
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 may
5 summarily suspend any license issued under this chapter upon a
6 specific determination that the failure to take such an action
7 may result in an immediate and unreasonable threat to personal
8 safety or of fraud that jeopardizes or endangers the health or
9 safety of patients as determined by the professional standards
10 of care upon consumers, and that, for the protection of the
11 public from the possible consequences of such practices, the
12 license should be immediately suspended or restricted.

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

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



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

7 (d) Notwithstanding any law to the contrary, an order
8 summarily suspending a license issued under this chapter shall
9 remain in effect until the effective date of a final decision
10 and order issued by the board in a disciplinary action or the
11 effective date of an order issued by the board terminating the
12 summary suspension following a hearing to show cause, whichever
13 occurs first, but in either case shall not exceed thirty
14 business days.

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

19 (f) Any attempt by the licensee to continue the practice
20 of medicine or the practice of medicine by the licensee while
21 the license has been summarily suspended shall be grounds for
22 revocation of the license and shall subject the licensee to any



1 penalties prescribed under this chapter, the applicable
2 licensing laws, or any rule or order of the board."

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

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

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



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



1 Hawaii Medical Association, the American Medical
2 Association, the Hawaii Association of Osteopathic
3 Physicians and Surgeons, or the American Osteopathic
4 Association;

5 (10) Violation of the conditions or limitations upon which
6 a limited or temporary license is issued;

7 (11) Revocation, suspension, or other disciplinary action
8 by another state or federal agency of a license,
9 certificate, or medical privilege for reasons as
10 provided in this section;

11 (12) Conviction, whether by nolo contendere or otherwise,
12 of a penal offense substantially related to the
13 qualifications, functions, or duties of a physician or
14 osteopathic physician, notwithstanding any statutory
15 provision to the contrary;

16 (13) Violation of chapter 329, the uniform controlled
17 substances act, or any rule adopted thereunder except
18 as provided in section 329-122;

19 (14) Failure to report to the board, in writing, any
20 disciplinary decision issued against the licensee or
21 the applicant in another jurisdiction within thirty
22 days after the disciplinary decision is issued; or



1 (15) Submitting to or filing with the board any notice,
2 statement, or other document required under this
3 chapter, which is false or untrue or contains any
4 material misstatement or omission of fact.

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

12 (1) Physical and mental evaluation of the applicant by a
13 licensed physician or osteopathic physician approved
14 by the board;

15 (2) Probation, including conditions of probation as
16 requiring observation of the licensee by an
17 appropriate group or society of licensed physicians,
18 osteopathic physicians, or surgeons;

19 (3) Limitation of the license by restricting the fields of
20 practice in which the licensee may engage;

21 (4) Further education or training or proof of performance
22 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. In addition:

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

19 (2) The board may seek to enforce an order directing a
20 licensee to submit to a mental or physical examination
21 in the circuit court in the county in which the
22 licensee resides;



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

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

7 (d) Any person licensed by the board, including a
8 physician, surgeon, or physician assistant, who provides
9 information to the board indicating that a board licensee may be
10 guilty of unprofessional conduct or may be impaired because of
11 drug or alcohol abuse or mental illness shall not be liable for
12 any damages in any civil action based on the communication. The
13 immunity afforded by this section shall be in addition to any
14 immunity afforded by section 663-1.7, if applicable, and shall
15 not be construed to affect the availability of any absolute
16 privilege under sections 663-1.7 and 671D-10."

17 SECTION 3. Statutory material to be repealed is bracketed
18 and stricken. New statutory material is underscored.

19 SECTION 4. This Act, upon its approval, shall take effect
20 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. Specifies immunities for licensees who provide certain information to the board. Effective July 1, 2050. (HB847 HD2)

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