

HB1756 HD3

Measure Title: RELATING TO NURSING.

Report Title: Nursing; Licensure; Nurses; Criminal History Record Checks

Description: Requires all applicants for nurse licensure, renewal, reactivation, or restoration to comply with state and federal criminal history record checks. Authorizes the Board of Nursing to develop and adopt rules to implement required criminal history record checks. (HB1756 HD3)

Companion: [SB2677](#)

Package: None

Current Referral: CPH, WAM/JDL

Introducer(s): BELATTI, MCKELVEY, MIZUNO

**PRESENTATION OF THE
BOARD OF NURSING**

TO THE SENATE COMMITTEE ON
COMMERCE, CONSUMER PROTECTION, AND HEALTH

TWENTY-EIGHTH LEGISLATURE
Regular Session of 2016

Wednesday, March 23, 2016
9:15 a.m.

TESTIMONY ON HOUSE BILL NO. 1756, H.D. 3, RELATING TO NURSING.

TO THE HONORABLE ROSALYN H. BAKER, CHAIR,
AND MEMBERS OF THE COMMITTEE:

My name is Lee Ann Teshima, Executive Officer for the Board of Nursing (“Board”). I appreciate the opportunity to testify on House Bill No. 1756, H.D. 3, Relating to Nursing, which requires all nurse licensure applicants and nurse license renewal applicants to comply with state and federal criminal history record checks. This measure also authorizes the Board of Nursing to develop and adopt rules to implement required criminal history record checks.

The Board supports the intent of the bill to require criminal background checks (“CBC”) for all nurses, however, we do have some concerns with implementing this requirement. The Board would like to ensure that the processes proposed in this measure can be adopted in a manner that will not compromise timely processing of license applications and renewals.

The Board offers the following recommendations:

Powers and duties of the board - The Board requests that page 3, lines 12-19, be amended as follows:

“(6) License qualified applicants by examination or endorsement, including advanced practice registered nurses, and renew, reinstate, reactivate, and restore licenses[;]. The board shall conduct an investigation of the applicant’s background, character, competency, and integrity as it deems appropriate, and shall request, in accordance with section 846-2.7, criminal history records of the applicant or licensee. beginning July 1, 2017, shall request, in accordance with section 846-2.7, Hawaii Revised Statutes, criminal history records of the applicant. The board shall request, in accordance with section 846-2.7, Hawaii Revised Statutes, the criminal history records of licensees that were issued a license by the board prior to July 1, 2017. The board shall request the criminal history records required under this paragraph not less than once for each individual applicant or licensee and shall do so in accordance with a process to be established by the board; provided 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 such information on request to the Director of Commerce and Consumer Affairs:”

This amendment clarifies the date on which the Board shall start requiring all new applicants to obtain a criminal history record check and also allows the Professional and Vocational Licensing Division (“PVLD”) to require renewal applicants to obtain a criminal history record check to spread out over three (3) renewal periods. The number of “active” licensed nurses (LPNs, RNs and APRNs) as of the latest geographic report dated January 26, 2016 was 25,865. Processing this many renewals at one time with the addition of a criminal

background check will be a workload issue for PVLD. Allowing the PVLD to conduct criminal background checks over a period of three (3) renewal periods will address some of the workload issues for staff, however, PVLD will need the authority to establish four Office Assistant (“OA”) positions (two OA IV positions and two OA V positions) and an increase to its budget ceiling by \$188,128 in order to implement this requirement.

Should the Committee adopt the proposed language provided above, the Board notes that the effective date provision in Section 9 of this measure would also need to be amended to have a single effective date of July 1, 2017.

Submission of full set of fingerprints – The bill, in various places¹, specifies that an applicant for licensed practical nurse and registered nurse by examination, an advanced practice registered nurse, renewal applicants, and reactivation applicants, submit a full set of fingerprints for the purpose of obtaining federal and state criminal history record checks. The Board recommends the following amendments be included to clarify the effective date of this requirement and that submission of electronic fingerprints be submitted directly to the Hawaii Criminal Justice Data Center (“HCJDC”):

On page 5, lines 17-20; page 6, lines 18-21; page 9, lines 14-17:

“Beginning with the July 1, 2017 licensing biennium, a [A] full set of electronic fingerprints for the purpose of obtaining federal and state criminal history record checks in accordance with section 846-2.7[;] directly to the Hawaii Criminal Justice Data Center for processing to the FBI. The applicant shall bear the cost of the fingerprint processing and the

¹ See H.B. No. 1756, H.D. 3 (2016) at page 5, lines 17-20; page 6, lines 18-21; page 9, lines 14-17.

application shall not be considered complete until the results of the criminal history record check has been received by the board; and”

On page 10, lines 9-12:

“...submit it to the board with a renewal fee, beginning with the July 1, 2019 licensing biennium, a full set of electronic fingerprints for the purpose of obtaining federal and state criminal history record checks in accordance with section 846-2.7[-]directly to the Hawaii Criminal Justice Data Center for processing to the FBI. The applicant shall bear the cost of the fingerprint processing and the application shall not be considered complete until the results of the criminal history record check has been received by the board; and all required documents on or before the deadline...”

And on page 12, lines 1-4:

“...~~[and]~~, submit an application form as provided in subsection (a)[-], and beginning with the July 1, 2019 licensing biennium, submit a full set of electronic fingerprints for the purpose of obtaining federal and state criminal history record checks in accordance with section 846-27[-]directly to the Hawaii Criminal Justice Data Center for processing to the FBI. The applicant shall bear the cost of the fingerprint processing and the application shall not be considered complete until the results of the criminal history record check has been received by the board.

Currently, the Board of Private Detectives and Guards requires an applicant to be fingerprinted electronically at Fieldprint Inc., which has locations nationwide or any other fingerprinting agency approved, to send electronic fingerprints to the HCJDC. This would allow the nurse

applicant or licensee to pay Fieldprint to get fingerprinted, and have the results of the fingerprint check sent to a secured server under the HCJDC where only trained and authorized PVLD staff will be able to retrieve the criminal background report. In addition, by going directly to Fieldprint, there is no need for the applicant or licensee to submit criminal history record check fee(s) as indicated in the following areas of the bill and the following language may be deleted:

- Page 6, lines 6-7;
- and
- Page 7, lines 8-9

These proposed revisions would also allow the Board to implement the criminal record history check beginning on July 1, 2017, for all nurse applicants without having to promulgate administrative rules. Thus, if these proposed amendments concerning record check fees are accepted by the Committee, the language on page 5, lines 8-10, concerning administrative rules should also be deleted.

Thank you for the opportunity to testify on House Bill No. 1756, H.D. 3.

**Written Testimony Presented Before the
Senate Committee on Commerce, Consumer Protection and Health
March 23, 2016 at 9:15 AM
by
Laura Reichhardt, NP-C, APRN, Director
Hawai'i State Center for Nursing
University of Hawai'i at Mānoa**

HB1756, HD3 RELATING TO NURSING

Chair Baker, Vice Chair Kidani, and members of the Senate Committee on Commerce, Consumer Protection and Health, thank you for this opportunity to provide testimony in strong support for HB1756, HD3 Relating to Nursing. Further, the HSCN notes to the Senate Committee on Commerce, Consumer Protection and Health that we prefer the language as it appears in companion bill SB2677, SD2, HD1.

In 2010, the Legislature in its wisdom, introduced Act 057, which was enacted into law as HRS 457-2.5. This statute defined the practice of nursing and directed the state board of nursing to adopt certain provisions of the National Council of State Boards of Nursing (NCSBN) Model Nursing Practice Act which provides uniform national guidelines relating to nursing practice for all state boards of nursing across the United States and territories. The Hawai'i State Center for Nursing (HSCN) supports HB1756, HD3 in the interest of continuing to hold nurses in Hawai'i to the national standards established by the NCSBN and its delegates.

The HSCN supports this measure with preference for SB2677, SD2, HD1 because:

- The Legislature has adopted progressive nurse education and practice laws based on nationally recognized nursing education and certification standards
- Hawaii is among a handful of states in the Nation which have met the high standards of the NCSBN's APRN Consensus Model following the recommendations of the Institute of Medicine.
- However, Hawai'i has the highest regulatory standards for nursing yet it is one of the last 12 states to adopt state and federal criminal background check verification for all nurse licenses.
- It is in the interest of the nursing workforce to ensure safe and quality nursing services to patients, which include sick, disabled, elderly, and other vulnerable populations across the continuum of healthcare and in all regions of our State.
- Establishing criminal background checks is critical for increased safety of Hawai'i consumers.
- The Hawai'i Board of Nursing should not have the burden of receiving fingerprints or verifying an applicant's or licensee's criminal background as it lacks expertise and resources to do so.

- It is critical that the Hawai'i Board of Nursing defer to the Hawai'i Criminal Justice Center, FBI, police department and professional fingerprinting analysts such as Fieldprint, Inc. or other nationally recognized agencies to electronically verify an applicant's or licensee's criminal background status;
- NCSBN¹ proposes this standard, for all states to adopt, to require a biometrics-based state and federal criminal background check for all applicants consistent with Public Law 92-544.
- The American Nurses Association² and the Council of State Governments³ supports the use of criminal background checks as part of the nursing licensure process. Applicants for nurse licensure with criminal histories may not reveal a positive criminal history on applications and fingerprint-based background checks are an effective tool to identify past criminal behavior and ensure ongoing patient safety.

The HSCN is in support of the SB2677, SD2, HD1 as it requires the Hawai'i Criminal Justice Data Center to provide to the Director of Commerce and Consumer Affairs requested information, removing this responsibility from the Hawai'i BON. It also maintains the graduated implementation for new licensees and renewing licensees over the next four license cycles. There are currently 22,216 Registered Nurses, which includes 1,267 Advanced Practice Registered Nurses, and 2,382 Practical Nurses licensed in Hawai'i as of January 26, 2016 DCCA Professional and Vocational Licensing Division data⁴. The HSCN estimates a flat growth from LPNS, a growth rate of 4.4% for RNs and 6.6% for APRNS using licensing data from 2005 to 2015. An graduates roll out for existing licensees between 2019 and 2023 will ensure success in the implementation of criminal background checks this estimates population of 24,000licenses LPNs, RNs and APRNs.

Therefore, the HSCN respectfully requests that HB1756, HD1 pass with an SD1 to adopt the language in SB2677, SD2, HD1. We appreciate your continuing support of nursing in Hawai'i. Thank you for the opportunity to testify.

¹ https://www.ncsbn.org/NCSBN_Approved_Standard_CBC.pdf

² <http://www.nursingworld.org/DocumentVault/Position-Statements/Practice/Criminal-Background-Checks-for-Nurse-Licensure.pdf>

³ https://www.ncsbn.org/CSG_Resolution.pdf

⁴ http://cca.hawaii.gov/pvl/files/2013/06/WebGeo_012616.pdf page 38

From: mailinglist@capitol.hawaii.gov
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Subject: *Submitted testimony for HB1756 on Mar 23, 2016 09:15AM*
Date: Monday, March 21, 2016 6:45:49 PM

HB1756

Submitted on: 3/21/2016

Testimony for CPH on Mar 23, 2016 09:15AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Wailua Brandman	Hawaii Assoc. of Professional Nurses	Support	No

Comments:

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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