

S.B. NO. 2832

JAN 25 2012

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-4, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "Repeal dates for newly enacted professional and vocational
4 regulatory programs. (a) Any professional or vocational
5 regulatory program enacted after January 1, 1994, and listed in
6 this section shall be repealed as specified in this section.
7 The auditor shall perform an evaluation of the program, pursuant
8 to section 26H-5, prior to its repeal date.

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10 repealed on June 30, 2016.

11 (c) Chapter 448B (dietitians) shall be repealed on June
12 30, 2017."

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

16 "§26H- The department of commerce and consumer affairs
17 may employ necessary personnel without regard to chapter 76,

1 Hawaii Revised Statutes, to assist with the implementation and
2 continuing functions of this chapter."

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

6 "§26H- There is appropriated out of the compliance
7 resolution fund established pursuant to section 26-9(o), Hawaii
8 Revised Statutes, the sum of \$50,000, or so much thereof as may
9 be necessary for fiscal year 2014, to implement the dietitian
10 licensure program. The sum appropriated shall be expended by
11 the department of commerce and consumer affairs for the purposes
12 of this Act."

13 SECTION 4. Section 448B-1, Hawaii Revised Statutes, is
14 amended to read as follows:

15 "Definitions. As used in this chapter:

16 "Association" means the [~~American Dietetic Association~~]
17 Academy of Nutrition and Dietetics.

18 "Commission on accreditation" means the Commission on
19 Accreditation/Approval for Dietetics Education.

20 "Department" means the department of [~~health~~] commerce and
21 consumer affairs.

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1 "Dietetic practice" means the integration and application
2 of scientific principles of nutrition, biochemistry, physiology,
3 food, behavioral, and social sciences, in managing disease, and
4 achieving and maintaining human health throughout the life
5 cycle.

6 "Director" means the director of [health] the department of
7 commerce and consumer affairs.

8 "Licensed dietitian" means a person who uses the title of
9 licensed dietitian or dietitian and has been licensed to
10 practice dietetics under this chapter."

11 SECTION 5. Section 448B-4, Hawaii Revised Statutes, is
12 amended to read as follows:

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

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1 SECTION 6. Section 448B, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:

4 "[448B-] Exemptions. This chapter is not intended to
5 restrict the practice of other licensed or credentialed
6 healthcare practitioners practicing within their own recognized
7 scopes of practice and shall not apply to:

8 (1) A person working within the scope of practice or duties
9 of another licensed profession that overlaps with dietetic
10 practice, provided the person does not purport to be a
11 dietitian;

12 (2) A person enrolled as a student in an accredited
13 dietetic program where the performance of duties that are
14 regulated by this chapter is an integral part of the student's
15 program of study; and

16 (3) A person employed by a federal, state or county
17 government agency as a dietitian, but only in the course of
18 carrying out the duties and responsibilities of government
19 employment."

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

1 " ~~[Licensure requirements In addition to the application~~
2 ~~requirements provided by section 436B-10, the director shall~~
3 ~~adopt rules as deemed necessary for the licensure of dietitians~~
4 ~~to protect public health and safety, and may consider the~~
5 ~~following as minimum evidence that an applicant is qualified to~~
6 ~~be licensed:]~~ Application for license as a dietitian. The
7 department shall issue a license under this chapter to an
8 applicant if the applicant provides satisfactory evidence to the
9 department that the applicant meets the requirements for
10 licensure contained in this chapter and rules adopted by the
11 director and if:

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

1 food preparation. Applicants who have obtained their education
2 outside of the United States and its territories shall have
3 their academic degree validated by an agency authorized to
4 validate foreign academic degrees as being equivalent to a
5 baccalaureate, master's, or doctoral degree conferred by a
6 regionally accredited college or university in the United
7 States. Validation of a foreign degree shall include a
8 verification statement of completion of the major course of
9 study or related academic requirements, basic dietetic
10 principles, and course work specified in this paragraph;

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

15 (3) Pass the registration examination for dietitians
16 administered by the Commission on Dietetic Registration; and

17 (4) Submit a report of any disciplinary action
18 relating to dietetics practice taken against the applicant in
19 another jurisdiction.

20 An individual who provides evidence of current
21 registration in the association shall be deemed to have met the

1 educational and supervised practice experience requirements of
2 this section."

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

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

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

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

1 ~~person to apply as a new applicant and satisfy all licensure~~
2 ~~requirements again.~~

3 ~~(b) Upon request, the director may grant inactive~~
4 ~~status to a person licensed under this chapter.] Licenses~~
5 ~~issued pursuant to this chapter shall be valid for three years~~
6 ~~and shall be renewed upon the payment of a renewal fee within~~
7 ~~sixty days before the expiration of the license. Failure to~~
8 ~~renew a license shall result in forfeiture of that license.~~

9 Licenses that have been forfeited may be restored within one
10 year of the forfeiture date upon payment of renewal and
11 restoration fees. Failure to restore a forfeited license within
12 one year shall result in the automatic termination of the
13 license. A person whose license has been terminated pursuant to
14 this section shall be required to reapply for a new license as a
15 new applicant."

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

18 **"Fees; disposition.** [~~(a) Application, examination,~~
19 ~~reexamination, license, renewal, late renewal penalty fees,~~
20 ~~inactive, and other reasonable and necessary fees relating to~~
21 ~~administration of this chapter, none of which are refundable,~~

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

3 ~~(b) Fees assessed shall defray all costs to be~~
4 ~~incurred by the director to support the operation of the~~
5 ~~dietitian licensure program.] (a) Upon issuance of a new license~~
6 ~~and at each license renewal period, each dietitian shall pay a~~
7 ~~fee of \$100 that shall be deposited into the compliance~~
8 ~~resolution fund 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-10, Hawaii Revised Statutes, is
17 repealed.

18 SECTION 12. Section 448B-11, Hawaii Revised Statutes, is
19 amended to read as follows:

20 **"Revocation, suspension, denial, or condition of licenses;**
21 **fines.** In addition to any other acts or conditions provided by
22 law, the director may refuse to renew, reinstate, or restore, or

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1 may deny, revoke, suspend, fine, or condition in any manner any
2 license for any one or more of the following acts or conditions
3 on the part of the applicant or licensed dietitian:

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

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

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

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

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

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

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- 1 (1) Failure to meet or to maintain the conditions and
2 requirements necessary to qualify for the
3 granting of 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
13 directly or indirectly perform activities
14 requiring a dietitian license;
- 15 (6) Engaging in professional misconduct,
16 incompetence, gross negligence, or manifest
17 incapacity 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 association;

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- 1 (8) Violating any condition or limitation imposed on
2 a license to practice as a dietitian by the
3 director;
- 4 (9) Engaging in dietetic practice in a manner that
5 causes injury to one or more members of the
6 public;
- 7 (10) Failing to comply with, observe, or adhere to any
8 law in a manner that causes the director to
9 determine that the applicant or holder is unfit
10 to hold a license;
- 11 (11) Having a license revoked or suspended or other
12 disciplinary action by any state or federal
13 agency for any reason that is provided by the
14 applicable licensing laws or by this section;
- 15 (12) Having been convicted or pleaded nolo contendere
16 to a crime directly related to the
17 qualifications, functions, or duties of dietetic
18 practice;
- 19 (13) Failing to report in writing to the director any
20 disciplinary decision issued against the licensee
21 or applicant in another jurisdiction within
22 thirty days of the disciplinary decision;

1 (14) Employing, whether gratuitously or for pay, any
2 person not licensed pursuant to this chapter to
3 perform the functions or duties of a dietitian;
4 or

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

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

11 SECTION 13. Section 448B-12, Hawaii Revised Statutes, is
12 amended to read as follows:

13 **"Prohibited acts; penalties.** (a) No person shall:

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

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

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Report Title:

Dietitians; Licensing

Description:

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

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

JUSTIFICATION SHEET

DEPARTMENT: Health

TITLE: A BILL FOR AN ACT RELATING TO THE LICENSURE OF DIETITIANS.

PURPOSE: To consolidate licensing of registered dietitians as healthcare professionals under the Department of Commerce and Consumer Affairs (DCCA).

MEANS: Amend Sections 448B-1 and 448B-9, and repeal Section 448B-10, Hawaii Revised Statutes (HRS).

JUSTIFICATION: DCCA licenses healthcare professionals under its Professional and Vocational Licensing Division. Healthcare professionals under their jurisdiction include physicians, dentists and dental hygienists, chiropractors, pharmacists, physical and occupational therapists, speech pathologists, nurses and nurse aids, social workers and others. The process for licensing registered dietitians would be identical or very similar to DCCA's current processes for other healthcare professionals and would avoid a duplication of licensure processes for professionals under the DOH.

DOH and DCCA are open to consolidating the registered dietitians under the DCCA Professional and Vocational Licensing Division. Since DCCA regularly licenses healthcare professionals, this will provide for a uniform and more effective and efficient administrative process while fulfilling the Legislature's intention to safeguard the public.

The DOH did not implement this licensure program since it did not receive initial or ongoing funding to duplicate DCCA's functional operations to implement the program. This would have included professional expertise and staff or financial resources to initiate the program. DOH resources were insufficient to absorb the additional workload and licensure fees would be insufficient to cover program expenses based on projected licensure volume.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM
DESTINATION: HTH-907

OTHER AFFECTED
AGENCIES: DCCA

EFFECTIVE DATE: Upon approval.