

JAN 17 2014

A BILL FOR AN ACT

RELATING TO HERBAL THERAPY LICENSING.

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

1 SECTION 1. The legislature finds that herbal therapists
2 are persons with knowledge, skills, and experience in the direct
3 personal health care of individuals based on herbal practices,
4 including the utilization of herbal formulas to improve health
5 and wellness. Herbal therapists gain knowledge, skills, and
6 experience by associating with a recognized practitioner and
7 instructor, and through accredited university or certificate
8 programs. The legislature also finds that the practice of
9 herbal therapy does not replace existing forms of healing but is
10 intended to be a complementary and alternative source of therapy
11 to Western medicine.

12 The objectives of herbal therapists are to promote the
13 practice of herbal therapy in the State to accommodate Hawaii's
14 growing demand for alternative sources of medicine and to
15 address residents' deteriorating health. The legislature
16 further finds that the practice of herbal therapy is a method
17 for improving the health and wellness of individuals and for
18 treatment of illness and as such affects the public health,



1 safety, and welfare. Therefore it is in the public interest
2 that individuals practicing herbal therapy are subject to
3 meeting certain standards and regulations.

4 The legislature notes that this measure is not intended to
5 prevent health care professionals who already utilize herbs in
6 their practice from doing so in the future. Rather, the
7 legislature finds that representing oneself as a health care
8 professional and an herbal therapist requires standards. Act
9 162, Session Laws of Hawaii 1998, as amended, addresses the
10 practice of traditional Native Hawaiian healers and focuses on
11 the health needs of the Native Hawaiian population. However,
12 the purpose of this Act is to establish licensing requirements
13 for contemporary herbal healers from all ancestries and for the
14 benefit of the whole population. These licensing requirements
15 shall apply to any person who practices, offers to practice, or
16 advertises the practice of herbal therapy, except those covered
17 under Act 162 (1998). This protects the public and the
18 practitioners, as well as recognizes the validity of herbal
19 therapy and the importance of our natural plant resources and
20 knowledge base.



1 SECTION 2. The Hawaii Revised Statutes is amended by
2 adding a new chapter to be appropriately designated and to read
3 as follows:

4 "CHAPTER

5 HERBAL THERAPISTS

6 § -1 **Definitions.** As used in this chapter:

7 "Applicant" means an applicant for a license under this
8 chapter.

9 "Board" means the board of herbal therapy.

10 "Department" means the department of commerce and consumer
11 affairs.

12 "Director" means the director of commerce and consumer
13 affairs.

14 "Herbal therapist" means a person with knowledge, skills,
15 and experience in the direct personal health care of individuals
16 based on herbal practices, including the utilization of herbal
17 formulas to improve health and wellness, and who has met the
18 standards and requirements pursuant to a license issued under
19 this chapter.

20 § -2 **Licensure required.** Except as otherwise provided by
21 law, a person who practices, offers to practice, or advertises
22 the practice of herbal therapy in the State either gratuitously



1 or for pay shall be required to have a valid license through the
2 board or through a specialized practice such as naturopathic
3 medicine or traditional Chinese medicine.

4 § -3 **Exemptions.** This chapter shall not apply to
5 traditional Hawaiian healers engaged in traditional Native
6 Hawaiian healing practices; provided that a traditional Hawaiian
7 healer practitioner shall not state, advertise, or publicly or
8 privately represent that the traditional Hawaiian healer holds a
9 license under this chapter.

10 § -4 **Examination by the board.** In order to be licensed
11 under this chapter to practice herbal therapy an applicant must
12 pass an examination and have the necessary qualifications as
13 prescribed by this chapter and by the rules adopted by the
14 Board.

15 § -5 **Board of herbal therapy.** There shall be a board of
16 herbal therapy, which shall consist of five members appointed by
17 the governor from a list of people selected by the community of
18 herbal educators and practitioners. Of these persons, three
19 shall be educators in the field of herbal therapy, and two shall
20 be herbal therapist practitioners licensed pursuant to this
21 chapter; provided that, for two years after enactment of this



1 chapter, practitioners selected for the board shall not be
2 required to hold a license pursuant to this chapter.

3 § -6 Powers and duties of the board. In addition to any
4 powers and duties authorized by law, the board shall:

- 5 (1) Develop standards for licensure;
- 6 (2) Define the scope of practice;
- 7 (3) Adopt, amend, or repeal rules in accordance with
8 chapter 91 to carry out the purposes of this chapter,
9 including a code of ethics;
- 10 (4) Establish exam qualification requirements, adapted
11 appropriately from already established procedures,
12 requirements, and protocol such as those of the board
13 of massage therapy licensing, which covers aspects of
14 study including curriculum; length of apprenticeship
15 under a recognized teacher, practitioner, or mentor;
16 degree or certification; hours of practice; and
17 documentation of study and practice and research;
- 18 (5) Prepare, administer, and grade examinations; provided
19 that the board may contract with a testing agency to
20 provide those services;
- 21 (6) Examine and approve the qualifications of all
22 applicants under this chapter and issue, or renew, a



- 1 license to each successful applicant granting
2 permission to use the title of "licensed herbal
3 therapist" or "herbal therapist" in this State
4 pursuant to this chapter and the rules adopted
5 pursuant to this chapter;
- 6 (7) Maintain a publicly accessible registry of licensees
7 licensed pursuant to this chapter;
- 8 (8) Suspend and revoke licenses;
- 9 (9) Discipline a licensed herbal therapist for any cause
10 described by this chapter or for any violation of the
11 rules, and refuse to license a person for failure to
12 meet licensure requirements for any cause that would
13 be grounds for disciplining a licensed herbal
14 therapist;
- 15 (10) Investigate and conduct hearings regarding any
16 violation of this chapter and any rules of the board;
- 17 (11) Establish fees and fines necessary to administer this
18 chapter;
- 19 (12) Request coverage by health insurance as with other
20 complementary and alternative medicine such as
21 acupuncture, massage therapy, chiropractic, and
22 naturopathic methods;



- 1 (13) Establish paths for the practitioner to be covered by
- 2 malpractice insurance;
- 3 (14) Promote current dialogue and research, and maintain a
- 4 basic plant list that includes plant identification,
- 5 use, preparation, collection, and treatment method;
- 6 (15) Work with appropriate agencies to protect ancestral
- 7 herbal knowledge and natural resources;
- 8 (16) Maintain a record of its proceedings; and
- 9 (17) Do all things necessary to carry out the functions,
- 10 powers, and duties set forth in this chapter.

11 § -7 **Renewal of license.** (a) Every license issued

12 under this chapter shall be renewed triennially on or before

13 June 30, with the first renewal deadline occurring on June 30,

14 2017. Failure to renew a license shall result in a forfeiture

15 of the license. Licenses that have been so forfeited may be

16 restored within one year of the expiration date upon payment of

17 renewal and penalty fees. Failure to restore a forfeited

18 license within one year of the date of its expiration shall

19 result in the automatic termination of the license, and

20 relicensure may require the person to apply as a new applicant

21 and satisfy all licensure requirements again.



1 (b) Upon request, the director may grant inactive status
2 to a person licensed under this chapter.

3 § -8 Prohibited acts; penalties. (a) No person shall:

- 4 (1) Use in connection with the person's name any
- 5 designation tending to imply that the person is a
- 6 licensed herbal therapist unless the person is duly
- 7 licensed and authorized under this chapter; or
- 8 (2) Represent oneself as a licensed herbal therapist
- 9 during the time the person's license issued under this
- 10 chapter is forfeited, inactive, terminated, suspended,
- 11 or revoked.

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

15 SECTION 2. This Act shall take effect upon its approval.

16

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S.B. NO. 2439

Report Title:

Herbal Therapy Licensing

Description:

Creates a new chapter setting forth requirements for herbal therapy licensure.

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