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Testimony of the Department of Commerce and Consumer Affairs

Before the
House Committee on Consumer Protection & Commerce
Wednesday, March 22, 2023
2:00 p.m.

On the following measure:
S.B. 63, S.D.2, H.D.1, RELATING TO NURSES

Chair Nakashima and Members of the Committees:

My name is Esther Brown, and I am the Complaints and Enforcement Officer of the Regulated Industries Complaints Office (RICO), which is an agency within the Department of Commerce and Consumer Affairs (Department). RICO **offers comments** on provisions of the measure that impact RICO's enforcement authority, practices and/or daily operations.

The bill authorizes the Hawaii Board of Nursing (BON) to issue temporary permits for six-month periods to registered nurses and practical nurses who are already licensed in another jurisdiction and, provided certain conditions are met, the bill also exempts from licensure those out-of-state nurses who accompany nonresident patients into the State for less than two weeks.

RICO enforces the licensing laws of certain professional and trade industries in the State by investigating and prosecuting misbehaving licensees who fall within the purview of the Hawaii BON. RICO's effort results in disciplinary recommendations that are presented to the BON for final action. The BON, therefore, sets industry policy and

standards through laws and rules, which are applied to regulate nurses through the issuance, denial or discipline of licenses that grant them the privilege to practice in this State. RICO, as the BON's investigator and prosecutor, therefore, defers to and supports the Hawaii BON's position on the measure's policy, administration and implementation.

From an enforcement perspective, the measure is a good law for basic but important reasons.

1. Clarity. The language of the measure is clear so temporary permit holders and would-be temporary permit holders should have no problem understanding the expectations should the measure pass.

2. Incorporated into the current licensure scheme. The measure, unlike many of the proposed healthcare interstate compact bills that have been introduced this Session, seeks only to amend the existing regulatory scheme that has been in place for nearly half-a-century. The measure does not attempt to forcefully disrupt regulation through the introduction of a comprehensive, vague, unknowing, and untried scheme.

3. Notice to the regulator. A regulatory body must know about, and be able to contact, persons in the State who are or intend to practice nursing here. The measure contains the all-important notification provision in that it requires non-resident licensees seeking temporary permits, to make application directly to the BON (SB 63, S.D.2, H.D.1 ("H.D.1") page 1, lines 8 – 9; page 2, lines 6 – 7).

4. Fees. Sufficient resources are necessary to enforce a regulatory scheme and the measure allows for the imposition of fees, which will help ensure uninterrupted and consistent regulation in the field. (H.D. 1, page 1, lines 10 – 12; page 2, lines 8 – 10).

5. Definite period. A license or permit for a definite period of time only is beneficial to consumers because, at renewal, license-holders must represent to the BON, and if necessary prove, that they are competent and credible still. The measure accommodates this important consumer protection aspect by limiting the licensure period of each temporary permit to six-months only. (H.D. 1 page 3, lines 4 - 5).

6. Respect for practitioners under investigation and patient medical records. Unlike many of the proposed healthcare interstate compact bills that were introduced

early on during this Session, this measure does not seek to compel industry regulators to ignore state law possibly on critical matters such as the privacy of licensees under investigation for fitness to practice or the confidentiality of patient treatment records.

For these reasons, the measure is a good bill from an enforcement perspective.
Thank you for the opportunity to testify on this bill.

Testimony of the Board of Nursing

**Before the
House Committee on Consumer Protection and Commerce
Wednesday, March 22, 2023
2:00 p.m.
Conference Room 329 and Videoconference**

**On the following measure:
S.B. 63, S.D. 2, H.D. 1, RELATING TO NURSES**

Chair Nakashima and Members of the Committee:

My name is Chelsea Fukunaga, and I am the Executive Officer of the Board of Nursing (Board). The Board supports this bill and offers comments.

The purposes of this bill are to: (1) authorize the Board to issue temporary permits for six-month periods to out-of-state licensed practical nurses and registered nurses or who hold a multistate license issued by another state, territory, or country, under certain circumstances; (2) provides an exception from licensing requirements to nurses who are licensed in another state, territory, or country and accompanying a patient from out-of-state for less than two weeks and who are not employed or affiliated with a health care entity in the State; and (3) appropriates funds.

The Board supports this measure, which is similar to its administrative bill, S.B. 1322. This bill will assist, but not solve, the severe nursing shortage for health care entities in this State by allowing the Board to issue a temporary permit to out-of-state registered nurses and licensed practical nurses to work temporarily in an approved health care entity without having to apply for a permanent nurse license. This would also provide nurse-applicants who choose to apply for a permanent license the ability to practice nursing while their applications are being processed. Additionally, this bill exempts from the license requirements, nurses who travel to the State with a patient or patients for a period of less than two weeks and who are not employed or affiliated with a health care entity such as nurses on school trips or accompanying Make-A-Wish patients.

The Board respectfully requests the following amendments be made for purposes of clarification and consistency:

Page 6, line 1, and page 6, lines 15 through 18, should read:

- (3) The practice of nursing [~~under a nonrenewable permit~~] by:
- (A) A graduate of; or
 - (B) An applicant who has provided proof that the applicant has completed the entire educational curriculum required for graduation for a nursing license from,
a school that is in or under the jurisdiction of the United States, a territory, or a foreign jurisdiction and whose accreditation is recognized by the board; provided that the following completion of (A) or (B), the candidate takes the first licensing examination scheduled by any board of nursing recognized by the board and has submitted to the board an application for a license to practice nursing in the State.]; ~~and provided further that the permit shall be valid for three months or until the results of the licensing examination are received by the board;]~~

The language referring to the “nonrenewable permit” and “permit” should be deleted because the Board does not issue permits for this purpose.

Thank you for the opportunity to testify on this bill.

Wednesday, March 22, 2023 at 2:00 PM
Via Video Conference; Conference Room 329

House Committee on Consumer Protection & Commerce

To: Representative Mark Nakashima, Chair
Representative Jackson Sayama, Vice Chair

From: Amy Thomas
System Chief Nurse Executive

Re: **SB 63, SD2, HD1 – Comments with Proposed Amendments
Relating To Nurses**

My name is Amy Thomas and I am the System Chief Nurse Executive for Hawai'i Pacific Health. Hawai'i Pacific Health is a not-for-profit health care system comprised of its four medical centers – Kapi'olani, Pali Momi, Straub and Wilcox and over 70 locations statewide with a mission of creating a healthier Hawai'i.

HPH writes to provide COMMENTS ON SB 63, SD2, HD1 and proposes amendments. This bill allows the Board of Nursing (Board) to issue temporary permits that are valid for six (6) months to registered nurses and practical nurses who are licensed in another jurisdiction.

We note that the time within which an application for temporary permit should be issued is not specified in the bill. As there is a critical need for nurses in the state, a definitive period for the issuance of a temporary license from the time an application is received by the Board is necessary, and would enable the nurse and the employer to make employment plans. HPH believes ten (10) business days would be an appropriate time frame for the issuance of a temporary license as the nurse is licensed in another jurisdiction and the nurse's qualifications has already been vetted by that jurisdiction. HPH's suggested amendments to the bill are attached.

Hawai'i is faced with a shortage of health care professionals in every field, including nurses. There are about 1,000 open nursing positions statewide. Nearly every hospital has been impacted by the shortage of nurses. At HPH, 200 new out-of-state nurses are hired on an annual basis. We have an additional 200 traveling nurses from out of state. These 400 nurses must apply for a temporary permit and fulfill credentialing requirements to practice before they are eligible to work in Hawai'i. There is considerable lag time between the submission of an application for a temporary permit and its issuance. In the

meantime, the nurse is unable to work, and unable to help alleviate the nurse staffing shortage.

Approximately fifty percent of the out of state nurses we employ wish to become permanently licensed as a registered nurse or licensed practical nurse. The process to become permanently licensed requires another application separate from the application for temporary permit and satisfying another set of requirements. Combining the two separate application processes for temporary permit and permanent license into a single application would create a more efficient pathway to licensure. As out of state nurses hold a valid unencumbered license in another state or jurisdiction, their credentials have already been vetted by another licensing board. Thus, a streamlined application for temporary permit and permanent license would enable these nurses to practice under their temporary permit while the Board considers issuing a permanent license. Through this process much needed nurses would be able to enter the health care workforce at a faster rate.

Thank you for the opportunity to testify.

SB 63

PROPOSED HD2

Page 3, starting at line 4:

SECTION 1. Chapter 457, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§457- Temporary permit. (a) The board may issue a temporary permit to an out-of-state licensed practical nurse or registered nurse who has applied and met the following requirements:

(1) Completed an application on a form prescribed by the board;

(2) Paid all fees established by title 16, chapter 53, Hawaii administrative rules, that are made applicable to the board; and

(3) Provided proof of a valid and unencumbered license in another state, territory, or country by way of a license verification from the other state, territory, or country, or Nursys license verification report pursuant to section 16-89-16(2), Hawaii administrative rules.

(b) An individual who currently holds a multistate license may also meet the requirements for a temporary permit; provided that the individual meets the following requirements:

(1) Completed an application on a form prescribed by the board;

(2) Paid all fees established by title 16, chapter 53, Hawaii administrative rules, that are made applicable to the board; and

(3) Provided proof of a valid and unencumbered multistate license in another state, territory, or country by way of a Nursys license verification report pursuant to section 16-89-16(2), Hawaii administrative rules.

For purposes of this subsection, a "multistate license" means a license to practice as a licensed practical nurse or registered nurse issued by a home state licensing board that

authorizes the licensed nurse to practice in all party states under a multistate licensure privilege.

(c) A temporary permit shall only be issued to an applicant who has been appointed or accepted employment with a single health care entity listed in section 321-11(10).

(d) A Temporary license shall be issued within ten (10) business days of the date the application is received by the Board.

(e)~~(d)~~ A temporary permit shall be valid only for a period of six months from the date of issuance. In no case shall a permit issued hereunder be valid for more than a period of six months from the date of issuance. A new and separate temporary permit may be issued provided that the requirements of subsection (a) or (b) have been satisfied."



THE QUEEN'S HEALTH SYSTEM

To: The Honorable Mark M. Nakashima, Chair
The Honorable Jackson D. Sayama, Vice Chair
Members, House Committee on Consumer Protection & Commerce

From: Jace Mikulanec, Director, Government Relations, The Queen's Health System

Date: March 22, 2023

Re: Support for SB63 SD2, HD1: Relating to Nurses

The Queen's Health System (Queen's) is a nonprofit corporation that provides expanded health care capabilities to the people of Hawai'i and the Pacific Basin. Since the founding of the first Queen's hospital in 1859 by Queen Emma and King Kamehameha IV, it has been our mission to provide quality health care services in perpetuity for Native Hawaiians and all of the people of Hawai'i. Over the years, the organization has grown to four hospitals, and more than 10,000 affiliated physicians, caregivers, and dedicated medical staff statewide. As the preeminent health care system in Hawai'i, Queen's strives to provide superior patient care that is constantly advancing through education and research.

Queen's appreciates the opportunity to provide comments in **support** of SB63 SD2, HD1, which seeks to enable the Hawaii State Board of Nursing to issue temporary permits to out-of-state license nurses and enables the Department of Commerce and Consumer Affairs (DCCA) to adopt interim rules and collect fees for the administration of this program. We appreciate and support the amendments made to SB63 in the previous committees and urge the Committee to consider including an appropriation. COVID19 underscored how interconnected our healthcare system is - those interconnections helped us adapt, pivot, and improve many conventional processes in order to address immediate emergency medical events in our state. Under the federal and state COVID19 emergency proclamations, our state was able to expedite certain licensing protocols in order to expeditiously and safely deploy critical skilled nursing staff throughout our state healthcare system. This bill would help build upon and make permanent some of those provisions by expediting nurse licensing in our state when certain conditions are met.

We also urge the Committee to include the following amendment to Section 1 of the bill to include a time period within which the Board shall issue a temporary permit:

(d) A Temporary license shall be issued with ten (10) business days of the date the application is received by the Board.

Queen's relies on out-of-state nurses as a critical part of addressing the ongoing nursing shortage; according to HAH's 2022 Workforce Initiative Report that overall nursing shortage is approaching 1000. This is a trend we see nationally and we must make concerted efforts to continue investing in our local workforce through training, residency programs, and educational opportunities while also

The mission of The Queen's Health System is to fulfill the intent of Queen Emma and King Kamehameha IV to provide in perpetuity quality health care services to improve the well-being of Native Hawaiians and all of the people of Hawai'i.

being nimble and looking at new ways to recruit and retain nurses; we believe his bill is one attempt to help accomplish that. We also implore the Committee to work with the Department and stakeholders to look for additional efficiency and innovations within the state licensing process to ensure the temporary permitting program is effective.

Thank you for allowing Queen's to provide testimony in support of SB63 SD2, HD1.

Testimony of
Rayne Soriano, PhD, RN, NE-BC
Regional Director, Operations and Nursing Professional Practice

Before:
House Committee on Consumer Protection & Commerce
The Honorable Mark M. Nakashima, Chair
The Honorable Jackson D. Sayama, Vice Chair

March 22, 2023
2:00 p.m.
Conference Room 329 & Via Videoconference

Re: SB 63, SD2, HD1, Relating to Nurses.

Chair Nakashima, Vice Chair Sayama and committee members, thank you for this opportunity to provide testimony on SB 63, SD2, HD1, which authorizes the Hawaii State Board of Nursing to issue temporary permits for six-month periods to out-of-state nurses and provides funding and positions in the Department of Commerce and Consumer Affairs to carry out this provision of licensure for nurses.

Kaiser Permanente Hawai'i SUPPORTS SB 63, SD2, HD1.

Kaiser Permanente Hawai'i is one of the nation's largest not-for-profit health plans, serving 12.6 million members nationwide, and more than 269,000 members in Hawai'i. In Hawai'i, more than 4,200 dedicated employees and more than 650 Hawai'i Permanente Medical Group physicians and advance practice providers work in our integrated health system to provide our members coordinated care and coverage. Kaiser Permanente Hawai'i has more than 20+ medical facilities, including our award-winning Moanalua Medical Center. We continue to provide high-quality coordinated care for our members and deliver on our commitment to improve the health of our members and the 1.4 million people living in the communities we serve.

COVID-19 underscored the interconnectedness of our healthcare system, highlighting how stakeholders adapted, pivoted, and improved many conventional processes to address immediate emergency medical needs in our state. Under the federal and state COVID-19 emergency proclamations, our state was able to streamline certain licensing protocols to expeditiously and safely deploy critical skilled nursing staff throughout our state healthcare system. This bill would help build upon and make permanent some of those provisions by expediting nurse licensing in our state when certain conditions are met.

Like other hospitals in the state, Kaiser Permanente has relied on out-of-state nurses to help address the ongoing nursing shortage. We believe SB 63, SD2, HD1 is a critical piece to help build our

healthcare workforce. Hawai'i is faced with a shortage of health care professionals in every field, including nurses. There are about 1,000 open nursing positions statewide. Nearly every hospital has been impacted by the shortage of nurses. At Kaiser Permanente, 50 new out-of-state nurses are hired on an annual basis. We have an additional 50 traveling nurses from out of state. These 100 nurses must apply for a temporary permit and fulfill credentialing requirements to practice before they are eligible to work in Hawai'i. There is considerable lag time between the submission of an application for a temporary permit and its issuance. In the meantime, that nurse is unable to work, and unable to help alleviate staffing shortages.

We note that the time within which an application for temporary permit should be issued is not specified in the bill. As there is a critical need for nurses in the state, a definitive period for the issuance of a temporary license from the time an application is received by the Board is necessary and would enable the nurse and the employer to make employment plans. **We concur with the amendments by Hawaii Pacific Health that ten (10) business days would be an appropriate time frame for the issuance of a temporary license as the nurse is licensed in another jurisdiction and the nurse's qualifications have already been vetted by that jurisdiction.**

Therefore, we urge the committee to PASS SB 63, SD2, HD1 with amendments offered by Hawaii Pacific Health

Mahalo for the opportunity to testify on this important measure.



March 22, 2023 at 2:00 pm
Conference Room 329

House Committee on Consumer Protection & Commerce

To: Chair Mark M. Nakashima
Vice Chair Jackson D. Sayama

From: Hilton Raethel
President and CEO
Healthcare Association of Hawaii

Re: **Support**
SB 63 SD 2 HD 1, Relating to Nurses

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 over 30,000 people statewide.

Thank you for the opportunity to **support** this measure, which would create a new temporary permit pathway for registered nurses (RNs) and licensed practical nurses (LPNs) seeking to work at a healthcare entity in the state, but who do not have a Hawaii license. This proposal generally reflects the process currently in place through emergency rules, which have been critical to ensuring that our hospitals and other medical providers have enough staff to take care of the record-setting number of patients seeking care.

For reasons largely out of their control—including a record number of applications and interruptions in work due to the pandemic—the Department of Commerce and Consumer Affairs (DCCA) has faced a backlog in nursing applications. This led to a decision to cease issuing temporary licenses, which was not an issue until the emergency proclamation allowing out-of-state clinicians to practice in the state without a license lapsed. Since then, we have been grateful to the DCCA and the previous and current administration for allowing critical out-of-state clinicians to work in Hawaii under emergency rules. Without this flexibility, our hospitals, nursing homes, and other medical organizations would be facing crisis levels of staffing shortages.

We appreciate this measure, which will codify much of the current emergency rules and allow an easier path for out-of-state RNs and LPNs to practice in the state. We would, however, like to suggest an amendment to the bill to make this measure to make it more efficient.

Specifically, we believe that including a time period for the issuance of a temporary permit from the time an application is received by the Board would help to provide certainty for nurses who utilize the temporary licensure process and help address the critical and immediate need for RNs and LPNs in the State.

Accordingly, we request an amendment to Section 1 of the bill to implement a timeline by which a temporary license must be issued to create a new subsection (d) at page 3, line 4 as follows:

(d) A temporary permit shall be issued with ten (10) business days of the date the application is received by the Board.

Thank you for the opportunity to support this important measure.



**Testimony to the House Committee on Consumer Protection and Commerce
Wednesday, March 22, 2023; 2:00 p.m.
State Capitol, Conference Room 329
Via Videoconference**

RE: SENATE BILL NO. 0063, SENATE DRAFT 2, HOUSE DRAFT 1, RELATING TO NURSES.

Chair Nakashima, Vice Chair Sayama, and Members of the Committee:

The Hawaii Primary Care Association (HPCA) is a 501(c)(3) organization established to advocate for, expand access to, and sustain high quality care through the statewide network of Community Health Centers throughout the State of Hawaii. The HPCA **SUPPORTS** Senate Bill No. 0063, Senate Draft 2, House Draft 1, RELATING TO NURSES.

By way of background, the HPCA represents Hawaii's Federally Qualified Health Centers (FQHCs). FQHCs provide desperately needed medical services at the frontlines to over 150,000 patients each year who live in rural and underserved communities. Long considered champions for creating a more sustainable, integrated, and wellness-oriented system of health, FQHCs provide a more efficient, more effective and more comprehensive system of healthcare.

This bill, as received by your Committee, would allow the Board of Nursing to issue temporary permits for an out-of-state licensed practical nurse or registered practical nurses under certain circumstances. This bill would also appropriate unspecified amount of funds to allow the Department of Commerce and Consumer Affairs to hire one full-time civil service exempt permanent office assistant to facilitate the issuance of temporary permits.

This bill would take effect on June 30, 3000.

No event nor circumstance in recent memory has placed such enormous demands on Hawaii's health care infrastructure than the COVID-19 pandemic. Never before had our Nation (or the entire world for that matter) had to mobilize resources to vaccinate the entire population in such a short time while millions of our friends and family members were sick or in many cases, dying. Health workers have had to risk their personal wellbeing on a daily basis to meet the needs of the ill. Cases of infection would spike placing enormous pressure on Hawaii's limited capacity of hospital beds, emergency rooms, and primary care providers.

Testimony on Senate Bill No. 0063, Senate Draft 2, House Draft 1
Wednesday, March 22, 2023; 2:00 p.m.
Page 2

Even before COVID-19 hit our islands, Hawaii experienced a severe shortage of qualified health care providers. This shortage became even more evident with COVID requiring staff to work consecutive double- and triple-shifts to meet the ever present demand. The situation became so pronounced that health care workers from other states had to be brought in to keep our health care facilities open.

To facilitate this influx of health workers, DCCA scrambled to permit these workers under Hawaii's professional licensure laws. In particular, the huge number of nurses brought in to Hawaii forced DCCA to shift employees from other Boards to assist the Board of Nursing to permit these nurses to work here. Yet despite these heroic efforts, it took much time and resources for these nurses to have their professional licenses verified through endorsement. So instead of treating patients, these nurses had to wait.

This bill would remedy the problem by allowing registered and licensed practical nurses from territories or foreign countries to be issued temporary permits while they seek license by endorsement. That way, should the need arise again for a large number of nurses to be brought to the State, these qualified professionals would be allowed to work immediately to address the situation that brought them here.

For this reason, the HPCA supports this bill.

Thank you for the opportunity to testify. Should you have any questions, please do not hesitate to contact Public Affairs and Policy Director Erik K. Abe at 536-8442, or eabe@hawaiiipca.net.

Written Testimony Presented Before the
Committee on Consumer Protection & Commerce

HEARING:

PLACE: Room 329 and via Videoconference

On the following measures:

S.B. 63, S.D. 2, H.D.1

By Hawai'i – American Nurses Association (Hawai'i-ANA)



SB63 – RELATING TO NURSES

Chair Mark M Nakashima, Vice Chair Jackson D. Sayama and members of the House Committee on Consumer Protection & Commerce, thank you for the opportunity to testify in strong support of SB 63 with proposed amendments suggested by the HSCN (Hawaii State Center for Nursing) and BON (Board of Nursing) at the 3/15/23 testimony provided at the House Committee on Health & Homelessness. We are concerned that these amendments have not been incorporated into the present draft language.

This testimony is written on behalf of nurses in the State of Hawaii by the Hawai'i-American Nurses Association (Hawai'i-ANA). Hawai'i-ANA is in full support of allowing the Board to issue a temporary permit to a practical nurse (LPN) or registered nurse (RN) licensed in another jurisdiction.

The outcome of this bill would be a decrease in the processing time for an LPN or RN to begin nursing practice in the State of Hawaii. As we are all aware, we are amid a severe nursing shortage, with more than 1000 open nursing positions in our Hawaii health system. This situation is creating a healthcare crisis and lack of access to care for our community.

Temporary licensing of nurses is a common practice in many states, and indeed in Hawaii in the recent past. The staff who process temporary licenses to practice nursing in Hawaii have been overwhelmed with volume and lack of resources to meet the demand for this critically needed service. This bill would remedy that situation by funding a staff position for the specific purpose of issuing temporary nurse licenses to those who have accepted employment in any healthcare entity in the state, quickly and safely.

The issuance of such temporary licenses as proposed in this bill has resulted in no documented negative impact on patient care, and the length of time to get nurses into the workforce has been greatly shortened with this practice.

Hawai'i-ANA respectfully requests you approve legislation supportive of temporary licensing of nurses in Hawaii by passing SB63 through your committee with amendments provided by the BON and HSCN on 3/15/23 at the House Committee on Health & Homelessness.

In summary those amendments include:

1. Separating the temporary permit process from the permanent license application process. This amendment in S.D. 2 is unnecessary as nothing prohibits an individual under the original bill or the proposed H.D. 1 from doing so, provided an application for a permanent license is complete when submitted.
2. Removing requirements for a criminal background check and the Self-Query Report issued by the National Practitioner Data Bank (NPDB). This action will be obtained through the Board's requirement of a Nursys license verification report that will provide the same information as the NPDB report.
3. Remove the seven day time frame for temporary permit issuance as it does not provide adequate time for the Board to adequately review and verify adverse or derogatory information it may receive from the Nursys license verification report.
4. Define the requirements for a temporary authorization to practice that outline license qualification criteria.
5. Maintain the graduate permit in section 457-13 and revise the language to reflect the contemporary NCLEX examination environment.
6. Reinstate the dollar values in the appropriations sections of the bill.

We thank your committee for its commitment to the people of Hawai'i, in ensuring access to high-quality health care by our state's interprofessional healthcare team.

Contact information for Hawai'i – American Nurses Association:

President: Dr. Nancy Atmospera-Walch, DNP, CCHN, FAAN, president@hawaii-ana.org

Executive Director: Dr. Linda Beechinor, APRN, FNP-BC executivedirector@hawaii-ana.org

phone (808) 779-3001 500 Lunalilo Home Road, #27-E, Honolulu HI 96825



March 22, 2023

To: Chair Nakashima, Vice Chair Sayama, and Members of the House Committee on Consumer Protection & Commerce

From: Hawaii Association of Health Plans Public Policy Committee

Date/Location: March 22, 2023; 2:00 p.m., Conference Room 329/Videoconference

Re: Testimony in support of SB 63 SD2 HD1 – Relating to Nurses

The Hawaii Association of Health Plans (HAHP) appreciates the opportunity to testify in support of SB 63 SD2 HD1. HAHP is a statewide partnership that unifies Hawaii’s health plans to improve the health of Hawaii’s communities together. A majority of Hawaii residents receive their health coverage through a plan associated with one of our organizations.

HAHP believes in providing our members with access to quality care and this bill would allow for temporary permits for already licensed nurses from other jurisdictions and allow for nurses to accompany out-of-state patients while in Hawaii for a limited time frame. As we know, providers are in short supply, particularly in rural areas, and access to care is critically important. This bill would help to expand and strengthen our critical health care workforce, support the health care ecosystem, and, most importantly, improve access to care for the residents of Hawaii.

Thank you for the opportunity to testify on SB 63 SD2 HD1.

Sincerely,

HAHP Public Policy Committee

cc: HAHP Board Members

AlohaCare | HMAA | HMSA | Humana | HWMG | Kaiser Permanente | MDX Hawaii | Ohana Health Plan | UHA Health Insurance | UnitedHealthcare

hahp.org | 818 Keeaumoku Street, Honolulu, HI 96814 | info@hahp.org



March 22, 2023

2 p.m.

Conference Room 329

VIA VIDEOCONFERENCE

To: House Committee on Consumer Protection & Commerce

Rep. Mark M. Nakashima, Chair

Rep. Jackson D. Sayama, Vice Chair

From: Grassroot Institute of Hawaii

Ted Kefalas, Director of Strategic Campaigns

RE: SB63 SD2 HD1 — RELATING TO NURSES

Comments Only

Dear Chair and Committee Members:

The Grassroot Institute of Hawaii would like to offer its comments on [SB63 SD2 HD1](#), which would allow the Board of Nursing to issue temporary permits to nurses licensed in other states so long as the applicants comply with certain requirements.

If this bill is enacted, the Legislature will be formalizing the ad hoc approach to license recognition that began with Gov. David Ige's COVID-19 emergency proclamations. While this is a positive step to address the shortage of nurses in our state, it stops short of more effective and permanent reform measures.

It is well established that Hawaii is suffering from a shortage of vital healthcare workers, especially nurses. A 2021 [report](#) from the Hawaii State Center for Nursing estimated that the state has 300 to 400 fewer nurses than needed to meet demand.¹ Since 2021, we have seen

¹ Carrie M. Oliveira, "[2021 Hawai'i Nursing Workforce Supply: Statewide Report](#)," Hawai'i State Center for Nursing, 2021.

[research](#) indicating that nearly one-fourth of Hawaii’s nurses have been considering leaving the workforce, largely due to the stresses caused by the pandemic.²

The problem — which existed before the pandemic — has not eased since the emergency was lifted. Across the state, and especially in rural areas, Hawaii is facing shortages of experienced healthcare professionals, from primary care providers to nurses, specialists and staff.

Fixing the shortage in healthcare workers requires a multipronged strategy that will address everything from Hawaii’s high cost of living to the state’s regulatory scheme for healthcare facilities. Perhaps most important is the need to reform licensing regulations for healthcare professionals.

One-fourth of all licensed workers in the U.S. work in healthcare.³ Their licenses can be difficult to obtain, are expensive and carry geographic or “scope of practice” limitations.

As discussed in the Grassroot Institute of Hawaii’s new policy brief on medical licensing, [“How changing Hawaii’s licensing laws could improve healthcare access.”](#) the state’s shortage of healthcare professionals makes its restrictions on healthcare workers who already hold licenses in other U.S. states seem redundant and self-defeating.⁴

As the Federal Trade Commission noted in a report on occupational licensing portability:

There is little justification for the burdensome, costly, and redundant licensing processes that many states impose on qualified, licensed, out-of-state applicants. Such requirements likely inhibit multistate practice and delay or even prevent licensees from working in their occupations upon relocation to a new state. Indeed, for occupations that have not implemented any form of license portability, the harm to competition from suppressed mobility may far outweigh any plausible consumer protection benefit from the failure to provide for license portability.⁵

² Holly B. Fontenot, et al., [“Impact of the COVID-19 Pandemic on the Hawai’i Nursing Workforce: A Cross-sectional Survey,”](#) Hawaii Journal of Health and Social Welfare, May 2022.

³ Ryann Nunn, [“Improving Health Care Through Occupational Licensing Reform.”](#) RealClear Markets, Aug. 28, 2018

⁴ Malia Hill, [“How changing Hawaii’s licensing laws could improve healthcare access.”](#) Grassroot Institute of Hawaii, February 2023, pp. 5-7.

⁵ Karen Goldman, [“Options to Enhance Occupational License Portability.”](#) U.S. Federal Trade Commission, September 2018, p. 25.

In other words, though medical licensing is intended to protect the public, there is a point at which the level of regulation reduces the number of people in practice without an appreciable public benefit.

One study of licensing among medical professionals found that “licensing is associated with restricted labor supply, an increased wage of the licensed occupation, rents, increased output prices, and no measurable effect on output quality.”⁶

This is where we can benefit from the lessons learned during the coronavirus situation. The governor’s emergency modification to state licensing laws demonstrated a need to embrace license portability, making it a simple matter for a nurse licensed in another state to practice in Hawaii.

The temporary permit system outlined in this bill is a partial answer to the need to attract more nurses to Hawaii. However, as discussed in the Grassroot Institute policy brief, temporary permits would be “a Band-Aid approach” to the nursing shortage.

The brief continues: “A full [licensure] recognition scheme that encourages healthcare workers to relocate to Hawaii would be a more effective approach to addressing the state’s shortages in licensed healthcare professionals.”

Because it would create a pathway to local licensure for out-of-state nurses, albeit a temporary one, this bill would be an improvement on our current system. However, the fact that the permits are temporary undermines their value as a way to bring more healthcare workers to our state.

The committee should consider a more sustainable and long-term approach to attracting nurses to our state in order to help end the nursing shortage and improve healthcare access for all.

Thank you for the opportunity to submit our comments.

Sincerely,

Ted Kefalas
Director of Strategic Campaigns,
Grassroot Institute of Hawaii

⁶ Sean Nicholson and Carol Propper, “[Chapter Fourteen — Medical Workforce.](#)” in “Handbook of Health Economics, Vol. 2,” Elsevier, B.V., 2012, p. 885, cited also in the previously mentioned [FTC study](#), footnote #9, p3.



**Written Testimony Presented Before the House
Committee on Consumer Protection & Commerce
Wednesday, March 22, 2023 at 2:00 PM
Conference Room 329 and via Videoconference
by
Laura Reichhardt, APRN, AGPCNP-BC
Director, Hawai'i State Center for Nursing
University of Hawai'i at Mānoa**

TESTIMONY IN SUPPORT on S.B. 63, S.D. 2, H.D. 1

Chair Nakashima, Vice Chair Sayama, and Members of the Committee, thank you for the opportunity to testify in support of **S.B. 63, S.D. 2, H.D. 1** with recommendations for an amendment.

This measure would 1) allow the Board of Nursing to issue temporary permits to registered nurses and practical nurses in another jurisdiction under certain circumstances, and 2) adds an exception from license requirements for nurses who are licensed in another state, territory, or country accompanying a patient from out-of-state for a period of less than two weeks and not employed or affiliated with a health care facility in the State. This measure also keeps the graduate nurse provision in statute, whereas other versions of this measure sought to strike that language from statute. This important measure finds a solution to resolve the current delays in processing nursing license applications by endorsement.

With the [Governor's Emergency Rules for Nurses to Practice in the State](#) soon to expire, it is imperative that the state secure solutions to ensure the timely recruitment of nurses to meet the state's nursing needs. The temporary permit process is instrumental for recruiting nurses from outside of Hawai'i as well as bringing in travel nurses to maintain 24/7 care in the state at a time in which Hawai'i is short of the number of nurses needed. Different from other versions, H.D. 1 removes the 7-day timeframe for which a temporary permit must be issued for individuals. Importantly, an expedited permit process, like that which is established for military spouses¹, is what is in critical need. Today, according to communication with DCCA, it takes 45-60 working days (up to 90 calendar days) for an applicant to receive a license. At odds with this timeframe, however, is the need to recruit nurses is rapid and ever-changing. Healthcare cannot predict sudden workforce needs 90-days in the future. Rather, our state needs a nimble, yet safe mechanism to recruit nurses to fulfill healthcare duties. This measure improves the workflow within DCCA professional and vocational licensing so that an expedited temporary permit process will be feasible. Hawai'i State Center for Nursing commends the PVL division for identifying solutions to address known challenges.

Upon reviewing this measure with the Hawai'i State Center for Nursing's (HSCN) *Hawai'i Chief Nursing Officer (CNO) Collective*, a group of 51 nursing leaders from representing 37 organizations, nurse leaders across the state verified that while they have goals to hire new graduates and local nurses, organizations continue to hire out-of-state nurses to fill permanent positions and travel/contract nurses to sustain nursing care and coverage.

¹ [§436B-14.7](#) Licensure by endorsement or licensure by reciprocity; initial acceptance by affidavit; temporary license; military spouse.

The mission of the Hawai'i State Center for Nursing is that through collaborative partnerships, the Center provides accurate nursing workforce data for planning, disseminates nursing knowledge to support excellence in practice and leadership development, promotes a diverse workforce, and advocates for sound health policy to serve the changing health care needs of the people of Hawai'i.

Further, the HSCN verified that:

- Successful recruitment of out-of-state nurses for permanent positions and travel/contract positions would benefit from an expedited temporary licensure process.
- Hospitals across three counties indicated active recruitment into “graduate nurse” roles for individuals who recently graduated from nursing school and have yet to pass their national board examinations (NCLEX-PN or NCLEX-RN) necessary for initial licensure. Nationally, 72% of states have established temporary permits for new graduate nurses.²
- The Center for Nursing also assessed impact on nursing workforce supply data collection and analysis and determined that creation of a new “temporary license” category would not deteriorate the quality of our workforce supply data, but rather improve clarity and understanding of our local nursing workforce.

The Hawai‘i State Center for Nursing is in strong support of this measure. Updating the temporary authorization to practice laws for nursing will enable a clear and improved pathway for nurses who hold licenses elsewhere in the United States to serve this state expeditiously. Thank you for your favorable consideration of this measure and the proposed amendments.

² https://www.ncsbn.org/public-files/2021_Licensure_Survey.pdf

The mission of the Hawai‘i State Center for Nursing is that through collaborative partnerships, the Center provides accurate nursing workforce data for planning, disseminates nursing knowledge to support excellence in practice and leadership development, promotes a diverse workforce, and advocates for sound health policy to serve the changing health care needs of the people of Hawai‘i.

SB63 SD1 Proposed Amendments
RELATING TO NURSES.

SECTION 2 **1**. Section 457-7, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(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~~[-] , or [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.]"~~

(3) Temporary License: The board may issue a temporary license to practice nursing as a registered nurse to any applicant who is licensed as a registered nurse under the laws of another state, territory or foreign country. The applicant shall be eligible for a temporary license if the applicant (i) provides proof of a valid and unencumbered license in another state, territory, or country by way of a Nursys license verification report as prescribed by administrative rules; (ii) provides proof that the applicant has been appointed or accepted employment with a single health care entity in the State listed in section 321-11(10); (iii) has completed an application for a temporary license, and (iv) has paid any applicable fees so prescribed by administrative rules. In no event shall a temporary license be valid for more than a period of 180 days from the date of issuance. A new and separate temporary license may be issued; provided that the requirements of this subsection have been satisfied as applicable. The temporary license shall be issued within seven (7) business days of the date the application is received by the board; and an applicant may concurrently apply for licensure by endorsement provided that the processing of the application for licensure by endorsement pursuant to this section, 457-7, b(2), shall not delay issuing of a temporary license.

SECTION 3 **2**. Section 457-8, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(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 licensed practical nurse;
- (2) Endorsement: The board may issue a license to practice nursing as a licensed practical nurse by endorsement to any applicant who has been licensed as a licensed practical nurse, or a person entitled to perform similar services under a different title, 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 requirements for licensed practical nurses in this State at the time of graduation~~[-] , or [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.]"~~

(3) Temporary License: The board may issue a temporary license to practice nursing as a licensed practical nurse to any applicant who is licensed as a licensed practical nurse in another state, territory or foreign country. The applicant shall be eligible for a temporary license

if the applicant (i) provides proof of a valid and unencumbered license in another state, territory, or country by way of a Nursys license verification report as prescribed by administrative rules; (ii) provides proof that the applicant has been appointed or accepted employment with a single health care entity in the State listed in section 321-11(10); (iii) has completed an application for a temporary license; and (iv) has paid any applicable fees so prescribed by administrative rules. In no case shall a temporary license be valid for more than a period of 180 days from the date of issuance. A new and separate temporary license may be issued; provided that the requirements of subsections this subsection have been satisfied as applicable. The temporary license shall be issued within seven (7) business days of the date the application is received by the board; and an applicant may concurrently apply for licensure by endorsement provided that the processing of the application for licensure by endorsement pursuant to this section, 457-8, b(2), shall not delay issuing of a temporary license.

SECTION 4 **3**. Section 457-13, Hawaii Revised Statutes, is amended to read as follows:

"**§457-13 Exceptions.** This chapter does not prohibit:

- (1) The furnishing of nursing assistance in an emergency;
- (2) The practice of nursing that is incidental to the program of study engaged in by students enrolled in nursing education programs accredited by the board;

~~[(3) The practice of nursing under a nonrenewable permit by:~~

- ~~(A) A graduate of; or~~
- ~~(B) An applicant who has provided proof that the applicant has completed the entire educational curriculum required for graduation for a nursing license from~~

~~a school which is in or under the jurisdiction of the United States, and whose accreditation is recognized by the board; provided that following completion of (A) or (B), the candidate takes the first licensing examination scheduled by any board of nursing recognized by the board and has submitted to the board an application for a license to practice nursing in this State; and provided further that the permit shall be valid for three months or until the results of the licensing examination are received by the board;]~~

(3) The practice of nursing under a nonrenewable permit by³:

(A) A graduate of; or

(B) An applicant who has provided proof that the applicant has completed the entire educational curriculum required for a nursing license from a school which is in or under the jurisdiction of the United States, and whose accreditation is recognized by the board; provided that following completion of (A) or (B).

- 1. the applicant has applied for a license by examination pursuant to 457-7 (b)1 or 457-8 (b)1;**

³ Reference on process for licensure by examination:

1. Students complete all nursing program graduation requirements.
2. Students apply to DCCA for "[licensure by examination](#)".
3. DCCA professional vocational licensing division [reviews the application and issues an "authorization to test" \(ATT\)](#).
4. Students use the ATT to enter into PearsonVUE's test scheduling center.
5. Once the test is scheduled, students from neighbor islands must travel to Oahu [to take the test](#). The test is up to 5 hours long, and is between 75 and 130 questions.
6. The student will finish the test. The results are not provided at the time of the test taking. Students will be [notified by the BON of the results within 6 weeks](#) (6 week is stated by the NSCBN, our state issues licenses within 45-60 working days)

2. the candidate takes the licensing examination within the ninety (90) days valid permit timeframe; and
3. provided further that the permit shall be valid for ninety (90) days or until the results of the licensing examination are received by the board, whichever is sooner.

~~[(4)]~~ (3) The practice of any legally qualified nurse of another state who is employed by the United States or any bureau, division, or agency thereof, while in the discharge of the nurse's official duties;

~~[(5)]~~ (4) The practice of nursing in connection with healing by prayer or spiritual means alone in accordance with the tenets and practice of any well recognized church or religious denomination, provided that no person practicing such nursing claims to practice as a registered nurse or a licensed practical nurse; [or]

~~[(6)]~~ (5) The administration of oral and topical medication and in emergency situations, other premeasured medication, by school health aides as provided in section 302A-853[.]; or

(6) The practice of nursing by a nurse licensed in another state, territory, or country who is accompanying a patient or patients from out of state for less than two weeks and who is not employed by or affiliated with a health care entity in the State."

SECTION 5 4. The department of commerce and consumer affairs may adopt interim rules to establish fees for the administration of this Act. All fees collected shall be deposited into the credit of the compliance resolution fund established pursuant to section 26-9(o), Hawaii Revised Statutes. Fees assessed shall be used to carry out the purposes of this Act without regard to chapters 91 or 201M, Hawaii Revised Statutes; provided that:

- (1) The department shall hold at least one public hearing prior to the adoption of interim rules; and
- (2) The interim rules shall be effective for no more than one year after their adoption.

SECTION 6 5. The department of commerce and consumer affairs may employ necessary personnel without regard to chapter 76, Hawaii Revised Statutes, including one full-time permanent office assistant, for the purposes of this Act.

SECTION 7 6. There is appropriated out of the general revenues of the State of Hawaii the sum of \$78,426 or so much thereof as may be necessary for fiscal year 2023-2024 and the same sum or so much thereof as may be necessary for fiscal year 2024-2025 to be deposited into the compliance resolution fund.

SECTION 8 7. There is appropriated out of the compliance resolution fund the sum of \$78,426 or so much thereof as may be necessary for fiscal year 2023-2024 and the same sum or so much thereof as may be necessary for fiscal year 2024-2025 to implement the regulation of nurses as required by this Act.

The sums appropriated shall be expended by the department of commerce and consumer affairs for the purposes of this Act.

SECTION 9 8. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 40 9. This Act shall take effect on July 1, 2023.