

ACT 125

S.B. NO. 217

A Bill for an Act Relating to Podiatry.

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

SECTION 1. Section 26H-4, Hawaii Revised Statutes, is amended to read as follows:

“§26H-4 Repeal dates. (a) The following chapter is hereby repealed effective December 31, 1984:

(1) Chapter 436D (Board of Acupuncture)

(b) The following chapters are hereby repealed effective December 31, 1985:

(1) Chapter 460 (Board of Osteopathic Examiners)

(2) Chapter 461 (Board of Pharmacy)

(3) Chapter 455 (Board of Examiners in Naturopathy)

[(4)] Chapter 463E (Podiatry)

(5) (4) Chapter 451A (Board of Hearing Aid Dealers and Fitters)

[(6)] (5) Chapter 457B (Board of Examiners of Nursing Home Administrators)

[(7)] (6) Chapter 448H (Elevator Mechanics Licensing Board)

[(8)] (7) Chapter 462A (Board of Pilot Commissioners)

(c) The following chapters are hereby repealed effective December 31, 1986:

(1) Chapter 437 (Motor Vehicle Industry Licensing Board)

(2) Chapter 437B (Motor Vehicle Repair Industry Board)

(3) Chapter 440 (Boxing Commission)

(4) Chapter 460J (Pest Control Board)

(5) Chapter 438 (Board of Barbers)

(6) Chapter 439 (Board of Cosmetology)

1987: (d) The following chapters are hereby repealed effective December 31,

- (1) Chapter 458 (Board of Dispensing Opticians)
- (2) Chapter 459 (Board of Examiners in Optometry)
- (3) Chapter 452 (Board of Massage)
- (4) Chapter 471 (Board of Veterinary Examiners)
- (5) Chapter 441 (Cemeteries and Mortuaries)
- (6) Chapter 463 (Board of Detectives and Guards)

1988:

- (1) Chapter 465 (Board of Certification for Practicing Psychologists)
 - (2) Chapter 468E (Board of Speech Pathology and Audiology)
 - (3) Chapter 359L (Factory Built Housing Advisory Board)
 - (4) Chapter 468B (Solar Energy Device Dealers)
 - (5) Chapter 468K (Travel Agencies)
 - (6) Chapter 373 (Commercial Employment Agencies)
 - (7) Chapter 442 (Board of Chiropractic Examiners)
 - (8) Chapter 448 (Board of Dental Examiners)
- (f) The following chapters are hereby repealed effective December 31,

1989:

- (1) Chapter 444 (Contractors License Board)
 - (2) Chapter 448E (Board of Electricians and Plumbers)
 - (3) Chapter 464 (Board of Registration of Professional Engineers, Architects, and Surveyors)
 - (4) Chapter 466 (Board of Public Accountancy)
 - (5) Chapter 467 (Real Estate Commission)
- (g) The following chapters are hereby repealed effective December 31,

1990:

- (1) Chapter 447 (Dental Hygienists)
- (2) Chapter 453 (Board of Medical Examiners)
- (3) Chapter 457 (Board of Nursing)[.]

(h) The following chapter is hereby repealed effective December 31,

1991:

- (1) Chapter 463E (Podiatry)."

SECTION 2. Section 463E-3, Hawaii Revised Statutes, is amended to read as follows:

"**[]§463E-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] Council on Podiatric Medical Education of the American Podiatric Medical Association 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; and¹
- [(3)] He is a person of good moral character; and]
- [(4)] (3) He has passed the examinations in podiatry and related sciences which have been administered by the board."

SECTION 3. Section 463E-4, Hawaii Revised Statutes, is amended to read as follows:

“[[§463E-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] at a time and day which 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 certificate¹ 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 the time and place prescribed by the board.]”

SECTION 4. Section 463E-6, Hawaii Revised Statutes, is amended to read as follows:

“**§463E-6 Revocation and suspension of license[.]; sanctions.** (a) 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 habitually intemperate;
- (7) Habitually using any habit-forming drug;]
- [(7)¹] (6) Procuring a license through fraud, misrepresentation, or deceit[.]; or knowingly permitting an unlicensed person to perform activities requiring a license;
- [(8)¹] (7) Violation of section 453-2;
- [(9)¹] (8) Professional misconduct or gross carelessness or manifest incapacity in the practice of podiatry;
- [(10)¹] (9) Engaging in the practice of podiatry other than as defined in section 463E-1[.];
- (10) Being habituated to the excessive use of drugs or alcohol; or being addicted to, dependent on, or a habitual user of a narcotic, barbituate, amphetamine, hallucinogen, or other drug having similar effect;
- (11) Practicing medicine while the ability to practice is impaired by alcohol, drugs, physical disability, or mental instability;

- (12) Negligence or incompetence, including, but not limited to, the consistent use of medical service which is inappropriate or unnecessary;
 - (13) Revocation, suspension, or other disciplinary action by another state of a license for reasons as provided in this section;
 - (14) Conviction, whether by nolo contendere or otherwise, of a penal offense substantially related to the qualifications, functions, or duties of a podiatrist, notwithstanding any statutory provision to the contrary;
 - (15) Violation of chapter 329, uniform controlled substance act, or any regulation promulgated thereunder; or
 - (16) Failure to report disciplinary action taken against the licensee in another jurisdiction.
- (b) In addition to or in lieu of revoking or suspending a license to practice podiatry, the board may impose one or more of the following actions:
- (1) Place the licensee on probation, including such conditions of probation as requiring observation of the licensee by an appropriate group or society of licensed podiatrists.
 - (2) Limit the license by restricting the field of practice in which the licensee may engage.
 - (3) Fine the licensee, including assessment against him of the cost of the disciplinary proceedings.
 - (4) Temporarily suspend the license for not more than thirty days without a hearing, when the board finds the practice of the licensee probably constitutes an immediate and grave danger to the public.
 - (5) Require further education or training or require proof of performance competency."

SECTION 5. Chapter 463E, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§463E- Reporting requirements. (a) Every podiatrist licensed pursuant to this chapter who does not possess professional liability insurance shall report any settlement or arbitration award of a claim or action for damages for death or personal injury caused by negligence, error, or omission in practice, or the unauthorized rendering of professional services. The report shall be submitted to the department of commerce and consumer affairs within thirty days after any written settlement agreement has been reduced to writing and signed by all the parties thereto or thirty days after service of the arbitration award on the parties.

(b) Failure of a podiatrist to comply with the provisions of this section is an offense punishable by a fine of not less than \$100 for the first offense, \$250 to \$500 for the second offense, and \$500 to \$1,000 for subsequent offenses.

(c) The clerks of the respective courts of this State shall report to the department any judgment or other determination of the court which adjudges or finds that a podiatrist is liable criminally or civilly for any death or personal injury caused by the podiatrist's professional negligence, error, or omission in the practice of the podiatrist's profession, or rendering of unauthorized professional services. The report shall be submitted to the department within ten days after the judgment is entered by the court.

(d) The department shall prescribe forms for the submission of reports required by this section."

SECTION 6. Statutory material to be repealed is bracketed. New statutory material is underscored.²

SECTION 7. This Act shall take effect upon its approval.

(Approved May 28, 1985.)

Notes

1. So in original.
2. Edited pursuant to HRS §23G-16.5