

A Bill for an Act Relating to Nursing.

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

SECTION 1. Section 457-12, Hawaii Revised Statutes, is amended to read as follows:

**“§457-12 Discipline; grounds; proceedings; hearings.** (a) The board shall have the power to deny, revoke, limit, or suspend any license to practice nursing as a registered nurse or as a licensed practical nurse [issued by the board or] applied for or issued by the board in accordance with this chapter, and to fine or to otherwise [to] discipline a licensee [upon proof that the person:] for any of the following causes:

- (1) [Is guilty of fraud] Fraud or deceit in procuring or attempting to procure a license to practice nursing as a registered nurse or as a licensed practical nurse; [or]
- (2) [Is guilty of gross] Gross immorality; [or]
- (3) [Is unfit or incompetent] Unfitness or incompetence by reason of negligence, habits, or other causes; [or]
- (4) [Is habitually intemperate or is addicted to the use of] Habitual intemperance, addiction to, or dependency on alcohol or other habit-forming [drugs; or] substances;
- (5) [Is mentally incompetent; or] Mental incompetence;
- (6) [Is guilty of unprofessional] Unprofessional conduct; [or] as defined by the board in accordance with its own rules;
- (7) [Has willfully or repeatedly violated] Wilful or repeated violation of any of the provisions of this chapter[.] or any rule adopted by the board;
- (8) Revocation, suspension, limitation, or other disciplinary action by another state of a nursing license for reasons as provided in this section;
- (9) Conviction, whether by nolo contendere or otherwise, of a penal offense substantially related to the qualifications, functions, or duties of a nurse, notwithstanding any statutory provision to the contrary;
- (10) Failure to report to the board any disciplinary action taken against the licensee in another jurisdiction within thirty days after the disciplinary action becomes final;
- (11) Submitting to or filing with the board any notice, statement, or other document required under this chapter, which is false or untrue or contains any material misstatement of fact; or
- (12) Violation of the conditions or limitations upon which any license is issued.

(b) [Upon filing of a sworn or affirmed complaint with the board charging a person with having been guilty of any of the actions specified as a ground for disciplinary action, the executive secretary of the board shall fix a time and place for a hearing and shall cause a copy of the charges, together with a notice of the time and place fixed for the hearing to be served on the accused at least ten days prior thereto. When personal service cannot be effected and the fact is certified on oath or affirmation by any person authorized to make legal service, the executive secretary of the board shall cause to be published, twice in each of two successive weeks, a notice of the hearings in a newspaper published in the county in which the accused last practiced according to the records of the

board and shall mail a copy of the charges and of the notice to the accused at the accused's last known address.] In any proceeding to discipline a licensee or for the suspension, limitation, or revocation of a license to practice nursing, the licensee sought to be disciplined or the person whose license is sought to be suspended, limited, or revoked shall be given notice and opportunity for hearing in conformity with chapter 91. Any person whose application for a license has been denied shall be given notice and the opportunity for a hearing pursuant to chapter 91.

(c) [When publication of the notice is necessary, the date of the hearing shall not be less than ten days after the last date of the notice. The attendance of witnesses and the production of books, papers, and documents at the hearing may be compelled by subpoenas issued by the board, which shall be served in the same manner as subpoenas of circuit courts. At the hearing the board shall administer oaths as may be necessary for the proper conduct of the hearing. The board shall not be bound by strict rules of procedure or by the laws of evidence in the conduct of its proceedings, but the determination shall be based upon sufficient legal evidence to sustain it. At the hearing the accused shall have the right to appear either personally or by counsel, or both, in the accused's own behalf, to cross-examine witnesses, and to have subpoenas issued by the board. If the accused is found guilty of the charges, the board may refuse to issue a license to the applicant or may revoke, suspend a license or otherwise discipline a licensee. A revoked or suspended license may be reissued after one year in the discretion of the board.] Any fine imposed by the board after a hearing in accordance with chapter 91 shall be no less than \$100 and no more than \$1,000 for each violation.

(d) The remedies or penalties provided by this chapter are cumulative to each other and to the remedies or penalties available under all other laws of this State."

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

SECTION 3. This Act shall take effect upon its approval.

(Approved April 14, 1986.)