



NHCSL

THE NATIONAL HISPANIC CAUCUS OF STATE LEGISLATORS

RESOLUTION

No. 2019-05

Enacting Professional and Occupational Testing and Licensing for Dreamers

Reported to the Caucus by the NHCSL
Labor and Workforce Development Task Force
Sen. Omar Aquino (IL), Chair

Sponsored by Sen. Omar Aquino (IL)

Unanimously ratified by the Caucus on December 5, 2019

1 **WHEREAS**, NHCSL adopted Resolution 2017-07, *Encouraging the Continuity of the*
2 *DACA and DAPA Programs*, “to ensure that the immigrant and Hispanic communities
3 have the opportunity to continue being an integral part of society, without being
4 discriminated;”¹ and,

5 **WHEREAS**, NHCSL also adopted Resolution 2017-18, *Regarding the Impact of the*
6 *Deferred Action for Childhood Arrivals Program on Educational Attainment and*
7 *Community Stability*, stressing, among other things, that 17% of DACAmented
8 Americans are pursuing an advanced degree,² a prerequisite for many licensed
9 professions; and,

¹ NHCSL Resolution 2017-07, *Encouraging the Continuity of the DACA and DAPA Programs*, available at <https://nhcsl.org/resources/resolutions/2017/2017-7/>

² NHCSL Resolution 2017-18, *Regarding the Impact of the Deferred Action for Childhood Arrivals Program on Educational Attainment and Community Stability*, available at <https://nhcsl.org/resources/resolutions/2017/2017-18/>.

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10 **WHEREAS**, NHCSL further adopted Resolution 2018-08, *EMERGENCY RESOLUTION:*
 11 *End the Uncertainty and Create a Pathway to Citizenship for Dreamers Now*,
 12 underscoring “that this is not only a Hispanic issue, but impacts Dreamers of all
 13 backgrounds who are, above all, American;”³ and,

14 **WHEREAS**, many DACAdmented students, and other non-DACAdmented Dreamers,
 15 have fulfilled their academic graduation requirements, even for post-graduate
 16 professions, only to find that they could not practice their chosen profession or
 17 occupation;⁴ and,

18 **WHEREAS**, as a general rule, Federal law⁵ forbids DACA recipients, DREAMers, and
 19 undocumented immigrants in general, from receiving state benefits, including
 20 professional licenses, but delegates on state legislatures the authority to allow, via a
 21 law “which affirmatively provides for such eligibility,”⁶ otherwise qualified DACA
 22 recipients, DREAMers and undocumented immigrants in general to apply for
 23 professional- or occupational- licensing testing and obtain professional or
 24 occupational licenses;⁷ and,

25 **WHEREAS**, despite this, many states have failed to pass the required laws on the
 26 subject; and,

27 **WHEREAS**, only twelve states—Arkansas, California, Florida, Illinois, Indiana,
 28 Minnesota, Nebraska, Nevada, South Dakota, Utah, West Virginia and Wyoming—
 29 have enacted laws, to some degree, providing licenses for certain populations, such
 30 as Deferred Action for Childhood Arrivals (DACA) recipients, legal immigrants and/or
 31 unauthorized immigrants, and sometimes only for selected professions or limited
 32 circumstances;⁸ and,

³ NHCSL Resolution 2018-08, *EMERGENCY RESOLUTION: End the Uncertainty and Create a Pathway to Citizenship for Dreamers Now*, available at <https://nhcsl.org/resources/resolutions/2018/2018-8/>

⁴ See for example Chaunie Brusie, *DACA Policy Bans Nursing Student From Taking The NCLEX* (Nurse.org News, Nov. 4, 2018) (discussing the case of Rosa, an Arkansas nursing school student whose plight drove the adoption of Act 837, *supra* note 6), available at <https://nurse.org/articles/DACA-nursing-student-banned-from-NCLEX-RN-license/>

⁵ 8 U.S. Code § 1621.

⁶ 8 U.S. Code § 1621(d) (the state law must have been adopted after August 22, 1996).

⁷ For an example of a law see Illinois Public Act 100-1078 (Effective Jan. 1, 2019) (“Sec. 2105-140. Licensure; immigration status. No person shall be denied a license, certificate, limited permit, or registration issued by the Department solely based on his or her citizenship status or immigration status. The General Assembly finds and declares that this Section is a State law within the meaning of subsection (d) of Section 1621 of Title 8 of the United States Code. Nothing in this Section shall affect the requirements to obtain a professional license that are not directly related to citizenship status or immigration status....”, among other related provisions), available at <http://ilga.gov/legislation/publicacts/fulltext.asp?Name=100-1078>.

⁸ For the extent of their effect see, National Conference of State Legislatures (NCSL), *Professional and Occupational Licenses for Immigrants* (Jan. 17, 2017) (listing ten of the states having enacted legislation up to that date) (note that Illinois has updated its law since then), available at <http://www.ncsl.org/research/immigration/professional-and-occupational-licenses-for->

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33 **WHEREAS**, the National Association of Hispanic Nurses brought the plight of their
 34 Dreamer student members to our attention, after helping them achieve passage of
 35 laws granting them the right to take their licensing tests in Arkansas, Illinois and
 36 Indiana; and,

37 **WHEREAS**, while this issue goes beyond nursing, increasing the diversity of the
 38 nursing workforce is essential as it leads to strengthening the development of
 39 culturally and linguistically competent healthcare, which is linked to increased
 40 patient satisfaction, improved communication, and greater healthcare access.

41 **THEREFORE, BE IT RESOLVED**, that the National Hispanic Caucus of State
 42 Legislators recognizes the work of the National Association of Hispanic Nurses in
 43 bringing the Dreamer professional licensing issue to the attention of policymakers
 44 and national organizations, underscoring that it is a proud testament to NAHN’s
 45 commitment to the health of our communities and the welfare of its members; and,

46 **BE IT FURTHER RESOLVED**, that the National Hispanic Caucus of State Legislators
 47 recognizes the importance of Dreamers and undocumented immigrants having access
 48 to professional or occupational licensing exams and professional or occupational
 49 licenses in order to put into practice their degrees or training, and calls on state
 50 legislatures to enact, without delay, legislation to allow Dreamers and other
 51 undocumented migrants, as appropriate, the right to sit for licensing tests in any

[immigrants.aspx](#). The Illinois updated law, [S.B. 3109](#), was sponsored by NHCSL members Sens. Iris Martinez, Omar Aquino, Cristina Castro, Martin Sandoval, and Antonio “Tony” Muñoz, and Reps. Elizabeth Hernandez and Jaime Andrade, among others.

See also, Indiana Public Law 172 (March 21, 2018) (Provides that “an individual who is authorized by the federal government to work in the United States is eligible for a professional or occupational license issued by a state agency or political subdivision if the individual meets all the requirements, other than the requirement under 8 USC 1621(a), to obtain or renew the professional or occupational license.”), available at <https://iga.in.gov/legislative/2018/bills/senate/419>.

And see, Arkansas Act 837 of April 10, 2019 (HB 1552) (allowing DACAmented nurses to receive nursing licenses), available at

<http://www.arkleg.state.ar.us/assembly/2019/2019R/Pages/BillInformation.aspx?measureno=HB1552>.

The Oklahoma Board of Nursing, allows applicants with “approved deferred status” (see <http://nursing.ok.gov/rnlpnnclx07.pdf>) but the waiver is not mentioned in the statute (<https://nursing.ok.gov/actwp18.pdf>) as required by 8 U.S. Code § 1621(d).

Vermont has ordered its Office of Professional Regulation to “examine means of reducing unnecessary barriers to professional licensure for qualified immigrants to Vermont from foreign countries,” but has not adopted legislation to that effect yet.) See Vermont Act 144 of May 21, 2018, available at <https://legislature.vermont.gov/bill/status/2018/H.684>.

Nevada, New Jersey, New York and South Carolina have legislation pending. The Nevada bill, [A.B.275](#), is sponsored by NHCSL members Sens. Mo Denis and Yvanna Cancela, and Assemblymembers Edgar Flores and Selena Torres, and co-sponsored by NHCSL members Assemblymembers Richard Carrillo, Sandra Juaregui, Susan Martinez, and Dina Neal, among others. The New Jersey Senate bill, [S.2708](#), is sponsored by NHCSL East Region Chair Sen. Nellie Pou. The New York Senate bill, [S.1704](#), is sponsored by NHCSL member Sen. Luis R. Sepúlveda.

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52 state-regulated profession or occupation, and, having completed all requisites, obtain
53 professional or occupational licenses.

54 THE NHCSL EXECUTIVE COMMITTEE UNANIMOUSLY APPROVED THIS RESOLUTION
55 ON MAY 6, 2019 AT ITS SPRING MEETING IN WASHINGTON, DC.

56 THE NATIONAL HISPANIC CAUCUS OF STATE LEGISLATORS UNANIMOUSLY
57 RATIFIED THIS RESOLUTION ON DECEMBER 5, 2019, AT THE ANNUAL MEETING
58 IN SAN JUAN, PR.

