How changing Hawaii’s licensing laws could improve healthcare access

Strict regulations hold back out-of-state medical personnel from entering Hawaii’s workforce

By Malia Hill
Dear Reader,

Put simply, Hawaii has too few doctors, nurses and other medical professionals, and this new policy brief from the Grassroot Institute of Hawaii outlines why medical licensure reform is a key way to do something about it.

Authoritative estimates suggest Hawaii needs nearly 800 full-time doctors and hundreds more nurses and other medical professionals to ensure that Hawaii residents receive the healthcare they need, when they need it.

Considering Hawaii’s reputation as a virtual natural paradise, you might think medical professionals from the mainland would be clamoring to move here and take up the slack. Unfortunately, Hawaii can be a hostile place for such professionals to practice, due to its high cost of living, absence of affordable housing, lack of opportunities and other economic disincentives.

But making it even harder has been the state’s medical licensure laws, which require medical professionals who hold valid, unencumbered licenses in other U.S. states to endure expensive and time-consuming Hawaii bureaucratic hurdles in order to practice here.
This serves no public interest. It only discourages them from coming to our state, depriving Hawaii residents of capable healthcare providers.

That is why Hawaii should embrace licensure reform. Whether through interstate compacts or carefully tailored recognition or reciprocity laws – all discussed in this report – our lawmakers have the power to attract more healthcare workers to Hawaii, without jeopardizing public health and safety or adding to the government’s administrative burden.

Licensure reform would not be a cure-all. But if we fail to lift the licensing barriers that discourage doctors, nurses and other medical professionals from coming here, all other efforts to attract and retain healthcare workers will be stymied.

I hope after you read this report, you will come to the same conclusion.

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Executive summary

Hawaii’s occupational licensing laws have made it difficult for out-of-state medical personnel to work in the islands, thereby contributing to the state’s shortage of healthcare workers.

During the COVID-19 emergency, then-Gov. David Ige joined many other state governors in temporarily suspending certain licensing requirements for medical professionals.¹

Hawaii lawmakers should consider making that suspension permanent, as well as possibly expanding it to help address our state’s healthcare crisis while better preparing us for future emergencies.
Introduction

The COVID-19 crisis that started in early 2020 didn’t cause the deficiencies in Hawaii’s healthcare system. It only made them more apparent.

The state’s shortage of hospital beds, delays in care and lack of medical professionals are the result of longstanding policies that continue to drive doctors and nurses away from the islands.

In particular, Hawaii’s healthcare worker shortages can be traced to a variety of causes, including the state’s high cost of living, lack of housing, excessive regulation, high income tax rates and general excise tax.

The same policies that have exacerbated Hawaii’s shortage of healthcare workers also discourage the introduction of new medical services as well as construction of medical facilities.

During the pandemic, an emergency order from the governor allowed certain medical professionals who were licensed in other states or whose licenses had expired to work in Hawaii without a license – if they were hired by the state or one of the counties, or by a hospital, nursing home, hospice, pharmacy, clinical laboratory or other healthcare facility.

The emergency order covered numerous professions: physicians, osteopaths, respiratory therapists, radiographers, radiation therapists, nuclear medicine technologists and nurses, including licensed practical nurses (LPNs), registered nurses (RNs) and advanced practical registered nurses (APRNs).²

It is telling that long after many other COVID-era restrictions and rules had fallen to the wayside, Gov. Ige deemed it necessary in August 2022 to issue an executive order easing the path for out-of-state nurses to work in Hawaii without state-issued licenses.³
The state’s shortage of hospital beds, delays in care and lack of medical professionals are the result of longstanding policies that continue to drive doctors and nurses away from the islands.
But it’s not just a question of having enough doctors — Hawaii also needs more nurses, physician assistants and other medical personnel.
Extent of the problem

The most recent adjusted estimate finds that Hawaii has a shortage of approximately 776 full-time equivalent physicians, with the greatest statewide shortage being in primary care.4

But it’s not just a question of having enough doctors – Hawaii also needs more nurses, physician assistants and other medical personnel.

Under Gov. Ige’s COVID-19-era executive orders, health facilities looking to hire a medical professional merely had to submit a registration form to the state Department of Commerce and Consumer Affairs; verify that the medical professional in question had no pending lawsuits, disciplinary actions or insurance claims against them; and agree to compensate the state for any possible misdeeds of the out-of-state hires, if necessary.

Gov. Ige’s August 2022 order that made it easier for out-of-state nurses to work in Hawaii came after public dissatisfaction with long waits for care at overstressed hospitals and clinics, which led the Healthcare Association of Hawaii to lobby for renewal of the earlier licensing orders.5

The push for this ad hoc form of licensing recognition shows that the people with the most insight into the practical end of what prevents medical workers from being able to come to Hawaii – even on a temporary basis – have identified the licensing situation as one of the most immediate and addressable obstacles.

In keeping with Gov. Ige’s decision to reinstate temporary permits via executive order, the Hawaii Department of Commerce and Consumer Affairs issued an emergency rule on Dec. 5, 2022, allowing out-of-state nurses to work in Hawaii through temporary emergency permits.

To justify the emergency rule, the DCCA cited the surge in RSV (respiratory syncytial virus), influenza and COVID-19 cases; staff shortages dating back to before the pandemic; increased employee burnout; and the inability of hospitals to transfer patients to appropriate facilities.6
Goal of the exemptions

The governor’s licensing-related emergency orders were aimed at removing barriers that prevent medical professionals from quickly and easily entering Hawaii’s workforce.

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

Considering Hawaii’s healthcare worker shortages, placing restrictions on licensed professionals from other U.S. states seem redundant and self-defeating.

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.
In other words, although 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.”\(^{9}\)

Another study found that states with stricter licensing laws for migrant physicians have fewer new migrant doctors,\(^{10}\) drawing a direct line between ease of licensure and availability of new physicians.

Licensing laws can also affect wages and overall medical costs. A study from the National Bureau of Economic Research found that fewer restrictions on the scope of practice for nurse practitioners (NPs) correlated with higher wages for nurses and lower wages for physicians.\(^{11}\) The study also noted that higher restrictions increased the cost of a well-child medical exam by 3% to 16%.\(^{12}\)

Similar research from the Mercatus Center found that less restrictive scope-of-practice regulations for physician assistants reduced the cost of outpatient claims by Medicare recipients by more than 11%.\(^{13}\)

Fortunately, Hawaii has already done much to address the scope-of-practice issue by granting broad independence to both NPs and PAs.\(^{14}\) However, that policy can be successful only if we have sufficient medical staff to meet our needs.

Our challenge is not to broaden the scope of practice, but to increase the number of people practicing in the state.

This is where Hawaii could benefit from the lessons learned during the COVID-19 crisis. The governor’s emergency modifications to Hawaii’s medical occupational licensing laws demonstrated a willingness to embrace license portability to make it a simple matter for a medical professional licensed in another state to practice in Hawaii.

There are three possible ways to make the governor’s emergency licensing provision permanent:

- Join interstate compacts for certain medical professions.
- Licensure recognition.
- Licensure reciprocity.
An interstate compact approach would require the Hawaii Legislature to adopt specific requirements set out by the compacts, which streamline licensing among participating states to allow qualified applicants to move practice more easily across state lines.

Joining multiple interstate compacts could be the simplest route to address the difficulties medical professionals face in moving to Hawaii. Most important, the compact approach has support from within the medical community.

In 2017, the Hawaii Medical Board discussed a recommendation to join the Interstate Medical Licensure Compact as a way to address delays in licensing. During that discussion, board members noted that the process of obtaining a license to practice in Hawaii could be completed in just a few weeks or take as long as a year, depending on circumstances and delay.¹⁵

Among health-related medical compacts currently in effect are several that could be adopted in Hawaii:

- The Nurse Licensure Compact, sometimes referred to as the Enhanced Nurse Licensure Compact, which became operational in 2018 and has been adopted by 37 states. In addition, the compact is awaiting implementation in the U.S. Virgin Islands, and nurses with an active, unencumbered multi-state license from a compact member are allowed to practice in the territory of Guam.¹⁶

- The Interstate Medical Licensing Compact, which began issuing licenses in 2017 and also has been adopted by 37 states, as well as the District of Columbia and Guam. Licensing under the compact is state-based, but the compact provides an expedited process to obtain a license in a participating state.¹⁷

- The Physical Therapy Licensure Compact, which went into effect in 2017 and has been adopted by 27 states, with six additional states signed on but not yet issuing or accepting compact privileges.¹⁸

- The EMS Compact, also called the Recognition of Emergency Medical Services Personnel Licensure Interstate Compact or REPLICA, which became effective in 2017 and has 22 member states.¹⁹

- The Psychology Interjurisdictional Compact, which was approved in 2015 and has 35 participating states.²⁰

- The Audiology & Speech-Language Pathology Interstate Compact, established in 2022 and which 23 states have indicated an intention to join.²¹

- The recently created Advanced Practice Registered Nurse Compact, which has been approved by three states but will not be implemented until seven states have signed on.²²
Joining multiple interstate compacts could be the simplest route to addressing the difficulties medical professionals face in moving to Hawaii. Most important, the compact approach has support from within the medical community.
Licensure recognition versus licensure reciprocity

As an alternative to joining an interstate compact, Hawaii could simply follow the model provided by the governor’s emergency orders, which created an expedited pathway for the Hawaii licensing of certified out-of-state medical professionals who had no pending lawsuits, disciplinary actions or claims against them.

This process is known simply as licensure recognition, by which Hawaii would recognize a license issued by another state – any other state, whether in a compact or not – as valid to work in Hawaii.

As with the emergency orders, an official recognition scheme could be accompanied by a few minor conditions. For example, some states with licensure recognition still require a background check, certain residency standards and payment of fees.

Although often confused with license recognition, license reciprocity is a slightly different approach to easing licensing barriers between states. In contrast to recognition, which focuses solely on a single state’s acceptance of out-of-state licenses, license reciprocity is an agreement between specific states governing mutual acceptance of a valid professional license, such as in the aforementioned licensure compacts. Depending on the license in question, this may also include an expedited pathway to local licensure.

Some people would be concerned that a reciprocity agreement might not benefit Hawaii, since it also eases the path for those looking to take their license out of the state. However, there is no reason to fear that a reciprocity agreement will result in a mass exodus of healthcare workers – especially as those workers still have the option to move to a state with its own recognition or streamlined path to license.

For lawmakers who are reluctant to join a compact or reciprocity agreement, recognition remains an option, as it simply allows Hawaii to accept the validity of out-of-state licenses, whether through an expedited process for obtaining a Hawaii license or through a separate mechanism that allows out-of-state workers to practice here.

Both recognition and reciprocity would make it easier to attract medical professionals to our state by simplifying the process that allows them to practice here.

For example, the temporary permits created by the governor’s emergency proclamations are a form of recognition, albeit one with an expiration date. The temporary recognition scheme could be extended indefinitely via legislative action, but this would still be a Band-Aid approach.

A full 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.

There are pros and cons to both recognition and reciprocity, but either option would improve the current state of affairs by eliminating the necessity for further emergency orders that create an ad hoc recognition process.
A full 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.
Reform that addresses reciprocity or recognition for all medical professionals could go a long way toward improving healthcare access in our state. Hawaii will continue to struggle with recruiting and retaining physicians if they lack the support staff needed to provide adequate care.
Conclusion

The most recent report from the Hawaii Physician Workforce Assessment Project estimates that the state is currently short 776 full-time-equivalent physicians.\(^{23}\) The greatest area of need is in primary care, but certain speciality areas have especially high shortages, such as pediatric pulmonology at 69.5% and pediatric gastroenterology at 75.8%.\(^{24}\)

However physician shortage is only part of the problem. As Gov. Ige’s emergency license-recognition rules demonstrated, Hawaii is also desperate for more nurses. In fact, medical professionals are needed across the board.

Ultimately, improving healthcare access and availability throughout the state is a long-term process that will require multiple paths of reform.

Professional groups such as the Hawaii Physician Workforce Assessment Project have made recommendations intended to bolster physician education, recruitment and retention, while the Grassroot Institute of Hawaii has produced reports suggesting reform of the state’s medical certificate-of-need regulations and an exemption of medical services from the state general excise tax.

It is crucial that the discussion of licensing not be limited to physicians, but rather extend to a wide variety of healthcare professionals in Hawaii. In other words, reform that addresses reciprocity or recognition for all medical professionals could go a long way toward improving healthcare access in our state. Hawaii will continue to struggle with recruiting and retaining physicians if they lack the support staff needed to provide adequate care.

Easing the path to licensure would not be a cure-all for Hawaii’s doctor/nurse/medical staff shortages. But reforming the path to in-state licensure for out-of-state medical professionals must be part of the broader plan to address healthcare deficiencies and disparities in our state.
Endnotes

1 For example, see “Sixth Supplementary Proclamation Amending and Restating Prior Proclamations and Executive Orders Related to the COVID-19 Emergency,” Office of the Governor, State of Hawaii, April 27, 2020.
2 “Registration Form,” Professional and Vocational Licensing Division, Hawaii Department of Commerce and Consumer Affairs, Nov. 29, 2021.
23 Ibid, p. 16.