investigation and prosecution. Emergency Proclamations (Eps) do not have standardized requirements for collecting key directory information; however, the process of requiring this information has improved over time. The NLC does require that each state engage in Nursys; however, it does not require that nurses furnish directory information to the BONs in states in which they practice. While there may be a complete registry of information, resources may be needed so that the BON can verify the accuracy of the information and provide it to RICO if needed for an investigation. Similar challenges may exist within the environment of an MSL should RICO not have whole or accurate key directory information for nurses who are subject to RICO attention.

NCSBN provided clarifying information that if a party state is acting against a nurse who has permission to practice for a violation that occurred in their state and that party state is opening an investigation, the state uses the nurse's contact information in Nursys and follows their normal due process provisions. This is the same process of using Nursys as if the MSL were a home state licensee of the state. For sending legal documents, the address of record would be used which would have been what was listed in Nursys by the home state. If a party state is acting based on action taken in another party state (i.e., reciprocal action), the state uses the contact information in Nursys to provide notice to the nurse that reciprocal action has been taken.

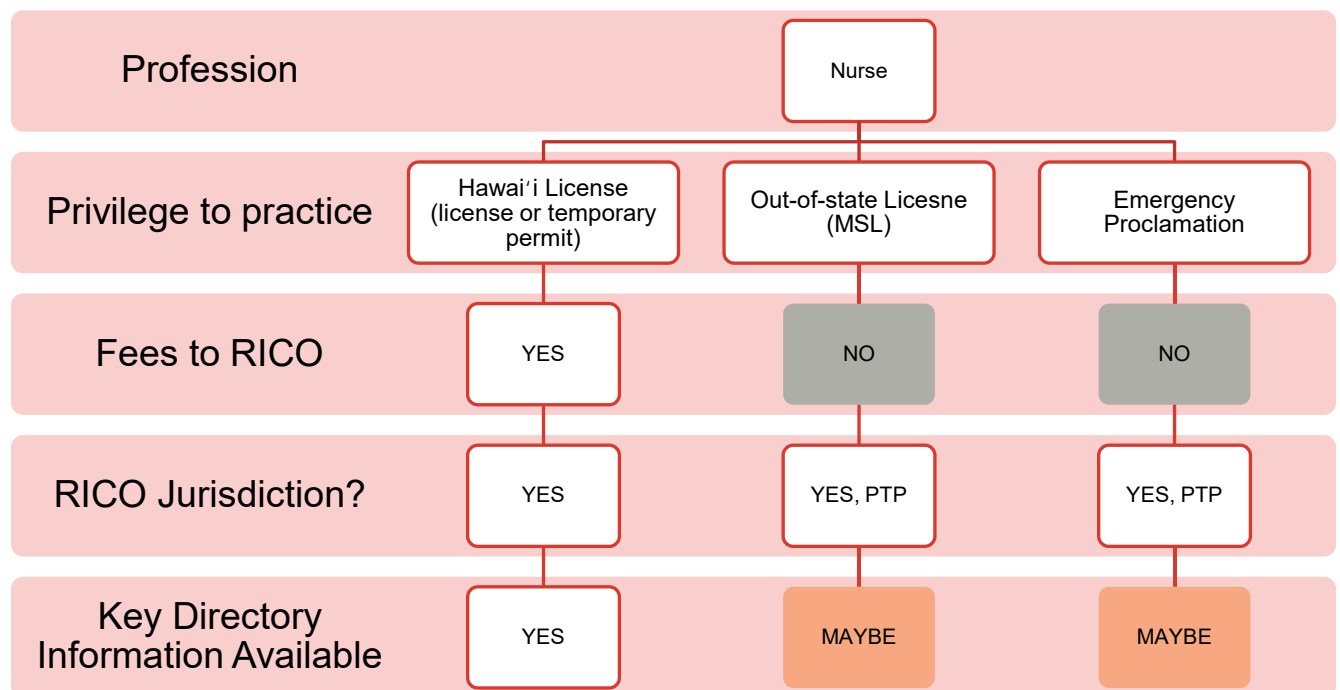


Figure 8 Jurisdiction, Fees, and Key Directory Information by Privilege-to-Practice Pathway.

RICO provided the example of an unintended consequence of not having current and reliable directory information, which is the minimum required to start an investigation. During the COVID-19 pandemic, successive emergency proclamations (EPs) were issued by the Governor requiring certain healthcare facilities to maintain a registration form that listed the nonresident practitioner's legal name, profession, and healthcare entity that the practitioner was working at. These lists were shared with the BON. The BON, however, did not have information related to legal, proper, or former names, home state licensing information, or any address/contact information for the worker so that, in March 2022 when the EPs expired, potentially thousands of healthcare workers, including nurses, may have been present and practicing in Hawai'i still, without a Hawai'i nursing license. RICO staff expended 1,250 hours to the exclusion of other work, trying to obtain basic information to ensure procedural due process, including identifying correct persons, identifying correct licenses (out-of-state and in-state), communicating potential charges to the correct license holders, and eventually serving license holders with formal legal proceedings. The incredible effort resulted in inefficiency and stalled investigations of unlicensed activities. Fortunately, subsequent Emergency Rules, adopted in late April 2023, required the collection of more specific information, thus closing the information gap that had previously existed.

The absence of language in the NLC requiring nonresident MSL nurses to register and/or provide identification and contact information to the local BON upon entry into the state will hamper the regulator's ability to meet basic due process requirements. This may impact RICO's ability to accurately and swiftly identify a party and notify them of potential charges so they can be heard, which is called the "Notice and opportunity to be heard" (NOTBH).

Nursing employers across the state willingly provided the BON with a list of nurses they were employing using the waiver option to facilitate the collection of key directory information. They have verbalized willingness to continue to engage in this data reporting should there be a requirement to do so.

Recouping Costs Arising from Investigations

In meeting three (3),⁶⁶ RICO explained that Hawai'i law requires that license/registration fees be paid upfront, including renewal fees. In addition, fines and judgments collected from Hawaii licensees further fund RICO operations. The NLC imposes no license or registration fee on nonresidents practicing in a member state under the privilege-to-practice model.

The NLC does contemplate a cost recovery or recoupment model. In the NLC Model Language (Addendum 3) Article V(a)(6) states: "If otherwise permitted by state law, recover from the affected nurse the costs of investigations and disposition of cases resulting from any adverse action taken against that nurse."

⁶⁶ Meeting 3

However, in practice, this model language may not be as helpful, and in no way can it make up for the potential loss in revenue to RICO noted earlier in this report. The provision refers to applicable state laws, but RICO is not yet aware of a legal provision allowing investigative and “disposition of case” cost recovery for Hawai'i regulatory agencies. If a legal provision exists, it will take time to develop sound guidelines on how to quantify the type of costs that can be recovered to a reasonable degree of certainty. Further, the cost-recovery provision is narrow and is limited to adverse action cases only. The vast majority of complaints do not result in adverse action and most enforcement work occurs pre-adverse action. “Costs” typically do not include attorney time or fees, but effective enforcement requires a significant investment of RICO staff attorney time.

Pursuing cost recovery, as opposed to the surety of receiving license, renewal, and registration fees up front, comes with additional risk. This includes the potential for a nurse to dispute costs, leading to collateral or extended litigation; a nurse's appeal of an adverse action, leading to delayed payment of fines pending resolution of the appeal; and if a regulatory agency is awarded costs, the nurse may not be solvent enough to pay in full. If a solvent nurse chooses not to pay, legal collections work will add further expenses. These include locating the person or debtor, searching for assets in the person's name (property, bank accounts, paychecks for garnishment, etc.), or initiating legal proceedings in a foreign state to enforce against the asset.

Although the NLC has language permitting cost-recovery, for the reasons explained above, cost-recovery at the back end is a far less favorable option to Hawai'i's current practice of funding enforcement through licensure fees paid upfront.

Reductions in revenue coupled with increased costs may reduce the efficacy of investigations and prosecutions as well as delayed work, not just for nursing complaints, but for other alleged violations of licensing laws that are brought to RICO's attention. The fiscal implications for RICO are important. The working group agrees that this agency needs to be fully funded to support its mission of protecting consumers throughout the entire state.

Regulation Under NLC

In Meeting Two (2), Nicole Livanos explained that the NLC is an administrative compact with the NLC Commission, a quasi-governmental and joint public entity of the party states, only having governing authority over the compact itself. As of July 2023, 39 states, Guam, and the Virgin Islands participate in the NLC; Rhode Island and Washington State enacted the NLC during the 2023 legislative session. The NLC Model Act was first drafted and introduced by BONs in the late 1990s. In 2015, the NLC Model Act was amended by BONs with substantial and material changes to modernize the NLC. Because the changes were material and significant, each member state then had to enact the new NLC Model Act to rejoin the NLC.

The NLC facilitates multistate practice while regulation remains with each member state. The NLC Commission facilitates the operations of the compact (i.e., rule-making,

providing clarifying statements, etc.) and serves as a conduit to make the existing structures collaborate and correspond, like Nursys. The Commission acts as the instrumentality of the party states, includes representation by each party state, and meets annually, with meetings proceeding open to the public. In addition, the Commission retains the ability to convene closed, nonpublic meetings to discuss confidential matters; and prescribe by majority vote, governing bylaws or rules.

In addition, the NLC Commission has specific authorities and responsibilities to ensure the functioning of the NLC:

- Promulgate rules to facilitate implementation and administration of the NLC;
- Bring and prosecute legal proceedings or actions in the name of the Commission,
- Borrow, except for contract for services of personnel, or hire employees, and elect or appoint officers to carry out the purpose of the NLC;
- Maintain fiscal policies and procedures to ensure fiscal solvency;
- Maintain immunity, defense, and indemnification so long as the individual's action was not intentional, willful, or wanton misconduct;
- Defines the Commission's role in oversight, dispute resolution, enforcement, effective date, withdrawal, amendments, construction, and severability.

The NLC is not in the business of issuing licenses or regulating licensees. Individual states retain autonomy on the state level related to issuing SSL and MSL as well as defining to scope and standards of practice, disciplinary criteria, BON composition, etc.⁶⁷ However, individual states must conform to the NLC to participate in the NLC.

To join the NLC, a state must enact the NLC Model Act with no material deviations. Joining the NLC cannot be done by executive order or administrative action. Implementation of the NLC may be different depending on the state's Information Technology systems and any additional elements added to the legislation. States may choose partial implementation during the implementation stage. Washington chose to enact NLC and nurses from all NLC states may practice in the state while the state is in the process of implementation and changing their system to start issuing MSLs. Allowing NLC nurses to practice in the state during partial implementation helped with hotspots and nursing shortages during the COVID-19 pandemic. Some states wait until NLC is fully implemented before accepting multistate licenses.

Per the NLC Model Act (Addendum 3), a participating state must:

- Pay the \$6,000 annual membership fee from each part state
- Issue a multistate license to practice (Article IIIa, Article IV)
- Implement procedures for considering the criminal history records for initial applicants of MSL or MSL by endorsement (Article III(b))
- Require the 11 URLs (Article III(c))

⁶⁷ Meeting 2

- Take adverse action against a nurse's out-of-state MSL and promptly notify the administrator of the coordinated licensure information system. The administrator shall then promptly notify the home state. (Article III(c), Article V)
- Participate in the coordinated licensure information system (Article VI)
- Join the Interstate Commission of NLC Administrators (Article VII)
- Assign one administrator (head of the state licensing board or designee) (Article VII(b))

Importantly, “No amendment to this NLC shall become effective and binding upon the party states unless and until it is enacted into the laws of all of the party states”.⁶⁸ Limitations on states, if NLC is enacted, is that party states cannot amend the Model Act. Given the contractual nature of compacts, states must enact the NLC without material deviation.

No state may unilaterally alter the compact. The NLC Model Act is enacted into state statute. If a state amends the NLC Model Act, it is changing provisions of the compact that other compact states did not agree to or enact into their laws. Therefore, that state would not be participating in the same compact as the other jurisdictions.

However, NCSBN clarified in Meeting two (2) that statute changes outside of the NLC Model Act may be made for states to enable or conform to the implementation of the NLC. Enabling language provides clarifications, like defining who the administrator of the compact will be. Conforming language ensures the privilege-to-practice under the MLS equates to the licensure for appropriate provisions. For example, Alaska made a conforming change by changing terminology in another statute to read “‘health care provider’ means a licensed nurse or holding a multistate licensure privilege.”⁶⁹ NCSBN provided examples of Enabling and Conforming Language (Addendum 6).

A review of the Hawai‘i Revised Statute (HRS) was not completed by this working group to determine if a comprehensive revision of references to licensed practical nurses (LPN), registered nurses (RN), or licensed nurses is needed. However, the Hawai‘i State Center for Nursing is currently undertaking an HRS review for statutes that may use profession-specific terminology that may impose undue restrictions on the scope of practice. The 2023 Healthcare Provider Barriers to Practice Law Review Report⁷⁰ details findings from 180 statutes reviewed out of a total of 530 statutes the Center identified for review.

To exit, any state may withdraw from the NLC by enacting a state statute that repeals the statute that enacted the NLC. States enter and exit the NLC in the same way – by enacting state legislative statutes. Withdrawing from the NLC cannot be done by executive order or administrative action. A party state’s withdrawal shall not take effect until six (6) months after enactment of the repealing statute.⁷¹

⁶⁸ Nurse Licensure Compact Model Act (Addendum 3, Article X(f)).

⁶⁹ Meeting 2

⁷⁰ Hawai‘i State Center for Nursing. (2023). Healthcare Provider Barriers to Practice Law Review. Retrieved from: <https://www.hawaiicenterfornursing.org/wp-content/uploads/2023/10/Healthcare-Provider-Barriers-to-Practice-Law-Review- FINAL.pdf>

⁷¹ Nurse Licensure Compact Model Act (Addendum #, Article X (c)).

Data Collection

Requirements that are not material deviations from the NLC Model Act can be made a condition of employment. In meeting two (2),⁷² Nicole Livanos of NCSBN informed the Working Group that some states have included as part of their NLC enacting legislation the requirement to gather valuable nursing workforce data or ensure nurses have specific competencies. Because of the contractual nature of the compact, states cannot unilaterally condition a nurse's multistate privilege-to-practice. However, these can be made a condition of employment. For example, a state may require employers to report nurses with MSLs they hire, states can make it voluntary for MSL holders with primary state of residence (PSOR) outside of that state to report to the BON that they are working in the state (i.e. Kansas and Louisiana), and reporting conditions can be placed as a condition of employment (Washington, Rhode Island, and Louisiana). Should Hawai'i adopt the NLC, Hawai'i BON would need to work with other state entities like the Department of Health to coordinate the adoption and implementation of any new requirements.

NCSBN notes that tools like eNotify are available to assist with collecting and reporting data to ensure NLC party states are fully informed about MSL nurses practicing in their state.⁷³ All BONs participate in eNotify for RNs and LPNs so no information gaps between states. They report that eNotify allows institutions to receive automated license and discipline notifications of their enrolled nurses. Institutions would receive an alert that an adverse action has been taken against a licensee they employ. eNotify may also be used by nurses to keep up-to-date with their licenses (i.e. renewal deadlines, status of various licensures, etc.).

Key Directory Information Collection Strategies

NCSBN provided that Louisiana Act 557, Session Laws 2018, SB 202 added language directing the Board of Nursing and Board of Practical Nurse Examiners to develop a reporting system to collect data from employers on RNs and LPNs in the state practicing on a multistate license as well as develop a voluntary reporting system for nurses.⁷⁴ The language reads as follows:

⁷² Meeting 2

⁷³ Meeting 2

⁷⁴ NCSBN Follow Up Questions (Addendum #)

Louisiana Act 557, Session Laws 2018, SB 202

(2) Develop a reporting system to collect aggregate data from employers on the number and geographic representation of nurses and licensed practical nurses employed in Louisiana who are practicing nursing or licensed practical nursing pursuant to a multi-state license as determined by the respective licensing board in properly promulgated rules. The report shall be completed prior to a nurse or licensed practical nurse furnishing any nursing services in this state. Failure of an employer to submit this data to the board shall not be a basis for disciplinary action against or restriction of the multi-state license of any nurse or licensed practical nurse.

(3) Develop a voluntary reporting system in which nurses holding a multi-state license under the nurse licensure compact and who engages in the practice of nursing or licensed practical nursing in Louisiana voluntarily provide their addresses and other workforce-related data as determined by the respective licensing board in properly promulgated rules. Failure to voluntarily provide this information shall not be a basis for disciplinary action against or restriction of the multi-state license of any nurse or licensed practical nurse.

Table 10 Louisiana Act 557, SB 202 Session Laws 2018, page 23, line 27 - page 24 line 12⁷⁵

When asked “How is Louisiana collecting information related to nurses in your state?”, Executive Officer Karen Lyon responded that do try to use Nursys, but that has not been a particularly easy repository. Because nurses are coming in under a privilege-to-practice and not a license if they have an MSL, we rely on the organization. Lyon explained that eNotify is within the Nursys system that individual nurses can sign up for. When the NLC was first instituted in Louisiana, they went to statewide nursing organizations because employers can register all of their nurses who have an MSL institutionally. The employers then keep a spreadsheet. All they have to do is add a nurse that comes in that has an MSL to their list. It helps them track as well, to track their nurses to make sure that they have a current license.

She notes that employment data doesn't necessarily capture where a nurse is working unless the nurse reports to eNotify. Louisiana does not require nurses to report to eNotify. She clarified that with enacting the NLC the data sourced from other kinds of employment databases is not necessarily going to reflect the NLC licenses. Unless a compact state enacted an addition to the compact rules that say they want at least those nurses to notify them, there's no easy way for state boards to track that except through eNotify.

During Meeting four (4) Zennia Pecina and Kevin Hitosis of the Guam Board of Nursing noted that when Guam implemented the NLC, one of the concerns was how to track nurses with MSLs. They took a proactive approach and worked directly with institutions like our local and private hospitals, clinics, and so forth that employ nurses. Guam also discussed the NLC and how to track MSLs since they don't report to the Board. So what

⁷⁵ Louisiana State. (2018). Louisiana Act 557, SB 202 Session Laws 2018. Retrieved from: <https://www.legis.la.gov/Legis/ViewDocument.aspx?d=1102938>

Guam BON has employers doing is when employers do recruit a nurse with an MSL, they have the nurse go into Nursys to register, and every quarter they report all the nurses with MSLs from their institutions.

Alison Bradywood, Executive Officer of the Washington State BON added that they also are collecting demographic data for the same reasons, but annually. It's important to think about how to measure that mobility for ourselves as well.

In Washington State, a unique approach was used to pass the NLC—the state required that employers must report any MSL holder in their facilities. Those include acute care, ambulatory surgery centers, long-term care, adult family homes, and behavioral health hospitals, primarily. Includes nursing pools and travel agencies. Encouraging employers to use the employer side of Nursys for the dashboard for oversight of their employed nurses and being clear about that shared ownership of licensure oversight. The requirement is that employers must report nurses who hold an MSL issued by a state other than Washington within 30 days of employment and attest that those employees have also completed the required demographic data surveys and training. The language reads as follows:

Washington SSB 5499

(1) Beginning September 1, 2023, and annually thereafter, individuals that hold a multistate nurse license issued by a state other than Washington and are employed by hospitals licensed under this chapter shall complete any demographic data surveys required by the board of nursing in rule as a condition of employment.

(2) Individuals that hold a multistate nurse license issued by a state other than Washington and are employed by hospitals licensed under this chapter shall complete the suicide assessment, treatment, and management training required by RCW 43.70.442(5)(a) as a condition of employment.

(3) [Facility or employer] shall report to the board of nursing, within 30 days of employment, all nurses holding a multistate license issued by a state other than Washington and an attestation that the employees holding a multistate license issued by a state other than Washington have completed the tasks required under this section as a condition of employment.

Table 11 Washington Nurse and Employer Reporting Example⁷⁶

Note: This language appears across sections 24 – 30 of the bill because each section concerns a different type of healthcare facility or employer. “[facility or employer]” is used for example purposes herein.

In Washington, reporting is mandatory for employers and regulated by their surveying bodies. Those surveying or regulatory bodies are ensuring compliance with this requirement. When they go into a facility for a survey, they would request for licensure of all the nurses as usual, and they would ask for a demonstration that they've completed the multistate attestation. For the employer, the multistate attestation is just to say “All of my MSL nurses have completed the demographic survey and the

⁷⁶ Washington State. (2023). Washington SSB 5499. Retrieved on November 11, 2023 from: <https://lawfilesexternal.wa.gov/biennium/2023-24/Pdf/Bills/Session%20Laws/Senate/5499-S.SL.pdf?q=20230726101007>

education.” How they determine that is up to the employer, whether they just asked their nurses or they want a certificate of completion. A certificate of completion can be provided but it’s on the employer to demonstrate compliance. The “teeth” of it are with the enforcement of the facility certification.

Implementation Experiences from Other States or Jurisdictions

Several states were invited to comment on their utilization of the NLC and how they used conforming or enabling language to help implement the NLC.

In meeting four (4), Louisiana Board of Nursing Executive Officer Karen Lyon notes that NLC helps the most with telehealth. She notes that if you are in a state surrounded by other states, there are so many nurses working in one or more other states while residing in their PSOR. Nurses didn’t realize they were providing telehealth for their patients who drove four hours down the road to a facility in another state then they made a telephone call with their patients to talk about their care, how they were doing, or changing medications. They were doing telehealth but did not have a license to practice in the other state.

Lions also noted that in terms of emergencies like COVID, they had the NLC but didn’t need the NLC for two and a half years because Governor Edwards declared an emergency and he allowed any nurse with an active unencumbered license from any state in the country and jurisdiction to come to Louisiana. Emergency healthcare orders help a lot. But if you don’t have a governor who does that, nurses who have MSLS and the privilege-to-practice in your state are very helpful.

She notes that nursing workforce supply and demand studies are done through the Center for Nursing. The Center for Nursing relies on organizations to answer them and strong community partnerships as well as two positions on the BON for nurse administrators are facilitators for favorable survey responses.

During Meeting four (4) Zennia Pecina and Kevin Hitosis of the Guam Board of Nursing stated that the demand for the adoption of the NLC grew out of necessity. They had to modernize their entire infrastructure within the health licensing office and meet growing demands given their location in the Pacific region. At the time, Guam was struggling with the slow processing of licenses. Jim Puente of NCSBN brought up the idea of ORBS as a solution to that problem. Guam was having issues regarding nurses in Guam leaving the island and having difficulty tracking them to follow them for any violation of their Nurse Practice Act. Guam had concerns about military spouses who were not able to practice in Guam and were concerned about losing their skills because they were living in other countries such as Japan or Korea, so wanted to update their skillsets in the closest US jurisdiction.

In 2021, Bill 1336 was introduced. There was opposition from among the public, some nurses, particularly those in academia, who were concerned that new graduates would be leaving the island for better compensation in other jurisdictions. The requirement to adopt the NLC was written into the draft legislation, mandating that BON submit an annual report and quarterly report to the legislature that would include licensure fee

revenues and annual operating expenses. The bill passed and was signed into law. As a result of adopting the NLC, even though it is partially implemented, BON was offered to utilize the Optimal Regulatory Board System (ORBS). ORBS has helped tremendously in regards to issuing licenses. In June 2023, Guam finally launched its online application. Before ORBS, processing time was 2-4 weeks, similar to other states. With the implementation of ORBS for SSLs, Guam is accepting MSLs from off-island but hasn't yet produced MSLs for local nurses. Because of the implementation of the NLC, Guam is seeing 10%-20% of its workforce with MSLs. Zennia noted that NLC is particularly helpful for private companies since they have access to a larger pool of qualified nurses and noted that it is important for BON to work closely with employers. Employers are reaching out and quickly hiring nurse applicants with MSLs.

Regarding Washington State's passage of the NLC, Allison Bradywood, the EO of the Washington BON states Washington was the 40th state to engage in the compact and is currently in the implementation plan. They defined implementation as Phase One (1) and Phase Two (2). Phase One (1) is accepting nurses from other states. Phase Two (2) is issuing Washington's own MSL, which is currently in the rulemaking. Washington worked on this for about 20 years. The last legislative session had a hospital staffing bill introduced that included a nursing ratio committee, and then also the NLC. Washington BON was able to negotiate with the Washington State Nurses Association primarily to incorporate the compact and pass both the compact and the staffing committee bill. The result was a bill that had heavy involvement of staffing committees in the ratios that each organization moves forward but not set ratios for the whole state, and being able to pass the compact.⁷⁷

In Washington State, what's unique about our state's approach to passing the NLC is that we have mandatory reporting by employers for large facilities. Those include acute care, ambulatory surgery centers, long-term care, adult family homes, and behavioral health hospitals, primarily. Includes nursing pools and travel agencies. BON is looking forward to seeing that demographic data and understanding what it looks like. Some early benefits that Washington State is seeing in this employer reporting, which is facilitated by exerted efforts to partner elbow-to-elbow with our facilities through several different webinars and communications, is that the BON is seeing this closer relationship with employers than it had in the past. Encouraging employers to use the employer side of Nursys for the dashboard for oversight of their employed nurses, and being clear about that shared ownership of licensure oversight.

Washington also has suicide education, which is mandated for all nurses within Washington State and includes MSL nurses practicing in Washington under that same expectation.⁷⁸

While Oregon has not implemented the NLC, there was a Department of Justice (DOJ) opinion that was shared, stating they were unsure of the protections if a nurse was providing care in Oregon, that pertained to abortion care or gender-affirming care in

⁷⁷ Meeting 4

⁷⁸ Meeting 4

their state. This is still up for question. Oregon recently passed a bill protecting clinicians who provide care in the state similar to Section 3, SLH, which is what was passed in Hawaii in 2023, so the next DOJ opinion will have to address what that means if Oregon joins the compact and a nurse or nurse practitioner comes from another state.

Concerning the Roe v. Wade and the Dobbs decision, how that decision is impacting states that are in the NLC? Oregon is not a compact state and the discussion was for compact states. However, the conversation was about the Nurse Practice Act of the state that you are in. Now it is how the nurses feel comfortable with that and how the states will address it.⁷⁹

Hawai'i State Department Response to Data Collection

At meeting six (6), three state departments commented on their engagement in healthcare or workforce data collection. Lorrin Kim, Hawai'i State Department of Health does general surveys for overall workforce development in rural areas, but they don't get down to an individual specific name or credential per se, it's more surveillance. The Department of Health licenses facilities. Individuals are left to credentialing policies either from their licensing boards, from the Joint Commission, or from other external accreditation entities.

Director Jade Butay, Hawai'i State Department of Labor and Industrial Relations (DLIR), and Maricar Pilotin-Freitas, DLIR Workforce Development Division, and Workforce Development Council responded that in regards to licensure, DLIR would have to defer to DCCA, the agency for issuing those licensures to the healthcare industry. In regards to employers, DLIR would defer to DBEDT. DBEDT sends out surveys to gather the Bureau of Labor Statistics (BLS) data that are published online.

Jeri Sato, Hawai'i State Department of Business, Economic Development, and Tourism, Research and Economic Analysis Division (READ) responds that all of the READ programs are under the Labor Research Branch under the Research and Economic Analysis division under DBEDT. All DBEDT READ funding is federal funding and there are specific targeted survey programs. In any industry, the scope of our work is specifically the BLS-funded programs.

Chelsea Fukunaga, Executive Officer of the Hawai'i BON states the BON does not have the authority to require an employer to use eNotify. Further, BON does not have the authority to require an employer to report anything.

Conclusion

- The NLC only establishes a minimum requirement for authority to practice to acquire an MSL, it does not align or standardize all nursing license qualifications or scope and standards of practice across states.
- To join the NLC, a state must enact the NLC Model Act with no material deviations. Joining the NLC cannot be done by executive order or administrative action.
- Individual states must conform to the NLC in order to participate in the NLC.

⁷⁹ Meeting 4

- Regulation of the nurses by the BON includes determining licensure qualifications, as well as determining the scope and standards of practice and qualifications for encumbrance of a nurses' license. The scope and standards of nursing practice differ across states.
- BON currently collects critical directory and other information from licensees, and vets the information too, through the registration and renewal process, and the info is provided to RICO for enforcement purposes should misconduct allegations arise.
- There is no standard process NLC provides to ensure nonresident nurses working under an MSL register or become known to the state while working in the state. Some states have identified options to collect nurse information either under the BON or other entities.
- NLC provides a mechanism for BON and RICO to have jurisdictional oversight of nurses who are practicing in their state under an MSL from a different state.
- Related to the jurisdiction of RICO specifically, RICO anticipates few if any problems with NLC membership because jurisdictional conduct is automatic if nurses have an MSL from a compact-member state.
- The absence of a direct application and registration requirement with the BON, however, and the absence of fees received by regulators upfront, could hamper efficient and effective enforcement efforts against nurses working in Hawai'i under a practice privilege who engage in misconduct.
- Enabling language described by NSCBN as used in other states includes adding "or multistate license" to references to nurses; a review was not completed by this working group of the breadth of these types of references, nor the need to revise these statutes.
- Shifting the responsibility of collecting and reporting demographic and licensure data from the nurse to the employer may result in shared responsibility between the employer and regulatory agencies, but it requires a lot of education, relationship building, and structures to implement.
- Technology can improve the efficiency and effectiveness of data collection and licensing processes.
- Loss of information related to Key Directory Information has been attempted to be recovered in other states by use of mandatory or voluntary reporting. States report differing approaches, most commonly requiring employers to collect directory information and report it into eNotify.
- A review of state departments shows though many departments routinely collect healthcare, employee, or licensure information, the pathways used in other states do not exist in Hawai'i and therefore would need to be developed.
- Building strong relationships with nursing associations, unions, and employer associations is key to successful legislative efforts and smoother adoption of new rules and regulations.
- NLC is most advantageous for employers, particularly private entities, and for nurses planning to engage in telehealth.

(5) Disciplinary actions taken against a nurse with a multistate licensure privilege;

Hawai'i Disciplinary Action Process

In Hawai'i, the key statutory and administrative rule provisions that address disciplinary actions that may be taken against nurse licensees are:

- HRS §436B (model licensing act);
- HRS §457-12 (nurse misconduct provisions);
- HAR §16-89-59 (unprofessional conduct, defined); and
- HAR §16-89-60 (types of unprofessional conduct).⁸⁰

PART V. LICENSING SANCTIONS

§436B-18 Disciplinary action. In addition to the licensing sanctions or remedies provided by section 92-17 against any licensee, the licensing authority may also impose conditions or limitations upon a licensee's license after a hearing conducted in accordance with chapter 91. The violation of any condition or limitation on a licensee's license may be cause to impose additional sanctions against the licensee. Unless otherwise provided by law, any fine imposed by the licensing authority after a hearing in accordance with chapter 91 shall be no less than \$100 for each violation, and each day's violation may be deemed a separate violation. [L 1991, c 111, pt of §2]

Table 12 HSR §436B-18 Disciplinary Action. 81

⁸⁰ Meeting 3, RICO presentation

⁸¹ Hawaii Revised Statutes. §436B-18 Purpose. Retrieved on November 06, 2023, https://www.capitol.hawaii.gov/hrscurrent/Vol10_Ch0436-0474/HRS0436B/HRS_0436B-0018.htm

§436B-19 Grounds for refusal to renew, reinstate or restore and for revocation, suspension, denial, or condition of licenses.⁸² In addition to any other acts or conditions provided by law, the licensing authority may refuse to renew, reinstate or restore, or may deny, revoke, suspend, or condition in any manner, any license for any one or more of the following acts or conditions on the part of the licensee or the applicant thereof:

(9) Conduct or practice contrary to recognized standards of ethics for the licensed profession or vocation;

(10) Violating any condition or limitation upon which a conditional or temporary license was issued;

(11) Engaging in business under a past or present license issued pursuant to the licensing laws, in a manner causing injury to one or more members of the public;

(12) Failure to comply, observe, or adhere to any law in a manner such that the licensing authority deems the applicant or holder to be an unfit or improper person to hold a license;

(13) Revocation, suspension, or other disciplinary action by another state or federal agency against a licensee or applicant for any reason provided by the licensing laws or this section;

(14) Criminal conviction, whether by nolo contendere or otherwise, of a penal crime directly related to the qualifications, functions, or duties of the licensed profession or vocation;

(15) Failure to report in writing to the licensing authority any disciplinary decision issued against the licensee or the applicant in another jurisdiction within thirty days of the disciplinary decision;

(16) Employing, utilizing, or attempting to employ or utilize at any time any person not licensed under the licensing laws where licensure is required; or

(17) Violating this chapter, the applicable licensing laws, or any rule or order of the licensing authority.

Table 13 Excerpt from HRS §436B-19

In addition to the above, RICO notes that HRS section 457-12 sets out grounds for disciplinary action. More specifically, the BON shall have the power to deny, revoke, limit, or suspend any license that was issued by the board, and to fine or otherwise discipline a licensee for any cause authorized by law.

⁸² Hawaii Revised Statutes. §436B-19 Purpose. Retrieved on November 06, 2023, https://www.capitol.hawaii.gov/hrscurrent/Vol10_Ch0436-0474/HRS0436B/HRS_0436B-0019.htm

Disciplinary Action Under NLC

Should Hawai'i adopt the NLC, the Hawai'i BON would retain authority over the scope of practice for nurses licensed in Hawai'i, as well as the authority to discipline a nurse's license?⁸³ However, the NLC also provides disciplinary authority to a lesser extent over nurses licensed by party states in that it establishes requirements for NLC participating states in terms of reporting and action against licenses, it establishes expectations of the nurse with an MSL, and it requires utilization of the coordinated licensure information system and defines the exchange of information.⁸⁴

In Meetings two (2) and eight (8), NCSBN described the regulatory oversight and disciplinary process under the NLC as follows: The Primary State of Residence (PSOR) is the state that issues the MSL for a nurse. The PSOR retains authority over all its licensees, including MSL. NLC has a disciplinary process that respects the authority of the PSOR over a nurse's license yet provides investigatory and enforcement options for non-PSOR party states.

In the instances where a complaint or investigation against an MSL in an NLC party state occurs, the NLC party states (NLC states outside the PSOR) can determine whether a nurse has privilege-to-practice in their state but cannot revoke a nurse's license; only the PSOR has disciplinary authority over a nurse's license. As soon as a PSOR starts an active investigation, NLC states are allowed to share information about investigations that may not otherwise be available to the public.

Starting an investigation and actively investigating a complaint itself **does not** encumber the MSL, because an encumbrance would then shut off the PTP in all states. For due process reasons, the PSOR can only encumber the license by taking an adverse action – which could be a more 'immediate' action such as an emergency suspension/revocation, or an adverse action after the investigation is concluded and action is recommended. Nicole Livanos describes the PSOR state options upon receiving a complaint as either:

1. Determine that the matter qualifies for emergency suspension or revocation
 - a. Result: MSL is encumbered so it's turned off, no PTP in any party state, PSOR may keep SSL active if they want (likely not), and party states may issue SSL to individuals upon application
- OR
2. Continue with the investigation in a normal manner
 - a. Result: if adverse action is taken, MSL is encumbered so it is turned off, no PTP in any party state, PSOR may keep SSL active if they want, and party states may issue SSL to individuals upon application

During the investigation, "the issuing authority [of any subpoenas] shall pay any witness fees, travel expenses, mileage and other fees required by the service statutes of the state in which the witnesses or evidence are located", and "recover from the affected

⁸³ Meeting 3

⁸⁴ Nurse License Compact Model Act (Addendum #).

nurse the costs of investigations and disposition of cases resulting from any adverse action taken against that nurse.”⁸⁵ Findings of the investigation, as well as actions taken by the investigating party state, are shared with all NLC states. PSOR compact states have broad discretion whether to act against a nurse’s license, including taking reciprocal action on that nurse’s privilege-to-practice in other states. Just as a PSOR has the authority to decide to act against a nurse’s license, party NLC states also have the authority to decide to act against a nurse’s privilege-to-practice in their state. Any actions that can be taken against a license, from a letter of reprimand up to permanent revocation, can also be taken against a privilege-to-practice. “For purposes of taking adverse action, the home state licensing board shall give the same priority and effect to reported conduct received from a remote state as it would if such conduct had occurred within the home state. In so doing, the home state shall apply its state laws to determine appropriate action.”⁸⁶

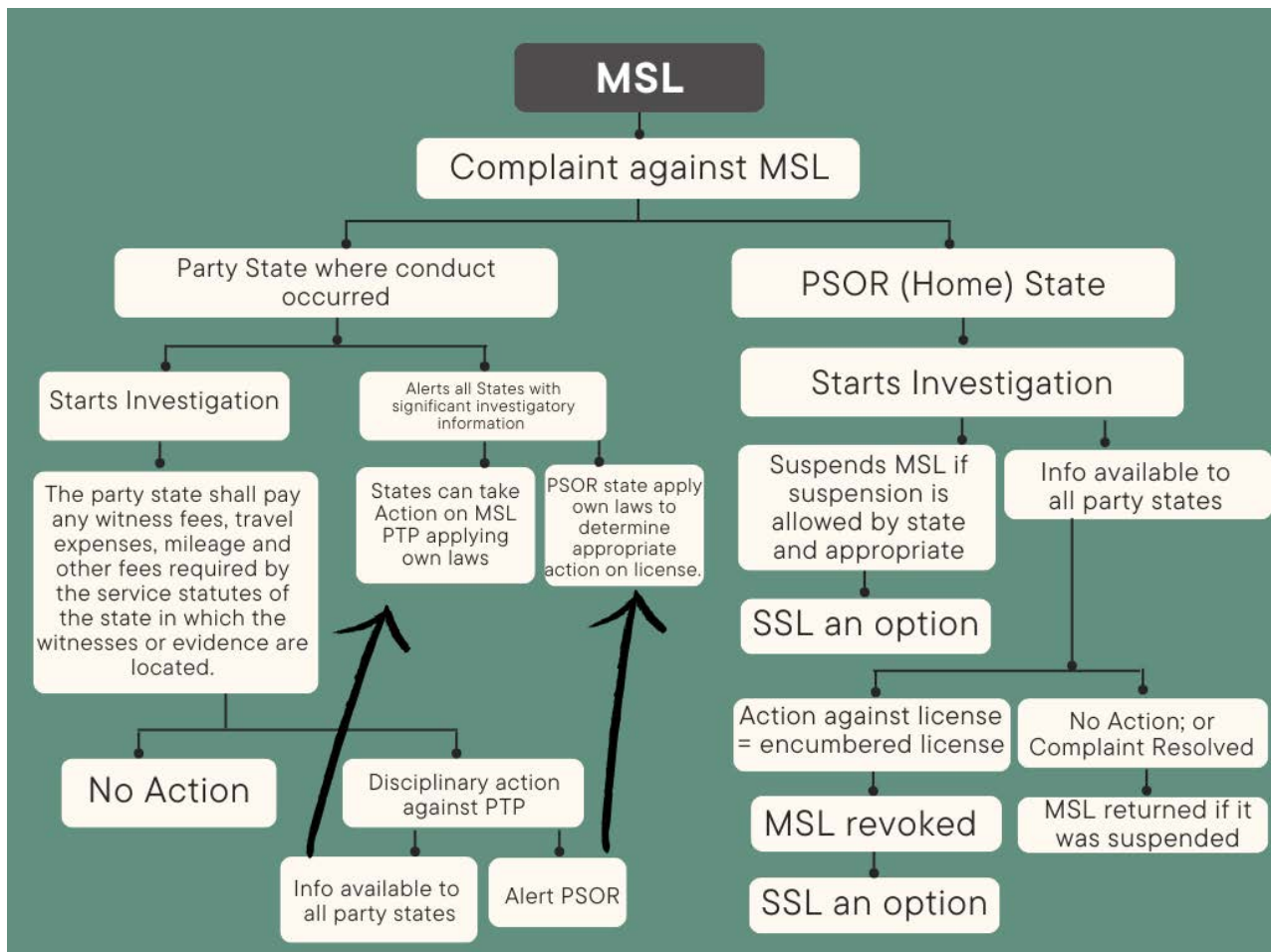


Figure 9 Disciplinary Action Process for MSL Holder

⁸⁵ Nurse License Compact Model Act (Addendum #, Article V(a)(4)).

⁸⁶ Nurse License Compact Model Act (Addendum #, Article V(a)(1)(ii)).

Though this process has safeguards, including the use of technology, to expedite communication across NLC states to alert action related to a nurse licensee with loss of privilege-to-practice or MSL, there are also risks. Potential conflict of laws between compact states poses a very real concern. States may incur outsized costs due to their investigative process, because of the requirements stated in the NLC model act with no guarantee of recovery of the costs from the nurse. States with delays in starting or completing investigations may either delay encumbrance on the privilege-to-practice in other jurisdictions or place undue restraint on the MSL privilege-to-practice from elongated investigation timelines. Further, although any state can revoke MSL privilege-to-practice once a party state has initiated an investigation or imposed disciplinary action, it is unclear how a state would know if a nurse whose MSL privilege-to-practice is revoked for privilege-to-practice is in the state.

The Hawai'i BON has statutory authority in the jurisdiction and regulatory oversight of nurses in the state. Hawai'i's practice rules are more advanced than other jurisdictions, which will likely lead to conflicts of law.⁸⁷ Hawai'i also would not have a mechanism to maintain a directory of nurses working in the state. Therefore, to operationalize this function in Hawai'i, the Hawai'i would either need to review each case in which there is investigation or action taken against an MSL privilege-to-practice to ensure the infraction is relevant to Hawai'i law, or it would need to indiscriminately prohibit each MSL holder with complaint or infraction against the MSL privilege-to-practice.

Per NCSBN, should an action against a nurse's MSL privilege-to-practice in Hawai'i, Hawai'i would follow its established notification process to communicate to the nurse. Director information through Nursys would be the mechanism to attain the contact information to communicate with the nurse. Specifically, NCSBN commented that if an MSL has action taken against a privilege-to-practice in a party state and the licensee is enrolled in eNotify, will they receive notification through eNotify of the disciplinary action against the privilege-to-practice. If the same licensee is enrolled by an employer in eNotify, the employer would receive that information as well.

Relative Risk of Disciplinary Actions

Nursing is a well-trusted profession, discipline is uncommon. Analysis has found negligible differences between MSLs and SSLs in terms of discipline.⁸⁸ This research by Zhong found virtually no difference between MSL (0.23%) and SSL (0.24%) disciplinary rates. Differences may be due to the ULR threshold of additional requirements to obtain an MSL.

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⁸⁸ Zhong, E. H., Martin, B., & Alexander, M. (2022). A Comparison of Discipline Between Nurses Holding a Multi- or Single-State License. *Journal of Nursing Regulation*, 13(1), 22–26. [https://doi.org/10.1016/S2155-8256\(22\)00030-8](https://doi.org/10.1016/S2155-8256(22)00030-8)

When considering how are nurses held accountable and the public is kept safe when issuing temporary licensure waivers or reciprocity policies, the distinction should be made that these two options are waiving licensure altogether. NLC provides for patient safety elements and processes. Under NLC is clear that you can take any disciplinary action that you would otherwise take against a licensee in the state to protect the public. In contrast, a 2022 article in the Journal of Nursing Regulation highlights public safety concerns about temporary licensure waivers and reciprocity policies, highlighting the threat to public safety through the issuance of executive orders waiving licensure requirements. New York BON determined that it did not have jurisdiction to act against a Missouri nurse who practiced in New York during COVID because the state waived the licensing requirement and did not grant authority by actual license. This demonstrated that even though the temporary licensure waivers under EPs had the best of intentions, having a permanent solution in place in times of emergency, crisis, or disaster, the NLC allows for maintaining public safety while also addressing the needs of the disaster or emergency.⁸⁹

Waiving licensure in any set of circumstances is a threat to public safety. NLC may help address healthcare needs in an emergency while still maintaining the health and safety of the public.⁹⁰ However, the absence of language in the NLC that requires nonresident privilege-to-practice nurses to register or provide identification and contact information to the local BON upon entry into the state will hamper regulators' ability to meet basic due process requirements to accurately and swiftly identify a party and notify them of charges so that they can be heard.⁹¹

Implementation Experiences from Other States or Jurisdictions

During Meeting eight (8), Delaware BON Executive Officer Pamela Zickafoose provided information about the disciplinary process.

Sherry Richardson, Executive Officer of the Tennessee Board of Nursing, described an issue where a multistate license holder required an investigation and how, as the primary state of residence, that issue was received and processed. Each compact state has the authority to investigate a nurse with a multistate license. If their home state is Tennessee, and it's Tennessee's licensee, and that nurse is practicing in Kentucky or Missouri or any other compact state, and there is a reason for an investigation, that state has the authority to investigate and to discipline that multistate privilege-to-practice in that state. Once that happens, if the board of nursing in the remote state chooses to discipline that privilege-to-practice in any way, any kind of discipline from probation up to revoking that privilege-to-practice in that state, once Tennessee gets the message that this has happened, Tennessee will automatically convert that nurse to a single state license because that nurse now has discipline in another state and they are no longer eligible for multistate licensure. So that does protect all the other compact states

⁸⁹ Scheidt, L. (2022). Challenges to Nursing Regulation During the Pandemic: A Case Study. *Journal of Nursing Regulation*, 12(4), 47–49. [https://doi.org/10.1016/S2155-8256\(22\)00012-6](https://doi.org/10.1016/S2155-8256(22)00012-6)

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⁹¹ Meeting 8

because we would switch that nurse to SSL while Tennessee conducts the investigation.

Sherry affirms that the compact states work very well together, the compact law gives us the authority to work together and share this information so that we can be unified in what we do with these folks who have issues. She also notes that Tennessee frequently, if not always, disciplines those nurses who have a privilege-to-practice discipline in another state.

Pamela Zickafoose, Delaware BON Executive Officer, provides two examples of other states acting against our state: In the first example, a nurse in Delaware failed her CE audit. She happened to be a telehealth nurse so she had to get licenses in every state. We just made her do additional CE and maybe a minor fine. While she had disciplinary action against her license, 17 other states acted against our discipline for failing a CE audit. She asserted that by joining the NLC, your law hasn't changed, your state laws still prevail.

In the second example, she shares that she received a call from one of our facilities people, inspectors, and they found a nurse who was working in Delaware who lives in Maryland, and is practicing here on the Maryland privilege-to-practice. The inspector found a nursing error which required filing a complaint. The disciplinary process regarding remote states is that this investigator from out-of-state will now go on our website and file a complaint through the Delaware Board of Nursing against this Maryland nurse. Our investigators take that information, they investigate. They submit their findings to the prosecuting Deputy Attorney General's Office. The Deputy Attorney General's Office will then act against the privilege-to-practice. Delaware BON enters that into Nursys.

She also notes that if the complaint is related to something egregious, her normal protocol is most often to just pick up the phone and call the executive director in that state and say, "We have an issue, this nurse that's licensed in your state is remotely working here, and we're going to take action." She notes that her understanding is that any actions we can take against any license from the Nurse Provider Database (NPDB) from a letter of reprimand up to permanent revocation, including those emergency temporary suspensions, can also be taken against your privilege-to-practice. Once the investigation concludes, we will then act. It'll go into Nursys, Maryland will be notified, and we go from there. She concludes that there are few privilege-to-practice disciplines, annually, and that it is not a major issue.

Conclusion

- Disciplinary procedures are maintained within each state's jurisdiction.
- Once a disciplinary investigation or action is made, the initiating state reports through a national database; alerting all other NLC member states of the action.
- All NLC member states are privy to confidential information related to the case so that they can make determinations on whether they make similar restrictions on privilege-to-practice.

- Only the PSOR, or the MSL holder’s home state, may revoke an MSL license. Should the complaint and investigation happen outside of the PSOR, the PSOR retains their independent authority to discipline the nurse, including revocation of license, per their laws and rules.
- Costs for the investigation are the responsibility of the investigating state.
- States may attempt to recover from the affected nurse the costs of investigations and disposition of cases resulting from any adverse action taken against that nurse.
- Though states may restrict privilege-to-practice, they may not know who is working in their state, leading to challenges in enforcement of the restriction.
- Discipline against privilege-to-practice is relatively uncommon in states sharing their experiences.

(6) Health care workforce research and planning efforts;

National Nursing Workforce Research

During Meeting six (6), Richard Smiley, a representative from NCSBN, talked about his nursing workforce research efforts. He provided the background of the 2022 National Nursing Workforce Survey, which is done as a collaborative partnership with the National Forum of State Nursing Workforce Centers (Forum). Smiley notes that there was an HRSA study that originally began as a national sample survey of RNs that was done every four years from the late 1970s to 2008, consistently during presidential election years. In 2008, the survey was completed then an announcement was made that the survey would be discontinued for lack of funding but widespread receipt of notice didn’t occur until around 2012. In 2013, NCSBN and the Forum scrambled to put a survey of RNs together and into the field. The next survey was in 2015 when LPNs were added. Subsequent surveys were conducted in 2017 and 2020, with the most recent survey reflecting 2022 data which was published in April 2023. Currently, NCSBN is planning for the next survey in 2024. The survey has a pretty good reputation, beginning to be very widely used.

This survey uses a sample of nurses across the country. The analysis is on licensees, not residents by state, and provides a national snapshot, not a state-by-state snapshot. The purpose is “to provide data critical to planning for enough adequately prepared nurses and ensuring a safe, diverse, and effective healthcare system” (s4).

The overall survey findings, as stated in the abstract, include the following:

- “The total number of active RN and LPN/LVN licenses in the United States were 5,239,499 and 973,788, respectively.”
- “The median age of RNs was 46 years and 47 years for LPNs/LVNs, which reflects a decrease of 6 years for each cohort from the 2020 data.”
- “This decline was associated with estimated losses to the workforce of at least 200,000 experienced RNs and 60,000 experienced LPNs/LVNs. An average of 89% of all nurses who maintain licensure are employed in nursing with roughly 70% working full-time.”

- “In the wake of the COVID-19 pandemic, the nursing workforce has undergone a dramatic shift with the loss of hundreds of thousands of experienced RNs and LPNs/LVNs.”
- “Salaries have notably increased for nurses, likely due to inflation and increased demand for nursing services. With a quarter of the population contemplating leaving the profession, the impact of the pandemic may still be felt in the future” (s4).⁹²

State Healthcare Workforce Research

Two representatives from the National Forum of State Nursing Workforce Centers (Forum) during meeting six (6). Janna Bitton, Executive Director of the Oregon Center for Nursing informed the working group that it is really important to talk about the impact of the NLC on nursing workforce research because sometimes when we talk about the NLC because it's a license compact, it's really easy to fall into looking at this from a regulatory perspective and a disciplinary perspective. The result is that NLC considerations overlook the impacts from the workforce planning perspective, which is going to have a lot of implications when it comes to education, policy, employment, and workforce development.

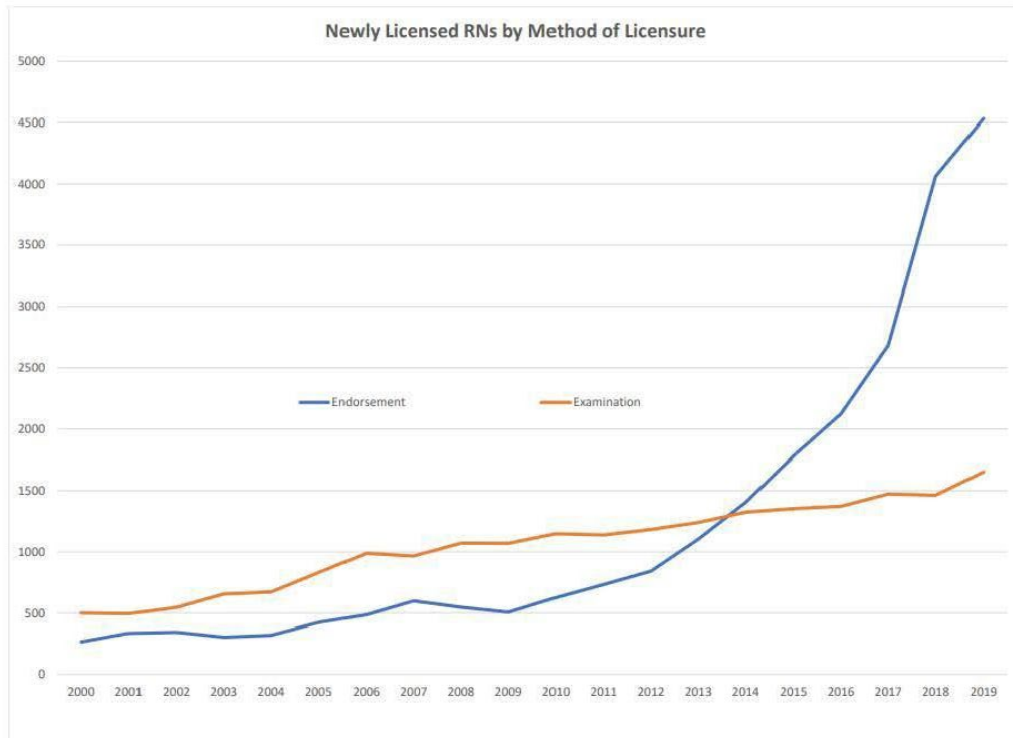
Bitton provided state-specific examples of how workforce planning is understanding what the data is related to nursing in Oregon is always being used by nursing education programs that want to expand and where they can expand. Bitton notes that, for example, the state of Florida has more than 500 different nursing and PN programs. In Oregon, there are less than 32. The variance requires that workforce planning happens at a state level. One of the things that I think is so important about the National Forum. We can see how it's completely different in other states than it is for us.

To appropriately apply workforce data, she notes that understanding the data is important. She provides an example from Oregon, noting that Oregon is not a compact state. As a non-compact state, it doesn't matter where you come from, you have to also get the Oregon license. When the NLC was picking up steam between 2000-2010. The blue lines are the nurses who came into the state through the endorsement process; the red lines are licensure by examination. As the compact was being developed and being tested across the United States, having people crossing state lines and using this endorsement wasn't showing up on the radar. Since then, many more nurses have come to Oregon via endorsement.

She imparts that it is important to know because when we're talking about nurse workforce planning, we need to get an idea of how many nurses are in our state. Are our nurses in the right areas? And how do we make sure that we're providing the health care that Oregonians need where they need it? There's a big difference now between the number of nurses that are coming in from out-of-state compared to the number of

⁹² Smiley, R. A., Allgeyer, R. L., Shobo, Y., Lyons, K. C., Letourneau, R., Zhong, E., Kaminski-Ozturk, N., & Alexander, M. (2023). The 2022 National Nursing Workforce Survey. *Journal of Nursing Regulation*, 14(1), S1–S90. [https://doi.org/10.1016/S2155-8256\(23\)00047-9](https://doi.org/10.1016/S2155-8256(23)00047-9)

nurses that we are able to educate within our state as compared to ten to twenty years ago.



Source: Analysis by the Oregon Center for Nursing, 2020.

Figure 10 Oregon Licenses by Endorsement vs. Examination from, 2000-2019⁹³

Reviewing this licensure data, Janna Bitton notes that it is still difficult to answer the question of how many nurses are in the state of Oregon. Hard to say because of all the different kinds of license types, where they're coming from, whether they're licensed and living and practicing in Oregon, etc. Just as you have in Hawai'i, some people are a resident of Hawai'i who happen to be living in Georgia but they're holding onto their Hawai'i license.

To expand on this point, she then gives an example of how the NLC changes workforce data access using State A and State B. State A is a non-compact state and State B is a compact state. In State A with non-compact, 100 people in that state have residency in that state, so the state knows who they are. But if they're not a compact state, anyone who comes from any other state has to license by endorsement. At the end of the day, when counting how many people are in that state, the total is 125.

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In State B with the compact, the people that are within their residency are known to the state. There might also be people that are in that state, yet reside in another state and have an MSL in that other state. But they will not be counted in State B license counts, their data will be omitted from workforce and licensing data. State B, by workforce and licensing data count, is 100, but they have a little bit more because there are nurses that were omitted from the state's counts.

NLC Implications for Workforce Planning

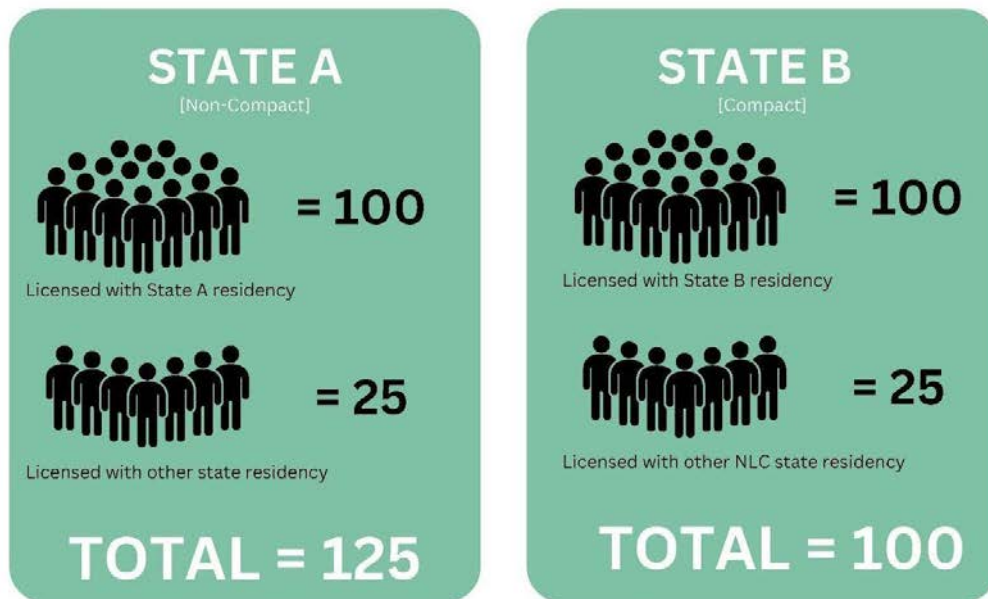


Figure 11 Workforce Supply Counting in NLC vs Non-NLC States⁹⁴

The data that is lost with workforce planning efforts in NLC states are the nurses who work in one state but are licensed in another. It's not that these people aren't counted at all. It is that they are 100% counted, they're counted in each of their states. However, data collection often is not identifiable, and the research methodologies are not 100% the same across states or jurisdictions, so data that one state may have is not transferable to another state.

Rayna LeTourneau, Vice President of the Forum and Executive Director of the Florida Center for Nursing (FCN). In meeting six (6), she shared that her Center for Nursing is similar to Hawai'i. It is headquartered in an academic institution and established in Florida statute. The purpose is to address issues of supply and demand for nursing, including issues of recruitment, retention, and utilization of nurse workforce resources.

She states that to be able to address all of these issues, it's important to use scientifically sound methodology for workforce research.

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Three major goals of the FCN identified by statute: Develop a strategic statewide plan for nursing manpower in Florida, enhance and promote recognition, reward, and renewal activities for nurses in Florida, and convene stakeholders to review and comment on data analysis prepared by the FCN and recommend systemic changes, including strategies for implementation of recommended changes. Rayne notes that it is important to focus on renewal activities because they have to make sure that as they're focusing so much on supply and demand, specifically our pipeline into the nursing workforce, they do not forget retention and how they recognize the nurses that they already have, keeping them wanting to renew their licensure year after year. Like Hawai'i, their stakeholders are within nursing, interprofessional healthcare colleagues, the business industry, lawmakers, and educators, which the Florida Center for Nursing convenes to be able to review and comment on the data presented, evaluated, analyzed, and reported by the Center for Nursing.

Related to nursing workforce supply and demand, the Florida Center for Nursing conducts a biennial gap analysis of the workforce supply and demand utilizing a minimum dataset (MSD) from the Forum. Utilizing that MSD and using variables that are defined by each state workforce entity will help us then be able to compare the data within Florida to the other states, and then to the NCSBN and National Forum's national workforce data. When looking at the supply of nurses, FCN breaks down our licensee data to LPNs, RNs, and APRNs utilizing licensee data from our Board of Nursing. FCN also asks nurses on license renewal to complete the FCN workforce survey. FCN can get self-reported data related to workplace settings, characteristics, and intentions for future work. The HSCN does a similar survey in Hawai'i and also uses the Forum's Supply MDS as well as customized questions developed by the HSCN's nursing workforce researcher.

FCN also engages in demand surveys, which is the work that HAH does in Hawai'i. In previous years, the FCN utilized a methodology in which they would survey the primary nursing employers throughout our state to be able to collect the demand data in the employment data. That was a very successful methodology previously, but as years went on, we started to see a decline in the response rate. The last time that the FCN was able to utilize a survey of employers as the methodology was in 2015. This year, what we did to be able to evaluate the demand of the nurses in Florida is we looked at and evaluated the state and national workforce databases. Florida's Department of Economic Opportunity has college projection reports, a statewide demand occupations list, and online job ads, so we evaluated the data there. FCN also uses the U.S. Department of Labor's BLS (Bureau of Labor Statistics) data, the Occupational Employment and Wage Statistics (OEWS), and BLS demand projections. They looked at the Health Resources & Services Administration's (HRSA) data, the Health Workforce Simulation Model, to be able to get the information that they were seeking and give an idea of the state of the demand for nurses in Florida.

Lastly, FCN evaluates the nursing education programs and we utilize the Forum's Education Capacity MDS to help guide this work. The purpose of the nursing education

program research is to be able to evaluate the capacity of the nursing program student retention, faculty positions, vacancy rates, full-time versus part-time rates, institutional characteristics, and demographic characteristics of faculty and students. HSCN also engages in this research for Hawai'i and uses the Forum MDS in addition to custom questions for Hawai'i.

LeTourneau emphasizes that important to look at the state of the nursing workforce within our state and compare it to U.S. Census and National Workforce data. To be able to help identify the next steps in strategic planning, where to allocate resources, and make sure that policy decisions are evidence-based and data-driven. We have such diversity in the counties and regions within Florida, that it's important to look at the U.S. Census data and compare that to our statewide nursing workforce data at the regional level within Florida and the county level. And again, comparing that to the National Workforce data. Using these three research focal points: supply, demand, and educational capacity, Florida is better able to estimate where it is compared to the rest of the nation and what type of resources can be allocated to gaps.⁹⁵

Hawai'i Nursing Workforce Research

In general, the Center for Nursing is primarily capturing the supply data and HAH is capturing the demand, the number of open positions. The findings from both reports informed Section 1 of this report.

In Meeting six(6), Dr. Carrie Oliveira, the nursing workforce researcher at the Hawai'i State Center for Nursing noted that the Hawai'i Nursing Workforce Supply sample of nurses is the biggest sample of Hawai'i nurses in any available data set about Hawai'i. She asserted that the HSCN must retain control over our data collection mechanism rather than relinquish control to any other entity. Joining the NLC would cause the loss of data from nurses working in Hawai'i on their multistate privilege but that's preferable to losing control over the survey, data, and method. The Center for Nursing's current methodology and process produces more robust and higher-quality data than other national surveys. The impact of that loss of data and loss of control over that data would be significant and extremely negative for the state of Hawai'i.

Data points captured by the HSCN's workforce supply and education capacity surveys as well as HAH's employer surveys are not just supply and demand, multiple data points help to tell a story, formulate solutions, develop programs, and secure funding. Using workforce data to inform workforce projects and policies. It is critical that we have the data to understand both the supply and the demand, that we have the data to pursue solutions, and then secure funding for those solutions.

Estimating Inflow of Nurses Due to NLC Adoption

During Meeting Six (6), Carrie Oliveira confirmed that one thing that is going to be conspicuously missing from the working group's findings is any kind of estimate about the number of nurses that we would expect to see inflow into the state of Hawai'i as a

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result of us joining the NLC. This omission is not strategic, but rather because that data does not exist.

In the current data environment, there is no way to collect those data comprehensively. The data will not end up in one data set. Realistically, NCSBN is in the best position to provide reporting on how nurses migrate across state boundaries when they have a multistate license. However, that sort of capacity is more theoretical than anything else. NCSBN could use eNotify, yet not every nurse is in eNotify, and not every state uses eNotify for the collection of data in the minimum data set. Ultimately, there is no data to talk about what we can expect to come in.

In meeting six (6)⁹⁶ Healthcare Association of Hawai'i (HAH) representatives Janna Hoshide and Paige Choy shared how workforce data is used for workforce planning and how critical data is for workforce development by HAH. Currently, HAH is engaging in a large healthcare workforce development initiative by trying to better understand the demand or the number of open positions against the supply. HAH assesses how many available individuals are within the workforce, looks for the gap between supply and demand, and then develops programs to close that gap. They note that in general, HAH uses both the HSCN's supply report as well as the education capacity report. We evaluate that information against the overall demand data that HAH collects to understand where our biggest gaps in nursing are. From our reports from 2018 to now, the number of open positions for nursing increased from 463 to 999. The majority of those open positions are in hospitals. That's a little bit different from what was reported on the supply side. Knowing that the gap increased, HAT is now looking for solutions to close that gap. The data is critical because it helps us to formulate programs as well as secure funding.

Estimating the Impact of NLC on Hawai'i Workforce

During meeting six (6),⁹⁷ Carrie Oliveira provided the method and conclusions related to estimating the impact of NLC on the Hawai'i workforce. When assessing Hawai'i data for potential workforce implications for Hawai'i's membership in the Nurse Licensure Compact, we don't have a reason to expect a huge inflow of nurses. According to the Hawai'i State Center for Nursing Workforce Supply Survey 2023⁹⁸ findings, 44% of the nurses who hold a registered nursing license in the state of Hawai'i do not live in the state of Hawai'i. These nurses likely came in at one point who may have worked here previously and have left or who are travelers. Nurses who are already licensed in Hawai'i represent a pool of nurses who could be recruited to the state to work without the barrier of licensing but there is no good mechanism to do so.

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⁹⁸ Hawai'i State Center for Nursing (2023). 2023 Hawai'i Nursing Workforce Supply Statewide Data Tables by License. Retrieved from: https://www.hawaiicenterfornursing.org/wp-content/uploads/2023/09/State-Data-Tables-v.Final_.pdf

Next, it is important to assess the potential number of nurses who may remain stable. As it relates to plans for the next 5 years, or by 2028, about 15% of nurses plan to retire or leave the workforce for other reasons. These data suggest that there's generally a pretty good stability in our workforce. This shows that we don't see a whole lot of nurses planning on leaving and there's not a whole lot of nurses who are looking for opportunities elsewhere.

Finally, to conduct a complete analysis of the potential impact of the NLC, the potential for outmigration must be considered. There is a need to draw attention to these nurses who are uncertain about their professional future.⁹⁹ The HSCN 2023 Nursing Workforce Supply survey found that 26% of nurses, particularly in long-term care, are uncertain as to their future (Addendum 09).¹⁰⁰ Using the HSCN survey of nurses' opinions about joining the NLC (Addendum 10) and nurses' responses to how they may use the MSL if it was an option exemplifies the potential for outmigration. For instance, about 25% of nurses who are currently working in long-term/post-acute settings and who are not currently practicing nursing reported that they would use their multistate license to do travel nursing outside the state of Hawai'i (Table 14). In addition, Hawai'i Student Nursing Association representatives talked about was opportunity. The NLC may increase career opportunities by allowing a new graduate nurse could apply for a nursing license in Hawai'i and get that multistate endorsement and they would have more options in their career.¹⁰¹

	Acute Care Hospital	LTC/Post-Acute Care	Home Health/Hospice	Ambulatory	Other Setting	Not Currently Practicing
Travel nursing outside of Hawai'i	18%	25%	15%	9%	15%	23%
Telehealth	25%	19%	30%	32%	11%	14%
Teaching at an out-of-state nursing school	10%	6%	--	6%	18%	23%
Emergency response	28%	19%	15%	18%	15%	5%
Some other use	1%	--	--	9%	15%	5%
Not sure; Just nice to have	31%	31%	40%	26%	15%	32%

Table 14 Nurse Intended Primary Use of an MSL by Current Primary Practice Setting¹⁰²

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¹⁰⁰ Hawai'i State Center for Nursing (2023). 2023 Hawai'i Nursing Workforce Supply Statewide Data Tables by License. Retrieved from: https://www.hawaiicenterfornursing.org/wp-content/uploads/2023/09/State-Data-Tables-v.Final_.pdf

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¹⁰² HSCN (2023). Survey of Nurses: Should Hawai'i Join the Nurse Licensure Compact? Retrieved on September 05, 2023 from: <https://drive.google.com/drive/folders/1EL72MJJsv0dMM7bNa3rBPfLqsGT084V4>

In terms of workforce impact, NLC will give nurses more career options that may result in some out-migration of nurses who are, for whatever reason, dissatisfied with the work environment in Hawai'i. It is extremely unlikely that the compact will cause significant in-migration. It is not the intention of the NLC to resolve nursing workforce shortages. Rather it was designed to remove licensing as a barrier to employment for nurses who already intend to work in another jurisdiction. Unless a nurse already has plans to work in Hawaii, our membership in the NLC will not increase the pool of out-of-state nurses who are likely to work in Hawaii. Therefore, for Hawai'i, the impact on the available workforce is negligible. Hawai'i may get a few but that quantity is not estimable because of the lack of data.

In terms of workforce data impacts, the loss of data about nurses working in the state under an MSL, these are only travelers. In other jurisdictions like Florida and Oregon, they have neighbors, so you see migration across state borders because they share borders with other states. You can live in one state and work in the other. Hawai'i is the most isolated inhabited landmass on the planet. The cross-border effects that other states have commented on will not occur in Hawai'i; there will be no migration across borders. Rather, the impact of the NLC for Hawai'i will be confined to travelers and nurses who hold an MSL who relocate to Hawai'i; both represent very small subsets of the Hawai'i nursing workforce. Therefore, the loss of workforce data from individuals who hold a multistate license is negligible in our attempts to understand the state's nursing workforce as a whole.

The more critical issue is that membership in the NLC may remove control of the nursing workforce survey from the Center for Nursing to eNotify, which a lot of states have gone to. The impact of that loss of data and loss of control over that data would be significant and extremely negative for the state of Hawai'i.

Workforce Planning

A robust and healthy nursing workforce requires nurses of all experience and education levels, a parafait of nursing skills and expertise. A healthy nursing workforce needs new graduates, experienced nurses in new specialties, and experienced nurses to mentor others on the nursing team, as well as work environments that support the workforce. Outside of employment, the cost of living is a driver for nurses, with favorable recruitment in lower-cost-of-living and higher-salary environments.¹⁰³

Short- and Long-Term Employment

Nursing employers and Nursing professional representatives were invited to speak about their short and long-term efforts to support the recruitment and retention of nurses in this state. Themes emerged related to this topic. First, the challenge in recruitment and retention is two-fold: First, Hawai'i does not have enough people. Even when organizations are hiring new grads, there's still a requirement to have a skill mix – the experienced workforce in Hawai'i is depleted and they already have jobs. This requires out-of-state recruitment; you have to get them from somewhere outside of Hawai'i. Second, for employers seeking potential employees, the challenge is recruitment and/or

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licensure that enables recruitment. Whether that is through seeking and securing travel nurses or long-term employees, delays in licensure can sometimes lead to unsuccessful recruitment. The time it takes to hire someone, secure licensing, and then onboard is a barrier whether it's travel nurses or permanent employees is a significant and widespread challenge.¹⁰⁴

Recruitment is constant. If you are constantly projecting needs for the future and continually recruiting then the two (2) to three (3) months it takes for licensing, onboarding, and training doesn't matter because you have planned for potential delays and the new hiring process is already in the flow. Planning may be helped by knowing turnover rates such that the pace of hiring is steady and makes sense.

Beyond recruitment, the retention challenges are specialty development, career advancement within the employment setting, and our environmental challenge— a high cost of living and a high cost of housing. Retention is the most pressing issue in Hawai'i, but if someone moves here from the continent, stays here for three (3) years, then leave, they're replaced with someone else who just moved here from the continent, even if they are experienced, it's a different nurse or person taking care of the patients and that person is not likely to be culturally competent.¹⁰⁵

Furthering the challenge of retention is local nurses considering leaving the state. Data collected through the HSCN survey related to nurse's interest in the NLC is in alignment with national findings about nurses' attitudes toward the NLC, and their desire to travel or to use their multistate privilege-to-practice across jurisdictional boundaries.¹⁰⁶ An important consideration from a workforce standpoint is that as much as we talk about the NLC as an opportunity to bring nurses into Hawai'i from other jurisdictions, these data do suggest that there would be some risk of losing nurses to out-of-state practice. It is an important part of the conversation to note that the door swings in both directions. Whether or not the implementation of the NLC will result in a net loss of nurses is difficult to estimate but is an important part of the conversation.

Long-Term Care and Hospice

Wes Lo of 'Ohana Pacific Health provided insight on Long-Term Care (LTC) recruitment and retention efforts. He noted that LTC is experiencing rough recruiting for nurses. For example, one facility has 240 empty shifts per week and a multitude of empty beds due to staff shortages. To combat these challenges, LTC is focusing on innovation within the recruitment and retention space. 'Ohana Pacific Management is concentrating on LPN recruitment rather than RN recruitment because LTC cannot compete with acute care and clinic facilities for types of salaries given reimbursement levels. There are only a few RNs who are working for higher acuity facilities but a lot of facilities focus on LPN recruitment. He notes that the number of LPN training programs has recently increased (i.e. UH Maui College CNA to LPN Pathway program). Hiring strategies have changed. LTC employers are hiring LPNs, the LPNs attend school for a year, agree to work in

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Hawai'i for a year, and then may progress to RN training. Successful for a short period until other facilities started recruiting away those LPNs. LTC employers are also partnering with acute care to train nurse graduates through post-acute nurse residency programs and then transition to acute care. Challenges include a lack of preceptors due to staff shortages.¹⁰⁷

In meeting 1, Brenda Ho of Hawai'i Care Choices in Hilo notes that the Hospice sector faces similar struggles as LTC. Recruitment efforts include expanding to include social media (i.e. Facebook, Twitter, etc.) and online recruitment portals (i.e. Monster.com, Indeed.com, ZipRecruiter.com, RealJobsHawaii.com, HireNet, etc.).¹⁰⁸

They created a nurse residency program in 2021 which supports specialty development and retention though she also notes that of the people trained, 40% have left the state. They are also working with Chaminade University to develop a curriculum to assist nurses with earning hospice/palliative care certification. Other efforts include enhanced onboarding, orientation, and mentorship programs and providing a robust ongoing learning program, a clinical counsel to assist with issues impacting clinical teams that are resolution-focused, offering ongoing resiliency support, and adding more holidays and benefits to compete with other healthcare systems. Despite these innovations, challenges remain. Pay and benefits are a challenge. Hawai'i Care Choices operates on federal fixed reimbursement rates so unable to negotiate higher rates and cannot compete with other healthcare systems that offer higher wages and benefits. There is considerable competition with all other similarly situated providers competing for the same small pool of qualified licensed nurses. She notes, as it relates to recruitment, that the length of time to obtain a license is a real deterrent. Nurses must have specialty training in hospice/palliative care and the ability to serve patients and their families in a culturally appropriate way. NLC may allow nurses to work immediately rather than wait while navigating the cumbersome and lengthy licensing process.

A major challenge is the high cost of living is always a challenge and includes parallel issues:

- Lack of affordable housing;
- Nurses need to make a livable wage;
- Schools for families;
- Limited competitive work environments for spouses or partners;
- Cost of airfare to other islands or other states is prohibitive; and
- Hawai'i's remote location, especially East Hawai'i Island, contributes to the loss of staff.

Travel nurses arrive but leave after a very short period (i.e. 3 months). Issues impacting travel nurse's decision to stay or return include:

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- Double the rate of pay;
- Secure affordable housing;
- Mileage reimbursement; and
- Issues arising from lack of specialist training in hospice/palliative care.

Acute Care

Four organizations represented rural and urban acute care settings, including Hawai'i Pacific Health (HPH), Kaiser Permanente (KP) Moanalua, The Queen's Health System (QHS), and Hawai'i Health System Corporation (HHSC). All of them shared very similar efforts in innovating recruitment and retention, as well as challenges.

Carl Hinson at HPH expressed that the challenges shared by LTC and Hospice care are issues for acute care facilities as well. Employers must focus on creating working environments that are attractive to nurses, particularly to address the high cost of living issues. Overall environment must be improved to make it easier for nurses to come here and practice in a much timelier fashion, whether it's the NLC or not. He noted that Hawai'i is short of over 1,000 nurses and employers cannot continue competing with each other because it is limited to churning the same individuals. Employers must look at training more, expanding programs, and better-supporting preceptors so they can train more new graduates.¹⁰⁹

Hinson also cautioned that innovations are needed but the opportunity to implement innovation may be challenged if there is a limited supply of nurses, which impedes piloting new models. HPH is adopting a new model of bringing in new graduates who start in the LTC or post-acute model and then move into acute care. Employers need to redirect focus from competing with each other to working together to recruit and train more nurses. He emphasized that until Hawai'i can crack the high cost of living and housing issues, we're not going to have the level of success we need.

Rayne Soriano of Kaiser Permanente (KP) Moanalua expanded that training efforts continued through the pandemic. KP has hired 67 new graduate nurses in the last 1.5 years. The current in-patient nursing vacancy rate is approximately 4.7% so pivoting to focus on retention. He also noted that competition for recruitment is national, not just local. New graduate recruitment by Hawai'i-based employers is being affected by hospital systems from the Northwest and Texas recruiting at graduations in Hawai'i offering things like relocation bonuses, retention bonuses, loan repayment programs, etc. Soriano lists challenges as include:

- "The Great Resignation" and "The Great Sabbatical";
- Looming nurse retirements, 20% attrition over the next 5-8 years specialty, particularly in perioperative/maternal and childcare;
- A need for preceptors/mentors/trainers to support nursing staff; and
- Licensure delays.

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He notes that nursing leadership would benefit greatly from an accelerated licensing process for a Hawai'i and that the goal is to make licensure easy to obtain but retain safety measures and transparency across all organizations. He concludes that "we are all in this together. Employers need to shift from competing to collaborating" and asks, "How do we build a campaign to bring home nurses who left Hawai'i for their first job and make their transition home as smooth as possible."¹¹⁰

Kristina Clark represented The Queen's Health System (QHS). QHS shares the challenges and concerns across the nursing community. Over the last 3 years, about 15% growth in RN positions will likely continue based on the needs of the community. The retention rate over the past 3 years is slightly down from 89% to 88% with general reasons cited as relocation - a mix of military and non-military families. Across the QHS system, there are currently 1,800 RNs across QHS. In addition, there are 127 open positions and QHS hired 300 contracted agency travelers over the past year. QHS is now working diligently to reduce that number which is 130 travelers at this time.

To reduce the reliance on travelers, QHS is focusing on recruiting and retaining local talent. QHS has hired 200 new nurses; it's been the largest year of hiring of new graduates and "new to acute care" RNs. They are moving nurses from clinics into acute care areas. An important consideration is the need to keep in mind skill mix and safety, can't staff the entire organization with new graduates. During the pandemic, QHS kept training for students open but experience may not have risen to pre-pandemic levels so programs need to adjust. They are building pipelines into programs (i.e., student-nurse internships, hiring CNAs to provide them with more experience, etc.), working to convert agency staff to full-time, and currently a 10% conversion rate with 23 nurses converted and 5 more nurses pending conversion. They are also recruiting experienced nurses from the continent and trying to bring Hawai'i nurses back home; about 158 experienced nurses have returned home.

Clark imparts that few things to consider when planning for nurse staffing. Care is constantly changing and there's a need to be flexible in finding ways to meet the needs of our community. Nationally, there's a nursing shortage such that nurses have choices and they don't have to choose us. On the daily, they're denying highly experienced nurses because they don't have a Hawai'i license, and they see how licensing delays similarly impact new graduates.

Clark also comments that QHS is interested in how NLC could impact the quality of care and ensure we have processes in place regardless of the solution we choose that we can track and are aware of who is in our state and processes to connect with other BONs around professional conduct.¹¹¹

Malia Espinda, Joanne Agnes, and Ann Nagamine represented Hawai'i Health Systems Corporation (HHSC). They note that HHSC provides high-quality healthcare even if patients are unable to pay. Related to the workforce, currently there is a 21% vacancy

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rate. Recruitment efforts include posting on the HHSC website, other online platforms, and specialty RN websites/publications. HHSC facilities are hiring new graduates through Nurse Residency Programs, one facility hired a cohort of 20 new graduates, homegrown providers. To support specialty capacity, they are conducting in-house training programs to develop staff nurses, particularly med-surg, into specialty units (i.e. ICU, ER, OB) or hard-to-fill positions. The focus is on the retention of local nurses. After that, HHSC facilities are hiring travel nurses to supplement vacant positions. Typical duration is three (3) to six (6) months. Working to convert travel nurses to fill vacancies. Partnering with other organizations (Good Jobs Hawai'i, high schools and universities, unions, etc.) to provide resources and opportunities as well as financial resources.

HHSC representatives note that labor shortages locally and nationally make it so employers are vying for the same talent, same employees, and same students. When a hire is successful, onboarding takes two (2) to three (3) months due to delays in licensing. Ideally, new talent should start as soon as possible following hire. The past practice has been to hire out-of-state nurses who will stay for two (2) to three (3) years and then leave. They state that the main reasons given for leaving are the high cost of living and the expensive housing market.

KP, QHS, and HHSC also mention exploring virtual and telehealth opportunities to supplement care models and options for job restructuring. Constant changes affect patients and patient care – changes in the care team and changes in relationships due to turnover or high utilization of travel nurses. All acute care representatives reiterated wanting to work together to find shared and sustainable solutions.¹¹²

Insurance

Aloha Care, KP, and HMSA presented related to their interest in and use of nurses within their industry. Insurers in Hawai'i contribute to the recruitment and retention of nurses within their organization's specific scope and structure. Insurers in Hawai'i are engaged with our communities in terms of access to care as well as addressing social determinants of health. Hawai'i's insurers are working on collaborative partnerships with multiple stakeholders on multiple levels to address issues such as reimbursement, recruitment, and training.¹¹³

Dawn Kurisu or HMSA also informed the working group that the U.S. Chamber of Commerce reports workforce shortages in general but particularly in the healthcare sector. For every 100 job openings, Hawai'i has 73 available workers. HMSA is investing in workforce efforts (i.e., Hawai'i Workforce Funders Collaborative) but continues to find challenges in fulfilling vacancies, especially on neighbor islands and rural communities while prioritizing that nursing care provided by or through HMSA is culturally considerate and culturally competent care for communities, that is, to relate, to understand, and support all our community members.¹¹⁴

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Rayne Soriano of KP emphasized that KP's considerations and actions as an insurer are the same as their considerations and actions as a healthcare provider.

Paula Arcena of Aloha Care emphasized that Aloha Care's perspective on the nurse workforce as an employer and also as a Medicaid health plan is that they employ nurses for their expertise. She notes that it is a constant effort to recruit and retain. Nurse leaders have a big role in Aloha Care's health coordination services as well as utilization management. We also have nurses in leadership in our quality program as well as in our performance optimization. That includes things like training for our clinical staff, modeling workflows, and standing up new programs, as well as folks in administrative and management roles.

Paula Arcena further notes that many of the folks who relied on employer insurance during the pandemic experienced a downturn in their hours. As a result, Medicaid enrollment saw a big boom. Over the three (3) years of the pandemic, over 100,000 people signed up for Medicaid in addition to those who already were with the program. That presented additional challenges, we already had pre-pandemic workforce shortages across the state, especially on neighbor islands and rural areas. We're always looking for ways to support strategies that optimize our existing workforce, alleviate their burdens, and help people to practice at the top of their licenses.¹¹⁵

Military Employment

Teah Karamath, the interim Chief Nursing Officer for the Indo-Pacific region of the Department of Defense (DOD) Health Agency which covers the whole Pacific region, including Tripler Army Medical Center and the Hawai'i region. Of the Indo-Pacific region, 20% of DOD nurses are military spouses. The DOD Health Agency nurses in the Hawai'i region are spouses. They're going to be here anyway, so these nurses aren't being recruited to the islands, but rather are already present. If they are APRNs, RNs, or LPNs and they want to continue their nursing practice, then they're going to switch to get a Hawai'i license. Most of them keep their licenses from their previous state(s) just because of the nature of the military and move every two (2) to three (3) years. Karamath has never heard of anyone either complaining about switching or the process being hard to switch to a Hawai'i nursing license in her time at Tripler which started in 2007. From experience, she does not think that has any real impact. However, for military nurses specifically, it would be convenient if Hawai'i was part of the NLC because they like to keep their licenses from the state that they originated from.

Agency/Travel Nursing

Mary Hamilton, Vice President of Clinical Solutions at Prolink. Prolink is a travel agency that has supported patient care delivery across the state not only in times of crisis but also in times of rapid growth and seeking to fulfill permanent positions across the state, as well as short-term needs as they arise. Travel nursing can respond to a combination of temporary needs, such as a traditional traveler, but also for clinicians who are

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seeking a change in their professional career path and seeking to come to Hawai'i to stay long term.¹¹⁶

She shares that the states that contribute the most to Hawai'i in terms of travel nursing include California, Texas, Arizona, Florida, and New York. California provides a large volume of registered nurses and LPNs. A lot of that is a volume play just because it is a large state. The other states would be Texas, Arizona, and Florida which provide a large volume, those three states are all part of the NLC. Of these states, California and New York do not participate in the NLC.¹¹⁷

Kelsie Jaromin of NSCL also commented in meeting seven (7), that a common question we hear from state legislators and staff is how the NLC works. She notes that the outcomes and data relating to interstate compacts broadly, are very limited. Research suggests that compacts may enhance the workforce landscape, including labor participation, employment levels, hours worked, earnings, and the likelihood of working across states. Research on the Nurse Licensure Compact, in particular, is greatly mixed.

Some show no impact, some show some impact. Data generally suggests that the number of nurses holding interstate licensure is increasing and that many use this licensure for travel nursing as well as telehealth. Travel nurses were essential to meet the surge in workforce needs during the pandemic. However, the practice also created unpredictable relocation patterns and new staffing challenges like the increased wages.¹¹⁸

Nursing Education Employment

Representatives from two prominent online nursing universities, as well as the local schools of nursing, were invited to comment on the potential impact of the NLC on nursing education. Jill Price, Chamberlain University, provided that certain states require an RN or an APRN license to teach students residing in the said state. If Hawai'i participated in the NLC, this would help any faculty or visiting professors receive compact status if they reside in Hawai'i. Lisa Smith, Grand Canyon University added that from a recruitment standpoint, recruiting faculty to teach is much easier when you have an MSL. It's quicker in terms of onboarding time and it's also cheaper because an individual is not required to pursue multiple SSL. The MSL helps with retention as well.

Edna Magpantay-Monroe, Hawai'i Pacific University states that HPU has an online graduate nursing program. The hardship is ensuring that the faculty that teach students located in other states have a license in those other states. The NLC does not have much of an impact on our ability or capacity to train undergraduate students but can have more of an impact on our graduate students due to the different requirements of the state. She also states that it would be good for students who may be able to have more career opportunities should they have access to an MSL upon licensure by

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examination. She cautions that if this does become an option, one consideration is an awareness of their scope of practice in specific states, as a nurse needs to ensure they are working to each state's scope of practice when they are in that state.

Rhoberta Haley, Chaminade University of Honolulu, reiterated Edna Magpantay-Monroe's statements and added, as someone who formerly held an MSL in another state, that most states have a robust process for looking at that when their licensees get into trouble. She opined that there likely is not any reason to think we're at a terrible risk for very poor performance from people with a compact license.

UH System was represented by Della Teraoka, University of Hawai'i Office of the Vice President for Community Colleges, Clementina Ceria-Ulep, UH Mānoa Nancy Atmospera-Walch School of Nursing Dean, Laura Nagle, University of Hawai'i Maui College Career and Technical Education Dean, and Mary Farmer, UHMC Nursing Director. While UH has nursing faculty positions vacant, nurses must reside in Hawai'i to be eligible. Recruiting nurses who live outside of Hawai'i, as the private institutions alluded to, is not an option for UH. However, it may help recruitment of out-of-state nurse faculty who are willing to move to Hawai'i. It is likely to not impact pre-licensure education (education for LPN, associate, and baccalaureate RN, and graduate entry nursing programs). It may be beneficial for graduate education if students reside outside of Hawai'i and it may benefit students who may opt to accept a position out-of-state for whatever reason.¹¹⁹

Erik Abe also asked in meeting seven (7) if the current nursing shortage in Hawai'i can be adequately addressed through the recruitment and training of new nurses in Hawai'i solely. Laura Reichardt responded that in terms of our local community, we have far more Hawai'i state residents who have completed all of their pre-nursing requirements, but there are not enough nursing educational spots in our state. We have a problem that we cannot expand our nursing educational programs enough, because we don't have enough faculty and because we don't have enough clinical sites. If we could offer education to all qualified applicants, it is likely that we could meet the nursing workforce demand for nursing graduates. However, you never want 100% of your workforce to be new grads, because a mixture of skill and experience contributes to patient safety. Because we continue to need experienced nurses, and our state has a shortage of nurses based on demand, that requires that we still recruit from out-of-state until we have matched demand with the current workforce plus inflow from new nursing graduates.

Bargaining Representation

HGEA is interested in how will NLC affect the workforce. HGEA would like to see more of a focus on recruiting and retaining specialty nurses who have a better understanding of Hawai'i's culture, have a commitment to our community, and are willing to stay in this community.

Per membership, there's really a shortage of specialty nurses and support from the organizations that employ them in actively recruiting and retaining those

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individuals. During the pandemic, HGEA partnered with employers and organizations to combat shortages. Silva stated that it is difficult to tell where vacancies are and that HGEA does not have a lack of nurses where members work. HGEA Membership provided feedback after the pandemic which included that many shortages experienced during the pandemic have become less of an issue.¹²⁰

Joan Craft, Hawai'i Nurses Association OPEIU Local 50 shared that the primary issue facing healthcare in Hawai'i is cost of living. She opined that NLC may make it easier to get a license but comes with a whole lot of other stuff, more than just a licensure process, and comes with a whole bunch of governance issues. She shared concern that NLC may "fix" one thing but we need to know what else will be affected if adopted. She notes that working licensees are paying for the resources and that the problem with licensing delays is likely due to underfunded BON and RICO. She notes that to find a solution to this problem, it is important to look at the DCCA/PVL setup and resources allocated to Hawai'i BON.¹²¹

Craft adds that another primary issue facing the nursing workforce is that managers need to be nice to their workers. She reports to the working group that members report that managers are not treating workers well and that working conditions and morale are affected by negative managers. She prioritizes all leadership above the manager and if a staff nurse reports a negative work environment, it needs to be taken seriously and investigated. She also notes that a positive work environment is impacted by working conditions like staffing ratios and how they are treated when coming to work every day. These issues have a serious impact on nurses and lead nurses to leave the profession.¹²²

Employer Associations

Paige Heckathorn Choy represented the Healthcare Association of Hawai'i (HAH). She notes that HAH represents approximately 170 members across the healthcare spectrum. The COVID pandemic exacerbated planning efforts, with challenges of burnout, retirement, et cetera. In 2022, 1,000 vacancies for RNs, especially in post-acute care, and difficulties for CNAs and other nursing care team members. HAH's healthcare workforce initiative goals are to recruit local graduates into good paying jobs, increase the pipeline and make that pipeline strong, retain people through further education, better benefits, better pay, etc., and finally, expand opportunities for people to go into meaningful careers that offer a good living wage.

HAH is participating in the Good Jobs Hawai'i program which addresses community needs. This grant has a \$35 million workforce development initiative that will provide free skills training and job placement support for high-demand, well-paying jobs. There is a focus on recruiting and retaining Hawai'i people for high-quality jobs with livable wages, as well as hiring local graduates and residents to create an environment in which locals can stay in Hawai'i or return if they have to move away. In addition, HAH

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has a focus on health equity with lots of work on Native Hawaiian/Pacific Island students in programs. As it relates to the NLC, HAH doesn't necessarily believe the NLC will singularly solve the issues and fill the gap of workforce issues but it could be a part of the arsenal in trying to meet the needs of our facilities and partners.¹²³

Erik Abe reported Hawai'i Primary Care Association (HPCA) represents all federally qualified health centers in the state. HPCA is involved with the compact licensure issue because the COVID-19 pandemic galvanized HPCA's efforts to partner and work closely with DCCA on many issues.

Post-COVID, HPCA is interested in how to ease red tape in emergencies like COVID. Everyone needs to agree upon base qualifications to allow healthcare professionals from other jurisdictions to come to work in Hawai'i. HPCA is interested in exploring if there's a way to ease licensure laws to allow health organizations to recruit and retain staff they need in emergencies. He notes that we need to place the state in a position such that in any emergency, employers can hire a nurse or physician when needed, fly them in, and get them treating patients as soon as possible.¹²⁴

Emergency Planning

Kelsie George, National Conference of State Legislatures Policy Specialist, presented different license portability options for healthcare professionals that are being utilized across the nation. Portability policies generally assume that workers who are otherwise qualified to practice in one state should have options that facilitate their mobility, and the reduced amount of time that it takes for them to obtain licensure in another state.

These temporary and emergency licenses allowed health professionals to bypass certain requirements such as residency or paying the usual fees. One option is universal licensure recognition laws. Universal licensure is a form of occupational licensing in which a state establishes a uniform process to grant recognition to health professionals licensed in another state. This is different from reciprocity, instead the scope of universal recognition and what's required of applicants still varies from state to state. Though it may reduce the time between application and licensure, universal licensure does not result in immediate practice.

Universal Emergency Volunteer Health Practitioners Act is one model, which was developed in 2006 by the Uniform Law Commission. States enacting this Model Bill recognized during declared emergency, the licensure of physicians and health practitioners in other states if those professionals have registered with a public or private registration system. This may increase access to care during emergencies, particularly when licensing boards may be overwhelmed, or requests may be non-functioning depending on the nature of the emergency. At least 19 states have adopted UEVHPA legislation. Often, the emergency proclamations had slightly different focuses than the nursing licensure compact. For instance, they may focus on getting students into practice quicker or bringing retirees back into the workforce; there may be different

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goals depending on how the proclamations were written and how the legislation was written.¹²⁵

Meeting four (4), Karen Lyons noted that, related to emergencies like COVID, they had the compact but didn't need the compact for two and a half years because Governor Edwards declared an emergency and he allowed any nurse with an active unencumbered license from any state in the country and jurisdiction to come to Louisiana and help us, especially when they were the epicenter at the very beginning of the pandemic. Emergency healthcare orders help a lot. However, Lyons continues "If you don't have a governor who does that, nurses who have MSLs and the privilege-to-practice in your state are very helpful."¹²⁶

Conclusion

- The national nursing workforce supply survey found a significant decline in the number of working LPNs and RNs, nationally.
- Using these three research focal points: supply, demand, and educational capacity, we can get an idea of where we are compared to the rest of the nation and what type of resources we can allocate that way.
- It is important to look at the state of the nursing workforce within our state and compare it to our U.S. Census and National Workforce data. To be able to help identify the next steps in our strategic planning, where to allocate resources, and make sure that policy decisions are evidence-based and data-driven.
- The data that is lost with workforce planning efforts in NLC states are the nurses who work in one state but are licensed in another. It's not that these people aren't counted at all. It is that they are 100% counted, they're counted in each of their states. However, data collection often is not identifiable, and the research methodologies are not 100% the same across states or jurisdictions, so data that one state may have is not transferable to another state.
- An important consideration from a workforce standpoint is that as much as we talk about the NLC as an opportunity to bring nurses into Hawai'i from other jurisdictions, these data do suggest that there would be some risk of losing nurses to out-of-state practice.
- When looking from an organizational lens, efforts involve more issues than just the NLC, also looking at recruitment and retention.
- Nursing employers are working to their fullest capacity to hire recent nursing school graduates and retain the current nurses. Residencies, specialty training, and workplace innovation are all being implemented as mechanisms to improve both recruitment and retention. After this, there remains a nursing workforce demand that requires out-of-state recruitment.
- Unions report specialty nursing needs, negative work environments, cost of living, and understaffing at BON/PVL which are factors that result in nursing workforce attrition or shortages.
- Travel nurses were essential to meet the surge in workforce needs during the pandemic. However, the practice also created unpredictable relocation patterns

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and new staffing challenges like the increased wages. California, New York (non-NLC states), and Florida, Arizona, and Texas (NLC states) comprise the largest volume of travelers to Hawai'i.

- Having the NLC or not having the NLC has not impacted recruitment and retention for this region in terms of military nurses or their nurse spouses. However, MSLS would make transitioning to a new jurisdiction easier and more convenient.
- Delays in licensure can result in unsuccessful recruitment.
- NLC will not be a singular solution, many factors need to be considered when we look at the goal of nurse staffing stability, which is when we have the right number of students produced as well as retaining the workforce.
- Nurses need actions by the Legislature to support the nurses who live and work here now.
- Cost of living is a major challenge for recruitment and retention. Until Hawai'i can crack the high cost of living and housing issues, we're not going to have the level of success we need.

(7) Differences in licensure renewal and competency requirements between member states;

Hawai'i Licensure Renewal Requirements as Compared to Other States

A critically important consideration for the Working Group is how to address the conflict of laws and scopes of practice with other compact states should Hawai'i join the NLC. Other license renewal criteria have variances across the nation. Related to legal or board disciplinary actions against the nurse and mental fitness, Hawai'i requires that nurses report upon license renewal if they have felony convictions, misdemeanor convictions, disciplinary action by another BON, agency, or regulatory body, or ongoing disciplinary investigations by another BON, agency, or regulatory body. The BON provided additional information about the remaining license renewal criteria in section eight (8) of this study.

Q19. Do RN or PN renewal licensure applications contain questions regarding any of the following? (Check all that apply.)

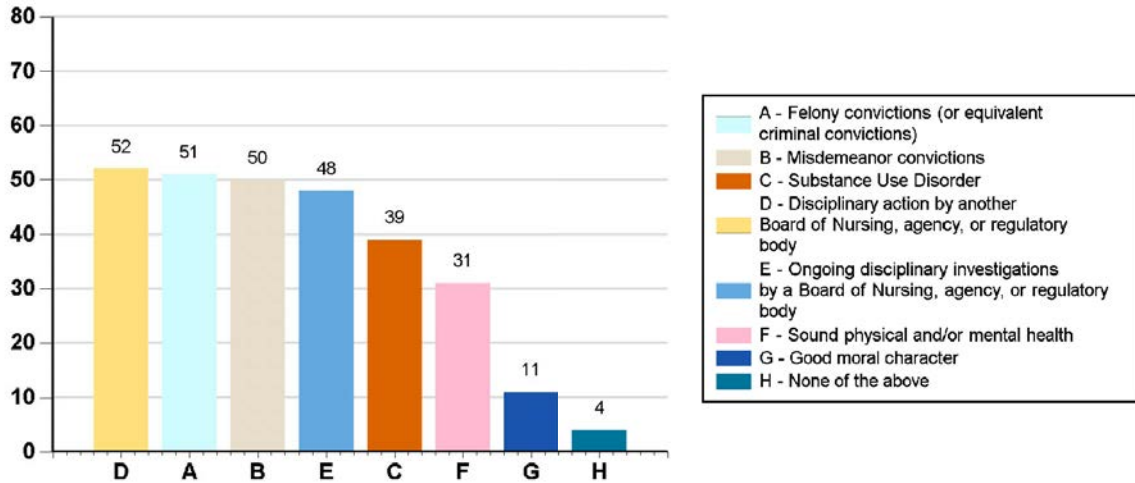
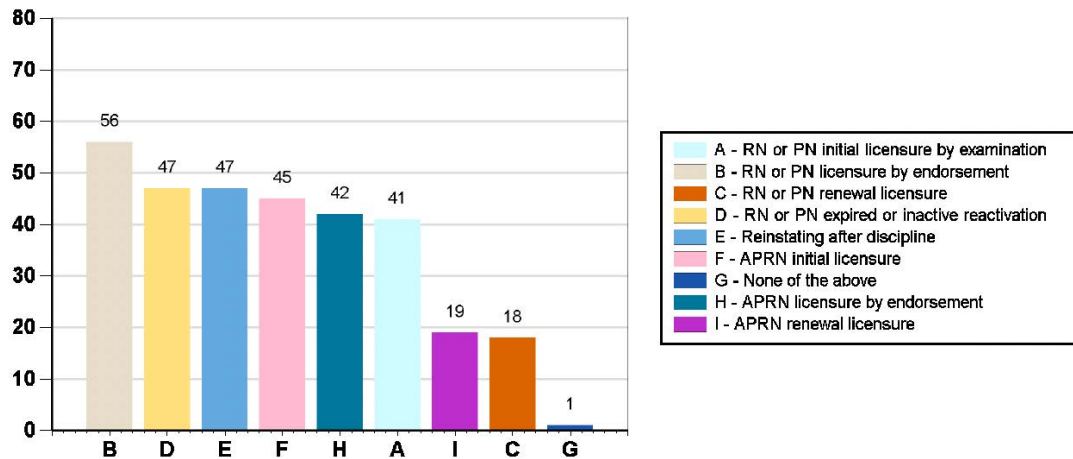


Figure 12 Questions asked state boards of nursing on license renewals related to discipline¹²⁷
 Note: Hawai'i reported they require items A, B, D & E

The NCSBN Member Profile Licensure Survey also shows there is variance in how Nursys is utilized for licensure renewal and when fingerprint-based/biometric criminal background checks are required. Hawai'i is less reliant on Nursys, only using it for licensure for endorsement and APRN initial licensure, and utilizes fingerprint-based criminal background checks more throughout more stages of licensure (initial application, renewal, reinstatement, etc.).

Q26. Is the presence/absence of disciplinary action on a nursing license verified via NURSYS at any of the following stages of licensure? (Check all that apply.)



¹²⁷ National Council of State Boards of Nursing. (2022). 2022 Licensure Survey. https://www.ncsbn.org/public-files/Licensure_Survey_2022.pdf

Figure 13 Board of Nursing use of Nursys for license verification at varying states of licensure¹²⁸
 Note: Hawai'i reported they require items B & F

Q30. What type of licensure applications require a fingerprint-based/biometric criminal background check? (Check all that apply.)

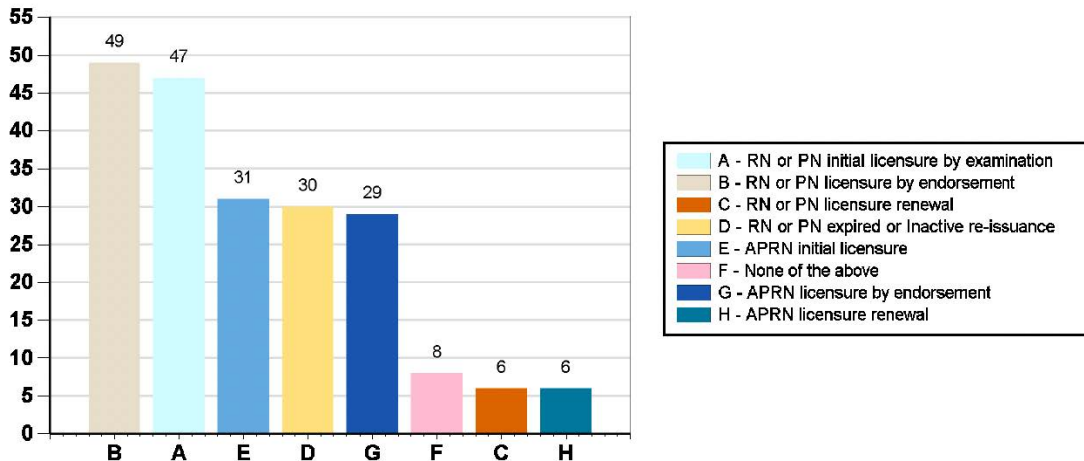


Figure 14 Board of Nursing use of criminal background checks for license verification at varying states of licensure.¹²⁹
 Note: Hawai'i reported they require items A, B, C, D, E, & G

Hawai'i Continuing Competency Requirements as Compared to Other States
 Hawai'i requires continuing competency activities to renew all levels of licensure (LPN, RN, and APRN). States that have no continuing competency requirements to renew nurse licenses include Colorado, Louisiana Practical Nursing Board, New York, and Wisconsin. Colorado, Louisiana, and Wisconsin are members of the NLC; New York is not a member of the NLC and has proposed legislation to require continuing competency.¹³⁰

In Hawai'i, one completed activity is required. Activities, as described in HRS Chapter 457, section 9.3¹³¹ include:

1. National certification or recertification related to the nurse's practice role;
2. Thirty contact hours of continuing education activities;
3. Completion of a board-approved refresher course;
4. Completion of a minimum of two-semester credits of post-licensure academic education related to nursing practice from an accredited nursing program;

¹²⁸ National Council of State Boards of Nursing. (2022). 2022 Licensure Survey. https://www.ncsbn.org/public-files/Licensure_Survey_2022.pdf

¹²⁹ National Council of State Boards of Nursing. (2022). 2022 Licensure Survey. https://www.ncsbn.org/public-files/Licensure_Survey_2022.pdf

¹³⁰ Meeting 7

¹³¹ Hawai'i Revised Statutes. §457-9.3 Learning activity options. Retrieved on October 29, 2023 from: https://www.capitol.hawaii.gov/hrscurrent/Vol10_Ch0436-0474/HRS0457/HRS_0457-0009_0003.htm

5. Participation as a preceptor, for at least one nursing student or employee transitioning into new clinical practice areas for at least one hundred twenty hours, in a one-to-one relationship as part of an organized preceptorship program; provided that the licensee may precept more than one student or employee during the one hundred twenty hours and shall be evidenced by documentation of hours completed and objectives of the preceptorship by the institution supervising the student;
6. Completion as principal or co-principal investigator of a nursing research project that is an institution review board project or evidence-based practice project that has been preapproved by the board;
7. Authoring or coauthoring a peer-reviewed published nursing or health-related article, book, or book chapter;
8. Developing and conducting a nursing education presentation or presentations totaling a minimum of five contact hours of actual organized instruction that qualifies as continuing education;
9. Completion of a board-recognized nurse residency program; or
10. A similar type of learning activity option; provided that the type of activity shall be recognized by the board.

Despite the majority of states requiring continuing competency, there is variance in what qualifies as a continuing competency requirement. While most states recognize continuing education hours, the remainder of the options have 50% alignment or less across the nation. Of the nine (9) options Hawai'i recognizes, only three (3) are captured on the NCSBN member survey, which includes B) continuing education hours, E) NCLEX examination, and I) Maintenance of RN certification. In addition, Hawai'i requires 30 hours to meet the continuing education hours. Only 24 states require 21-30 hours, and two (2) states require more than 30 hours; 17 states require 20 hours or less.¹³²

¹³² NCSBN. (2022). Member Profile 2022 Licensure Survey. Retrieved September 1, 2023 from: https://www.ncsbn.org/public-files/Licensure_Survey_2022.pdf

Q96. Which of the following methods can be used to meet continued competency requirements for RNs? (Check all that apply)

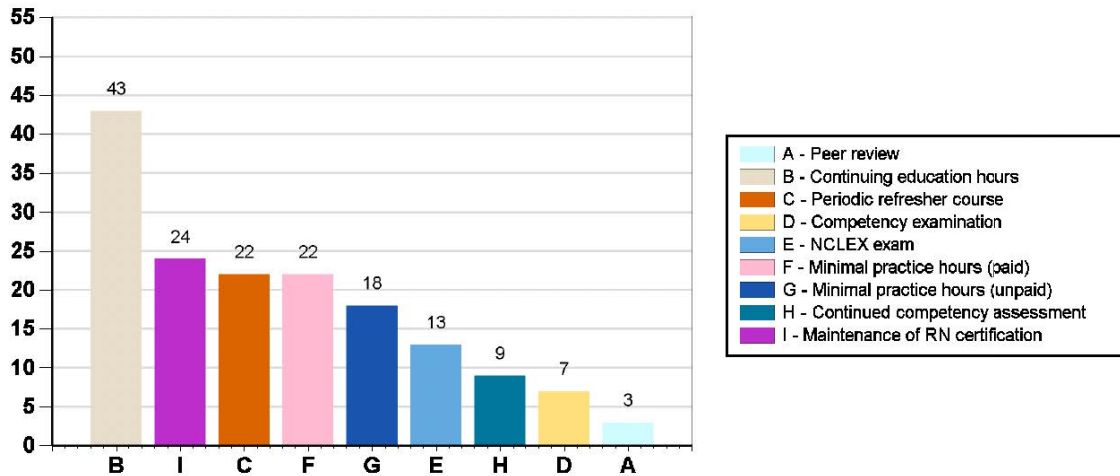


Figure 15 Methods allowed by state boards of nursing to meet continuing competency requirements for RNs.¹³³
 Note: Hawai'i reported they recognize items B, E, and I.

Findings

- Language can be added to NLC enacting legislation to add different policies to address state-specific concerns such as continuing education or continuing competency requirements. Washington's enacting legislation added suicide assessment, treatment, and management training required by law as a condition of employment. However, this provision only applies to MSL licensees employed by Washington employers.
- The NLC provides member states with investigative and enforcement jurisdiction over nurses, both the nurse's licensure in the home state that issued the license and the privilege-to-practice in the other member states.

Conclusion

- The process and method for reviewing license renewal criteria have differences, across the nation.
- Hawai'i has more qualifying continuing competency activities than is surveyed by NCSBN. Hawai'i recognizes Continuing Competency not just Continuing Education, which requires a higher level of engagement to clinical practice standards.
- For the continuing education hours, Hawai'i requires 30 hours, which falls within the high range of requirements.
- Hawai'i has a more cohesive use of criminal background checks across SSL applications and license renewal than other states.

¹³³ NCSBN. (2022). Member Profile 2022 Licensure Survey. Retrieved September 1, 2023 from: https://www.ncsbn.org/public-files/Licensure_Survey_2022.pdf

(8) Jurisdiction and regulatory oversight of nurses in the State; and

Nurse Practice Act

According to Chapter 457, the Nurse Practice Act, nurse licensure is a mechanism to safeguard life and health by way of ensuring that individuals practicing as nurses in Hawai'i are qualified to do so. The Hawai'i Board of Nursing is performing the duties and powers established in the Nurse Practice Act, as well as adopting, amending, and repealing rules necessary to functionalize the Practice Act.

§457-1 Purpose.¹³⁴ In order to safeguard life and health, any person practicing or offering to practice as an advanced practice registered nurse, a registered nurse, or a licensed practical nurse in this State for compensation shall be required to submit evidence that the person is qualified to so practice, and shall be licensed as provided in this chapter. It shall be unlawful for any person not licensed under this chapter to practice or offer to practice nursing as an advanced practice registered nurse, a registered nurse, or a licensed practical nurse; or to use any sign, card, or device, or in any manner indicate or imply that the person is an advanced practice registered nurse, a registered nurse, or a licensed practical nurse.

Table 15 §457-1 Purpose

¹³⁴ Hawaii Revised Statutes. §457-1 Purpose. Retrieved on Oct 29, 2023, https://www.capitol.hawaii.gov/hrscurrent/Vol10_Ch0436-0474/HRS0457/HRS_0457-0001.htm

§457-5 Duties and powers of board.¹³⁵

(a) In addition to any other powers and duties authorized by law, the board may:

(1) Adopt, amend, or repeal rules, pursuant to chapter 91, not inconsistent with the law, as may be necessary to enable it to carry into effect this chapter, including the definition of the scope of practice of nursing and the delegation of nursing tasks based upon professional nursing standards, which include but are not limited to the standards set forth by national certifying bodies recognized by the board;

(6) License qualified applicants by examination or endorsement, including advanced practice registered nurses, and renew, reinstate, reactivate, and restore licenses and shall conduct an investigation of the qualified applicant's background, character, competency, and integrity, as the board deems appropriate. The board shall:

(A) Request, beginning July 1, 2017, the criminal history records of qualified applicants, in accordance with section 846-2.7; and

(B) Request the criminal history records, pursuant to section 846-2.7, of licensees who were issued licenses by the board prior to July 1, 2017; provided that the board shall request criminal history records under this paragraph not less than once for each individual qualified applicant or licensee; provided further that all requests for criminal history records required for licensees issued a license by the board prior to July 1, 2017, shall be made by the board no later than July 1, 2023. The Hawaii criminal justice data center shall provide the information on request to the director of commerce and consumer affairs;

(b) The board shall monitor and evaluate the scope of the practice of nursing in other states and make recommendations to the legislature, when deemed desirable, for appropriate amendment to the definitions under section 457-2 and any other provision of this chapter.

Table 16 Excerpt of §457-5 Duties and powers of board.

Licensure Requirements

The NLC requires all party states to adopt eleven (11) Uniform License Requirements for an MSL (Addendum 7).¹³⁶ In a review of the eleven (11) URLs as well as the NSCBN guidance to BONs related to BON responsibility in upholding the eleven (11) URLs (Addendum 8), Hawai'i is already in compliance with six (6) of the requirements. The five (5) ULRs for which Hawai'i is not in compliance will likely require statutory or administrative rule amendments, collaboration, and consent by additional government

¹³⁵ Hawaii Revised Statutes. §457-5 Duties and Powers of the Board. Retrieved on Oct 28, 2023, https://www.capitol.hawaii.gov/hrscurrent/Vol10_Ch0436-0474/HRS0457/HRS_0457-0005.htm

¹³⁶ Meeting 3, Meeting 7

agencies, and potentially give rise to constitutional challenges that may or may not be overcome.

11 Uniform Licensure Requirements	BON Review	Conclusion
1. Meets the requirements for licensure in the home state (state of residency);	BON does this pursuant to HRS 457-1, 457-5	Meets ULR
2. a. Has graduated from a board-approved education program; or b. Has graduated from an international education program (approved by the authorized accrediting body in the applicable country and verified by an independent credentials review agency);	BON maintains this process	Meets ULR
3. Has passed an English proficiency examination (applies to graduates of an international education program not taught in English or if English is not the individual's native language);	If you're internationally educated and your program was not taught in English, then you will need to take an English proficiency examination.	Meets ULR
4. Has passed an NCLEX-RN® or NCLEX-PN® Examination or predecessor exam;	BON requires all applicants for Hawai'i nursing license must take and pass the NCLEX, national nurse exam. There is a state board test pool exam that was used before the NCLEX that some states used, including Hawai'i. You rarely see individuals who come in under that test.	Meets ULR
5. Is eligible for or holds an active, unencumbered license (i.e., without active discipline);	BON looks at any applicant who has prior disciplinary action and/or an encumbered license in another state, they will look at the basis for the disciplinary action, how long ago it was, and how it was directly related to the profession. If the violation occurred in Hawai'i, Hawai'i's laws and rules allow the BON to act as well.	Hawai'i BON may issue a license to a nurse with an active disciplinary case in another state pending review; each case is reviewed individually. A new process may need to be established in relation to issuing an MSL, should Hawai'i adopt the NLC.

<p>6. Has submitted to state and federal fingerprint-based criminal background checks;</p>	<p>BON maintains this process per HSR 457-5</p>	<p>Meets ULR</p>
<p>7. Has not been convicted or found guilty, or has entered into an agreed disposition, of a felony offense under applicable state or federal criminal law;</p>	<p>Hawai'i's application has a question asking if an applicant has ever been convicted of a crime. No distinction between a misdemeanor and a felony, a crime is a crime and a conviction is a conviction.</p> <p>The board will look at it on a case-by-case basis using a similar process to the NLC on these issues.</p> <p>The BON does engage in collecting psychological evaluations for individuals convicted of sexual offenses against minors or other individuals.</p>	<p>The board will look at it on a case-by-case basis.</p> <p>A new process may need to be established in relation to issuing an MSL, should Hawai'i adopt the NLC.</p>
<p>8. Has no misdemeanor convictions related to the practice of nursing (determined on a case-by-case basis);</p>	<p>See item 7.</p> <p>Hawai'i does not have Hawai'i does not currently require that an applicant disclose substance use disorder specifically on our application. Unless it's a prior conviction or prior disciplinary action, this item will also need to be added to our requirements and checked that it follows other state laws, including the ADA due to the confidential nature of the information.</p>	<p>A new process may need to be established in relation to issuing an MSL, should Hawai'i adopt the NLC.</p>
<p>9. Is not currently a participant in an alternative program;</p>	<p>Hawai'i does not have this requirement so would have to add to our requirements.</p>	<p>The requirement would need to be developed should Hawai'i adopt the NLC.</p>
<p>10. Is required to self-disclose current participation in an alternative program; and</p>	<p>See item 9.</p> <p>Some states, even though they don't consider it a disciplinary action, will list this as a possible disciplinary action or the nurse will self-</p>	<p>See item 9.</p>

	disclose that they are in an agreement with another state in an alternative program.	
11. Has a valid United States Social Security number.	Hawai'i has a requirement for both exam and endorsement applicants.	Meets ULR

Table 17 11 Uniform License Requirements

Scope of Practice

The Hawai'i BON has statutory authority in the jurisdiction and regulatory oversight of nurses in the state. Hawai'i's practice rules are more advanced than other jurisdictions, which will likely lead to conflicts of law.¹³⁷

Scope of practice is not addressed under the NLC, it is only license requirements. As for how it works, if you are a nurse in another state and you come to Hawai'i to practice under your MSL, that nurse would have to abide by Hawai'i's laws and rules. Hawai'i's scope of practice allows nurses to do more, compared to other states. Compared to other states, Hawai'i's Nurse Practice Act is very advanced.¹³⁸

Differences in Hawai'i State law may be within the Nurse Practice Act, including

- Delegation: LPNs in Hawai'i are not authorized to delegate; LPNs in other states may be able to;
- Continuing Competency: LPNs and RNs in Hawai'i are required to engage in continuing competency; other states have varying requirements related to continuing competency;
- Practice Authority: Hawai'i recognizes APRNs as independent practitioners; other states require a collaborative or collegial agreement for an APRN with a physician.

Differences in Hawai'i State law may also be in other sections of the Hawai'i Revised Statute. Nurse authority is also defined in other areas of the law, and these sections may also vary from state to state.

Conclusion

- The NLC requires all party states to adopt eleven (11) Uniform License Requirements. Hawai'i is already in compliance with six (6) of the requirements. The five (5) ULRs for which Hawai'i is not in compliance will likely require statutory or administrative rule amendments, collaboration, and consent by additional government agencies, and potentially give rise to constitutional challenges that may or may not be overcome.
- The Hawai'i BON has statutory authority in the jurisdiction and regulatory oversight of nurses in the state. Hawai'i's practice rules are more advanced than other jurisdictions, which will likely lead to conflicts of law.

¹³⁷ Meeting 3

¹³⁸ Meeting 3

(9) Any other matters that the working group deems applicable to the evaluation of the State's adoption of the Nurse Licensure Compact;

Other options that support nurse license portability, and recruitment and retention advancements

License Portability and Timeliness

License Portability is a major theme throughout this report. Timely license processing is imperative to the successful recruitment of nurses, whether it be for long-term employment or to fill short-term needs. A delay in license processing that is equivalent to 2022 averages (approximately 90 calendar days) is untenable. Sustained improvements to the licensing system must be facilitated, regardless of the licensing options made available to the state.

Adequate staffing in the PVL office resulted in a return to pre-pandemic license processing times within a calendar month.

NLC may enable nurses to work in Hawai'i, under their home state's MSL, but it is independent of Hawai'i license processing time. NLC does not impact the timeliness of license processing for new grads or foreign applicants- they may apply for an MSL as a first-time applicant, but the individual is still beholden to the processing time for PVL for licenses in Hawai'i. However, if a nurse holds an MSL in another state, it would allow them to work immediately in Hawai'i as well as enable them to continue to work while they are awaiting a Hawai'i license, should they opt to apply for a Hawai'i SSL or MSL.

In addition, most states use multiple license portability options, including licensure by examination, licensure by endorsement, temporary permits, and emergency proclamations, whether they belong to the NLC or not. Some states have opted to adopt legislation for universal licensure or the Universal Emergency Volunteer Health Practitioners Act which informs or supports license portability.

Temporary Permit

Permits facilitate license portability through expedited authority to practice while maintaining revenues to the state, a registry of nurses in the state, and access to these nurses for workforce research undertakings. Temporary permits have not been issued since March 2020, first due to the issuance of the emergency proclamations, and then due to workload challenges at DCCA PVL related to the increased volume of license applications coupled with the high rate of vacancies. The Hawai'i BON is working to promulgate rules to update the temporary permit process to further expedite nurse license portability.

Temporary permits retain key directory information for nurses, as an application is required to be granted a permit.

Emergency Proclamations

Emergency proclamations aim to increase access to care during emergency situations, particularly when licensing boards may be overwhelmed or requests may be non-

functioning depending on the nature of the emergency. States that have adopted the NLC or other compacts continue to utilize EPs, and some states report that the EPs made it so the NLC was not utilized during active EPs. The scope of EPs may also be larger than NLCs, like focusing on getting students into practice quicker or bringing retirees back into the workforce.

EPs at the start of the COVID pandemic did not require key directory information for nurses, and over time more complete and accurate information was required to be submitted by employers to BON. The lack of, or incomplete key directory information and no requirement that MSL licensees apply to the BON and be vetted by them, increases risk to the state by negatively impacting enforcement speed, quality, and resources.

Requirements to collect and furnish the BON with key and accurate directory information should be standardized when EPs include license waivers under HRS Chapter 457, as well as the clear jurisdiction of BON and RICO over nurses working in the state under a waiver, to maintain the improvements to practice achieved during the pandemic.

Online licensing forms

DCCA BON states a significant cause for delay in license application processing is incomplete or inaccurate information provided by the applicant. BON is working to improve the accuracy of the application process by creating an online application system which is currently being tested. The goal is that fewer deficiencies will lead to improved accuracy which will result in fewer delays in license processing.

Local Workforce Development

Hawai'i currently has a large number of people who have completed all of the nursing prerequisites. However, there is limited education capacity to enroll all interested students. In other words, Hawai'i lacks clinical training sites and nursing faculty needed to enroll all the students.

Once enrolled, however, these local residents are highly sought after for employment. Employers are working to create enhanced recruitment and retention strategies including residencies, specialty training opportunities, and more. In addition, this population is people who already live in Hawai'i, so learning how to navigate the current cost of living environment, within Hawai'i's remote geography, or how to care for Hawai'i's diverse populations is not insurmountable but rather, already achieved.

Cost of Living

License portability and processing times may expedite recruitment, but it will not slow attrition. The cost of living is a major challenge for recruitment and retention, which is further exacerbated in localities with limited or expensive housing options. Even if nurses are successfully recruited, retention may be short-lived due to nurses opting to work in more economically favorable locations.

Conclusion

- License portability and timeliness of license processing is a matter of utmost priority.
- In addition to the NLC as license portability options, temporary permits and emergency proclamations are options that facilitate timely access to nurses.
- Temporary permits will still be needed regardless of whether the state adopts the NLC.
- Emergency Proclamations are important strategies for emergencies but lack all functions of licensing that make them appropriate for use outside of emergencies. Standardizing EP language to include nursing employers' reporting of key directory information will improve public safety during times of necessary license waivers.
- Current license processing time is near pre-pandemic times. Additional staffing at DCCA has facilitated the improved licensing processing time. In addition, the launch of an online license application should improve processing times by reducing applicant errors.
- The state does not produce enough nurses to meet the state's needs, and the cost of living poses a challenge for recruitment and retention. Addressing these topics will have widespread improvements in recruitment and retention.

Addendums

1 Senate Concurrent Resolution 112

MAR 10 2023

SENATE CONCURRENT RESOLUTION

REQUESTING THE HAWAII STATE CENTER FOR NURSING TO CONVENE A
WORKING GROUP TO STUDY THE FEASIBILITY AND IMPACT OF THE
STATE ADOPTING THE NURSE LICENSURE COMPACT.

1 WHEREAS, according to the United States Bureau of Labor
2 Statistics, the registered nursing workforce is expected to grow
3 by six percent over the next decade, from 3.1 million in 2021 to
4 3.3 million in 2031, an increase of 195,400 nurses; and
5

6 WHEREAS, the United States Bureau of Labor Statistics
7 projects 203,200 openings nationwide each year through 2031 for
8 registered nurses; and
9

10 WHEREAS, according to the Hawaii State Center for Nursing,
11 there are fifteen thousand seventy-two licensed registered
12 nurses living and practicing in the State; and
13

14 WHEREAS, according to the Healthcare Association of Hawaii,
15 there were approximately one thousand vacant registered nursing
16 positions in Hawaii in 2022, and, according to the Hawaii State
17 Center for Nursing, sixteen percent of registered nurses plan to
18 retire in the next five years; and
19

20 WHEREAS, during the coronavirus disease 2019 pandemic,
21 hospitals, nursing facilities, and other health care practices
22 faced nursing shortages, and those shortages continue to persist
23 today; and
24

25 WHEREAS, shortages in the local nursing workforce require
26 health care facilities to recruit traveling nurses, the
27 employment of which is often costly to the State; and
28

29 WHEREAS, the State and local health care systems continue
30 to invest in growing the local nursing and health care
31 professional workforce through expanded educational
32 opportunities, incentives, and other investments; and



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WHEREAS, the Nurse Licensure Compact would enable:

- (1) Nurses to practice in person or provide telenursing services to patients located across the country without needing to obtain additional licenses;
- (2) Nurses to work across state borders and provide vital services in the event of a disaster; and
- (3) Nurses who are spouses of active duty military personnel to seamlessly continue working without needing to obtain a new license each time they relocate, thus expanding the nursing workforce; and

WHEREAS, as of March 2023, thirty-nine jurisdictions have adopted the Nurse Licensure Compact; now, therefore,

BE IT RESOLVED by the Senate of the Thirty-second Legislature of the State of Hawaii, Regular Session of 2023, the House of Representatives concurring, that the Hawaii State Center for Nursing is requested to convene a working group to study the feasibility and impact of the State adopting the Nurse Licensure Compact; and

BE IT FURTHER RESOLVED that the Hawaii State Center for Nursing is requested to invite the following individuals to serve as members of the working group:

- (1) The Director of Commerce and Consumer Affairs, or the Director's designee;
- (2) A representative from the Department of Commerce and Consumer Affairs' Regulated Industries Complaints Office;
- (3) A representative from the Board of Nursing;
- (4) The Chairs of the Senate Standing Committees on Commerce and Consumer Protection and Health and Human Services, or the Chairs' designees;



- 1 (5) The Chairs of the House Standing Committees on
2 Consumer Protection and Commerce and Health and
3 Homelessness, or the Chairs' designees;
4
- 5 (6) A representative from the Healthcare Association of
6 Hawaii;
7
- 8 (7) A representative from the Hawaii Government Employees
9 Association;
10
- 11 (8) A representative from the Hawaii Association of Health
12 Plans; and
13
- 14 (9) A representative from the American Nurses Association
15 - Hawaii Chapter; and
16

17 BE IT FURTHER RESOLVED that the study is requested to
18 identify and assess the Nurse Licensure Compact's potential
19 impacts relating to:

- 20
- 21 (1) The State's nursing workforce;
22
- 23 (2) Fiscal obligations of the State, including any fees or
24 other costs;
25
- 26 (3) The potential for workforce migration into and out of
27 the State, including job transfers, travel nursing,
28 and telehealth nursing;
29
- 30 (4) The regulation of out-of-state nurses, including
31 recouping costs arising from investigations of
32 consumer complaints or other disciplinary actions;
33
- 34 (5) Disciplinary actions taken against a nurse with a
35 multistate licensure privilege;
36
- 37 (6) Health care workforce research and planning efforts;
38
- 39 (7) Differences in licensure renewal and competency
40 requirements between member states;
41



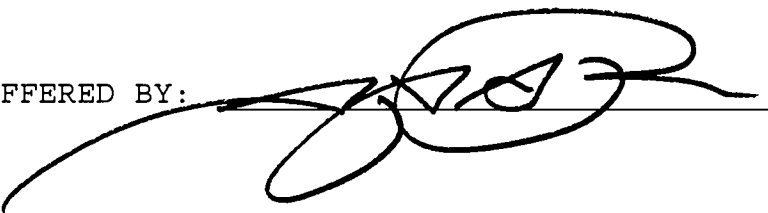
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(8) Jurisdiction and regulatory oversight of nurses in the State; and

(9) Any other matters that the working group deems applicable to the evaluation of the State's adoption of the Nurse Licensure Compact; and

BE IT FURTHER RESOLVED that the working group is requested to submit a report of its findings and recommendations, including any proposed legislation, to the Legislature no later than twenty days prior to the convening of the Regular Session of 2024; and

BE IT FURTHER RESOLVED that certified copies of this Concurrent Resolution be transmitted to the Director of Commerce and Consumer Affairs, Complaints and Enforcement Officer of the Department of Commerce and Consumer Affairs' Regulated Industries Complaints Office, Chairperson of the Board of Nursing, President of the Senate, Speaker of the House of Representatives, Chair of the Senate Standing Committee on Commerce and Consumer Protection, Chair of the Senate Standing Committee on Health and Human Services, Chair of the House Standing Committee on Consumer Protection and Commerce, Chair of the House Standing Committee on Health and Homelessness, President and Chief Executive Officer of the Healthcare Association of Hawaii, President of the Hawaii Government Employees Association, President of the Hawaii Association of Health Plans, and Executive Director of the American Nurses Association - Hawaii Chapter.

OFFERED BY: 



2 List of Acronyms

List of Acronyms

APRN – Advanced Practice Registered Nurse
ARPA – American Rescue Plan Act
BON – Board of Nursing
CNA – Certified Nurse Aide
CSRF - Coronavirus State and Local Recovery Funds
DOD- Department of Defense
DOH – Department of Health
EP - Emergency Proclamations
ER – Emergency Room
FORUM - National Forum of State Nursing Workforce Centers (Forum),
HAH - Healthcare Association of Hawaii
HAR - Hawai'i Administrative Rules
HHSC-Hawai'i Health System Corporation
HISNA - Hawai'i State Nursing Association
HPCA - Hawai'i Primary Care Association
HPH-Hawai'i Pacific Health
HRS - Hawai'i Revised Statute
HRSA - Health Resources and Services Administration is an agency of the U.S.
Department of Health and Human Services
HSCN - Hawai'i State Center for Nursing
ICU – Intensive Care Unit
KP - Kaiser Permanente Moanalua
LPN - Licensed Practical Nurse
LTC – Long Term Care
MDS - Minimum Data Set
MSL – Multistate License
NCLEX – National Council Licensure Examination
NCSBN – National Council of State Boards of Nursing
NLC – Nurse Licensure Compact
NOTBH - Notice and Opportunity To Be Heard
OB - Obstetric
PSOR – Primary State of Residence
PTP – Privilege To Practice
QHS - The Queen's Health System
RICO - Regulated Industries Complaints Office
RN – Registered Nurse
SSL – Single State License
UH - University of Hawai'i
ULR – Uniform Licensure Requirements

3 Nurse Licensure Compact Model Language

Nurse Licensure Compact

Approved by the May 4, 2015 Special Delegate Assembly

ARTICLE I

Findings and Declaration of Purpose

- a. The party states find that:
 1. The health and safety of the public are affected by the degree of compliance with and the effectiveness of enforcement activities related to state nurse licensure laws;
 2. Violations of nurse licensure and other laws regulating the practice of nursing may result in injury or harm to the public;
 3. The expanded mobility of nurses and the use of advanced communication technologies as part of our nation's health care delivery system require greater coordination and cooperation among states in the areas of nurse licensure and regulation;
 4. New practice modalities and technology make compliance with individual state nurse licensure laws difficult and complex;
 5. The current system of duplicative licensure for nurses practicing in multiple states is cumbersome and redundant for both nurses and states; and
 6. Uniformity of nurse licensure requirements throughout the states promotes public safety and public health benefits.
- b. The general purposes of this Compact are to:
 1. Facilitate the states' responsibility to protect the public's health and safety;
 2. Ensure and encourage the cooperation of party states in the areas of nurse licensure and regulation;
 3. Facilitate the exchange of information between party states in the areas of nurse regulation, investigation and adverse actions;
 4. Promote compliance with the laws governing the practice of nursing in each jurisdiction;
 5. Invest all party states with the authority to hold a nurse accountable for meeting all state practice laws in the state in which the patient is located at the time care is rendered through the mutual recognition of party state licenses;

6. Decrease redundancies in the consideration and issuance of nurse licenses; and
7. Provide opportunities for interstate practice by nurses who meet uniform licensure requirements.

ARTICLE II

Definitions

As used in this Compact:

- a. "Adverse action" means any administrative, civil, equitable or criminal action permitted by a state's laws which is imposed by a licensing board or other authority against a nurse, including actions against an individual's license or multistate licensure privilege such as revocation, suspension, probation, monitoring of the licensee, limitation on the licensee's practice, or any other encumbrance on licensure affecting a nurse's authorization to practice, including issuance of a cease and desist action.
- b. "Alternative program" means a non-disciplinary monitoring program approved by a licensing board.
- c. "Coordinated licensure information system" means an integrated process for collecting, storing and sharing information on nurse licensure and enforcement activities related to nurse licensure laws that is administered by a nonprofit organization composed of and controlled by licensing boards.
- d. "Current significant investigative information" means:
 1. Investigative information that a licensing board, after a preliminary inquiry that includes notification and an opportunity for the nurse to respond, if required by state law, has reason to believe is not groundless and, if proved true, would indicate more than a minor infraction; or
 2. Investigative information that indicates that the nurse represents an immediate threat to public health and safety regardless of whether the nurse has been notified and had an opportunity to respond.
- e. "Encumbrance" means a revocation or suspension of, or any limitation on, the full and unrestricted practice of nursing imposed by a licensing board.
- f. "Home state" means the party state which is the nurse's primary state of residence.
- g. "Licensing board" means a party state's regulatory body responsible for issuing nurse licenses.

- h. "Multistate license" means a license to practice as a registered or a licensed practical/vocational nurse (LPN/VN) issued by a home state licensing board that authorizes the licensed nurse to practice in all party states under a multistate licensure privilege.
- i. "Multistate licensure privilege" means a legal authorization associated with a multistate license permitting the practice of nursing as either a registered nurse (RN) or LPN/VN in a remote state.
- j. "Nurse" means RN or LPN/VN, as those terms are defined by each party state's practice laws.
- k. "Party state" means any state that has adopted this Compact.
- l. "Remote state" means a party state, other than the home state.
- m. "Single-state license" means a nurse license issued by a party state that authorizes practice only within the issuing state and does not include a multistate licensure privilege to practice in any other party state.
- n. "State" means a state, territory or possession of the United States and the District of Columbia.
- o. "State practice laws" means a party state's laws, rules and regulations that govern the practice of nursing, define the scope of nursing practice, and create the methods and grounds for imposing discipline. "State practice laws" do not include requirements necessary to obtain and retain a license, except for qualifications or requirements of the home state.

ARTICLE III

General Provisions and Jurisdiction

- a. A multistate license to practice registered or licensed practical/vocational nursing issued by a home state to a resident in that state will be recognized by each party state as authorizing a nurse to practice as a registered nurse (RN) or as a licensed practical/vocational nurse (LPN/VN), under a multistate licensure privilege, in each party state.
- b. A state must implement procedures for considering the criminal history records of applicants for initial multistate license or licensure by endorsement. Such procedures shall include the submission of fingerprints or other biometric-based information by applicants for the purpose of obtaining an applicant's criminal history record information from the Federal Bureau of Investigation and the agency responsible for retaining that state's criminal records.

- c. Each party state shall require the following for an applicant to obtain or retain a multistate license in the home state:
1. Meets the home state's qualifications for licensure or renewal of licensure, as well as, all other applicable state laws;
 2.
 - i. Has graduated or is eligible to graduate from a licensing board-approved RN or LPN/VN prelicensure education program; or
 - ii. Has graduated from a foreign RN or LPN/VN prelicensure education program that (a) has been approved by the authorized accrediting body in the applicable country and (b) has been verified by an independent credentials review agency to be comparable to a licensing board-approved prelicensure education program;
 3. Has, if a graduate of a foreign prelicensure education program not taught in English or if English is not the individual's native language, successfully passed an English proficiency examination that includes the components of reading, speaking, writing and listening;
 4. Has successfully passed an NCLEX-RN[®] or NCLEX-PN[®] Examination or recognized predecessor, as applicable;
 5. Is eligible for or holds an active, unencumbered license;
 6. Has submitted, in connection with an application for initial licensure or licensure by endorsement, fingerprints or other biometric data for the purpose of obtaining criminal history record information from the Federal Bureau of Investigation and the agency responsible for retaining that state's criminal records;
 7. Has not been convicted or found guilty, or has entered into an agreed disposition, of a felony offense under applicable state or federal criminal law;
 8. Has not been convicted or found guilty, or has entered into an agreed disposition, of a misdemeanor offense related to the practice of nursing as determined on a case-by-case basis;
 9. Is not currently enrolled in an alternative program;
 10. Is subject to self-disclosure requirements regarding current participation in an alternative program; and
 11. Has a valid United States Social Security number.

- d. All party states shall be authorized, in accordance with existing state due process law, to take adverse action against a nurse's multistate licensure privilege such as revocation, suspension, probation or any other action that affects a nurse's authorization to practice under a multistate licensure privilege, including cease and desist actions. If a party state takes such action, it shall promptly notify the administrator of the coordinated licensure information system. The administrator of the coordinated licensure information system shall promptly notify the home state of any such actions by remote states.
- e. A nurse practicing in a party state must comply with the state practice laws of the state in which the client is located at the time service is provided. The practice of nursing is not limited to patient care, but shall include all nursing practice as defined by the state practice laws of the party state in which the client is located. The practice of nursing in a party state under a multistate licensure privilege will subject a nurse to the jurisdiction of the licensing board, the courts and the laws of the party state in which the client is located at the time service is provided.
- f. Individuals not residing in a party state shall continue to be able to apply for a party state's single-state license as provided under the laws of each party state. However, the single-state license granted to these individuals will not be recognized as granting the privilege to practice nursing in any other party state. Nothing in this Compact shall affect the requirements established by a party state for the issuance of a single-state license.
- g. Any nurse holding a home state multistate license, on the effective date of this Compact, may retain and renew the multistate license issued by the nurse's then-current home state, provided that:
 - 1. A nurse, who changes primary state of residence after this Compact's effective date, must meet all applicable Article III.c. requirements to obtain a multistate license from a new home state.
 - 2. A nurse who fails to satisfy the multistate licensure requirements in Article III.c. due to a disqualifying event occurring after this Compact's effective date shall be ineligible to retain or renew a multistate license, and the nurse's multistate license shall be revoked or deactivated in accordance with applicable rules adopted by the Interstate Commission of Nurse Licensure Compact Administrators ("Commission").

ARTICLE IV

Applications for Licensure in a Party State

- a. Upon application for a multistate license, the licensing board in the issuing party state shall ascertain, through the coordinated licensure information system, whether the applicant has ever held, or is the holder of, a license issued by any other state, whether there are any encumbrances on any license or multistate licensure privilege held by the applicant, whether any adverse action has been taken against any license or multistate licensure privilege held by the applicant and whether the applicant is currently participating in an alternative program.
- b. A nurse may hold a multistate license, issued by the home state, in only one party state at a time.
- c. If a nurse changes primary state of residence by moving between two party states, the nurse must apply for licensure in the new home state, and the multistate license issued by the prior home state will be deactivated in accordance with applicable rules adopted by the Commission.
 - 1. The nurse may apply for licensure in advance of a change in primary state of residence.
 - 2. A multistate license shall not be issued by the new home state until the nurse provides satisfactory evidence of a change in primary state of residence to the new home state and satisfies all applicable requirements to obtain a multistate license from the new home state.
- d. If a nurse changes primary state of residence by moving from a party state to a non-party state, the multistate license issued by the prior home state will convert to a single-state license, valid only in the former home state.

ARTICLE V

Additional Authorities Invested in Party State Licensing Boards

- a. In addition to the other powers conferred by state law, a licensing board shall have the authority to:
 - 1. Take adverse action against a nurse's multistate licensure privilege to practice within that party state.
 - i. Only the home state shall have the power to take adverse action against a nurse's license issued by the home state.
 - ii. For purposes of taking adverse action, the home state licensing board shall give the same priority and effect to reported conduct received from a remote state as it would if such

conduct had occurred within the home state. In so doing, the home state shall apply its own state laws to determine appropriate action.

2. Issue cease and desist orders or impose an encumbrance on a nurse's authority to practice within that party state.
 3. Complete any pending investigations of a nurse who changes primary state of residence during the course of such investigations. The licensing board shall also have the authority to take appropriate action(s) and shall promptly report the conclusions of such investigations to the administrator of the coordinated licensure information system. The administrator of the coordinated licensure information system shall promptly notify the new home state of any such actions.
 4. Issue subpoenas for both hearings and investigations that require the attendance and testimony of witnesses, as well as, the production of evidence. Subpoenas issued by a licensing board in a party state for the attendance and testimony of witnesses or the production of evidence from another party state shall be enforced in the latter state by any court of competent jurisdiction, according to the practice and procedure of that court applicable to subpoenas issued in proceedings pending before it. The issuing authority shall pay any witness fees, travel expenses, mileage and other fees required by the service statutes of the state in which the witnesses or evidence are located.
 5. Obtain and submit, for each nurse licensure applicant, fingerprint or other biometric-based information to the Federal Bureau of Investigation for criminal background checks, receive the results of the Federal Bureau of Investigation record search on criminal background checks and use the results in making licensure decisions.
 6. If otherwise permitted by state law, recover from the affected nurse the costs of investigations and disposition of cases resulting from any adverse action taken against that nurse.
 7. Take adverse action based on the factual findings of the remote state, provided that the licensing board follows its own procedures for taking such adverse action.
- b. If adverse action is taken by the home state against a nurse's multistate license, the nurse's multistate licensure privilege to practice in all other party states shall be deactivated until all

encumbrances have been removed from the multistate license. All home state disciplinary orders that impose adverse action against a nurse's multistate license shall include a statement that the nurse's multistate licensure privilege is deactivated in all party states during the pendency of the order.

- c. Nothing in this Compact shall override a party state's decision that participation in an alternative program may be used in lieu of adverse action. The home state licensing board shall deactivate the multistate licensure privilege under the multistate license of any nurse for the duration of the nurse's participation in an alternative program.

ARTICLE VI

Coordinated Licensure Information System and Exchange of Information

- a. All party states shall participate in a coordinated licensure information system of all licensed registered nurses (RNs) and licensed practical/vocational nurses (LPNs/VNs). This system will include information on the licensure and disciplinary history of each nurse, as submitted by party states, to assist in the coordination of nurse licensure and enforcement efforts.
- b. The Commission, in consultation with the administrator of the coordinated licensure information system, shall formulate necessary and proper procedures for the identification, collection and exchange of information under this Compact.
- c. All licensing boards shall promptly report to the coordinated licensure information system any adverse action, any current significant investigative information, denials of applications (with the reasons for such denials) and nurse participation in alternative programs known to the licensing board regardless of whether such participation is deemed nonpublic or confidential under state law.
- d. Current significant investigative information and participation in nonpublic or confidential alternative programs shall be transmitted through the coordinated licensure information system only to party state licensing boards.
- e. Notwithstanding any other provision of law, all party state licensing boards contributing information to the coordinated licensure information system may designate information that may not be shared with non-party states or disclosed to other entities or individuals without the express permission of the contributing state.

- f. Any personally identifiable information obtained from the coordinated licensure information system by a party state licensing board shall not be shared with non-party states or disclosed to other entities or individuals except to the extent permitted by the laws of the party state contributing the information.
- g. Any information contributed to the coordinated licensure information system that is subsequently required to be expunged by the laws of the party state contributing that information shall also be expunged from the coordinated licensure information system.
- h. The Compact administrator of each party state shall furnish a uniform data set to the Compact administrator of each other party state, which shall include, at a minimum:
 - 1. Identifying information;
 - 2. Licensure data;
 - 3. Information related to alternative program participation; and
 - 4. Other information that may facilitate the administration of this Compact, as determined by Commission rules.
- i. The Compact administrator of a party state shall provide all investigative documents and information requested by another party state.

ARTICLE VII

Establishment of the Interstate Commission of Nurse Licensure Compact Administrators

- a. The party states hereby create and establish a joint public entity known as the Interstate Commission of Nurse Licensure Compact Administrators.
 - 1. The Commission is an instrumentality of the party states.
 - 2. Venue is proper, and judicial proceedings by or against the Commission shall be brought solely and exclusively, in a court of competent jurisdiction where the principal office of the Commission is located. The Commission may waive venue and jurisdictional defenses to the extent it adopts or consents to participate in alternative dispute resolution proceedings.
 - 3. Nothing in this Compact shall be construed to be a waiver of sovereign immunity.
- b. Membership, Voting and Meetings
 - 1. Each party state shall have and be limited to one administrator. The head of the state licensing board or designee shall be the administrator of this Compact for each party state. Any

administrator may be removed or suspended from office as provided by the law of the state from which the Administrator is appointed. Any vacancy occurring in the Commission shall be filled in accordance with the laws of the party state in which the vacancy exists.

2. Each administrator shall be entitled to one (1) vote with regard to the promulgation of rules and creation of bylaws and shall otherwise have an opportunity to participate in the business and affairs of the Commission. An administrator shall vote in person or by such other means as provided in the bylaws. The bylaws may provide for an administrator's participation in meetings by telephone or other means of communication.
3. The Commission shall meet at least once during each calendar year. Additional meetings shall be held as set forth in the bylaws or rules of the commission.
4. All meetings shall be open to the public, and public notice of meetings shall be given in the same manner as required under the rulemaking provisions in Article VIII.
5. The Commission may convene in a closed, nonpublic meeting if the Commission must discuss:
 - i. Noncompliance of a party state with its obligations under this Compact;
 - ii. The employment, compensation, discipline or other personnel matters, practices or procedures related to specific employees or other matters related to the Commission's internal personnel practices and procedures;
 - iii. Current, threatened or reasonably anticipated litigation;
 - iv. Negotiation of contracts for the purchase or sale of goods, services or real estate;
 - v. Accusing any person of a crime or formally censuring any person;
 - vi. Disclosure of trade secrets or commercial or financial information that is privileged or confidential;
 - vii. Disclosure of information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;
 - viii. Disclosure of investigatory records compiled for law enforcement purposes;
 - ix. Disclosure of information related to any reports prepared by or on behalf of the Commission for the purpose of investigation of compliance with this Compact; or
 - x. Matters specifically exempted from disclosure by federal or state statute.

6. If a meeting, or portion of a meeting, is closed pursuant to this provision, the Commission's legal counsel or designee shall certify that the meeting may be closed and shall reference each relevant exempting provision. The Commission shall keep minutes that fully and clearly describe all matters discussed in a meeting and shall provide a full and accurate summary of actions taken, and the reasons therefor, including a description of the views expressed. All documents considered in connection with an action shall be identified in such minutes. All minutes and documents of a closed meeting shall remain under seal, subject to release by a majority vote of the Commission or order of a court of competent jurisdiction.
- c. The Commission shall, by a majority vote of the administrators, prescribe bylaws or rules to govern its conduct as may be necessary or appropriate to carry out the purposes and exercise the powers of this Compact, including but not limited to:
1. Establishing the fiscal year of the Commission;
 2. Providing reasonable standards and procedures:
 - i. For the establishment and meetings of other committees; and
 - ii. Governing any general or specific delegation of any authority or function of the Commission;
 3. Providing reasonable procedures for calling and conducting meetings of the Commission, ensuring reasonable advance notice of all meetings and providing an opportunity for attendance of such meetings by interested parties, with enumerated exceptions designed to protect the public's interest, the privacy of individuals, and proprietary information, including trade secrets. The Commission may meet in closed session only after a majority of the administrators vote to close a meeting in whole or in part. As soon as practicable, the Commission must make public a copy of the vote to close the meeting revealing the vote of each administrator, with no proxy votes allowed;
 4. Establishing the titles, duties and authority and reasonable procedures for the election of the officers of the Commission;
 5. Providing reasonable standards and procedures for the establishment of the personnel policies and programs of the Commission. Notwithstanding any civil service or other similar laws of any

party state, the bylaws shall exclusively govern the personnel policies and programs of the Commission; and

6. Providing a mechanism for winding up the operations of the Commission and the equitable disposition of any surplus funds that may exist after the termination of this Compact after the payment or reserving of all of its debts and obligations;
- d. The Commission shall publish its bylaws and rules, and any amendments thereto, in a convenient form on the website of the Commission.
- e. The Commission shall maintain its financial records in accordance with the bylaws.
- f. The Commission shall meet and take such actions as are consistent with the provisions of this Compact and the bylaws.
- g. The Commission shall have the following powers:
 1. To promulgate uniform rules to facilitate and coordinate implementation and administration of this Compact. The rules shall have the force and effect of law and shall be binding in all party states;
 2. To bring and prosecute legal proceedings or actions in the name of the Commission, provided that the standing of any licensing board to sue or be sued under applicable law shall not be affected;
 3. To purchase and maintain insurance and bonds;
 4. To borrow, accept or contract for services of personnel, including, but not limited to, employees of a party state or nonprofit organizations;
 5. To cooperate with other organizations that administer state compacts related to the regulation of nursing, including but not limited to sharing administrative or staff expenses, office space or other resources;
 6. To hire employees, elect or appoint officers, fix compensation, define duties, grant such individuals appropriate authority to carry out the purposes of this Compact, and to establish the Commission's personnel policies and programs relating to conflicts of interest, qualifications of personnel and other related personnel matters;

7. To accept any and all appropriate donations, grants and gifts of money, equipment, supplies, materials and services, and to receive, utilize and dispose of the same; provided that at all times the Commission shall avoid any appearance of impropriety or conflict of interest;
 8. To lease, purchase, accept appropriate gifts or donations of, or otherwise to own, hold, improve or use, any property, whether real, personal or mixed; provided that at all times the Commission shall avoid any appearance of impropriety;
 9. To sell, convey, mortgage, pledge, lease, exchange, abandon or otherwise dispose of any property, whether real, personal or mixed;
 10. To establish a budget and make expenditures;
 11. To borrow money;
 12. To appoint committees, including advisory committees comprised of administrators, state nursing regulators, state legislators or their representatives, and consumer representatives, and other such interested persons;
 13. To provide and receive information from, and to cooperate with, law enforcement agencies;
 14. To adopt and use an official seal; and
 15. To perform such other functions as may be necessary or appropriate to achieve the purposes of this Compact consistent with the state regulation of nurse licensure and practice.
- h. Financing of the Commission
1. The Commission shall pay, or provide for the payment of, the reasonable expenses of its establishment, organization and ongoing activities.
 2. The Commission may also levy on and collect an annual assessment from each party state to cover the cost of its operations, activities and staff in its annual budget as approved each year. The aggregate annual assessment amount, if any, shall be allocated based upon a formula to be determined by the Commission, which shall promulgate a rule that is binding upon all party states.
 3. The Commission shall not incur obligations of any kind prior to securing the funds adequate to meet the same; nor shall the Commission pledge the credit of any of the party states, except by, and with the authority of, such party state.

4. The Commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the Commission shall be subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the Commission shall be audited yearly by a certified or licensed public accountant, and the report of the audit shall be included in and become part of the annual report of the Commission.

i. Qualified Immunity, Defense and Indemnification

1. The administrators, officers, executive director, employees and representatives of the Commission shall be immune from suit and liability, either personally or in their official capacity, for any claim for damage to or loss of property or personal injury or other civil liability caused by or arising out of any actual or alleged act, error or omission that occurred, or that the person against whom the claim is made had a reasonable basis for believing occurred, within the scope of Commission employment, duties or responsibilities; provided that nothing in this paragraph shall be construed to protect any such person from suit or liability for any damage, loss, injury or liability caused by the intentional, willful or wanton misconduct of that person.

2. The Commission shall defend any administrator, officer, executive director, employee or representative of the Commission in any civil action seeking to impose liability arising out of any actual or alleged act, error or omission that occurred within the scope of Commission employment, duties or responsibilities, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of Commission employment, duties or responsibilities; provided that nothing herein shall be construed to prohibit that person from retaining his or her own counsel; and provided further that the actual or alleged act, error or omission did not result from that person's intentional, willful or wanton misconduct.

3. The Commission shall indemnify and hold harmless any administrator, officer, executive director, employee or representative of the Commission for the amount of any settlement or judgment obtained against that person arising out of any actual or alleged act, error or omission that occurred within the scope of Commission employment, duties or responsibilities, or that such person had a reasonable basis for believing occurred within the scope of Commission

employment, duties or responsibilities, provided that the actual or alleged act, error or omission did not result from the intentional, willful or wanton misconduct of that person.

ARTICLE VIII

Rulemaking

- a. The Commission shall exercise its rulemaking powers pursuant to the criteria set forth in this Article and the rules adopted thereunder. Rules and amendments shall become binding as of the date specified in each rule or amendment and shall have the same force and effect as provisions of this Compact.
- b. Rules or amendments to the rules shall be adopted at a regular or special meeting of the Commission.
- c. Prior to promulgation and adoption of a final rule or rules by the Commission, and at least sixty (60) days in advance of the meeting at which the rule will be considered and voted upon, the Commission shall file a notice of proposed rulemaking:
 1. On the website of the Commission; and
 2. On the website of each licensing board or the publication in which each state would otherwise publish proposed rules.
- d. The notice of proposed rulemaking shall include:
 1. The proposed time, date and location of the meeting in which the rule will be considered and voted upon;
 2. The text of the proposed rule or amendment, and the reason for the proposed rule;
 3. A request for comments on the proposed rule from any interested person; and
 4. The manner in which interested persons may submit notice to the Commission of their intention to attend the public hearing and any written comments.
- e. Prior to adoption of a proposed rule, the Commission shall allow persons to submit written data, facts, opinions and arguments, which shall be made available to the public.
- f. The Commission shall grant an opportunity for a public hearing before it adopts a rule or amendment.

- g. The Commission shall publish the place, time and date of the scheduled public hearing.
 - 1. Hearings shall be conducted in a manner providing each person who wishes to comment a fair and reasonable opportunity to comment orally or in writing. All hearings will be recorded, and a copy will be made available upon request.
 - 2. Nothing in this section shall be construed as requiring a separate hearing on each rule. Rules may be grouped for the convenience of the Commission at hearings required by this section.
- h. If no one appears at the public hearing, the Commission may proceed with promulgation of the proposed rule.
- i. Following the scheduled hearing date, or by the close of business on the scheduled hearing date if the hearing was not held, the Commission shall consider all written and oral comments received.
- j. The Commission shall, by majority vote of all administrators, take final action on the proposed rule and shall determine the effective date of the rule, if any, based on the rulemaking record and the full text of the rule.
- k. Upon determination that an emergency exists, the Commission may consider and adopt an emergency rule without prior notice, opportunity for comment or hearing, provided that the usual rulemaking procedures provided in this Compact and in this section shall be retroactively applied to the rule as soon as reasonably possible, in no event later than ninety (90) days after the effective date of the rule. For the purposes of this provision, an emergency rule is one that must be adopted immediately in order to:
 - 1. Meet an imminent threat to public health, safety or welfare;
 - 2. Prevent a loss of Commission or party state funds; or
 - 3. Meet a deadline for the promulgation of an administrative rule that is required by federal law or rule.
- l. The Commission may direct revisions to a previously adopted rule or amendment for purposes of correcting typographical errors, errors in format, errors in consistency or grammatical errors. Public notice of any revisions shall be posted on the website of the Commission. The revision shall be subject to challenge by any person for a period of thirty (30) days after posting. The revision may be challenged only on grounds that the revision results in a material change to a rule. A challenge shall

be made in writing, and delivered to the Commission, prior to the end of the notice period. If no challenge is made, the revision will take effect without further action. If the revision is challenged, the revision may not take effect without the approval of the Commission.

ARTICLE IX

Oversight, Dispute Resolution and Enforcement

a. Oversight

1. Each party state shall enforce this Compact and take all actions necessary and appropriate to effectuate this Compact's purposes and intent.
2. The Commission shall be entitled to receive service of process in any proceeding that may affect the powers, responsibilities or actions of the Commission, and shall have standing to intervene in such a proceeding for all purposes. Failure to provide service of process in such proceeding to the Commission shall render a judgment or order void as to the Commission, this Compact or promulgated rules.

b. Default, Technical Assistance and Termination

1. If the Commission determines that a party state has defaulted in the performance of its obligations or responsibilities under this Compact or the promulgated rules, the Commission shall:
 - i. Provide written notice to the defaulting state and other party states of the nature of the default, the proposed means of curing the default or any other action to be taken by the Commission; and
 - ii. Provide remedial training and specific technical assistance regarding the default.
2. If a state in default fails to cure the default, the defaulting state's membership in this Compact may be terminated upon an affirmative vote of a majority of the administrators, and all rights, privileges and benefits conferred by this Compact may be terminated on the effective date of termination. A cure of the default does not relieve the offending state of obligations or liabilities incurred during the period of default.
3. Termination of membership in this Compact shall be imposed only after all other means of securing compliance have been exhausted. Notice of intent to suspend or terminate shall be

given by the Commission to the governor of the defaulting state and to the executive officer of the defaulting state's licensing board and each of the party states.

4. A state whose membership in this Compact has been terminated is responsible for all assessments, obligations and liabilities incurred through the effective date of termination, including obligations that extend beyond the effective date of termination.
5. The Commission shall not bear any costs related to a state that is found to be in default or whose membership in this Compact has been terminated unless agreed upon in writing between the Commission and the defaulting state.
6. The defaulting state may appeal the action of the Commission by petitioning the U.S. District Court for the District of Columbia or the federal district in which the Commission has its principal offices. The prevailing party shall be awarded all costs of such litigation, including reasonable attorneys' fees.

c. Dispute Resolution

1. Upon request by a party state, the Commission shall attempt to resolve disputes related to the Compact that arise among party states and between party and non-party states.
2. The Commission shall promulgate a rule providing for both mediation and binding dispute resolution for disputes, as appropriate.
3. In the event the Commission cannot resolve disputes among party states arising under this Compact:
 - i. The party states may submit the issues in dispute to an arbitration panel, which will be comprised of individuals appointed by the Compact administrator in each of the affected party states and an individual mutually agreed upon by the Compact administrators of all the party states involved in the dispute.
 - ii. The decision of a majority of the arbitrators shall be final and binding.

d. Enforcement

1. The Commission, in the reasonable exercise of its discretion, shall enforce the provisions and rules of this Compact.

2. By majority vote, the Commission may initiate legal action in the U.S. District Court for the District of Columbia or the federal district in which the Commission has its principal offices against a party state that is in default to enforce compliance with the provisions of this Compact and its promulgated rules and bylaws. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary, the prevailing party shall be awarded all costs of such litigation, including reasonable attorneys' fees.
3. The remedies herein shall not be the exclusive remedies of the Commission. The Commission may pursue any other remedies available under federal or state law.

ARTICLE X

Effective Date, Withdrawal and Amendment

- a. This Compact shall become effective and binding on the earlier of the date of legislative enactment of this Compact into law by no less than twenty-six (26) states or December 31, 2018. All party states to this Compact, that also were parties to the prior Nurse Licensure Compact, superseded by this Compact, ("Prior Compact"), shall be deemed to have withdrawn from said Prior Compact within six (6) months after the effective date of this Compact.
- b. Each party state to this Compact shall continue to recognize a nurse's multistate licensure privilege to practice in that party state issued under the Prior Compact until such party state has withdrawn from the Prior Compact.
- c. Any party state may withdraw from this Compact by enacting a statute repealing the same. A party state's withdrawal shall not take effect until six (6) months after enactment of the repealing statute.
- d. A party state's withdrawal or termination shall not affect the continuing requirement of the withdrawing or terminated state's licensing board to report adverse actions and significant investigations occurring prior to the effective date of such withdrawal or termination.
- e. Nothing contained in this Compact shall be construed to invalidate or prevent any nurse licensure agreement or other cooperative arrangement between a party state and a non-party state that is made in accordance with the other provisions of this Compact.

- f. This Compact may be amended by the party states. No amendment to this Compact shall become effective and binding upon the party states unless and until it is enacted into the laws of all party states.
- g. Representatives of non-party states to this Compact shall be invited to participate in the activities of the Commission, on a nonvoting basis, prior to the adoption of this Compact by all states.

ARTICLE XI

Construction and Severability

This Compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this Compact shall be severable, and if any phrase, clause, sentence or provision of this Compact is declared to be contrary to the constitution of any party state or of the United States, or if the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this Compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this Compact shall be held to be contrary to the constitution of any party state, this Compact shall remain in full force and effect as to the remaining party states and in full force and effect as to the party state affected as to all severable matters.

4 Nurse Licensure Compact Rules



The Interstate Commission of Nurse Licensure Compact Administrators

Final Rules
Effective January 2, 2024

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SECTION 100. DEFINITIONS

- (1) "Commission" is the Interstate Commission of Nurse Licensure Compact Administrators (ICNLCA).
- (2) "Compact" is the Nurse Licensure Compact that became effective on July 20, 2017 and implemented on January 19, 2018.
- (3) "Deactivate" is to terminate the active status of a multistate license or privilege to practice in a party state.
- (4) "Executive Director" of the ICNLCA is the individual approved to perform duties as delegated by the Commission.
- (5) "Disqualifying Event" is an incident, which results in a person becoming disqualified or ineligible to retain or renew a multistate license. These include, but are not limited to, the following: any adverse action resulting in an encumbrance as defined in Article II e, current participation in an alternative program, a misdemeanor offense related to the practice of nursing which includes, but is not limited to, an agreed disposition, or any felony offense which includes, but is not limited to, an agreed disposition.
- (6) "Independent Credentials Review Agency" is a non-governmental evaluation agency that verifies and certifies that foreign nurse graduates have graduated from nursing programs that are academically equivalent to nursing programs in the United States.
- (7) "Licensure" includes the authority to practice nursing granted through the process of examination, endorsement, renewal, reinstatement and/or reactivation.
- (8) "Prior Compact" is the Nurse Licensure Compact that was in effect until January 19, 2018.
- (9) "Unencumbered License" is a license that authorizes a nurse to engage in the full and unrestricted practice of nursing.

History: Adopted December 12, 2017; effective January 19, 2018; amended August 15, 2023, effective January 2, 2024.

SECTION 200. COORDINATED LICENSURE INFORMATION SYSTEM

201. UNIFORM DATA SET AND LEVELS OF ACCESS

- (1) The Compact Administrator of each party state shall furnish uniform data to the Coordinated Licensure Information System, which shall consist of the following:
 - (a) the nurse's name;
 - (b) jurisdiction of licensure;
 - (c) license expiration date;
 - (d) licensure classification, license number and status;

- (e) public emergency and final disciplinary actions, as defined by the contributing state authority;
- (f) a change in the status of a disciplinary action or licensure encumbrance;
- (g) status of multistate licensure privileges;
- (h) current participation by the nurse in an alternative program;
- (i) information that is required to be expunged by the laws of a party state;
- (j) the applicant or nurse's United States social security number;
- (k) the existence of current significant investigative information; and
- (l) a correction to a licensee's data.

(2) The public shall have access to items (1)(a) through (g) and information about a licensee's participation in an alternative program to the extent allowed by state law.

(3) In the event a nurse asserts that any Coordinated Licensure Information System data is inaccurate, the burden shall be upon the nurse to provide evidence in a manner determined by the party state that substantiates such claim.

(4) A party state shall report the items in the uniform data set to the Coordinated Licensure Information System within fifteen (15) calendar days of the date on which the action is taken.

History: Adopted December 12, 2017; effective January 19, 2018; amended August 14, 2018; effective January 1, 2019, amended August 15, 2023, effective January 2, 2024.

202. QUERYING THE COORDINATED LICENSURE INFORMATION SYSTEM

(1) Upon application for multistate licensure, with the exception of renewal by a nurse, a party state shall query the Coordinated Licensure Information System to ascertain the applicant's current licensure status, previous disciplinary action(s), and member board notifications related to current participation in an alternative program or current significant investigative information.

(2) Upon discovery that an applicant is under investigation in another party state, the party state in receipt of the nurse licensure application shall contact the investigating party state and may request investigative documents and information.

History: Adopted December 12, 2017; effective January 19, 2018, amended August 15, 2023, effective January 2, 2024.

203: PARTICIPATION IN COORDINATED LICENSURE INFORMATION SYSTEM

All party states shall participate in a coordinated licensure information system of all licensed registered nurses and licensed practical/vocational nurses. Such participation includes participation in all of the following components:

- (1) Licensure information, which includes the Uniform Data Set as described in Rule 201(1); and
- (2) Submission of disciplinary history of each nurse, including information regarding adverse actions taken against a license, application, and/or multistate licensure privilege; and
- (3) Participation in the license verification service for endorsement.

History: Adopted August 15, 2023, effective January 2, 2024.

SECTION 300. IMPLEMENTATION

301. IMPLEMENTATION

The Compact was implemented on January 19, 2018.

History: Adopted December 12, 2017; effective January 19, 2018, amended August 15, 2023, effective January 2, 2024.

302. LEGACY CLAUSE

- (1) A nurse who held a multistate license as of July 20, 2017, whose multistate license remained unencumbered as of the January 19, 2018 implementation, and who retained that multistate license, was not required to meet the new requirements for a multistate license under this Compact.
- (2) A nurse who retained a multistate license pursuant to subsection (1) of this section and who changes primary state of residence after January 19, 2018, must meet all applicable Article III (c) requirements to obtain a multistate license from a new primary state of residence.
- (3) A nurse whose multistate license is revoked or deactivated may be eligible for a single state license in accordance with the laws of the party state.

History: Adopted December 12, 2017; effective January 19, 2018, amended August 15, 2023, effective January 2, 2024.

303. IMPLEMENTATION BY NEW PARTY STATES

- (1) The Executive Director shall notify party states within fifteen (15) calendar days after a new party state enacts the Compact.
- (2) The new party state shall establish an implementation date within twelve (12) months from enactment, or as specified in the enabling language, and shall notify the Executive Director of the date.
- (3) Upon implementation, a licensee who holds a single state license in the new party state and holds a multistate license in the home state, may retain the single state license until it lapses, expires or becomes inactive.
- (4) At least ninety (90) calendar days prior to the new party state implementation date, party states shall notify any active single state licensee with an address in the new party state that the licensee may only hold one multistate license in the primary state of residence. The licensee shall be advised to obtain or maintain a multistate license only from the primary state of residence.
- (5) Each party state shall deactivate a multistate license when a new home state issues a multistate license.

History: Adopted December 12, 2017; effective January 19, 2018, amended August 15, 2023, effective January 2, 2024.

SECTION 400. LICENSURE

401. PARTY STATE RESPONSIBILITIES

- (1) On all application forms for multistate licensure, a party state shall require, at a minimum:
 - (a) A declaration of a primary state of residence and
 - (b) Whether the applicant is a current participant in an alternative program.
- (2)
 - (a) An applicant for licensure who is determined to be ineligible for a multistate license shall be notified by the home state of the qualifications not met.
 - (b) The home state may issue a single state license pursuant to its laws.
- (3) A remote party state shall not issue a single state license to a nurse who holds a multistate license.

History: Adopted December 12, 2017; effective January 19, 2018, amended August 15, 2023, effective January 2, 2024.

402. MULTISTATE APPLICANT RESPONSIBILITIES

- (1) On all application forms for multistate licensure in a party state, an applicant shall declare a primary state of residence.
- (2) A multistate licensee who changes primary state of residence to another party state shall apply for a multistate license in the new party state within 60 days.
- (3) A party state may require an applicant to provide evidence of residence in the declared primary state of residence. This evidence may include, but is not limited to, a current:
 - (a) driver's license with a home address;
 - (b) voter registration card with a home address;
 - (c) federal income tax return with a primary state of residence declaration;
 - (d) military form no. 2058 (state of legal residence certificate); or
 - (e) W2 form from the United States government or any bureau, division, or agency thereof, indicating residence.
- (4) A nurse shall not apply for a single state license in a remote state while the nurse holds a multistate license in their primary state of residence.
- (5) An applicant who is a citizen of a foreign country, and who is lawfully present in the United States and is applying for multistate licensure in a party state may declare either the applicant's country of origin or the party state where they are living as the primary state of residence. If the applicant declares the foreign country as the primary state of residence, the party state shall not issue a multistate license, but may issue a single state license if the applicant meets the party state's licensure requirements.
- (6) An applicant shall disclose current participation in an alternative program to any party state, whether upon initial application or within ten (10) calendar days of enrollment in the program.

History: Adopted December 12, 2017; effective January 19, 2018, amended August 15, 2023, effective January 2, 2024.

403. CHANGE IN PRIMARY STATE OF RESIDENCE

- (1) A nurse who changes his or her primary state of residence from one party state to another party state may continue to practice under the existing multistate license while the nurse's application is processed and a multistate license is issued in the new primary state of residence.
- (2) Upon issuance of a new multistate license, the former primary state of residence shall deactivate its multistate license held by the nurse and provide notice to the nurse.

(3) If a party state verifies that a licensee who holds a multistate license changes primary state of residence to a non-party state, the party state shall convert the multistate license to a single state license within fifteen (15) calendar days, and report this conversion to the Coordinated Licensure Information System.

History: Adopted December 12, 2017; effective January 19, 2018.

404. TEMPORARY PERMITS AND LICENSES

A temporary permit, license, or similar temporary authorization to practice issued by a party state to an applicant for licensure shall not grant multistate licensure privileges.

History: Adopted December 12, 2017; effective January 19, 2018.

405. IDENTIFICATION OF LICENSES

A party state shall clearly identify a license as either a single state license or a multistate license.

History: Adopted December 12, 2017; effective January 19, 2018, amended August 15, 2023, effective January 2, 2024.

History: Rules 406 and 407 retired August 15, 2023, effective January 2, 2024.

408. FEDERAL CRIMINAL RECORDS

Communication between a party state and the Commission and communication between party states regarding verification of the nurse's eligibility for licensure pursuant to the Compact shall not include any Criminal History Record Information (CHRI) received from the Federal Bureau of Investigation relating to a federal criminal records check performed by a member board under Public Law 92-544.

History: Adopted August 11, 2020; effective January 1, 2021, amended August 15, 2023, effective January 2, 2024.

409. ACTIVE DUTY MILITARY PERSONNEL OR THEIR SPOUSE

An active duty service member, or the member's spouse, shall designate a primary state of residence where the service member or spouse has a current license in good standing. The service member or spouse may retain the primary state of residence designation during the period the service member is on active duty. Subsequent to designating a primary state of residence, the service member or spouse shall only change the primary state of residence through application for licensure in the new primary state of residence.

History: Adopted August 11, 2020; effective January 1, 2021, amended August 15, 2023, effective January 2, 2024.

SECTION 500. ADMINISTRATION

501. DUES ASSESSMENT

(1) The Commission shall determine the annual assessment to be paid by party states. The assessment formula is a flat fee per party state. The Commission shall provide public notice of any proposed revision to the annual assessment fee at least ninety (90) calendar days prior to the Commission meeting to consider the proposed revision.

(2) The annual assessment shall be due within the Commission's first fiscal year after a new party state's implementation date and annually thereafter.

History: Adopted December 12, 2017; effective January 19, 2018, amended August 15, 2023, effective January 2, 2024.

502. DISPUTE RESOLUTION

(1) In the event that two or more party states have a dispute, the parties shall attempt resolution following the steps set out in this rule.

(2) The parties shall first attempt informal resolution. The Compact Administrators in the states involved shall contact each other. Each Compact Administrator shall submit a written statement describing the situation to the other Compact Administrators involved in the dispute. Each Compact Administrator may submit a response. The submission of the statement and the response shall be in a mutually agreed upon time. If the dispute is related to an interpretation of the Compact, the parties shall contact the Executive Director to request assistance from the Executive Committee. If all issues are resolved, no further action is required. If any issue remains unresolved, the parties shall notify the Executive Committee, through the Executive Director, to request mediation and provide the Executive Committee with a concise statement of unresolved issue(s) and analysis including references to NLC statutes, rules and any supporting documents. The Executive Committee may refer the matter to the Compliance Committee. After review by the Compliance Committee, its recommendations will be sent to the parties and the Executive Committee for further review.

Amended August 11, 2020; effective January 1, 2021; amended August 15, 2023, effective January 2, 2024.

(3)(a) A party state that has a dispute with one or more other party states, and informal resolution was unsuccessful, shall attempt mediation. Mediation shall be conducted by a mediator appointed by the Executive Committee from a list of mediators approved by the National Association of Certified Mediators or as agreed to by all parties. If all issues are

resolved through mediation, no further action is required. If mediation is unsuccessful, the parties shall submit to binding dispute resolution.

(b) The costs of mediation shall be shared by all party states involved.

(c) All party state Compact Administrators shall be notified of all issues and disputes that rise to the mediation stage in order to comment on those matters and disputes that may impact all party states.

(4)(a) In the event of a dispute between party states that was not resolved through informal resolution or mediation, the party states shall submit to binding dispute resolution. The parties may choose binding dispute resolution either by submitting the question in dispute to the Commission for final action or by arbitration.

(b) All party states involved shall agree in order to proceed with arbitration. In the absence of agreement, the matter shall be referred to the Commission for final determination.

(c) Each party state involved shall be responsible for its own respective expenses, including attorney fees.

(d) The party state Compact Administrators involved in the dispute shall recuse themselves from consideration or voting by the full Commission.

History: Adopted August 14, 2018; effective January 1, 2019, amended August 15, 2023, effective January 2, 2024.

503. COMPLIANCE AND ENFORCEMENT

(1) Compliance and enforcement issues shall be initiated by the Executive Committee.

(2) The Executive Committee, through the Executive Director, shall send a written statement to the Compact Administrator in the party state with the alleged non-compliance issue. That Compact Administrator shall respond to the written statement within thirty calendar days.

(3) The Compact Administrator may appear before the Executive Committee at a time and place as designated by the Executive Committee.

(4) The Executive Committee shall make a recommendation to the Commission concerning the issue of non-compliance.

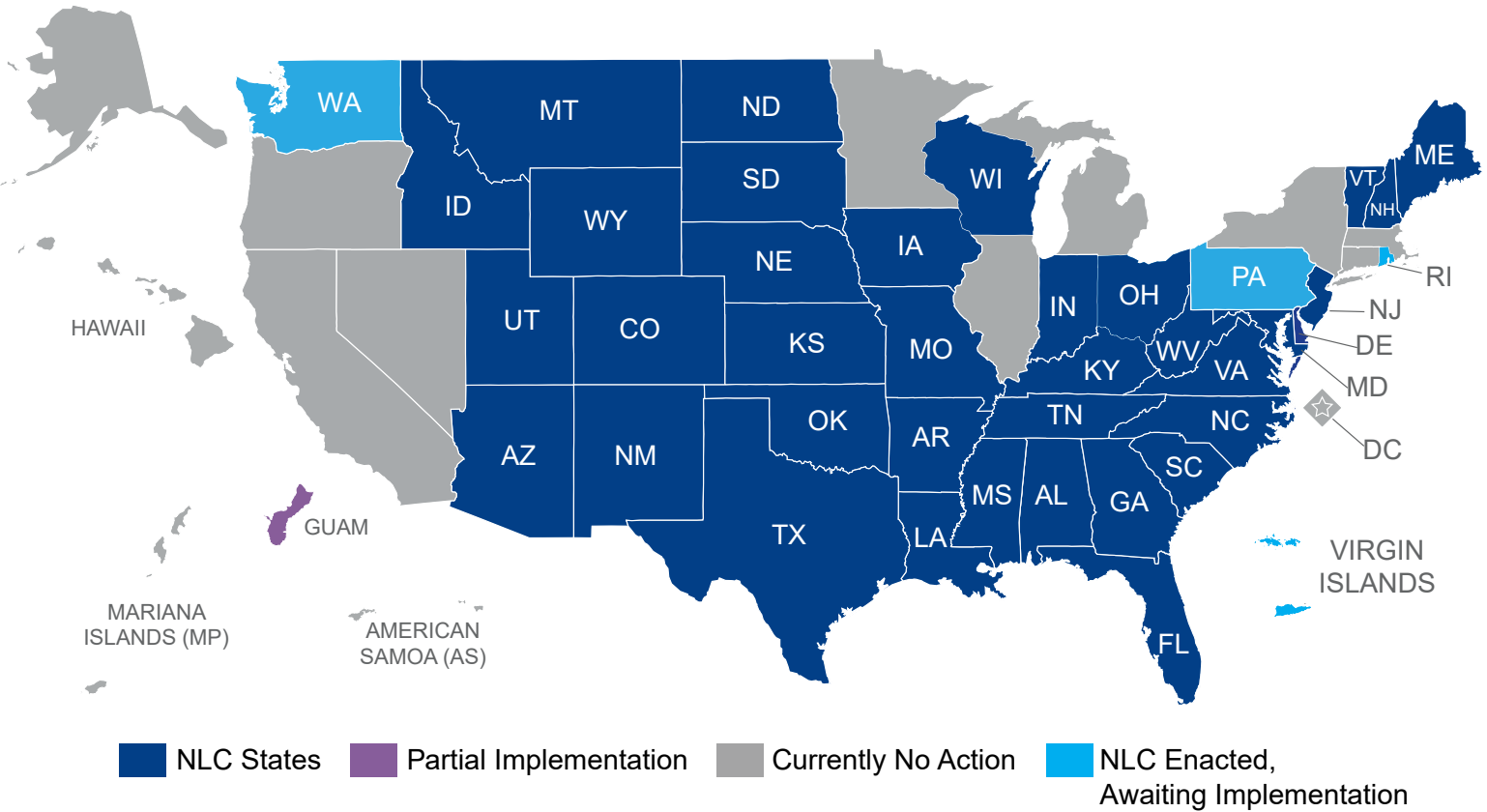
History: Adopted August 14, 2018; effective January 1, 2019; amended August 15, 2023, effective January 2, 2024.

5 Nurse Licensure Compact Map 06262023



NLC States

41 states have enacted the NLC



Pending NLC States

Guam: Pending tentative implementation in 2023. Nurses holding a multistate license in other NLC states may now practice in Guam. Guam residents cannot obtain a multistate license until implementation is complete.

Pennsylvania: NLC enacted July 1, 2021. An NLC implementation date is unknown at this time. Criminal background checks must also be implemented. The state is awaiting approval of criminal background checks from the FBI. PA residents cannot obtain a multistate license until implementation is completed. Nurses in other NLC states with a multistate license may not practice in PA until implementation is complete.

Virgin Islands: NLC enacted Dec. 6, 2021. Pending tentative implementation in 2023. Criminal background checks must also be implemented. VI residents cannot obtain a multistate license until implementation is completed. Nurses in other NLC states with a multistate license may not practice in the Virgin Islands until implementation is complete.

Washington: Nurses holding a multistate license in other NLC states may practice in the state of Washington as of July 24, 2023. Washington residents cannot obtain a multistate license until NLC implementation is complete. It is anticipated that Washington will decide on an implementation date later in 2023. Once a date is known, this information will be updated and the date will be publicized

Rhode Island: The NLC legislation became law on June 24, 2023.

6 NCSBN Follow Up Questions

NLC Information: ULRs; Enabling Language and Conforming Amendments; Reporting Requirements

1) Can I have a list of the 11 ULRs?

Of course. First and foremost, we'd recommend looking at *Article III(c)* of the NLC Model Act for the exact language of NLC's 11 uniform licensure requirements (ULRs). The 11 ULRs listed on the nursecompact.com [page](#) you cited are the same as those in the NLC Model Act—they've simply been presented in more straightforward language than legalese.

2) Can you provide a list of the common "enabling and conforming" language amendments, if there is more information than what you provided in the slides?

We're happy to do a deeper dive. As we noted in the presentation:

- The purpose of **enabling language** is to provide further clarification on the NLC Model Act. Keep in mind that while this language may provide clarification, it may not constitute a material deviation from the terms of the compact.
- The purpose of **conforming amendments** is to ensure that references in the NLC Model Act comport with existing statutes.

It is important to note that the decision to include enabling language or conforming amendments is at the discretion of each state, and therefore there is variation among the states. However, there are some commonalities.

Enabling Language Examples

NLC Commission Administrator

Article VII(b)(1) of the NLC Model Act states that "Each party state shall have and be limited to one administrator. The head of the state licensing board or designee shall be the administrator of this Compact for each party state."

Some states, however, have found it worthwhile to include enabling language that further clarifies who is to be selected as the state's administrator on the NLC Commission, the qualifications of that person, and the timeline for their selection.¹

- **Louisiana** added language—now codified at [R.S. 37:1019](#)—stating the following:
 - A. The nurse licensure compact administrator for this state shall be appointed by the governor to serve as the single state designee on the Interstate Commission of Nurse Licensure Compact Administrators.*
 - B. The administrator shall be a current board member or the executive director of the Louisiana State Board of Nursing for two years beginning in the year of enactment of this Part and shall rotate every two years thereafter with an appointment of a current board member or the executive director of the Louisiana State Board of Practical Nurse Examiners.*

¹ The formal name for the NLC Commission is the Interstate Commission of Nurse Licensure Compact Administrators, but the two are used interchangeably.

- **Ohio** added language—now codified at [Section 4723.111](#), Ohio Revised Code—stating the following:

Not later than thirty days after the "Nurse Licensure Compact" is entered into under section 4723.11 of the Revised Code, the board of nursing, in accordance with article VII of the compact, shall select an individual to serve as an administrator to the interstate commission of nurse licensure compact administrators created under the compact. The board shall fill a vacancy in this position not later than thirty days after the vacancy occurs.

- **Texas** added language—now codified at [Section 304.002](#), Texas Occupations Code—stating the following:

Sec. 304.002. ADMINISTRATION OF COMPACT. The executive director of the Texas Board of Nursing is the Nurse Licensure Compact administrator for this state.

Relation to State Labor Laws

Another common of enabling language that states have included in their legislation to join the NLC is language specifically stating that the NLC does not supersede existing state labor laws.

- **Illinois** has had two identical bills filed this session to join the NLC: [IL HB 1622](#) and [IL SB 41](#). These bills would add a new section, 225 ILCS 65/85-10, to the Illinois Compiled Statutes to read as follows:

The Nurse Licensure Compact does not supersede existing State labor laws.

- **Massachusetts** has had three substantially similar bills filed this session to join the NLC. Looking specifically at [MA HB 1211](#), it would add Chapter 112A, Section 16 to the General Laws of Massachusetts to read as follows:

Nothing in this chapter, nor the entrance of the commonwealth into the Nurse Licensure Compact shall be construed to supersede existing labor laws.

Conforming Amendment Examples

Some states have found it necessary to include conforming amendments that specifically insert references to “multistate license” or “multistate licensure privilege” in their legislation to enact the NLC.

However, the thing to keep in mind regarding conforming amendments is that each state’s statutes are organized and codified differently; therefore, no two conforming amendments will look exactly alike.

Alaska presents a good example of a state opting to include conforming amendments in its legislation to enact the NLC. This session, [AK HB 149](#) was filed to enact the NLC. The legislation included a series of conforming amendments to the Alaska Nurse Practice Act, [AS 08.68](#), and other portions of the Alaska Statutes applicable to nursing.

- [Section 9 of AK HB 149](#) makes a conforming amendment to *AS 08.68.170. Qualifications of registered and practical nurse applicants*. This change makes clear that an applicant for a multistate license must meet both home state licensure requirements and the requirements of AS 08.68.500—the uniform licensure requirements of the NLC. It reads as follows:

(a) An applicant for a license to practice registered nursing shall submit to the board, on forms and in the manner prescribed by the board, written evidence, verified by oath, that the applicant has successfully completed a registered nurse education program accredited by a national nursing accrediting body and approved by the board. **An applicant for a multistate license to practice registered nursing shall, in addition to the requirements of this chapter, meet the requirements of AS 08.68.500.**

- Section 6 of AK HB 149 makes a conforming amendment to AS 08.68.100. *Duties and powers of the board.* This change makes clear that the Alaska Board of Nursing may take disciplinary action against both licensees and those holding a multistate licensure privilege. It reads as follows:

(2) *invoke, or request the department to invoke, disciplinary action against a **license issued under this chapter or a person holding a multistate licensure privilege** [LICENSEE].*

As noted above, conforming amendments may also amend existing statutes applicable to the practice of nursing. Consider the following:

- AS 18.20 pertains to the regulation of hospitals and nursing facilities. Section 26 of AK HB 149 makes a conforming amendment to AS 18.20.499. *Overtime Limitations for Nurses. Definitions.* This change makes clear that the definition of “nurse” includes those holding a multistate licensure privilege. It reads as follows:

(3) *“nurse” means an individual licensed **or holding a multistate licensure privilege** to practice registered nursing or practical nursing under AS 08.68 who provides nursing services through direct patient care or clinical services and includes a nurse manager when delivering in-hospital patient care;*

3) Can you provide a list of the state statutes amended in LA, KS, RI, and WA related to reporting? Or can you provide points of contact for those states?

The simplest way to think about this is that language in a bill to enact the NLC that mandates employer reporting, workforce data collection, or completion of specific trainings is almost always adding language to a state’s statutes as opposed to amending existing language in that state’s statutes.

Below are examples of different language that states have added to their legislation enacting the NLC.

Employer Reporting Requirements

Louisiana: [SB 202](#) added language directing the Board of Nursing and Board of Practical Nurse Examiners to develop a reporting system to collect data from employers on RNs and LPNs in the state practicing on a multistate license. The language reads as follows:

(2) *Develop a reporting system to collect aggregate data from employers on the number and geographic representation of nurses and licensed practical nurses employed in Louisiana who are practicing nursing or licensed practical nursing pursuant to a multi-state license as determined by the respective licensing board in properly promulgated rules. The report shall be completed prior to a nurse or licensed practical nurse furnishing any nursing services in this state. Failure of an*

employer to submit this data to the board shall not be a basis for disciplinary action against or restriction of the multi-state license of any nurse or licensed practical nurse.

Rhode Island: [HB 5737](#) added language requiring employers who hire RNs or LPNs/LVNs to report specific information to the Rhode Island Department of Health (RIDOH) within a given reporting period. The bill language states that employers must report:

- (i) The number of new hires of registered nurses during the reporting period;*
- (ii) The number of new hires of registered nurses who hold multistate licenses and are not licensed in Rhode Island during the reporting period;*
- (iii) The number of new hires of licensed practical nurses and vocational nurses during the reporting period;*
- (iv) The number of new hires of licensed practical nurses and vocational nurses who hold multistate licenses and are not licensed in Rhode Island during the reporting period;*
- (v) The total number of registered nurses employed during the reporting period; and*
- (vi) The total number of licensed practical nurses and vocational nurses employed during the reporting period.*

The legislation further directs RIDOH to annually compile the data received from employers and prepare a report that “aggregates the information, and disaggregated by new hires and retained employees, for registered nurses, license practical nurses, and vocational nurses, from the results of the data collected.”

Washington: [WA SSB 5499](#) added language in Sections 24 through 31 mandating employers report nurses who hold a multistate license issued by a state other than Washington within 30 days of employment and attest that those employees have also completed the required demographic data surveys and training (see more below). The language reads as follows:

- (3) [Facility or employer] shall report to the board of nursing, within 30 days of employment, all nurses holding a multistate license issued by a state other than Washington and an attestation that the employees holding a multistate license issued by a state other than Washington have completed the tasks required under this section as a condition of employment.*

Note: This language appears across multiple sections of the bill because each section concerns a different type of health care facility or employer, hence the use of “[facility or employer].” For example, Section 24 covers nurses employed by hospitals—which are licensed and regulated under [Chapter 70.41 RCW](#).

Workforce Data Collection

Louisiana: [SB 202](#) added language directing the Board of Nursing and Board of Practical Nurse Examiners to develop a voluntary reporting system for RNs and LPNs holding a multistate license and practicing in Louisiana to provide workforce-related information, as determined by the respective licensing board. The language reads as follows:

- (3) Develop a voluntary reporting system in which nurses holding a multi-state license under the nurse licensure compact and who engages in the practice of nursing or licensed practical nursing in Louisiana voluntarily provide their addresses and other workforce-related data as determined*

by the respective licensing board in properly promulgated rules. Failure to voluntarily provide this information shall not be a basis for disciplinary action against or restriction of the multi-state license of any nurse or licensed practical nurse.

Kansas: [HB 2496](#) added language directing nurses holding a multistate license and practicing in Kansas to voluntarily provide workforce-related information, as determined by the Board of Nursing, to the board. The language reads as follows:

(d) Persons holding a multistate license under the nurse licensure compact and who engage in the practice of nursing in Kansas may be requested by the board to voluntarily provide workforce-related information as reasonably determined by the board. Refusal to voluntarily provide such information shall not be a basis for disciplinary action against or restriction of the multistate license of any such person.

Washington: Sections 24 through 31 of [WA SSB 5499](#) mandate that nurses holding a multistate license issued by a state other than Washington who are employed by health care facilities must complete any demographic data surveys required by the board of nursing as a condition of employment. This language reads as follows:

(1) Beginning September 1, 2023, and annually thereafter, individuals that hold a multistate nurse license issued by a state other than Washington and are employed by [facility or employer] licensed under this chapter shall complete any demographic data surveys required by the board of nursing in rule as a condition of employment.

Note: This language appears across multiple sections of the bill because each section concerns a different type of health care facility or employer, hence the use of “[facility or employer].”

Training and CEs

Washington: Subsection (2) of Sections 24 through 31 of Washington’s NLC Legislation, [WA SSB 5499](#), specifically mandates that: “Individuals that hold a multistate nurse license issued by a state other than Washington and are employed by [facility or employer] licensed under this chapter shall complete the suicide assessment, treatment, and management training required by [RCW 43.70.442\(5\)\(a\)](#) as a condition of employment.”

Note: This language appears across multiple sections of the bill because each section concerns a different type of health care facility or employer, hence the use of “[facility or employer].”

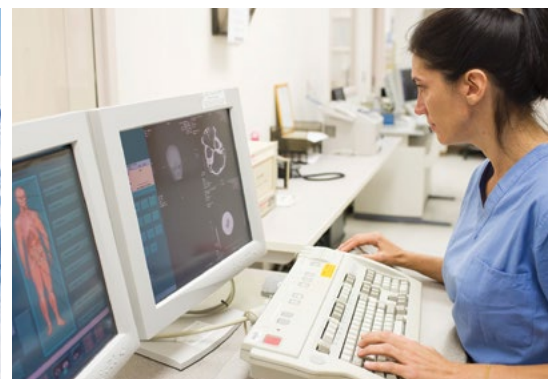
7 11 Uniform Licensure Requirements

Uniform Licensure Requirements for a Multistate License

Requirements:

An applicant for licensure in a state that is part of the eNLC will need to meet the following uniform licensure requirements:

1. Meets the requirements for licensure in the home state (state of residency);
2. a. Has graduated from a board-approved education program; or
b. Has graduated from an international education program (approved by the authorized accrediting body in the applicable country and verified by an independent credentials review agency);
3. Has passed an English proficiency examination (applies to graduates of an international education program not taught in English or if English is not the individual's native language);
4. Has passed an NCLEX-RN® or NCLEX-PN® Examination or predecessor exam;
5. Is eligible for or holds an active, unencumbered license (i.e., without active discipline);
6. Has submitted to state and federal fingerprint-based criminal background checks;
7. Has not been convicted or found guilty, or has entered into an agreed disposition, of a felony offense under applicable state or federal criminal law;
8. Has no misdemeanor convictions related to the practice of nursing (determined on a case-by-case basis);
9. Is not currently a participant in an alternative program;
10. Is required to self-disclose current participation in an alternative program; and
11. Has a valid United States Social Security number.



8 National Council of State Boards of Nursing - 2012 - The 2011
Uniform Licensure Requirements Board Responsibilities

March 2012

The 2011 Uniform Licensure Requirements

Applicant Responsibility	Board Responsibility
A. Initial Licensure	
1.A Nursing Education Requirements: RN	
Graduation or eligibility for graduation from a Member Board approved RN prelicensure program.*	Verification of graduation or eligibility for graduation from a Member Board approved prelicensure RN program.
2.A Nursing Education Requirements: LPN/VN	
<ul style="list-style-type: none"> ▪ Graduation or eligibility for graduation from a Member Board approved LPN/VN prelicensure program.* ▪ Graduates from RN prelicensure programs who wish to take the NCLEX-PN® must have successfully completed a Member Board approved LPN/VN role delineation course. 	Verification of graduation or eligibility for graduation from a Member Board approved LPN/VN prelicensure program.
3.A Nursing Education Requirements of International Candidates: RN	
Graduation from a nursing program comparable to a Member Board approved RN prelicensure program.	<ul style="list-style-type: none"> ▪ Verification by a credentials review agency of graduation from a nursing program comparable to a Member Board approved RN prelicensure program. ▪ Graduation from a nursing program comparable to a member board approved RN program. This program should be approved by an accrediting body or other authority whose role it is to approve nursing programs in that country.
4.A Nursing Education Requirements of International Candidates: LPN/VN	
Graduation from a nursing program comparable to a Member Board approved prelicensure LPN/VN program.	<ul style="list-style-type: none"> ▪ Verification by a credentials review agency of graduation from a nursing program comparable to a Member Board approved prelicensure LPN/VN program. ▪ Graduation from a nursing program comparable to a member board approved LPN/VN program. This program should be approved by an accrediting body or other authority whose role it is to approve nursing programs in that country.
5.A NCLEX Requirements	
Successful completion of the NCLEX-RN or NCLEX-PN exam.	Verification that applicant successfully completed NCLEX-RN or NCLEX-PN exam.

*Member Board approved also applies to states in which the nursing program approval is done through another state agency such as the Commission on Higher Learning.

Applicant Responsibility	Board Responsibility
6.A Additional Requirements for International Candidates	
<ul style="list-style-type: none"> ▪ Self disclosure of nursing licensure status in country of origin, if applicable. ▪ Successful passage of an English proficiency exam that includes the components of reading, speaking, writing and listening, except for applicants from countries where English is the native language, and the nursing program where the applicant attended was taught in English and used English textbooks. 	<ul style="list-style-type: none"> ▪ Verification of nursing licensure status and/or authorization to practice if applicable in country of origin. ▪ Verification of successful passage of an English proficiency exam that includes the components of reading, speaking, writing and listening, except for applicants from countries where English is the native language, and the nursing program where the applicant attended was taught in English and used English textbooks.
7.A Additional Public Protection Requirements: Criminal Background Check	
<ul style="list-style-type: none"> ▪ Self disclosure of all misdemeanors, felonies, and plea agreements (even if adjudication was withheld). ▪ Submit state and federal finger print checks. 	<ul style="list-style-type: none"> ▪ Assessment of all misdemeanors, felonies and plea agreements (even if adjudication was withheld) of all individuals applying for licensure on a case by case basis to determine board action. ▪ Require psychological evaluation for all individuals convicted of a sexual offense involving a minor or performing a sexual act against the will of another person. This evaluation should be performed by a qualified expert approved by the board. If the evaluation identifies sexual behaviors of a predatory nature the board of nursing should deny licensure.
8.A Additional Public Protection Requirements: Substance Use Disorders	
Self disclosure of any substance use disorder in the last 5 years.	Require a substance use disorder evaluation to verify the applicant is capable of practicing nursing safely.
9.A Additional Public Protection Requirements: Other licenses, certifications, registrations	
Self disclosure of any actions taken or initiated against a professional or occupational license, registration or certification.	Assessment of any actions taken or initiated against a professional or occupational license, registration or certification and consideration of the individual's ability to practice nursing safely.
B. Renewal/Reinstatement Requirements	
1.B Criminal Background Check	
Self disclosure of all misdemeanors, felonies and plea agreements (even if adjudication was withheld) not previously reported to the board.	<ul style="list-style-type: none"> ▪ Assessment of all misdemeanors, felonies and plea agreements (even if adjudication was withheld) not previously reported to the board for determination of eligibility for renewal or reinstatement of licensure. ▪ State and federal fingerprint checks using automatic criminal background feedback system (such as Rap-Back). ▪ Require psychological evaluation for all individuals convicted of a sexual offense involving a minor or performing a sexual act against the will of another person. This evaluation should be performed by a qualified expert approved by the board. If the evaluation identifies sexual behaviors of a predatory nature the board of nursing should deny licensure. Examine all other cases on an individual basis.

Applicant Responsibility	Board Responsibility
2.B Substance Use Disorders	
<ul style="list-style-type: none"> ▪ Self disclosure of any substance use disorder since last renewal. ▪ Self disclosure of current participation in an alternative to discipline program in any jurisdiction. 	<p>Require a substance use disorder evaluation to verify the applicant is capable of practicing nursing safely.</p>
3.B Nursing Disciplinary Actions	
<p>Self disclosure of any Member Board action taken on a nursing license or current/pending investigation by a Member Board.</p>	<ul style="list-style-type: none"> ▪ Assessment of any Member Board action taken on a nursing license or current/pending investigation by a Member Board. ▪ Check Nursys for discipline in other jurisdictions.
4.B Other licenses, certifications, registrations	
<p>Self disclosure of any actions taken or initiated against a professional or occupational license, registration or certification not previously reported to the board.</p>	<p>Assessment of any actions taken or initiated against a professional or occupational license, registration or certification not previously reported to the board and consideration of the individual's ability to practice nursing safely.</p>
C. Endorsement Requirements	
1.C Education, Exam, and Licensure Verification	
<ul style="list-style-type: none"> ▪ Completion of a Member Board approved RN or LPN/VN prelicensure education program. ▪ Successful passage of the NCLEX/State Board Test Pool Exam. ▪ Self disclosure of status of all nursing licenses (includes any board actions taken or any current or pending investigations by a Member Board). 	<ul style="list-style-type: none"> ▪ Verification of education. ▪ Verification of successful passage of the NCLEX/State Board Test Pool Exam. ▪ Verification of all nursing licenses.
2.C Criminal Background Check	
<p>Self disclosure of all misdemeanors, felonies and plea agreements (even if adjudication was withheld).</p>	<ul style="list-style-type: none"> ▪ Assessment of all misdemeanors, felonies and plea agreements (even if adjudication was withheld) of all individuals applying for licensure. ▪ State and federal fingerprint checks. ▪ Require psychological evaluation for all individuals convicted of a sexual offense involving a minor or performing a sexual act against the will of another person. This evaluation should be performed by a qualified expert approved by the board. If the evaluation identifies sexual behaviors of a predatory nature the board of nursing should deny licensure. ▪ All other convictions should be determined on a case by case basis.
3.C Substance Use Disorders	
<ul style="list-style-type: none"> ▪ Self disclosure of any substance use disorder in the last 5 years. ▪ Self disclosure of current participation in an alternative to discipline program in any jurisdiction. 	<p>Require a substance use disorder evaluation to verify the applicant is capable of practicing nursing safely.</p>

Applicant Responsibility	Board Responsibility
4.C Nursing Disciplinary Actions	
Self disclosure of any Member Board action taken on a nursing license or current/pending investigation by a Member Board.	<ul style="list-style-type: none"> ▪ Assessment of any Member Board action taken on a nursing license or current/pending investigation by a Member Board. ▪ Check Nursys for discipline in other jurisdictions
5.C Other licenses, certifications, registrations	
Self disclosure of any actions taken or initiated against a professional or occupational license, registration or certification not previously reported to the board.	Assessment of any actions taken or initiated against a professional or occupational license, registration or certification and consideration of the individual's ability to practice nursing safely.

Administrative code regulations such as child support, payment of taxes, school loans, etc. are not included in these licensure requirements as these are state specific and do not solely apply to the board of nursing.

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Mission: NCSBN provides education, service and research through collaborative leadership to promote evidence-based regulatory excellence for patient safety and public protection.

9 HSCN "The Value of Hawai'i's Nursing Workforce Data & Notable Characteristics of Hawai'i's Nursing Workforce"

The Value of Hawai'i's Nursing Workforce Data & Notable Characteristics of Hawai'i's Nursing Workforce

Presented to the Hawai'i State Center for Nursing NLC Working Group

September 18, 2023

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On the Agenda

- Characteristics of Hawai'i's Workforce Relevant to a Discussion of the NLC
- Value of the nursing workforce data collected by the Hawai'i State Center for Nursing
- Q & A



How many nurses work in Hawai'i?

- PVL licensing data available as of 9/14/2023:

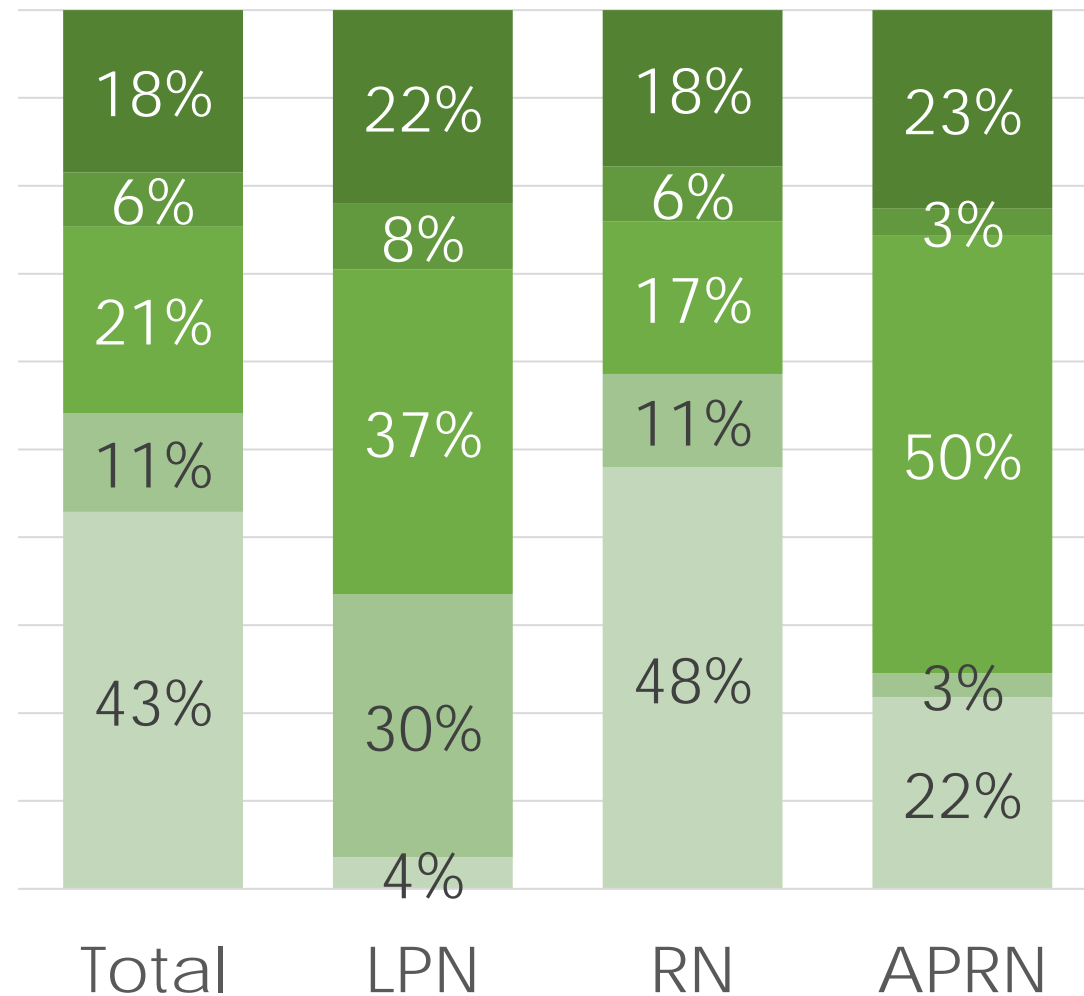
Active Licenses	LPN	RN	APRN
Hawai'i	1,236 (75%)	16,454 (56%)	1,444 (59%)
Mainland	416 (25%)	13,157 (44%)	1,010 (41%)
Foreign	0 (0%)	28 (<.05%)	1 (<.05%)
Total	1,652	29,639	2,455

- 90% of RNs who live in Hawai'i work in a role relevant to their license (~14,800) (HSCN, 2023)
- 11,800 RNs employed in HI 2022 (7th largest occupation in HI) ([DBEDT, 2023](#))
- 6,282 filled RN positions and 999 RN vacancies in HI in 2022; ([HAH, 2022](#))



Where do Hawai'i's Nurses Work?

- All Other Settings
- Home Health/Hospice
- Ambulatory
- Post-Acute/Long-Term Care Facility
- Acute Care Hospital



Data are from the 2023 Hawai'i Nursing Workforce Supply Survey. Visit our [Workforce Reports webpage](#) for reports when they are available.

How likely
are
Hawai'i's
nurses to
leave the
workforce
in the next
5 years?

- 64% of nurses are likely or very likely to remain in their current position for the next months
 - 10% are likely or very likely to leave
 - 26% are uncertain
 - Likelihood of leaving does not vary by setting; nurses in LTC are more uncertain
- Among the nurses who plan to leave their current job within 12 months or are uncertain,
 - 13% plan to retire
 - 13% plan to leave the state
- By 2028, 15% of nurses plan to retire or leave the workforce for other reasons.



Why did I
focus on
retention
data
today?

- They help set context for implications of the NLC on the workforce
 - Uncertainty invites consideration of options
 - More options decrease commitment to status quo
- They are not available from any other data source



How likely
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 - **26% are uncertain**
 - **Likelihood of leaving does not vary by setting; nurses in LTC are more uncertain**
- **Among the nurses who plan to leave their current job within 12 months or are uncertain,**
 - **13% plan to retire**
 - **13% plan to leave the state**
- By 2028, 15% of nurses plan to retire or leave the workforce for other reasons.



Why do we need data collected by a local source?

- **Much** bigger samples of Hawai'i Nurses
 - [JONR 2022](#) National Nursing Workforce Survey = 678
 - [HRSA 2018](#) National Sample Survey of Registered Nurses = 533
 - 2023 Hawai'i Nursing Workforce Survey = 15,420; 8,375 nurses who work in Hawai'i
 - Bigger sample = Less error
- More control over the data
 - Variables we care about
 - Tables we care about
 - Access to the actual raw data is unimpeded
 - Not subject to other entities' methodological decisions
- Joining the NLC would cause the loss of data from nurses working in HI on their multistate privilege. That's preferable to losing control over the survey, data, and method.



Takeaways

- Workforce Impact
 - The NLC will give nurses career options.
 - This may result in some out-migration.
 - Unlikely to cause significant in-migration, quantity is not estimable.
- Workforce Data Impact
 - Loss of data about nurses working in the state under an MS license – impact is negligible.
 - If NLC removed control of nursing workforce data from HSCN (to, say, e-Notify), impact would be significant and extremely negative.



10 HSCN Summary of Findings "Survey of Nurses: Should Hawai'i Join the Nurse Licensure Compact"

Survey of Nurses:

Should Hawai'i Join the Nurse Licensure Compact

Introduction

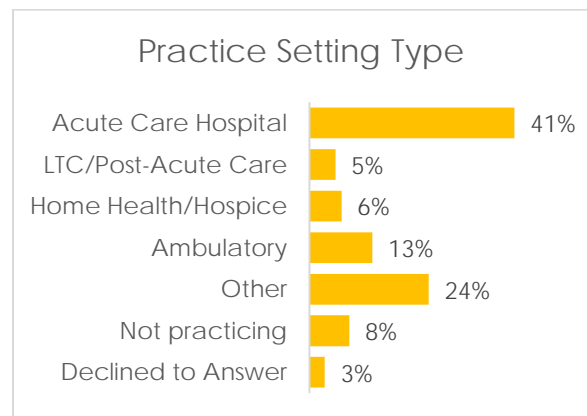
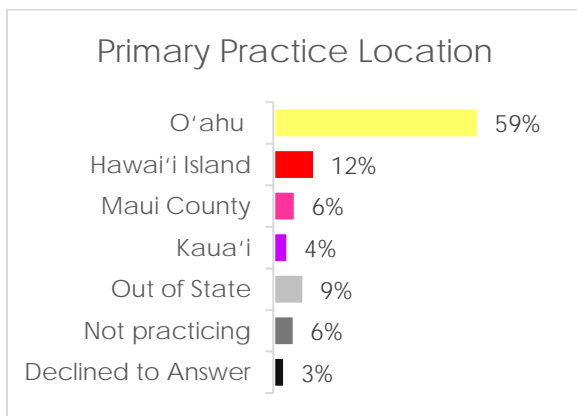
As part of the Hawai'i State Center for Nursing's working group to investigate the feasibility and impact of implementing the Nurse Licensure Compact in Hawai'i ([SCR 112](#)), we surveyed nurses about their knowledge and feelings about Hawai'i's possible membership in the NLC. This report summarizes the findings from that survey.

Sample

The survey was conducted using a convenience sample. The Hawai'i Chapter of the American Nurses Association (Hawai'i-ANA) distributed the link to the online survey to its electronic mailing list and recipients of its monthly newsletter. The Hawai'i State Center for Nursing distributed the survey link through an electronic newsletter and social media posts.

The survey opened on July 25, 2023 and closed on August 15, 2023.

In total, 327 nurses participated in the survey. The majority of respondents currently practice nursing on O'ahu (59%) and were most likely to work in acute care hospitals (41%). Nurses working in long-term/post-acute care settings were slightly underrepresented and nurses working in "other" settings were slightly overrepresented in the sample as compared to the state's overall nursing workforce.



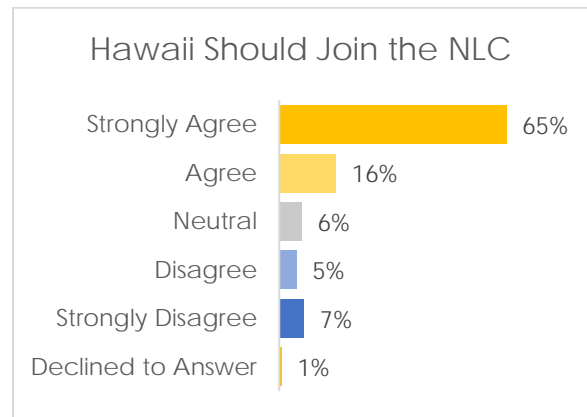
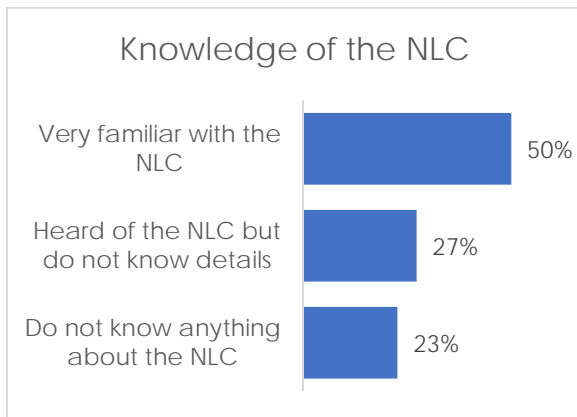
Results

Half of respondents reported that they were very familiar with the NLC while 23% indicated that they knew nothing about it.

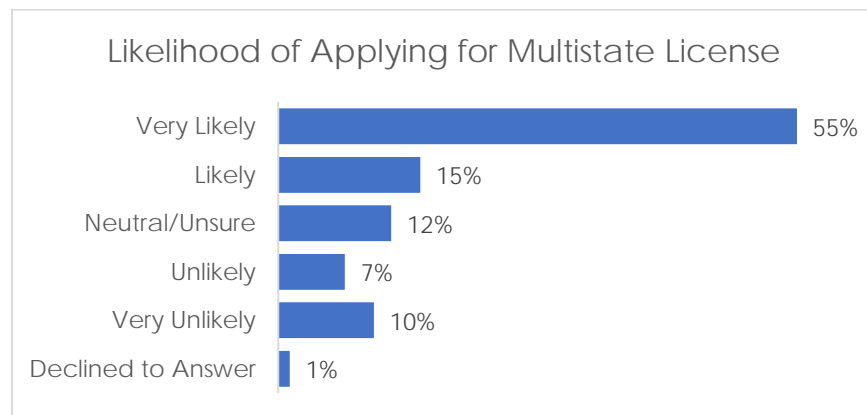
To ensure that all nurses were reasonably well-informed about the NLC for the purpose of the survey, respondents were presented with an informational statement which read:

“In summary, the Nurse Licensure Compact (NLC) is an agreement between 41 states/territories. It allows eligible nurses who are residents of an NLC member state to obtain a multistate license. Nurses who have a multistate license may practice nursing in all states that are members of the NLC without having to be licensed in every state they want to practice in.”

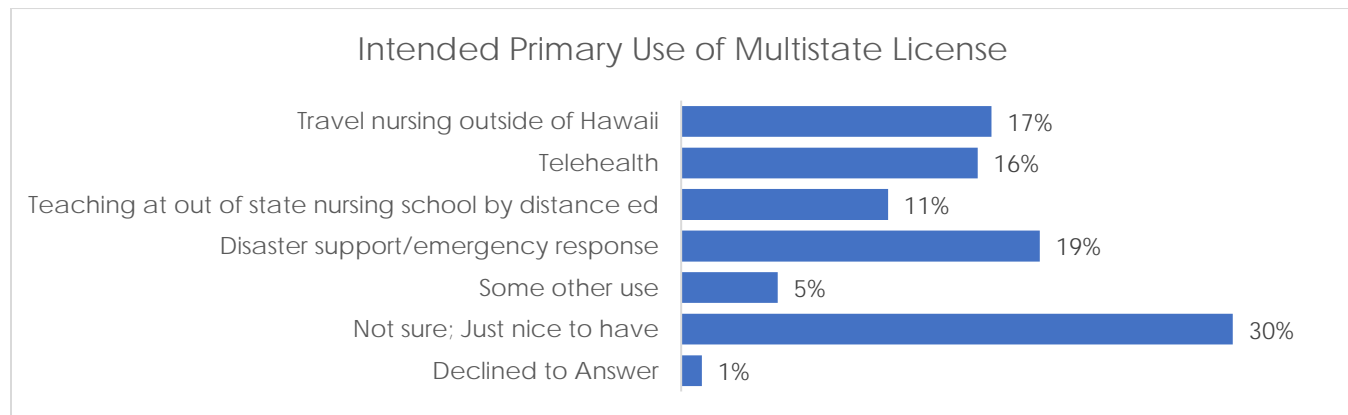
Following the informational statement, nurses reported on the extent to which they agreed that Hawai‘i should join the NLC. 81% of respondents agreed or strongly agreed that Hawai‘i should become a member of the NLC. 12% of respondents disagreed or strongly disagreed that Hawai‘i should join the NLC.



Respondents also indicated how likely they would be to get a multistate license if Hawai‘i joined the NLC. 70% of respondents indicated that they would be likely or very likely to get a multistate license.



Among those respondents who indicated that they were likely or very likely to get a multistate license, the largest proportion (30%) reported that they had no specific plans for how they would use their multistate privilege. 17% of respondents reported that they would engage in travel nursing outside the state of Hawai'i. Another 11% reported that they planned to teach online for a nurse education program located outside the state.



There were some differences in nurses' intended plans for their multistate licensure depending on where they are currently employed. About 25% nurses who are currently working in long-term/post-acute settings or who are not currently practicing nursing reported that they would use their multistate license to do travel nursing outside the state of Hawai'i. Nurses working in home health/hospice or ambulatory settings were more likely than nurses in other settings to have plans to provide telehealth nursing services with their multistate privilege. Nearly one in five nurses working in "other" settings indicated that they would use their multistate license to teach at an out of state school via distance education. Note that colleges and universities are among the settings included in the "other" category.

Table 1. Nurses' Intended Primary Use of a Multistate License by Current Primary Practice Setting

	Acute Care Hospital	LTC/Post-Acute Care	Home Health/Hospice	Ambulatory	Other Type of Setting	Not Currently Practicing
Travel nursing outside of Hawai'i	18%	25%	15%	9%	15%	23%
Telehealth	12%	19%	30%	32%	11%	14%
Teaching at out of state nursing school by distance ed	10%	6%	--	6%	18%	23%
Disaster/emergency response	28%	19%	15%	18%	15%	5%
Some other use	1%	--	--	9%	15%	5%
Not sure; Just nice to have	31%	31%	40%	26%	27%	32%

Summary & Conclusion

Data from this small survey of Hawai'i nurses indicate that the majority of nurses are in favor of Hawai'i's membership in the NLC and would likely get a multistate license if they were eligible to do so.

Half of the nurses who reported the intention to get a multistate license reported that they would use their multistate privilege to provide disaster relief or that they have no specific plans to cross jurisdictional boundaries. In other words, having a multistate license would have no impact on the primary employment status of 50% of nurses.

The remaining 50% of multistate license holding nurses, however, represent a potential loss of nurses or nursing hours from the Hawai'i workforce. 28% of nurses indicate that they would use their multistate privilege to do travel nursing outside of Hawai'i or that they would provide instruction for online programs offered by out of state schools of nursing. An additional 16% of nurses plan to use their multistate privilege to provide telehealth services. While these nurses would likely remain in Hawai'i, they would be caring for a population outside of the state.

These data are generally consistent with data collected in other states that suggest that nurses favor the ability to practice across jurisdictional boundaries with a single license. There currently exists no reliable source of data that describes trends or patterns in changes to states' workforces following entry into the NLC. However, data from this survey suggest that as many as half of Hawai'i's multistate license holding nurses could divert some of their nursing practice to out of state employers. It is unclear from data collected by other states or national entities whether these workforce losses would be offset by the in-migration of nurses from other NLC member jurisdictions.

11 Thematic Summary of Working Group Findings

Review of Findings by Topic

- Number of Nurses Licensed by Hawaii Board of Nursing
 - 16,450 RNs live in Hawai'i.
 - 13,157 RNs live in the Continental US - of these, about 7,000 have a MSL in their primary state of residence.
- Sources of recruitment:
 - Employers are hiring new graduate nurses, in-state recruitment, interstate recruitment, and even some international nurses.
 - Change in license type (single state to multi state) is likely to have negligible impact on the nursing workforce given the current number of out of state nurses with active licenses in Hawaii.
- Challenges with nursing recruitment by employers:
 - The nation and world are in a nursing shortage. There is a shortage of nurses on each island, nationally, and internationally.
 - Delays in licensure can lead to failed recruitment
 - Online application: Efforts to automate application to improve accuracy and timeliness is underway
 - MSL may reduce the biennial workload for licensing processing if 7,000 fewer nurses require a HI license.
 - Temporary permit has not been issued since March 2020. Previously, temporary permits offered expedited privilege to practice when it was in place.
- License processing, independent of license renewals:
 - License processing times cut in half in 2023
 - Jan-May Avg 56.6 days (Range: 49-62 days)
 - June - Aug Avg 24.3 days (Range: 18-35 days)
 - Over 8,500 new licenses issued since July 2022. These are in addition to license renewals.
 - FY 23 Monthly average new nurse licenses issued: 530.5
 - 6,366 new licenses processed
 - 8,523 applications received
 - FY 24 Monthly average new nurse licenses issued: 576.25
 - 2,305 new licenses processed
 - 2,167 applications received
 - BON reported that there was an increase in the number of nursing licenses processed, but that did not lead to nurses staying in Hawai'i.
- Nurses:
 - Local nurses indicate that they have interest in the MSL, particularly for out of state travel opportunities and out of state teaching. About half of the Hawai'i nurses who responded to the survey with interest in acquiring a MSL expressed an interest in using the license to practice travel nursing or telehealth or teach for an out of state school of nursing, which would reduce nursing hours in Hawai'i.

- Travel nurses do have high costs for contracts, yet the deep experience that was previously assured is now not always the case: currently travel nurses may be novice to practice as well as experts.
- There is nearly an 11% increase in nurses' mobility within the compact states. Research suggests nurses in the Compact decreased wages and the probability of employment while increasing the time that registered nurses spent unemployed. NLC significantly increased whether an individual works in or moved to a Compact state and increased enrollment in graduate level education.
- Licensing options:
 - Licensure by examination: this is largely for new-graduate or foreign trained nurses. Must meet academic requirements prior to applying for licensure through examination (NCLEX)
 - Licensure by endorsement: this is for nurses already licensed in another state who are applying for licensure in Hawaii.
 - Temporary permits: effort to reinstate temporary permits for nurses with an active license in good standing in another state. No temporary permits have been issued since the start of the COVID pandemic (Q2 2020).
 - Emergency Proclamation: Can be used for emergency purposes. Result is privilege to practice without a Hawaii license; this strategy also creates a loss to nursing registry information.
 - Compact: improves timeliness of privilege to practice as a nurse; this strategy also creates a loss to nursing registry information.
- Continuing Competency and License Renewal
 - Hawai'i has more options for meeting continuing competency requirements than many other states who primarily rely on continuing education.
 - The process and method for reviewing license renewal criteria has differences, across the nation.
- Alignment to 11 Uniform License Requirements:
 - Hawaii has six of the ULRs in place either by law, rule, or practice. The remaining ULRs will require change in laws or rules.
- Registry of nurses:
 - Repository of known nurses in state would be fundamentally changed.
 - Reporting of employed nurses using a MSL is required for employers in some states; it is unclear how that would work in Hawaii, if opted for. Some
 - Employers can review nurses they are employing using Nursys, but Hawai'i may not currently have high utilization of employers who currently do so.
- Regulatory Investigation:
 - Investigating nurses who may have committed misconduct in Hawai'i but have not been vetted or registered with the Board of Nursing, will be challenging and ensuring due process could require more resources that could lead to delays in enforcement. This was an issue RICO faced with the EPs.
- Workforce research/data:

- NLC results in undercounting of available workforce by license counts, and loss of ability to assess the number of nurses who engage in patient care in each state.
- Maintaining the workforce supply research efforts of the HSCN is more critical than losing access to data about travelers from a workforce research perspective. Nursys and eNotify would result in loss of a significant amount of data including wellbeing, demographic, island, and education data that is uniquely curated for Hawaii.
- Education:
 - MSL supports online education and private education providers by enabling out-of-state nurses to teach in Hawaii.
 - May benefit new graduates who may have more options for work if their license permits them to work in other jurisdictions.
- Insurers:
 - Insurance is an employer of nurses, particularly for health coordination services as well as utilization management. Recruitment and retention of nurses within insurance settings is a challenge.
 - Compact is not an interest as a way to reduce costs but rather a possible solution to assure needed nursing care.
- Costs:
 - Revenue losses to RICO, BON, and HSCN will result from out-of-state nurses with a Hawai'i license who live in NLC member states
 - Investigations by RICO staff of MSL nurses believed to be engaging in misconduct here will take more resources but the costs of enforcement would not be funded or even offset by out-of-state MSL holders because, under the NLC, MSL holders pay licensing fees to their primary state of residence only and not to Hawai'i.
 - NLC requires a fee as well as designated staff to administer the program locally.
 - In addition, BON's processing time for nurse license applications was cut in half with the addition of 8 relief workers, which will almost certainly revert to longer processing times when the relief workers' contract expires in October. A long-term negative fiscal impact will exacerbate the problem and leave the BON with fewer staffing options.
 - Increases to fees should address potential revenue losses to all three (3) organizations, in order to maintain operations and services to the state as they function today. Other states have created a higher fee structure for the MSL, as compared to the SSL, for in-state nurses in order to offset revenue losses from non-resident nurses.
 - The change in revenue does not equal a change in access to nurses. Many out-of-state nurses who have a Hawai'i license already have an MSL; the greatest impact would likely be license fee changes, not the availability of nurses.
 - Travel nursing costs remain higher than local nurses, though ensuring full nursing coverage in healthcare settings is non-negotiable and therefore all

workforce streams (local, travel, out of state permanent recruitment) are necessary to explore.

12 Letters from Working Group Members

Letters are listed in the order in which they were received.

12a Hawai'i Chapter of the American Nurses Association



Chairs of the Senate Standing Committees on Commerce and Consumer Protection and Health and Human Services

Chairs of the House Standing Committees on Consumer Protection and Commerce and Health and Homelessness

Thirty-Third State Legislature Regular Session of 2023 State of Hawaii

RE: S.C.R No. 112- Statement of Concerns in Response to the Hawaii State Center of Nursing Report on The Feasibility and Impact of the State Adopting the Nursing Licensure Compact (NLC)

Dear Senators and Representatives:

The Hawai'i -American Nurses Association (ANA) applauds the extraordinary due diligence by the Hawai'i State Center for Nursing in preparing this extensive feasibility study to assist the state in understanding the practicality and viability of joining the NLC. Hawai'i – ANA served as an active work group member as designated by S.C.R. No. 112 and shared our subject matter expertise and comments that are documented here and within the report.

S.C.R. No.112 was an important step put forth by the Thirty-Second Legislature to bring experts and stakeholders together to research the feasibility of adopting the NLC by answering key questions on nine critical components of NLC implementation such as fiscal obligations of the state, jurisdiction and regulatory oversight, and impact on Hawaii's present licensing infrastructure.

Hawai'i- ANA is the state's premier professional nursing organization that fosters high standards of professional nursing practice, promotes safe and ethical work environments and advocates on health care issues that affect nurses and the public. We are partners with other professional and governmental agencies and organizations such as the Hawaii State Center for Nursing and the Hawaii Professional and Vocational Licensure Division to assure that Hawai'i nurses provide safe and equitable care to the public we serve. The states nursing workforce shortage is uppermost on our advocacy agenda and the present nurse staffing crisis is one that is multifactorial in nature and will take a sophisticated multipronged approach to resolve. No one factor will solve the crisis.

The NLC and License Portability

The NLC is an opportunity to address license portability, a marginal but important factor for nursing recruitment efforts. The NLC does not add nurses to the workforce. It allows geographic redistribution of the existing national workforce which is also in short supply. **That being said, if the NLC came with minimal risks and extreme benefit to the states nursing workforce shortage it would be a viable option for license portability.** Of note, during the pandemic,

Hawaii implemented emergency proclamation orders which led to immediate removal of licensure barriers. Despite these efforts, healthcare employers across the state continue to report difficulty hiring nurses due to shortage of applicants. The elimination of licensing-related hiring barriers raises many questions as to the importance of license portability in the immense schemata of workforce shortage solutions.

License Portability Nuances

This feasibility study clearly explains the nuances of NLC license portability and the present state of Hawai'i nursing licensing portability operations. The NLC represents an option to license portability, however, it would disrupt and dismember the present state of professional licensing operations and bring many risks and high costs with it. Continued quality improvement efforts on our own state licensing portability efforts are showing promise and temporary licensure permitting realignment could help streamline licensure endorsement to pre-pandemic times of 3 days. **While NLC license portability is immediate, it comes with excessive risks and extreme costs.**

The NLC versus the Interstate Medical Licensure Contract

The NLC model infrastructure is inherently flawed. Unlike the Interstate Medical Licensure Contract (IMLC), based on a reciprocity licensing model, the NLC is based on a mutual recognition model whereby multi state licensed nurses would be practicing in Hawaii without a Hawaii license. The strength of the IMLC model is the expedited reciprocity between each individual state who joins based on a set of qualifying criteria agreed upon by all states but providing each practitioner a state specific license. That way each state retains its licensing authority and oversight for individual providers and their workforce data.

NLC Safe Practice Issues

While the NLC has made some significant improvements over the years, for example, requiring states to adopt criminal background checks and fingerprints for their licensees, there are numerous issues with nurses who engage in unprofessional conduct, particularly the delays in inquiry initiation and completion or reporting of investigations which may allow a nurse who has engaged in unprofessional conduct and is under investigation to leave one NLC jurisdiction to practice in another. Nurses with disciplinary problems practicing here unknowingly puts our public at risk.

The NLC Model Assumes all Nursing State Practice Acts are Similar

The NLC also assumes that all state practice acts are similar, which is erroneous. Many states have differing types of independent, dependent, or interdependent practice privileges and regulations. Some states require continuing education competencies and others do not. Some have standardized practice authority procedures, others do not. Some state laws prohibit certain practices, particularly around women's reproductive health and hold nurses accountable to those laws no matter which state they practice in. The lack of clarity and conformity on all these issues puts nurses and the public at risk.

NLC Fiscal Impact

The fiscal impact of joining the NLC for the state is steep with limited opportunity for revenue enhancements. The feasibility study projects an annual revenue lost of \$1.36 million and a potential revenue gain of \$180.400 with numerous situational examples cited for potential means to increase revenue, such as nurse licensing fees, and or decrease state workload operational costs. **Again, one must ask, is this NLC excessive cost and state licensing infrastructure realignment worth a potential improvement in licensing portability which may or may not recruit more nurses to the state, particularly if there is a more cost-effective, efficient means to improve our licensing processing times.**

NLC Outmigration Risk

Another downside to the NLC is outmigration of Hawaii nurses. We already have a significant number of nurses with Hawaii licenses (44%) who do not live here. A recent survey of nurses, as reported in the study, stated they would use a MSL to increase their career options or attain other types of work in NLC states suggesting there is a risk of nursing out-migration.

NLC Loss of Workforce Data

The loss of workforce data on NLC nurses practicing in our state is also of great concern. In addition to not knowing they are practicing here, we will not have access to their critical workforce data which is the pillar of health care workforce research and planning efforts. It will hinder nursing recruitment efforts as well as adequately predicting the most appropriate nursing educational pipeline. It will be one more barrier to correcting the Hawaii nursing workforce shortage.

NLC License Portability Mitigation Measures

NLC mitigation measures were discussed at length with both state and out of state experts and well outlined within the report. **Within those discussions we learned that there may be available mitigation measures to address the concerns but the value to effort ratio does not equate.** For example, numerous statutory changes would be needed for the NLC Model Act to conform with or improve existing law regarding such things as collection of workforce data and compliance with all eleven uniform licensure requirements. Multiple changes to statute and regulations will take time, money and resources when other more efficient and effective measures can be deployed.

Alternatives- Temporary Licensure and Nursing Workforce Shortage Strategic Planning

Hawai'i-ANA believes there are more prudent alternatives to NLC implementation to reduce licensing barriers to hiring and many of those alternatives are underway and could be expedited. **We reason that accelerating the temporary permit regulation by resuming the issuance of temporary permits will effectively mitigate licensing processing times more efficiently and effectively than joining the NLC.** There is work in progress on improving operational efficiency in licensing by moving to online application processes and this will greatly enhance accurate and complete submission with less operational overhead. **We suggest these measures take legislative, regulatory and operational precedence and be placed on high**

priority status to enable the Professional & Vocational Licensing Division and the Board of Nursing to accomplish immediate unencumbered temporary licensing measures.

And finally, Hawai'i-ANA believes that this type of policy discussion on the NLC could and should occur on the multifactorial issues causing Hawai'i's nursing workforce shortage. We are unique as an island of islands with cost of living being one of the most challenging factors to recruiting and retaining nurses. Educational capacity, faculty shortages, career opportunities, workplace satisfaction all come to mind as workforce opportunities for improvement in recruitment and retention measures. Much of this work has been initiated through the Hawaii State Center for Nursing and could be shared with legislators on how the state and employers can help support and nourish these initiatives with a detailed, transparent strategic plan.

In conclusion, there is no evidence to suggest that states have greater access to nurses or nursing care following NLC membership. By resuming the issuance of temporary permits, the licensing delays or the licensing portability that affect employers' ability to recruit nurses from out of state would be mitigated without any of the costs, risks and state licensing infrastructure deconstruction that would occur joining the NLC.

We look forward to continued conversations and collaboration on ways to overcome our unique state barriers to nursing workforce recruitment and retention. We are confident that our combined leadership and innovation will make Hawai'i the most sought out nursing workforce destination.

Sincerely,



Linda Beechinor, DNP, APRN,
Executive Director and Vice President
executivedirector@hawaii-ana.org

12b Healthcare Association of Hawaii



Working Group to Study the Feasibility and Impact of Hawaii Adopting the Multistate Nurse Licensure Compact, per Senate Concurrent Resolution (SCR) 112

Position Statement of the Healthcare Association of Hawaii

The Healthcare Association of Hawaii (HAH), established in 1939, serves as the leading voice of healthcare on behalf of 170 member organizations who represent almost every aspect of the healthcare continuum in Hawaii. Members include acute care hospitals, skilled nursing facilities, home health agencies, hospices, assisted living facilities and durable medical equipment suppliers. In addition to providing access to appropriate, affordable, high-quality care to all of Hawaii's residents, our members contribute significantly to Hawaii's economy by employing more than 30,000 people statewide.

HAH submits this statement in strong support of Hawaii adopting the Multistate Nurse Licensure Compact (NLC) and summarizes this position as follows:

- We need access to many tools to ensure the expeditious and nimble hiring of critical staff, such as nurses, to maintain access to care.
- The NLC is one of the tools that the state can use to achieve this.
- The NLC has been in effect for decades and has been successfully implemented in more than 80% of the country.
- Nurses practicing under a multistate license (MSL) are safe and can be utilized to help fill chronically unfilled positions.
- There are genuine concerns raised by the working group that we believe can be worked through, with solutions borrowed from one of the 41 states or two territories that have passed the NLC.
- We are open to discussing ways to accomplish the implementation of the NLC, including how to ensure all entities are fully funded and that data being used for workforce planning is maintained.

Our advocacy priorities are set and driven by the needs of our members. Overwhelmingly, healthcare providers and institutions in the state have emphasized that the number one issue they face is the labor shortage. In 2019, HAH completed a survey of healthcare employers and determined that there were more than 2,000 patient-facing positions that were unfilled. Just three years later—and exacerbated by the pandemic—the need for healthcare workers had nearly doubled to just over 3,800 openings.

The largest needs by far were for registered nurses, followed closely by certified nurse aides. The graphic below shows how rapidly the need for nursing professionals has increased in just three short years.



Largest Need Professions

2019 HAH Report Priority Professions	Total
RN specialty	463
Certified Nurse Aide/NA	417
Medical Assistant	106
Licensed Practical Nurse	144
Phlebotomist	124
Personal Care Assistant	35
Social Worker	60
Patient Service Representative	110
Radiological Technologist	64



2022 HAH Report Priority Professions	Total
RN specialty	999
Certified Nurse Aide/NA	744
Medical Assistant	278
Licensed Practical Nurse	211
Phlebotomist	128
Personal Care Assistant	181
Social Worker	126
Patient Service Representative	111
Radiological Technologist	85

*BOLD entry-level can be trained at the high school level

There is a real, documented need for more nursing professionals across all levels in the state. HAH and its members have invested material amounts of financial resources, time, and expertise, into cultivating our own talent. HAH itself has gone from zero full-time employees (FTEs) dedicated to workforce development to four FTEs over the past four years. The innovative programs that this team has implemented—in partnership with our members—has garnered federal support through the Good Jobs initiative to the tune of tens of millions of dollars that provide scholarships, support programmatic costs, and train our next generation of caring professionals.

HAH, local healthcare providers, public high schools, community colleges and universities have also invested heavily in developing and recruiting local students and workers for many roles, including a very strong focus on nursing. Nurse residency programs are an effective tool that the major hospitals—and now, many nursing homes—in the state have established or expanded in recent years. The nurse residency program takes new nurse graduates, pays them a full salary, and then provides on-the-job training, so they become independent healthcare professionals. Other earn-and-learn development programs which provide the opportunity for healthcare workers in entry level positions to go to school for further education and training, while they still work full-time, have also been developed and heavily promoted by HAH and its members.

These are all critical programs and initiatives, but they are not sufficient to resolve the workforce crisis. Hospitals and other providers in the state are doing everything they can to take care of an increasingly sick population. Hospitals across the state are treating between 300 and 400 more patients every day than they did in 2019.

To take care of these patients, and in light of the shortages of trained healthcare professionals, providers must rely on resources from outside of the state to keep up with the demands on the system. This is not what providers prefer, because the costs of including travel nurses are much higher than local nurses. For example, when our organization was considering bringing in travel



LPNs to help resource-strapped nursing homes, we found that the cost, all in, would be four times that of a local LPN. This was too prohibitive, and thus hundreds of nursing home beds remained closed to the community because there simply were not enough staff to open them.

We need to have an efficient, seamless way to bring on new nurses—whether they are local graduates, nurses providing short-term services in critical areas, or workers choosing to relocate to Hawaii. A key barrier to this has been the licensing of nurses. The current processes have not proved adequate to keep up with the demand and the healthcare industry has been forced to rely on a series of emergency proclamations to adequately staff our healthcare facilities. If we had not had these emergency proclamations (for the pandemic and, now, the Maui wildfires) which have been in place for most of the past three years, patients would have had far more severe outcomes.

We have struggled with licensing times that reached up to six months during the pandemic. Admittedly, the process has shortened materially over the past year, but the average time to get a license is still about a month. We are concerned that the time to issue a license will increase dramatically once the additional staff funded through supplemental funding are no longer available. Hiring these additional staff was an effort that took around \$1 million for eight FTEs to process licenses to get us down to a month-long average wait.

Our organization and many providers and institutions have appreciated the partnership with the licensing branch in trying to find solutions to these persistent licensing challenges. HAH and its members have repeatedly stressed the need for an efficient, seamless application process that reliably results in approved licensure in a timely fashion. We have supported past measures to try and improve the temporary license process through legislation (which did not pass) and to create a true online application form to reduce inconsistencies and inaccuracies for all submissions (which is only now coming online.) While we appreciate that updated rules are being suggested by the Board of Nursing, we are not confident that the rules will adequately address the issues that employers have.

Even if all these measures were available, we believe we need to supply ourselves with every tool available to meet the many healthcare needs across the state. This is why we strongly believe that the Legislature should support a bill to have Hawaii join the NLC.

There are some genuine challenges that need to be addressed as part of joining the NLC, the biggest of which are the potential fiscal impacts of the bill and the ability for entities to collect data on the nursing workforce. The positive news is that 41 states and two territories have already—and very successfully—worked through those issues. Hawaii would not start from scratch in joining the NLC. In fact, we are in the minority of states in this country who have not joined this well-tested endeavor. Further, we should note that the state has already adopted multiple initiatives that were developed by the National Council of State Boards of Nursing (NCSBN), which supports the NLC, including the entirety of our nurse practice act and the use of the NCLEX exam to test our nurses for competency.



Regrettably, this working group has appeared to approach its work with a specific conclusion in mind: that the state should not join the NLC. The report offers quite negative views of the NLC that we do not feel adequately represents the issues or the needs of participating providers. We also do not feel as if the report fully incorporates information from industry experts who presented case study information from states that have successfully entered the NLC. For example, potential issues are raised without stating the solutions that 41 other states have already implemented. It also downplays how important a tool it is for employers to bring in critical staff in times of need.

We know, based on presentations given by other states who have joined the NLC, that the hypotheticals argued by the NLC's critics have not come true in other states. Some members of the working group have thrown as many doubts on the process as possible. We acknowledge there are legitimate concerns on some matters of implementation, but we do not feel as if a substantive effort was made by the work group to address those concerns. This is especially disappointing because we could draw from decades of experience with the compact in other states, and the many examples of how any issues could best be overcome.

Opponents of this initiative have also made statements in the report that have made it difficult to continue to work towards productive solutions. Some of these arguments include:

- That compact nurses are unsafe. This is an unsubstantiated allegation that is not only unfounded, but antithetical to research showing compact nurses might be safer. Furthermore, data from Queen's Health System, the largest hospital system in the state of Hawaii, and other health systems from around the state do not reflect this claim. In fact, throughout the COVID-19 pandemic, hospital systems instead refined their recruitment policies and procedures to address problematic hires – thus making delivery of care safer.
- That this will cause significant out-migration of nurses. There is no evidence for this claim from any other state or territory. The NLC allows nurses to be transitory—however, that also means that nurses who have left Hawaii to go to school, pursue residencies or specialized training, etc. can also just as easily come back to practice in Hawaii should their life or work conditions change.
- That the state will be unable to appropriately investigate or discipline nurses. The NLC preserves state autonomy and there is no factual basis or data that we can find for this claim. In fact, as representatives of the NCSBN and compact states explained in working group meetings, the ability to investigate nurses who have encumbered licenses is actually aided by being part of the NLC.
- That the NLC will create more work once implemented. We heard from every other state that joining the NLC allowed them to create more efficiencies and was a welcome way to solve similar licensing challenges.



- That some providers will try to use future executive orders to skirt disciplinary and investigation rules and powers of the state. This is an unsupported argument—no healthcare provider in the state would support attempts to avoid accountability.
- That this will have an unmanageable fiscal impact. No state or territory in the compact has reported this. HAH supports adjustments being made to the fee structure for those who choose to practice under a multistate license, which will bring in additional revenue to compensate for any potential losses. For those who choose not to get a multistate license, nothing will change.

Hawaii has committed both public and private resources to address the nursing workforce shortfall for decades. We have, as noted earlier, invested in the educational pipeline from middle-school to high school through health academies, scholarships, innovative earn-and-learn programs, and expanded nurse residency programs in both acute and long-term care settings. These are substantial investments and we want to continue the momentum that the legislature has created. Entering into the NLC is one such opportunity with minimal investment by the state which could have real demonstrated benefits for the healthcare system—especially for our neighbor islands and SNFs.

We look forward to the opportunity to collaborate with our colleagues on the working group to ultimately realize the benefit of the NLC to our state. While we are disheartened by the tone and direction of the report issued by the working group, we do appreciate the time and discussion around this topic and the work that went into organizing the meetings and writing the report. Ultimately this group brought forth concerns and benefits that highlight challenges facing the nursing workforce – we are all committed to addressing those challenges.



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November 21, 2023

The Honorable Ronald D. Kouchi,
President and Members of the Senate
Thirty-Second State Legislature
State Capitol, Room 409
Honolulu, Hawaii'i 96813

The Honorable Scott K. Saiki, Speaker
and Members of the House of Representatives
Thirty-Second State Legislature
State Capitol, Room 431
Honolulu, Hawaii'i 96813

Dear President Kouchi, Speaker Saiki, and Members of the Legislature:

RE: Regulated Industries Complaints Office's Statement on the Nurse Licensure Compact

The Regulated Industries Complaints Office (RICO) appreciates having been invited to participate in the Nurse Licensure Compact (NLC) Working Group convened by the Hawai'i State Center for Nursing pursuant to Senate Concurrent Resolution No. 112, Regular Session of 2023. RICO was able to attend all Working Group meetings which provided insight into a variety of areas covered by Working Group members and invited guests. We would like to take this opportunity to share a few important observations from the very narrow area of RICO's expertise: investigating complaints, prosecuting violations, and recommending disciplinary sanctions to the Board of Nursing (BON) for misbehaving licensees.

1. Disciplining misbehaving licensees within the jurisdiction of Hawai'i involves a partnership between the Professional and Vocational Licensing Division's Boards and Commissions and the Regulated Industries Complaints Office.

- a. The BON is the primary regulatory body for nurses in this State. It is one of 52 boards, commissions, and programs that are affiliated with the Professional and Vocational Licensing (PVL) Division of the Department of Commerce and Consumer Affairs (DCCA).
- b. The BON sets all standards and qualifications for nurses to practice in the State legitimately and ensures that practitioners are able to meet them through a licensure registration, vetting, and renewal process. If, during the registration and renewal process, the BON determines that certain standards have not been met, the BON will not grant or renew the license.

- c. The BON is also solely responsible for encumbering a license through disciplinary action such as a fine or suspension, when a practitioner is claimed to have engaged in misconduct and/or other behavior that implicates their fitness to practice. When such allegations arise, the BON steps aside and the complaint intake, investigation, and prosecution are performed independently by RICO. (RICO also performs these functions for the other 51 boards, commissions, and programs affiliated with the PVL Division.)
- d. RICO's independence from the BON in the area of investigations and prosecutions insulates BON members and staff (and other PVL boards, commissions, and programs) from claims of bias or improper motives in commencing or pursuing an investigation of a licensee. RICO's enforcement independence also ensures that the fundamentals of due process, such as impartiality and fairness, occur during the disciplinary process.
- e. RICO relies on directory and substantive information from the BON to commence an investigation, including the process and materials received from the accused and vetted by the BON during the application and renewal process. The information received by the BON helps to expeditiously kick-start an investigation, and ensures basic due process requirements are met early on.
- f. If, after a completed investigation, RICO determines that allegedly wrongful conduct can be proven by the legal standard of proof notwithstanding viable defenses, it can commence disciplinary proceedings and make sanction recommendations to the BON. The BON, as the ultimate and unbiased decision maker, can impose the sanction through a BON final order.
- g. Licensure and registration fees are critical to good enforcement. They are the main source of revenue that is used to protect the health, safety, and welfare of consumers who are treated by Hawai'i professionals who are regulated daily by the BON and RICO.
- h. Registering and vetting of candidates and their background information by the BON experts, through the initial licensure process and during renewals, is key to also ensuring that active nurses in Hawai'i remain competent and upstanding.

2. Negative fiscal impact on enforcement will occur if Hawai'i were to join the NLC: NLC membership is projected to decrease revenue to the DCCA, which will decrease resources for investigating and imposing consequences on persons who breach the licensing laws.

- a. The important work of both the BON and RICO are funded primarily through licensure and renewal fees that are collected from applicants and licensees while they are being evaluated and considered by the BON for licensure. The funds are deposited into the DCCA's Compliance Resolution Fund (CRF), and allocated respectively to the BON and RICO for the important work performed by each agency. The license or registration fees that are paid into the CRF by licensed practitioners are critical because they enable the BON and RICO to be self-sustaining in administering, vetting, and overseeing those who practice in the industry.
- b. If Hawai'i becomes an NLC jurisdiction, nurses who practice here under a multistate license (MSL) issued by another NLC jurisdiction will no longer be required to make

application to and register with the BON and pay the license application fees that fund regulatory enforcement. From a fiscal perspective, the Working Group's report projected a permanent revenue loss of \$1.36 million, while the projected revenue gain is only \$180,400. The loss of revenue would create operational challenges for both PVL and RICO. From RICO's perspective, the negative impacts cannot be projected with any degree of certainty but could include a substantial decrease in resources, including staffing, which would destabilize enforcement for the BON as well as other boards, commissions, and programs affiliated with the PVL Division. This means that investigations and prosecutions will be delayed or hindered in some way, shape, or form as yet to be determined.

3. Negative substantive impact of joining the NLC: MSL licensees will be exempt from the important application/registration and vetting process by the BON.

- a. The majority of the BON are active practitioners whose expertise and knowledge are critical to regulating the profession. When the BON reviews an application for licensure or renewal for our State, the BON not only reviews the applicant's directory information to ensure that the candidate's contact information is current. The BON also reviews important substantive information and representations provided to the BON by the applicant relating to the applicant's competency, continued fitness for practice, and whether they have been the subject of complaints, discipline, or lawsuits and the like. The application and registration process, therefore, enables the expert BON to determine the potential risks of granting licensure. The BON may choose to address these risks upfront with the applicant through conditional licensure and the like. Importantly, applicants are not only required to provide key substantive information to the BON so that the BON staff can properly vet them during the application and registration process. The applicants are also required to certify, directly to the BON, that the information they are claiming to be true, is in fact true. This is particularly important if purported credentials or transcripts or attendance at a program, are later called into question as being possibly false, misleading, or deceptive.
- b. RICO relies on the expertise of the BON and their vetting process during the registration phase, and any registration and directory information furnished to the BON during the application process, for good enforcement should allegations of misconduct or fitness to practice become an issue down the road. Were Hawai'i to become an NLC jurisdiction, however, MSL practitioners will be exempted from the careful vetting of the BON through their application system, meaning they will not be required to certify to the BON any directory and substantive information that impacts their continuing fitness to practice in the profession. The absence of such information will mean that RICO investigations will commence with an incomplete profile and no quality-control vetting by the very body whose purpose is to do just that. The NLC Model Act as written, therefore, does not have the public safety component of requiring NLC MSL licensees to make application to and register with the BON, so that the BON can vet them properly before they are allowed to treat Hawai'i patients.

4. Although the licensing process is not a significant burden to nurses choosing to come and practice in Hawai'i, but rather cost-of-living and work conditions are, RICO recognizes the impact of the nurse workforce shortage and burn-out in our State. With respect to the issue of expediting the issuance of a license locally, we understand that there are multiple efforts

in place that could help in this area without drastically decreasing the regulators' primary revenue stream or removing the BON's ability to vet MSL nurses coming to work here. For example:

- a. We understand that the BON is in the process of proposing amendments to its administrative rules to expedite the issuance of temporary licenses to nurses holding unencumbered licenses from other jurisdictions.
- b. We understand that the PVL Division made recent improvements to its online nurse licensing application portal that are designed to streamline receipt and review of supporting documents. These improvements could help reduce license issuance turnaround times.
- c. We understand that during the 2023 Legislative Session, Senate Bill No. 674, S.D. 1, H.D. 2, C.D. 1 was enacted as Act 112, Session Laws of Hawai'i 2023 (Act 112), which takes effect on January 1, 2025, and authorizes the Governor to enter into the Interstate Medical Licensure Compact on behalf of the State. In contrast to the NLC, it is our understanding that Act 112 has a built-in registration and fee component. As a result, MSL practitioners will not be exempt from the regular vetting and evaluation process performed by the Hawai'i Medical Board (HMB) before licenses are issued or renewed; they may not be exempt from providing current directory information to the HMB; and they are not exempt from helping to pay for the cost of regulating their profession in Hawai'i. The Legislature may wish to consider observing the impacts of Interstate Medical Licensure Compact membership that become evident after its implementation, before committing the State to membership in the NLC.

Mahalo for your consideration. RICO is available prior to the commencement of the 2024 Legislative Session to further discuss the Working Group report findings and conclusions that are relevant to RICO, as well as any other anticipated impacts of NLC membership on RICO's licensing enforcement work.

November 24, 2023

Working Group to Study the Feasibility and Impact of Hawaii Adopting the Multistate Nurse Licensure Compact, per Senate Concurrent Resolution 112

Position Statement of the Hawaii Association of Health Plans

The Hawaii Association of Health Plans (HAHP) supports Hawaii entering the Multistate Nurse Licensure Compact because HAHP believes the benefits of participation in the compact outweigh the potential issues that have been identified by the working group.

The Hawaii Association of Health Plans (HAHP) is a statewide partnership that unifies Hawaii's state licensed health plans. Our member organizations include Aloha Care, Hawaii Medical Assurance Association (HMAA), Hawaii Medical Service Association (HMSA), Hawaii Western Management Group (HWMG), Humana, Kaiser Permanente, MDX Hawaii, 'Ohana Health Plan, UnitedHealthcare (UHC), and UHA Health Insurance (UHA). HAHP's mission is to improve the health of Hawaii's communities by supporting health plans dedicated to providing access to high quality, affordable health care.

HAHP looks to support solutions that would ultimately improve the delivery of health care services to our members throughout the state. Two areas of focus that have been a priority for HAHP since its inception in 2000, have been increasing and improving accessibility to quality health care and addressing the challenges of the healthcare industry's workforce shortage. Hawaii is facing a severe nursing shortage with a need that continues to grow with every passing day. This shortage was exacerbated by the COVID-19 pandemic, which caused many nurses to leave the workforce due to burnout and stress. As a result, patients are having to wait longer for care and some hospitals have been forced to reduce services.

Additional long-term challenges contributing to Hawaii's nursing shortage include:

- Timeliness of licensure and other administrative burdens that potential applicants face.
- Hawaii's high cost of living and a lack of affordable housing.
- An aging population that is represented both in the workforce and in patients needing care.

These challenges have led to burnout of our current nursing workforce.

The Multistate Nurse Licensure Compact (NLC) has the potential to alleviate many of these issues, leading to a better quality-of-life for our current workforce and higher quality care for patients. Since first enacted in 1997 and implemented in 2000, the NLC has a proven track record of effectiveness and viability with benefits including an accelerated licensure process and access to an expanded workforce.

We are supportive of Hawaii entering into the NLC and believe the benefits of participation in the compact outweigh the potential issues that have been identified by the working group. We're grateful for the time that the workgroup spent in its convening and look forward to a continued dialogue in how we can work together to find innovative solutions that will serve Hawaii's patient community, our healthcare workforce, and ultimately the entire state.

Sincerely,

HAHP Public Policy Committee
cc: HAHP Board of Directors



BOARD OF NURSING

STATE OF HAWAII | KA MOKU'ĀINA 'O HAWAI'I
PROFESSIONAL AND VOCATIONAL LICENSING DIVISION
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
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Working Group to Study the Feasibility and Impact of the State Adopting the Nurse Licensure Compact Pursuant to the Senate Concurrent Resolution 112, Session Laws Hawaii 2023

Position Statement of the Hawaii Board of Nursing

The Hawaii Board of Nursing ("Board") was established in 1917 with the purpose of safeguarding life and health through standardizing and enforcing nursing requirements. More than a century later, the Board continues its mission to protect the public by ensuring that nursing requirements evolve and develop with the ever-changing health care landscape. In addition to regulating over 30,000 nurses, the Board strives to balance the needs of the community, industry stakeholders, and legislators with one goal in mind: public protection.

The Board would like to thank the Thirty-Second Legislature for their attention and efforts to address the current nursing shortage in the State of Hawaii. Senate Concurrent Resolution 112 ("S.C.R. No. 112") is an important step in evaluating and creating solutions to ensure a sustainable future nursing workforce. Efforts such as S.C.R. No. 112 encourage innovation and enthusiasm to find solutions that will benefit all stakeholders.

The Board would also like to thank and acknowledge Laura Reichhardt, MS, APRN, AGPCNP-BC, FAAN, Executive Director and the staff at the Hawaii State Center for Nursing for leading this discussion and authoring an objective and thorough study that presents the benefits and concerns to be considered in an unbiased manner should the Legislature consider introducing and adopting the Nurse Licensure Compact ("NLC").

The Board would like to clarify: the purpose of the NLC, the Board's concerns regarding the NLC, and alternatives to the NLC for the stakeholders consideration. The Board summarizes its statement as follows:

- The purpose of the NLC is to facilitate license portability; not solve all of the identified causes of the nursing shortage;
- The Board's concerns regarding the NLC; and
- Alternative solutions to the NLC.

Purpose of the NLC

The purpose of the NLC is to, among other things, facilitate license portability between participating states and U.S. territories. The NLC will not solve all issues of a national or state nursing shortage because it is not designed to do so. The following information reflects a history of the nursing shortage both nationally and locally.

- **The National Nursing Shortage**

The National Council of State Boards of Nursing (NCSBN) reported in its 2022 National Nursing Workforce Study¹, that over 100,000 nurses left the workforce during the COVID-19 pandemic and predicted that 800,000 RNs and 184,000 LPNs intend to leave the profession by 2027. The nurses who were surveyed indicated that systemic issues such as burnout, understaffing, concern for patient safety, a lack of educational preparation for entering the workforce, violence in the workplace, mandatory overtime, documentation burden and bullying as reasons for exiting the profession. Alarming, 24% of those nurses that want to leave nursing have less than 10 years of experience.

To address the national nursing shortage, the 2023 NCSBN Symposium: Solutions Addressing Nursing Workforce Crisis² was held on November 9, 2023, to present solutions to nurse educators, regulators, law makers and industry stakeholders. Three panels presented recommendations on how to address the issues that nurses identified as the main causes of mass exodus from the profession. These discussions focused on:

- **Staffing:**
 - Increasing educational capacity of clinical placements for the purposes of educating more nurses;
 - The responsibility of health organizations creating supportive and nurturing on-boarding programs to increase retention of new graduates in the workforce; and
 - The responsibility of employers creating a workplace culture that encourages existing nursing staff to train new generations of nurses to sustain the workforce.
- **Workplace Safety:**
 - The importance of medical facilities taking the lead in establishing zero-tolerance policies on violence;
 - Educating health organizations to understand that vertical and horizontal violence exists within the work place;
 - Vertical violence being the result of aggression from patients and/or visitors as well as acts of aggression by managers to subordinates;
 - Horizontal violence being the result of aggression from fellow staff members;
 - Emphasizing the importance of signage and safety training being a continuous requirement that is embedded in the culture of the facility; and

¹ [https://www.journalofnursingregulation.com/article/S2155-8256\(23\)00047-9/fulltext](https://www.journalofnursingregulation.com/article/S2155-8256(23)00047-9/fulltext)

² <https://www.ncsbn.org/live>

- Implementing policies that protect whistleblowers from retaliation.
- **Wellness:**
 - Recognizing the signs of burnout to proactively manage stress;
 - The importance of healthcare organizations providing robust mental healthcare plans for their employees and making sure that employees know how to access the care; and
 - Developing programs for nurses that provide skills training, mentorship, and instruction in self-care.
- **Nursing Shortage in Hawaii**

The issue of a nursing shortage is not new to Hawaii. A Legislative Reference Bureau (“LRB”) report entitled “Nursing and Nurse Education in Hawaii”³ from 1962, cited concerns from the Legislature regarding a nationwide nurse shortage affecting Hawaii. LRB had predicted that the shortage of medical professionals would eventually affect Hawaii’s nursing workforce by 1970. This prescient report listed the increased cost of living, rising health care costs, compensation, and a shortage of qualified nurse educators as reasons for the impending shortage.

The Hawaii State Center for Nursing’s 2021 Nursing Workforce Supply Report⁴ documented many of the same issues identified in the LRB’s 1962 report as the reasons for the nursing shortage in Hawaii. Despite more than 60 years passing since the submittal of LRB’s “Nursing and Nurse Education in Hawaii” report, Hawaii has not found satisfactory solutions to the issues cited so long ago. This is evident in the Healthcare Association of Hawaii’s 2022 Workforce Initiative Report⁵, which showed that there were nearly 1,000 nurse vacancies throughout the State.

As recently as June 6, 2022, Hawaii News Now reported that Hawaii nurses earn the lowest salaries in the nation when cost of living is factored in⁶. A June 22, 2022, article from Civil Beat⁷, reinforced this finding as well as reiterating systemic issues such as safety concerns and job fatigue as the reasons that nurses were choosing to leave the healthcare profession altogether. Strikes by the nursing unions on multiple islands within the last three years further reinforced the local nursing workforces’ concern over dangerous work environments, lack of protective gear for frontline nurses, and discontent with compensation.

The Board’s Concerns Regarding the NLC

- **Patient Safety:**

The licensing vulnerabilities and issues of a single compact member state may have consequences on all other compact member states. For example, inconsistencies with the determination of whether certain misdemeanor convictions are

³ https://lrb.hawaii.gov/wp-content/uploads/1962_NursingAndNurseEducationInHawaii.pdf

⁴ https://www.hawaii-center-for-nursing.org/wp-content/uploads/2021/12/Statewide-Report-v.Final_.pdf

⁵ <https://www.hah.org/news/2022-healthcare-workforce-initiative-report>

⁶ <https://www.hawaiinewsnow.com/2022/06/06/report-hawaii-nurses-make-lowest-average-nation-when-cost-living-is-accounted/>

⁷ <https://www.civilbeat.org/2022/06/why-so-many-hawaii-nurses-want-to-leave-the-profession/>

a disqualifying event for multi-state licensure or inconsistencies between different states' scopes of practice may cause an issue for safe nursing practice in the State. The Board may consider multiple misdemeanors a serious risk to public safety; however, another jurisdiction may be less stringent on whether a misdemeanor would disqualify a nurse from issuance of a multi-state license. Further, inconsistencies between different states' scopes of practice may pose a safety risk for patients as nurses may have a greater scope of practice in one jurisdiction and a more narrowed scope of practice in another.

- **Loss of autonomy to regulate nurses:**

The ease of access to the expeditious hiring of nursing staff is one of the strongest arguments that the NLC offers. However, to accomplish this, each jurisdiction must adopt and abide by the Compact rules that are established and determined by the Interstate Commission of Nurse Licensure Compact Administration. The inability to amend the language to suit state-specific needs and requirements erodes this State's and the Board's ability to effectively regulate and ensure consumer protection and patient safety. Once implemented, the Compact would effectively beholden the State to the whims of a quasi-governmental and joint public agency whose membership are unfamiliar with the needs and challenges that are unique to Hawaii.

- **Enforcement:**

The Board shares similar concerns regarding the NLC as expressed by the Regulated Industries Complaints Office ("RICO"). For example, because there is no requirement for a multi-state licensed nurse to report their presence to the Board while practicing in the State, the identifying, locating, and disciplining of nurses who provide unsafe or incompetent care may present a challenge.

Alternative Solutions to the NLC

- **Senate Bill 63**

During the 2023 Legislative Session, S.B. No. 63 was introduced to establish a streamlined process that would expedite temporary permits for out-of-state nurses to practice within the State. Although S.B. No. 63 did not become law, there is still the possibility to carryover this bill into the 2024 Legislative Session.

- **Amendments to Hawaii Administrative Rules ("HAR") Chapter 89**

Following the failure to pass S.B. No. 63 into law, rule revisions to HAR Chapter 89 commenced to amend the temporary permit provisions of HAR §16-89-22. The amendments are intended to reflect the language of S.B. No. 63 and will address the Board's concerns with the NLC, specifically the enforcement component of the compact language.

- **Creating a New Pathway for Licensure**

Amend Hawaii Revised Statutes Chapter 457 to allow nurses with an active and unencumbered multi-state license to practice in this State. This pathway of licensure is not temporary in nature as provided by S.B. 63 or the administrative rule amendments. This alternative would allow a nurse to practice in this State with a permanent nursing license provided that they hold a multi-state license issued by another state or U.S. territory board of nursing. This proposed pathway of licensure would address both the Board's concerns regarding autonomy as well as RICO's concerns regarding its inability to investigate and discipline. This alternative will also address possible fiscal impacts relayed by the Department of Commerce and Consumer Affairs. In addition, the limited requirements for this type of license would provide an expedited pathway toward licensure.

Conclusion

The NLC is a short-term solution for a decades-long problem that will neither solve nor alleviate many of the long-standing issues that affect the nursing shortage in Hawaii. Drastically modifying the licensure component without reforming the education, clinical placement and retention pieces of the nursing workforce cycle will result in the State facing the same issues.

13 HSCN Meeting Minutes and Resource Archive

All meeting recordings, minutes, and materials may be accessed by visiting:
<https://www.hawaii-center-for-nursing.org/policy-and-legislation/nlc/>