

JAN 25 2006

S.B. NO. 2296

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# A BILL FOR AN ACT

RELATING TO NURSES.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. Section 457-9, Hawaii Revised Statutes, is  
2 amended to read as follows:

3           "**§457-9 Renewal of license; denial, suspension, or**  
4 **revocation of license for default of student loan, student loan**  
5 **repayment contract, or scholarship contract[-]; inactivation and**  
6 **reactivation of license; restoration of forfeited license.** (a)

7 The license of every person licensed, recognized, or granted  
8 prescriptive authority shall expire on June 30 of every odd-  
9 numbered year and shall be renewed biennially, except as  
10 provided in this section. Biennially in each odd-numbered year,  
11 the board shall make available an application for renewal of  
12 license before the deadline set forth by the board to every  
13 person to whom a license was issued or renewed during the  
14 biennium. The applicant shall complete the application and  
15 submit it to the board with a renewal fee and all required  
16 documents on or before the deadline set by the board. The  
17 applicant shall provide documents from proper agencies or

1 parties of any criminal conviction or any disciplinary action  
2 taken or pending in this State or any other state in the United  
3 States or any territory or possession under the jurisdiction of  
4 the United States within the two years prior to application for  
5 renewal of license. Upon receipt of the application and fee,  
6 the board shall verify the accuracy of the application and issue  
7 to the applicant a certificate of renewal for the biennium  
8 expiring two years hence on the deadline set by the board. The  
9 renewal shall render the holder thereof a legal practitioner of  
10 nursing for the period stated on the renewal form.

11 (b) Any licensee who fails to renew a license as provided  
12 in subsection (a) but continues to practice shall be considered  
13 an illegal practitioner and shall be subject to the penalties  
14 provided for violations of this chapter[+]. The failure to  
15 timely renew a license, the failure to pay all applicable fees,  
16 the dishonoring of any check upon first deposit, or the failure  
17 to comply with any other requirement provided by law shall cause  
18 the license to be automatically forfeited; provided that the  
19 person's license may be restored by the board [~~on satisfactory~~  
20 ~~explanation of the failure to renew and on payment of the~~  
21 ~~renewal fee and a penalty fee.~~] within two years after the date

1 of forfeiture upon compliance with the licensing renewal fees,  
2 penalty fees, and compliance resolution fund fees.

3 A nurse who does not intend to practice nursing in the  
4 State and elects to be placed on inactive status shall so  
5 indicate in writing during the license renewal period or by so  
6 indicating on the license renewal application, and paying  
7 inactivation and all appropriate fees. Should the nurse wish to  
8 resume nursing at some future time, the nurse shall notify the  
9 board in writing and remit the reactivation and renewal [fee]  
10 fees and application form as provided in subsection (a). A  
11 nurse who has not actively practiced in this State or any other  
12 state in the United States or any territory or possession under  
13 the jurisdiction of the United States for more than five years  
14 may be required by the board to submit proof of continued  
15 competency by retaking and passing the licensing examination~~[-]~~  
16 or successfully completing appropriate continuing education  
17 recognized by the board.

18 (c) Notwithstanding any provision in this chapter to the  
19 contrary, the board shall not renew or reinstate, or shall deny  
20 ~~[or]~~, suspend, or revoke, any license or application if the  
21 board has received certification from an administering entity  
22 pursuant to chapter 436C that the licensee or applicant is in

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1 default or breach of any obligation under any student loan,  
2 student loan repayment contract, or scholarship contract that  
3 financed the licensee's or applicant's education, or has failed  
4 to comply with a repayment plan.

5 The board, in receipt of a certification pursuant to  
6 chapter 436C, as applicable, and without further review or  
7 hearing, shall:

- 8 (1) Suspend the license;
- 9 (2) Deny the application or request for renewal of the  
10 license; or
- 11 (3) Deny the request for reinstatement of the license,  
12 and unless otherwise provided by law, shall renew, reinstate, or  
13 grant the license only upon receipt of an authorization from the  
14 administering entity."

15 SECTION 2. Statutory material to be repealed is bracketed  
16 and stricken. New statutory material is underscored.

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

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INTRODUCED BY: 

BY REQUEST

JUSTIFICATION SHEET

DEPARTMENT: Commerce and Consumer Affairs

TITLE: A BILL FOR AN ACT RELATING TO NURSES.

PURPOSE: The purpose of this bill is to make housekeeping amendments by adding automatic forfeiture of a license that is not timely renewed, and by adding language that provides for an inactive license status. This bill also adds two new provisions: (1) imposing a two year restoration period for forfeited (non-renewed) licenses; and (2) adding continuing education as an alternative proof of continuing competence for nurses who wish to activate their licenses after not having practiced nursing in a U.S. jurisdiction for more than five years. This bill also deletes a provision that is no longer applicable.

MEANS: Amend section 457-9, Hawaii Revised Statutes (HRS).

JUSTIFICATION: Currently, sections 436B-7(2) and 436B-14, HRS, provide the licensing authority the power to restore a forfeited LPN or RN license. Section 451D-3(a)(1), HRS, further provides for an inactive license category for those not currently practicing in the State. Adding similar provisions to chapter 457, HRS, would simplify and add clarity to the chapter and allow different requirements to be applied to nurses.

New substantive provisions added to section 457-9 include:

- Imposing a two year restoration period for forfeited (non-renewed) licenses. Currently the nursing statute does not contain restoration provisions. The provisions of section 436B-14, HRS, have been followed, which imposes a one year restoration period. The Board of

Nursing (Board) would like to change to a two year restoration period to allow for a wider window for nurses to return to the workforce. This would definitely have a positive effect on the nursing shortage. With the current one year window to restore, the failure to do so may require the licensee to restart the licensing process. This onerous requirement dissuades licensees from returning to active practice. The Board believes that the practice of nursing does not change significantly in a one year period to require reevaluation of the nurse's minimum competency. On a nationwide basis, a majority of boards of nursing allow for a two year restoration period. Currently, there are 4,000 nurses out of 20,000 licensees who have not renewed their licenses.

- Adding continuing education as an alternative proof of continued competency to the Board for nurses who wish to reactivate their licenses after being on an inactive status for more than five years. Currently, a licensee may be required to submit proof of passage of the licensing examination if the licensee has not practiced for more than five years. Upon passage of this bill, successful completion of appropriate continued education may also be recognized by the Board if the licensee wants to reactivate the licensee's license and resume nursing. This is a less onerous requirement, rather than having to re-take the licensing examination.

The bill also deletes the provision relating to the restoration of a license with a satisfactory explanation for the failure to renew and on payment of the renewal fee and a penalty fee. This is an outdated provision which the Board no longer

requires. The Board utilizes section 436B-14, HRS, to address this issue.

Impact on the public: The public will benefit from the amendments to section 457-9, HRS. No adverse impact is foreseen.

Impact on the department and other agencies: The department and all agencies impacted by nurse licensees will benefit from the amendments. No adverse impact is foreseen.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM DESIGNATION: CCA-105 - Professional and Vocational Personal Services.

OTHER AFFECTED AGENCIES: None.

EFFECTIVE DATE: Upon approval.