
A BILL FOR AN ACT

RELATING TO LICENSING OF DIETITIANS.

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

1 SECTION 1. Section 26H, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:

4 "§26H- Department of commerce and consumer affairs;
5 hiring. The department of commerce and consumer affairs may
6 employ necessary personnel without regard to chapter 76 to
7 assist with the implementation and continuing functions of this
8 chapter."

9 SECTION 2. Section 448B, Hawaii Revised Statutes, is
10 amended by adding a new section to be appropriately designated
11 and to read as follows:

12 "§448B- Exemptions. This chapter is not intended to
13 restrict the practice of other healthcare practitioners
14 practicing within their own recognized scopes of practice and
15 shall not apply to:

16 (1) A person working within the scope of practice or
17 duties of another profession that overlaps with



1 dietetic practice; provided that the person does not
2 purport to be a dietitian;

3 (2) A person enrolled as a student in an accredited
4 dietetic program in which the performance of duties
5 that are regulated by this chapter constitute an
6 integral part of the student's program of study; and

7 (3) A person employed as a dietitian by an agency of the
8 federal, state, or county government, but only in the
9 course of carrying out the duties and responsibilities
10 of government employment."

11 SECTION 3. Section 26-9, Hawaii Revised Statutes, is
12 amended by amending subsection (o) to read as follows:

13 "(o) Every person licensed under any chapter within the
14 jurisdiction of the department of commerce and consumer affairs
15 and every person licensed subject to chapter 485A or registered
16 under chapter 467B shall pay upon issuance of a license, permit,
17 certificate, or registration a fee and a subsequent annual fee
18 to be determined by the director and adjusted from time to time
19 to ensure that the proceeds, together with all other fines,
20 income, and penalties collected under this section, do not
21 surpass the annual operating costs of conducting compliance
22 resolution activities required under this section. The fees may



1 be collected biennially or pursuant to rules adopted under
2 chapter 91, and shall be deposited into the special fund
3 established under this subsection. Every filing pursuant to
4 chapter 514E or section 485A-202(a)(26) shall be assessed, upon
5 initial filing and at each renewal period in which a renewal is
6 required, a fee that shall be prescribed by rules adopted under
7 chapter 91, and that shall be deposited into the special fund
8 established under this subsection. Any unpaid fee shall be paid
9 by the licensed person, upon application for renewal,
10 restoration, reactivation, or reinstatement of a license, and by
11 the person responsible for the renewal, restoration,
12 reactivation, or reinstatement of a license, upon the
13 application for renewal, restoration, reactivation, or
14 reinstatement of the license. If the fees are not paid, the
15 director may deny renewal, restoration, reactivation, or
16 reinstatement of the license. The director may establish,
17 increase, decrease, or repeal the fees when necessary pursuant
18 to rules adopted under chapter 91. The director may also
19 increase or decrease the fees pursuant to section 92-28.

20 There is created in the state treasury a special fund to be
21 known as the compliance resolution fund to be expended by the
22 director's designated representatives as provided by this



1 subsection. Notwithstanding any law to the contrary, all
2 revenues, fees, and fines collected by the department shall be
3 deposited into the compliance resolution fund. Unencumbered
4 balances existing on June 30, 1999, in the cable television fund
5 under chapter 440G, the division of consumer advocacy fund under
6 chapter 269, the financial institution examiners' revolving
7 fund, section 412:2-109, the special handling fund, section
8 414-13, and unencumbered balances existing on June 30, 2002, in
9 the insurance regulation fund, section 431:2-215, shall be
10 deposited into the compliance resolution fund. Unencumbered
11 balances existing on June 30, 2013, in the dietitian licensure
12 special fund, section 448B-10, shall be deposited into the
13 compliance resolution fund. This provision shall not apply to
14 the drivers education fund underwriters fee, sections 431:10C-
15 115 and 431:10G-107, insurance premium taxes and revenues,
16 revenues of the workers' compensation special compensation fund,
17 section 386-151, the captive insurance administrative fund,
18 section 431:19-101.8, the insurance commissioner's education and
19 training fund, section 431:2-214, the medical malpractice
20 patients' compensation fund as administered under section 5 of
21 Act 232, Session Laws of Hawaii 1984, and fees collected for
22 deposit in the office of consumer protection restitution fund,



1 section 487-14, the real estate appraisers fund, section 466K-1,
 2 the real estate recovery fund, section 467-16, the real estate
 3 education fund, section 467-19, the contractors recovery fund,
 4 section 444-26, the contractors education fund, section 444-29,
 5 the condominium education trust fund, section 514B-71, and the
 6 mortgage foreclosure dispute resolution special fund, section
 7 667-86. Any law to the contrary notwithstanding, the director
 8 may use the moneys in the fund to employ, without regard to
 9 chapter 76, hearings officers and attorneys. All other
 10 employees may be employed in accordance with chapter 76. Any
 11 law to the contrary notwithstanding, the moneys in the fund
 12 shall be used to fund the operations of the department. The
 13 moneys in the fund may be used to train personnel as the
 14 director deems necessary and for any other activity related to
 15 compliance resolution.

16 As used in this subsection, unless otherwise required by
 17 the context, "compliance resolution" means a determination of
 18 whether:

- 19 (1) Any licensee or applicant under any chapter subject to
- 20 the jurisdiction of the department of commerce and
- 21 consumer affairs has complied with that chapter;

22



1 (2) Any person subject to chapter 485A has complied with
2 that chapter;

3 (3) Any person submitting any filing required by chapter
4 514E or section 485A-202(a)(26) has complied with
5 chapter 514E or section 485A-202(a)(26);

6 (4) Any person has complied with the prohibitions against
7 unfair and deceptive acts or practices in trade or
8 commerce; or

9 (5) Any person subject to chapter 467B has complied with
10 that chapter;

11 and includes work involved in or supporting the above functions,
12 licensing, or registration of individuals or companies regulated
13 by the department, consumer protection, and other activities of
14 the department.

15 The director shall prepare and submit an annual report to
16 the governor and the legislature on the use of the compliance
17 resolution fund. The report shall describe expenditures made
18 from the fund including non-payroll operating expenses."

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

21 "**§26H-4 Repeal dates for [~~newly-enacted~~] newly-enacted**
22 **professional and vocational regulatory programs.** (a) Any



1 professional or vocational regulatory program enacted after
2 January 1, 1994, and listed in this section shall be repealed as
3 specified in this section. The auditor shall perform an
4 evaluation of the program, pursuant to section 26H-5, prior to
5 its repeal date.

6 (b) Chapter 466D (respiratory therapists) shall be
7 repealed on June 30, 2016.

8 (c) Chapter 448B (dietitians) shall be repealed on June
9 30, 2017."

10 SECTION 5. Section 448B-1, Hawaii Revised Statutes, is
11 amended to read as follows:

12 "[+]§448B-1[+] **Definitions.** As used in this chapter:

13 "Academy" means the Academy of Nutrition and Dietetics.

14 [~~"Association" means the American Dietetic Association.~~]

15 "Commission on accreditation" means the Commission on
16 Accreditation/Approval for Dietetics Education.

17 "Department" means the department of [~~health.~~] commerce and
18 consumer affairs.

19 "Dietetic practice" means the integration and application
20 of scientific principles of nutrition, biochemistry, physiology,
21 food, behavioral, and social sciences, in managing disease, and



1 achieving and maintaining human health throughout the life
2 cycle.

3 "Director" means the director of [~~health.~~] commerce and
4 consumer affairs.

5 "Licensed dietitian" means a person who uses the title of
6 licensed dietitian or dietitian and has been licensed to
7 practice dietetics under this chapter."

8 SECTION 6. Section 448B-4, Hawaii Revised Statutes, is
9 amended to read as follows:

10 "~~[-]§448B-4[-]~~ **Licensure required.** [~~No person shall~~]
11 Except as specifically provided in this chapter, no person shall
12 engage in dietetic practice or purport to be a "licensed
13 dietitian" or use the letters "L.D." in connection with the
14 person's name, or use any words or symbols indicating or tending
15 to indicate that the person is a licensed dietitian without
16 meeting the applicable requirements and holding a license as set
17 forth in this chapter."

18 SECTION 7. Section 448B-5, Hawaii Revised Statutes, is
19 amended to read as follows:

20 "~~[-]§448B-5[-]~~ ~~Licensure requirements.~~ ~~In addition to the~~
21 ~~application requirements provided by section 436B-10, the~~
22 ~~director shall adopt rules as deemed necessary for the licensure~~



1 ~~of dietitians to protect public health and safety, and may~~
2 ~~consider the following as minimum evidence that an applicant is~~
3 ~~qualified to be licensed:] Application for license as a~~
4 dietitian. The department shall issue a license under this
5 chapter to an applicant if the applicant provides satisfactory
6 evidence to the department that the applicant meets the
7 requirements for licensure contained in this chapter and rules
8 adopted by the director, and if:

- 9 (1) The applicant received a baccalaureate degree or post-
10 baccalaureate degree from a [~~regionally accredited~~]
11 regionally-accredited college or university with a
12 major course of study in dietetics, human nutrition,
13 food and nutrition, or food systems management, or
14 academic requirements related thereto, approved by the
15 commission on accreditation, or meets equivalent core
16 requirements for the dietetics option at the
17 University of Hawaii. In addition to basic dietetic
18 principles of nutrition, human physiology,
19 biochemistry, and behavioral and social sciences,
20 course work shall include at least nine semester
21 credits (or twelve quarter hours) relating to food
22 science and food preparation. Applicants who have



1 obtained their education outside of the United States
2 and its territories shall have their academic degree
3 validated by an agency authorized to validate foreign
4 academic degrees as being equivalent to a
5 baccalaureate, master's, or doctoral degree conferred
6 by a [~~regionally accredited~~] regionally-accredited
7 college or university in the United States.

8 Validation of a foreign degree shall include a
9 verification statement of completion of the major
10 course of study or related academic requirements,
11 basic dietetic principles, and course work specified
12 in this paragraph;

13 (2) Satisfactorily complete a documented supervised
14 practice experience component in dietetic practice of
15 not less than nine hundred hours approved by the
16 commission on accreditation;

17 (3) Pass the registration examination for dietitians
18 administered by the Commission on Dietetic
19 Registration; and

20 (4) Submit a report of any disciplinary action relating to
21 dietetics practice taken against the applicant in
22 another jurisdiction.



1 An individual who provides evidence of current registration
2 in the [~~association~~] academy shall be deemed to have met the
3 educational and supervised practice experience requirements of
4 this section."

5 SECTION 8. Section 448B-6, Hawaii Revised Statutes, is
6 amended to read as follows:

7 "~~[+]§448B-6[+]~~ **Licensure by endorsement.** The director
8 [~~shall~~] may grant, upon application and payment of proper fees,
9 licensure to a person who, at the time of application, holds a
10 valid certification or license as a dietitian issued by another
11 state, territory, or jurisdiction if the requirements for that
12 certification or license are equal to, or greater than, the
13 requirements of this chapter."

14 SECTION 9. Section 448B-8, Hawaii Revised Statutes, is
15 amended to read as follows:

16 "~~[+]§448B-8[+]~~ **Renewal of license.** [~~(a) Every license~~
17 ~~issued under this chapter shall be renewed triennially on or~~
18 ~~before June 30, with the first renewal deadline occurring on~~
19 ~~June 30, 2003. Failure to renew a license shall result in a~~
20 ~~forfeiture of the license. Licenses that have been so forfeited~~
21 ~~may be restored within one year of the expiration date upon~~
22 ~~payment of renewal and penalty fees. Failure to restore a~~



1 ~~forfeited license within one year of the date of its expiration~~
2 ~~shall result in the automatic termination of the license, and~~
3 ~~relicensure may require the person to apply as a new applicant~~
4 ~~and satisfy all licensure requirements again.~~

5 ~~(b) Upon request, the director may grant inactive status~~
6 ~~to a person licensed under this chapter.] Licenses issued~~
7 ~~pursuant to this chapter shall be valid for three years and~~
8 ~~shall be renewed upon the payment of a renewal fee within sixty~~
9 ~~days before the expiration of the license. Failure to renew a~~
10 ~~license shall result in forfeiture of that license. Licenses~~
11 ~~that have been forfeited may be restored within one year of the~~
12 ~~forfeiture date upon payment of renewal and restoration fees.~~
13 ~~Failure to restore a forfeited license within one year shall~~
14 ~~result in the automatic termination of the license. A person~~
15 ~~whose license has been terminated pursuant to this section shall~~
16 ~~be required to reapply for a new license as a new applicant."~~

17 SECTION 10. Section 448B-9, Hawaii Revised Statutes, is
18 amended to read as follows:

19 "~~[+]§448B-9[+] Fees; disposition. [(a) Application,~~
20 ~~examination, reexamination, license, renewal, late renewal~~
21 ~~penalty fees, inactive, and other reasonable and necessary fees~~
22 ~~relating to administration of this chapter, none of which are~~



1 ~~refundable, shall be as provided in rules adopted by the~~
2 ~~director pursuant to chapter 91.~~

3 ~~(b) Fees assessed shall defray all costs to be incurred by~~
4 ~~the director to support the operation of the dietitian licensure~~
5 ~~program.] (a) Upon issuance of a new license and at each~~
6 ~~license-renewal period, each dietitian shall pay a fee of \$100,~~
7 ~~which shall be deposited into the compliance resolution fund~~
8 ~~established pursuant to section 26-9(o).~~

9 (b) Application fees paid pursuant to this chapter shall
10 not be refundable. Pursuant to section 26-9(1), the director
11 shall establish examination, reexamination, license, renewal,
12 restoration, penalty, and other fees relating to the
13 administration of this chapter by rule.

14 (c) Fees pursuant to this chapter shall be used to defray
15 costs incurred by the department in implementing this chapter."

16 SECTION 11. Section 448B-11, Hawaii Revised Statutes, is
17 amended to read as follows:

18 " ~~[f]~~**\$448B-11**~~[f]~~ **Revocation, suspension, denial, or**
19 **condition of licenses; fines.** In addition to any other acts or
20 conditions provided by law, the director may refuse to renew,
21 reinstate, or restore, or may deny, revoke, suspend, fine, or
22 condition in any manner any license for any one or more of the



1 following acts or conditions on the part of the applicant or
2 licensed dietitian:

3 ~~[(1) Conviction by a court of competent jurisdiction of a~~
4 ~~crime that the director has determined to be of a~~
5 ~~nature that renders the person convicted unfit to~~
6 ~~practice dietetics;~~

7 ~~(2) Failure to report in writing to the director any~~
8 ~~disciplinary decision related to dietetic practice~~
9 ~~issued against the licensed dietitian or the applicant~~
10 ~~in any jurisdiction within thirty days of the~~
11 ~~disciplinary decision or within twenty days of~~
12 ~~licensure;~~

13 ~~(3) Violation of recognized ethical standards for~~
14 ~~dietitians as set by the association;~~

15 ~~(4) Use of fraud, deception, or misrepresentation in~~
16 ~~obtaining a license;~~

17 ~~(5) Revocation, suspension, or other disciplinary action~~
18 ~~by another state, territory, federal agency, or~~
19 ~~country against the licensed dietitian or applicant~~
20 ~~for any reason provided under this section; or~~

21 ~~(6) Other just and sufficient cause that renders a person~~
22 ~~unfit to practice dietetics.]~~



- 1 (1) Failure to meet or to maintain the conditions and
2 requirements necessary to qualify for the granting of
3 a license;
- 4 (2) Engaging in false, fraudulent, or deceptive
5 advertising, or making untruthful or improbable
6 statements in advertising;
- 7 (3) Engaging in dietetic practice while impaired by
8 alcohol, drugs, physical disability, or mental
9 instability;
- 10 (4) Procuring a dietitian license through fraud,
11 misrepresentation, or deceit;
- 12 (5) Aiding and abetting an unlicensed person to directly
13 or indirectly perform activities requiring a dietitian
14 license;
- 15 (6) Engaging in professional misconduct or exhibiting
16 incompetence, gross negligence, or manifest incapacity
17 in dietetic practice;
- 18 (7) Engaging in conduct or a practice contrary to
19 recognized standards of ethics for dietitians, as
20 adopted by the academy;
- 21 (8) Violating any condition or limitation imposed by the
22 director on a license to practice as a dietitian;



- 1 (9) Engaging in dietetic practice in a manner that causes
2 injury to one or more members of the public;
- 3 (10) Failing to comply with, observe, or adhere to any law
4 in a manner that causes the director to determine that
5 the applicant or licensee is unfit to hold a license;
- 6 (11) Having a dietitian license revoked or suspended or
7 being subject to other disciplinary action by any
8 state or federal agency for any reason that is
9 provided by the applicable licensing laws or by this
10 section;
- 11 (12) Having been convicted or having pleaded nolo
12 contendere to a crime directly related to the
13 qualifications, functions, or duties of dietetic
14 practice;
- 15 (13) Failing to report in writing to the director any
16 disciplinary decision issued against the licensee or
17 applicant in another jurisdiction within thirty days
18 of the disciplinary decision;
- 19 (14) Employing, whether gratuitously or for pay, any person
20 not licensed pursuant to this chapter to perform the
21 functions or duties of a dietitian; or



1 (15) Violating this chapter, chapter 436B, or any rule or
2 order of the director.

3 (b) Any licensee or applicant who violates this section
4 may also be fined not more than \$1,000 per violation, and each
5 day's violation shall be deemed a separate offense."

6 SECTION 12. Section 448B-12, Hawaii Revised Statutes, is
7 amended to read as follows:

8 "~~+~~**§448B-12**~~+~~ **Prohibited acts; penalties.** (a) No
9 person shall:

10 (1) Use in connection with the person's name any
11 designation tending to imply that the person is a
12 ~~[licensed]~~ dietitian unless the person is duly
13 licensed and authorized under this chapter; or

14 (2) Represent oneself as a licensed dietitian during the
15 time the person's license issued under this chapter is
16 forfeited, inactive, terminated, suspended, or
17 revoked.

18 (b) Any person who violates this section shall be subject
19 to a fine of not more than \$1,000 and each day's violation shall
20 be deemed a separate offense."

21 SECTION 13. Section 448B-10, Hawaii Revised Statutes, is
22 repealed.



1 ~~["§448B-10] Dietitian licensure special fund. There is~~
2 ~~established in the state treasury a special fund to be known as~~
3 ~~the dietitian licensure special fund to be administered by the~~
4 ~~department. Fees collected under section 448B-9 shall be~~
5 ~~deposited in the dietitian licensure special fund and may be~~
6 ~~expended for the costs associated with administering the~~
7 ~~licensure program, including but not limited to education."]~~

8 SECTION 14. There is appropriated out of the compliance
9 resolution fund established pursuant to section 26-9(o), Hawaii
10 Revised Statutes, the sum of \$50,000 or so much thereof as may
11 be necessary for fiscal year 2013-2014 to implement the
12 dietitian licensure program.

13 The sum appropriated shall be expended by the department of
14 commerce and consumer affairs for the purposes of this Act.

15 SECTION 15. All rights, powers, functions, and duties of
16 the department of health relating to the licensure of dietitians
17 are transferred to the department of commerce and consumer
18 affairs.

19 All officers and employees whose functions are transferred
20 by this Act shall be transferred with their functions and shall
21 continue to perform their regular duties upon their transfer,
22 subject to the state personnel laws and this Act.



1 No officer or employee of the State having tenure shall
2 suffer any loss of salary, seniority, prior service credit,
3 vacation, sick leave, or other employee benefit or privilege as
4 a consequence of this Act, and such officer or employee may be
5 transferred or appointed to a civil service position without the
6 necessity of examination; provided that the officer or employee
7 possesses the minimum qualifications for the position to which
8 transferred or appointed; and provided that subsequent changes
9 in status may be made pursuant to applicable civil service and
10 compensation laws.

11 An officer or employee of the State who does not have
12 tenure and who may be transferred or appointed to a civil
13 service position as a consequence of this Act shall become a
14 civil service employee without the loss of salary, seniority,
15 prior service credit, vacation, sick leave, or other employee
16 benefits or privileges and without the necessity of examination;
17 provided that such officer or employee possesses the minimum
18 qualifications for the position to which transferred or
19 appointed.

20 If an office or position held by an officer or employee
21 having tenure is abolished, the officer or employee shall not
22 thereby be separated from public employment, but shall remain in



1 the employment of the State with the same pay and classification
2 and shall be transferred to some other office or position for
3 which the officer or employee is eligible under the personnel
4 laws of the State as determined by the head of the department or
5 the governor.

6 SECTION 16. All appropriations, records, equipment,
7 machines, files, supplies, contracts, books, papers, documents,
8 maps, and other personal property heretofore made, used,
9 acquired, or held by the department of health relating to the
10 licensure of dietitian functions transferred to the department
11 of commerce and consumer affairs shall be transferred with the
12 functions to which they relate.

13 SECTION 17. All rules, policies, procedures, guidelines,
14 and other material adopted or developed by the department of
15 health shall remain in full force and effect until amended or
16 repealed by the department of commerce and consumer affairs
17 pursuant to chapter 91, Hawaii Revised Statutes.

18 SECTION 18. All deeds, leases, contracts, loans,
19 agreements, permits, or other documents executed or entered into
20 by or on behalf of the agencies, divisions, or offices
21 transferred or placed for administrative purposes within the



1 department of commerce and consumer affairs shall remain in full
2 force and effect.

3 SECTION 19. All relocation costs or expenses associated
4 with transferring the licensure of dietitians to the department
5 of commerce and consumer affairs shall be borne by the
6 appropriations allocated to the department of commerce and
7 consumer affairs with no liabilities or liens arising from such
8 relocation activity accruing to the department of commerce and
9 consumer affairs.

10 SECTION 20. Statutory material to be repealed is bracketed
11 and stricken. New statutory material is underscored.

12 SECTION 21. This Act shall take effect on July 1, 2050;
13 provided that the amendment to section 26-9(o), Hawaii Revised
14 Statutes, under section 3 of this Act shall not be repealed when
15 section 26-9(o), Hawaii Revised Statutes, is repealed and
16 reenacted on September 30, 2014, pursuant to section 45(5) of
17 Act 48, Session Laws of Hawaii 2011.



Report Title:

Dietitians; Licensing

Description:

Consolidates licensing of dietitians as healthcare professionals under the Department of Commerce and Consumer Affairs.

Effective July 1, 2050. (HB2570 HD2)

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

