
A BILL FOR AN ACT

RELATING TO ENFORCEMENT TOOLS TO IMPROVE PATIENT SAFETY.

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

1 SECTION 1. Chapter 453, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:

4 "§453- Summary suspension. (a) The board or its
5 delegate may summarily suspend any license issued under this
6 chapter upon a specific determination that the failure to take
7 such an action may result in an immediate and unreasonable
8 threat to personal safety or of fraud or misrepresentation upon
9 consumers, and that, for the protection of the public from the
10 possible consequences of such practices, the license should be
11 immediately suspended or restricted.

12 (b) The order of summary suspension shall include a brief
13 statement of findings of fact and conclusions of law and shall
14 be served upon the licensee as required by chapter 91. The
15 order of summary suspension shall be effective upon service.

16 (c) A licensee served with an order of summary suspension
17 shall have the right to request a hearing to show cause why the
18 order of summary suspension should be terminated. Any request



1 for a hearing shall be made in writing and filed with the board
2 or its delegate within five business days of service of the
3 order. The board or its delegate shall hold a hearing within
4 ten business days of receipt of the licensee's request for the
5 hearing to show cause.

6 (d) Notwithstanding any law to the contrary, an order
7 summarily suspending a license issued under this chapter shall
8 remain in effect until the effective date of a final decision
9 and order issued by the board in a disciplinary action or the
10 effective date of an order issued by the board terminating the
11 summary suspension following a hearing to show cause, whichever
12 occurs first.

13 (e) The board or its delegate shall conduct a hearing for
14 disciplinary action against a licensee whose license has been
15 summarily suspended under this section within twenty business
16 days from the effective date of the order of summary suspension.

17 (f) Any attempt by the licensee to continue the practice
18 of medicine or the practice of medicine by the licensee while
19 the license has been summarily suspended shall be grounds for
20 revocation of the license and shall subject the licensee to any
21 penalties prescribed under this chapter, the applicable
22 licensing laws, or any rule or order of the board."



1 SECTION 2. Section 453-8, Hawaii Revised Statutes, is
2 amended to read as follows:

3 **"§453-8 Revocation, limitation, suspension, or denial of**
4 **licenses.** (a) In addition to any other actions authorized by
5 law, any license to practice medicine and surgery may be
6 revoked, limited, or suspended by the board at any time in a
7 proceeding before the board, or may be denied, for any cause
8 authorized by law, including but not limited to the following:

- 9 (1) Procuring, or aiding or abetting in procuring, a
10 criminal abortion;
- 11 (2) Employing any person to solicit patients for one's
12 self;
- 13 (3) Engaging in false, fraudulent, or deceptive
14 advertising, including but not limited to:
- 15 (A) Making excessive claims of expertise in one or
16 more medical specialty fields;
- 17 (B) Assuring a permanent cure for an incurable
18 disease; or
- 19 (C) Making any untruthful and improbable statement in
20 advertising one's medical or surgical practice or
21 business;



- 1 (4) Being habituated to the excessive use of drugs or
2 alcohol; or being addicted to, dependent on, or a
3 habitual user of a narcotic, barbiturate, amphetamine,
4 hallucinogen, or other drug having similar effects;
- 5 (5) Practicing medicine while the ability to practice is
6 impaired by alcohol, drugs, physical disability, or
7 mental instability;
- 8 (6) Procuring a license through fraud, misrepresentation,
9 or deceit, or knowingly permitting an unlicensed
10 person to perform activities requiring a license;
- 11 (7) Professional misconduct, hazardous negligence causing
12 bodily injury to another, or manifest incapacity in
13 the practice of medicine[~~, osteopathy,~~] or surgery;
- 14 (8) Incompetence or multiple instances of negligence,
15 including but not limited to the consistent use of
16 medical service, which is inappropriate or
17 unnecessary;
- 18 (9) Conduct or practice contrary to recognized standards
19 of ethics of the medical profession as adopted by the
20 Hawaii Medical Association, the American Medical
21 Association, the Hawaii Association of Osteopathic



- 1 Physicians and Surgeons, or the American Osteopathic
2 Association;
- 3 (10) Violation of the conditions or limitations upon which
4 a limited or temporary license is issued;
- 5 (11) Revocation, suspension, or other disciplinary action
6 by another state or federal agency of a license,
7 certificate, or medical privilege for reasons as
8 provided in this section;
- 9 (12) Conviction, whether by nolo contendere or otherwise,
10 of a penal offense substantially related to the
11 qualifications, functions, or duties of a physician or
12 osteopathic physician, notwithstanding any statutory
13 provision to the contrary;
- 14 (13) Violation of chapter 329, the uniform controlled
15 substances act, or any rule adopted thereunder except
16 as provided in section 329-122;
- 17 (14) Failure to report to the board, in writing, any
18 disciplinary decision issued against the licensee or
19 the applicant in another jurisdiction within thirty
20 days after the disciplinary decision is issued; or
- 21 (15) Submitting to or filing with the board any notice,
22 statement, or other document required under this



1 chapter, which is false or untrue or contains any
2 material misstatement or omission of fact.

3 (b) If disciplinary action related to the practice of
4 medicine has been taken against the applicant in any
5 jurisdiction that would constitute a violation under this
6 section, or if the applicant reveals a physical or mental
7 condition that would constitute a violation under this section,
8 then the board may impose one or more of the following
9 requirements as a condition for licensure:

- 10 (1) Physical and mental evaluation of the applicant by a
11 licensed physician or osteopathic physician approved
12 by the board;
- 13 (2) Probation, including conditions of probation as
14 requiring observation of the licensee by an
15 appropriate group or society of licensed physicians,
16 osteopathic physicians, or surgeons;
- 17 (3) Limitation of the license by restricting the fields of
18 practice in which the licensee may engage;
- 19 (4) Further education or training or proof of performance
20 competency; and



1 (5) Limitation of the medical practice of the licensee in
2 any reasonable manner to assure the safety and welfare
3 of the consuming public.

4 (c) Where the board has reasonable cause to believe that a
5 licensee is or may be unable to practice medicine with
6 reasonable skill and safety to protect patients, the board may
7 order the licensee to submit to a mental or physical examination
8 or any combination thereof, by a licensed practitioner approved
9 by the board, at the licensee's expense. The examination may
10 include biological fluid testing and other testing known to
11 detect the presence of alcohol or other drugs.

12 Any licensee shall be deemed to have consented to submit to
13 a mental or physical examination when so directed by the board
14 and to have waived all objection to the use or referral of
15 information by the board or its delegate to determine whether
16 the licensee is able to practice medicine with reasonable skill
17 and safety to protect patients.

18 The board may seek to enforce an order directing a licensee
19 to submit to a mental or physical examination in the circuit
20 court in the county in which the licensee resides.



1 Failure of a licensee to submit to an examination ordered
2 under this subsection shall constitute grounds for summary
3 suspension of the licensee's license.

4 The board may take any action authorized under this chapter
5 based on information obtained under this subsection."

6 SECTION 3. Statutory material to be repealed is bracketed
7 and stricken. New statutory material is underscored.

8 SECTION 4. This Act, upon its approval, shall take effect
9 on July 1, 2050.



Report Title:

Hawaii Medical Board; Summary Suspension of a License

Description:

Authorizes the Hawaii Medical Board to summarily suspend a license and order a licensee to submit to a physical and mental examination under specific circumstances. Effective July 1, 2050. (HB847 HD1)

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