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S. B. NO. 1312

A Bill for an Act Relating to Podiatry.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read as follows:

**“CHAPTER
PODIATRISTS**

Sec. -1 Definitions. As used in this chapter:

- (1) "Board" means board of medical examiners.
- (2) "Department" means department of regulatory agencies.
- (3) "Foot appliance" means any artificial apparatus used as a replacement for, an addition to, or in the treatment of the human foot whether it is medical, surgical, mechanical, manipulative, or electrical in nature.
- (4) "Podiatrist" means a person in the professional practice of podiatry.
- (5) "Podiatry" means the medical, surgical, mechanical, manipulative, and electrical diagnosis and treatment of the human foot, including the nonsurgical treatment of the muscles and tendons of the leg governing the functions of the foot, but does not include any amputation, treatment of systematic conditions, or the use of any anesthetic except local anesthetic.

Sec. -2 License required. Except as otherwise provided by law, no person shall practice, offer to practice, advertise, or announce himself, either publicly or privately, as prepared or qualified to practice podiatry, either gratuitously or for pay, or use any sign or advertisement or otherwise use the term "podiatrist", "foot specialist", or any other term or terms indicating or implying that he is practicing podiatry, without having a valid unrevoked license obtained from the board of medical examiners, as prescribed in this chapter.

Sec. -3 Qualification for examination. No person shall be licensed to practice podiatry unless he has passed an examination and has been found to be possessed of the necessary qualifications as required by the board.

Before any applicant shall be eligible for such examination he shall furnish satisfactory proof to the board that:

- (1) He is a graduate in podiatry of a college approved by the American Podiatry Association Council on Education and by the board of medical examiners;
- (2) He has taken and satisfactorily completed in a college, a residence course of professional instruction in podiatry, which has been approved by the board;
- (3) He is a person of good moral character; and
- (4) He has passed the examinations in podiatry and related sciences which have been administered by the board.

Sec. -4 Examinations. (a) The board shall administer examinations which shall include, but not be limited to, examinations in the following areas: anatomy, histology and embryology, physiology, biochemistry, hygiene and public health, pathology, bacteriology, dermatology, syphilology, surgery and anesthesia, podiatry, therapeutics, physical medicine, podiatric medicine, pharmacology, materia medica, roentgenologic technique, and radiation safety.

(b) The examinations shall be held in Honolulu twice a year on the 15th of January and the 15th of July. If the 15th falls on a weekend or holiday, the examination shall be held on the weekday immediately before or after the 15th, whichever is convenient for the board.

(c) The board may accept the certificate of the National Board of Podiatry Examiners as approved by the American Podiatry Association in lieu of

and as equivalent to its own written examination. Every applicant for licensure upon the basis of the certificate, shall upon application, show the necessary qualifications required under this chapter and pay the same fees required of applicants for examination by the board.

(d) The written examination shall be secured from and corrected by the National Board of Podiatry Examiners. The oral examination shall be taken and recorded on tape and the tapes shall be held for one year. A practical examination shall also be required at a time and place prescribed by the board.

Sec. -5 Fees; expenses. No applicant shall be examined under this chapter until he has paid to the board of medical examiners a fee of \$25.00. Every person holding a license under this chapter shall reregister with the board each year, not later than January 31 and for such registration shall pay a fee of \$5.00. In addition, upon reregistering with the board, the licensee shall provide written proof of a minimum of twenty hours of postgraduate work or continuing education of podiatry taken during the previous year. Failure to comply with this section shall constitute a forfeiture of license, which may be restored only upon written application and payment to the board of a fee of \$25.00. All fees collected shall be deposited by the director of regulatory agencies with the director of finance to the credit of the general fund.

Sec. -6 Revocation and suspension of license. Any license to practice podiatry may be revoked or suspended by the board of medical examiners at any time in a proceeding before the board for any one or more of the following acts or conditions on the part of the holder of the license:

- (1) Employing what is popularly known as a "capper" or "steerer",
- (2) Obtaining any fee on the assurance that a manifestly incurable disease can be permanently cured;
- (3) Wilfully betraying a professional secret;
- (4) Advertising one's podiatrist business with any untruthful and improbable statement;
- (5) False or fraudulent advertising;
- (6) Being convicted, whether on a plea of nolo contendere and whether or not sentence or the imposition or execution of sentence has been suspended, of a felony;
- (7) Being habitually intemperate;
- (8) Habitually using any habit-forming drug;
- (9) Procuring a license through fraud, misrepresentation, or deceit;
- (10) Violation of section 453-2;
- (11) Professional misconduct or gross carelessness or manifest incapacity in the practice of podiatry;
- (12) Engaging in the practice of podiatry other than as defined in section -1.

Sec. -7 Hearing; procedure. In any proceeding before the board of medical examiners for the revocation or suspension of a license to practice podiatry for any act or condition listed in section -6, the person whose license is sought to be revoked or suspended shall be given notice and opportunity for a hearing in accordance with chapter 91.

Sec. -8 Witnesses in such proceeding. In any proceeding related to

revocation or suspension of a license issued under this chapter, the board and each member of the board may subpoena, administer oaths to, and examine witnesses on any relevant matter in the proceeding. The person whose license is sought in the proceeding to be revoked or suspended shall be entitled to require the board or any member of the board to subpoena and to administer oaths to any witness or witnesses who presents evidence relevant in the proceeding, and shall be entitled to examine any such witness and any other witness in the proceeding. The circuit court of the circuit in which the proceeding is held may enforce by proper proceeding the attendance and testimony of witnesses in the proceeding.

Sec. -9 Recalcitrant witnesses; contempt. If any person called before the board as a witness in any proceeding involving the revocation or suspension of a license, whether under subpoena or otherwise, except as privileged by law, refuses to answer any question which is relevant to the proceeding and is put to him by the board, a member of the board, or the person whose license is sought to be revoked or suspended in the proceeding, or disobey any order of the circuit court relating to the proceeding, the board shall report the matter in writing to any judge of the circuit court of the circuit in which the proceeding is held and the person shall be cited to appear before the circuit judge to show cause why he should not be punished for contempt of court.

Sec. -10 Perjury. Any person who wilfully and knowingly makes under oath any false statement in connection with any proceeding before the board shall be guilty of perjury and shall be subject to the penalty prescribed by law for perjury. Whenever the board is satisfied that the witness has committed perjury in any proceeding before the board, it shall report the same to the prosecuting officer of the county in which the perjury took place, who shall prosecute the witness for perjury.

Sec. -11 Penalty. Any person who violates this chapter shall be guilty of a misdemeanor.

Sec. -12 Rules. The board of medical examiners shall adopt rules in accordance with chapter 91 for the administration of this chapter.

Sec. -13 Administration. The board of medical examiners shall be within the department of regulatory agencies for administrative purposes.

Sec. -14 Discrimination prohibited. No department, office, or agency of the state or county government, or any subdivision thereof, or any clinic, medical service, insurance carrier, or any board administering relief or foundations under the law of the State shall deny to the recipient or beneficiary of podiatric aid or services the freedom to choose podiatric care or services which are within the scope of activities of a podiatrist licensed under this chapter.

Sec. -15 Use of podiatrist; public programs. Whenever medical or surgical services within the scope of activities of a podiatrist licensed under this chapter are included in any program financed by public funds or administered by any public agency for aid to the indigent, the aged, the legally blind, or any other group or class, the recipient of such aid shall be entitled to choose

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whether the services are to be performed by a duly licensed physician or by a duly licensed podiatrist.”

SECTION 2. Chapter 321, Hawaii Revised Statutes, is amended as follows:

1. Section 321-13 is amended by amending subsection (a) to read:

“(a) The department of health with the approval of the governor, may prescribe such rules or regulations as it deems necessary for the public health or safety respecting:

- (1) the occupations or practices of midwives, laboratory directors, laboratory technicians, physical therapists, tattoo artists, sanitarians, itinerant vendors of medicines or drugs or devices, and nursing home administrators;
- (2) the health, education, training, experience, habits, qualifications or character of persons to whom certificates of registration or permits for such occupations or practices may be issued;
- (3) the health, habits, character, practices, standards or conduct of persons holding such certificates or permits; or
- (4) the grounds or causes for revoking or suspending such certificates or permits.

Such rules or regulations shall have the force and effect of law.”

2. By amending section 321-14 to read:

“**Sec. 321-14 License to practice certain occupations.** It shall be unlawful for any person to practice any of the following listed occupations without a license so to do; any person wishing to obtain a license to engage in any of the listed occupations shall make application to the department of health, in accordance with such rules or regulations as shall be prescribed by the department under section 321-13, and any such application shall be accompanied by an examination fee for such license in accordance with the following schedule:

(1) Physical therapist	\$10
(2) Midwife	10
(3) Tattoo artist	50
(4) Laboratory director	25
(5) Laboratory technician	10
(6) Sanitarian	10
(7) Itinerant vendor of medicines or drugs or devices	25
(8) Nursing home administrator	25.”

3. By amending section 321-15 to read:

“**Sec. 321-15 Annual registration; fees, failure to register.** Every person holding a license to practice any occupation, listed in section 321-14 shall re-register with the department of health, in accordance with the rules and regulations of the department, on or before January 31 of each year and shall pay a reregistration fee as provided for in the following schedule:

(1) Physical therapist	\$2
(2) Midwife	2
(3) Tattoo artist	5

(4) Laboratory director 5
 (5) Laboratory technician 2
 (6) Sanitarian..... 2
 (7) Itinerant vendor of medicines or drugs or devices 5
 (8) Nursing home administrator 5.”

SECTION 3. (a) The licensing function for podiatrists is hereby transferred from the department of health to the department of regulatory agencies.

(b) The department of regulatory agencies shall succeed to all of the rights and powers exercised, and all the duties and obligations incurred by the department of health for the licensing of podiatrists which is transferred by this Act. All references in any law, rule, regulation, contract, or document to the department of health in connection with the function transferred by this Act shall apply to the department of regulatory agencies.

(c) All records, equipment, files, supplies, contracts, books, papers, documents, maps, appropriations, and other property heretofore made, used, acquired, or held by the department of health in the exercise of the functions transferred by this Act shall be transferred to the board of medical examiners within the department of regulatory agencies.

(d) Positions held by employees affected by the transfer of functions by this Act shall be allocated by the director of health to appropriate positions within the department of health and the employees shall be paid in accordance with the salary range to which the newly designated positions are assigned; provided that no employee shall suffer any loss of salary, seniority, prior service credit, vacation, sick leave, or other employee benefits as a consequence of this Act.

SECTION 4. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.*

SECTION 5. This Act shall take effect upon its approval.

(Approved May 15, 1973.)

*Edited accordingly.