
A BILL FOR AN ACT

RELATING TO NURSING.

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

1 SECTION 1. The legislature finds there is a need to
2 protect public safety by ensuring that licensed nurses are safe
3 to practice and care for patients. While nearly all
4 jurisdictions require applicants for nurse licensure to self-
5 report any criminal history upon application for licensure, data
6 reflects that many nurses with criminal histories fail to do so.
7 According to information published by the National Council of
8 State Boards of Nursing, many nurses with a criminal history
9 violate public trust and jeopardize the safety of patients.

10 The legislature further finds that the Council of State
11 Governments recommends that each state work with its board of
12 nursing to develop plans to conduct comprehensive federal and
13 state criminal background checks as part of nurse licensure
14 protocol. Of the fifty-five boards of nursing nationwide,
15 currently Hawaii is one of only twelve states that do not
16 conduct federal and state criminal background checks. The
17 legislature finds that boards of nursing, employers, and other



1 stakeholders need criminal history information to ensure that a
2 nurse is safe and unlikely to harm patients.

3 Accordingly, the purpose of this Act is to require all
4 nurse licensure applicants and license renewal applicants to
5 comply with criminal history record checks.

6 SECTION 2. Section 457-5, Hawaii Revised Statutes, is
7 amended by amending subsection (a) to read as follows:

8 "(a) In addition to any other powers and duties authorized
9 by law, the board may:

- 10 (1) Adopt, amend, or repeal rules, pursuant to chapter 91,
11 not inconsistent with the law, as may be necessary to
12 enable it to carry into effect this chapter, including
13 the definition of the scope of practice of nursing and
14 the delegation of nursing tasks based upon
15 professional nursing standards, which include but are
16 not limited to the standards set forth by national
17 certifying bodies recognized by the board;
- 18 (2) Prescribe standards for preparing persons for
19 licensure as practical nurses, registered nurses, and
20 advanced practice registered nurses under this
21 chapter;



- 1 (3) Conduct surveys of educational programs as it may deem
2 necessary and practical;
- 3 (4) Approve educational programs that meet the
4 requirements of this chapter and the rules of the
5 board;
- 6 (5) Deny or withdraw approval of educational programs for
7 failure to meet or maintain the standards prescribed
8 in this chapter;
- 9 (6) License qualified applicants by examination or
10 endorsement, including advanced practice registered
11 nurses, and renew, reinstate, and restore licenses [7].
12 The board shall conduct an investigation of the
13 applicant's background, character, competency, and
14 integrity as it deems appropriate, and shall request,
15 in accordance with section 846-2.7, criminal history
16 records of the applicant or licensee, from each
17 jurisdiction in which the application form indicates
18 the applicant lived for any substantial period of
19 time. The Hawaii criminal justice data center shall
20 provide such information on request to the director of
21 commerce and consumer affairs;



- 1 (7) Conduct hearings upon request of a denied applicant or
2 upon charges calling for discipline of a licensee;
- 3 (8) Exercise the power to issue subpoenas, compel the
4 attendance of witnesses, and administer oaths to
5 persons giving testimony at hearings;
- 6 (9) Cause the prosecution of all persons violating this
7 chapter and incur necessary expenses therefor;
- 8 (10) Keep a record of all its proceedings;
- 9 (11) Provide consultation, conduct conferences, forums,
10 studies, and research on nursing education and
11 practice;
- 12 (12) Communicate with national organizations that promote
13 the improvement of the legal standards of practice of
14 nursing for the protection of public health, safety,
15 and welfare;
- 16 (13) Authorize the administration of examinations to
17 eligible applicants for licensure as registered nurses
18 or licensed practical nurses, or other examinations
19 required by the board as designated in its rules;
- 20 (14) Employ, contract, and cooperate, to the extent
21 allowable by law, with any board-approved organization



1 in the preparation and grading of an appropriate
2 nationally uniform examination; provided the board
3 shall retain sole discretion and responsibility for
4 determining the standard of successful completion of
5 such an examination. When such a national examination
6 is used, access to questions and answers shall be
7 restricted by the board; [~~and~~]

8 (15) Develop and adopt rules as necessary relating to the
9 practice of nursing in telehealth[~~-~~]; and

10 (16) Develop and adopt rules as necessary to implement the
11 criminal history record checks required by this
12 chapter."

13 SECTION 3. Section 457-7, Hawaii Revised Statutes, is
14 amended as follows:

15 1. By amending subsection (a) to read:

16 "(a) An applicant for a license to practice nursing as a
17 registered nurse shall submit [~~an~~]:

18 (1) An application on a form prescribed by the board;

19 (2) A full set of fingerprints for the purpose of

20 obtaining federal and state criminal history record



1 checks in accordance with section 846-2.7; and [shall
2 provide-written]

3 (3) Written evidence that the applicant has completed a
4 nursing program approved by the board."

5 2. By amending subsection (c) to read:

6 "(c) The applicant applying for a license to practice as a
7 registered nurse by examination shall pay application,
8 examination, [~~and~~] reexamination, and criminal history record
9 check fees, if applicable, as prescribed by the board. Each
10 applicant who successfully passes the examination shall pay a
11 license fee. The applicant applying for a license to practice
12 as a registered nurse by endorsement shall pay application and
13 license fees."

14 SECTION 4. Section 457-8, Hawaii Revised Statutes, is
15 amended as follows:

16 1. By amending subsection (a) to read:

17 "(a) An applicant for a license to practice nursing as a
18 licensed practical nurse shall submit [~~an~~]:

19 (1) An application on a form prescribed by the board;

20 (2) A full set of fingerprints for the purpose of
21 obtaining federal and state criminal history record

1 checks in accordance with section 846-2.7; and [shall
2 provide-written]

3 (3) Written evidence that the applicant has completed a
4 licensed practical nurse program, or its equivalent,
5 approved by the board, and holds a diploma or
6 certificate therefrom."

7 2. By amending subsection (c) to read:

8 "(c) The applicant applying for a license to practice as a
9 licensed practical nurse by examination shall pay application,
10 examination, ~~and~~ reexamination, and criminal history record
11 check fees, if applicable, as prescribed by the board. Each
12 applicant who successfully passes the examination shall pay a
13 license fee. The applicant applying for a license to practice
14 as a licensed practical nurse by endorsement shall pay
15 application and license fees."

16 SECTION 5. Section 457-8.5, Hawaii Revised Statutes, is
17 amended by amending subsection (a) to read as follows:

18 "(a) The board shall grant an advanced practice registered
19 nurse license to a nurse who has:

20 (1) A current, unencumbered license as a registered nurse
21 in this State;



- 1 (2) An unencumbered license as a registered nurse in all
2 other states in which the nurse has a current and
3 active license;
- 4 (3) An unencumbered license as an advanced practice
5 registered nurse or similar designation in all other
6 states in which the nurse has a current and active
7 license as an advanced practice registered nurse;
- 8 (4) Completed an accredited graduate-level education
9 program preparing the nurse for one of the four
10 recognized advanced practice registered nurse roles;
- 11 (5) A current, unencumbered certification of having passed
12 a national certification examination that measures
13 role and population-focused competencies and is
14 recognized by the board;
- 15 (6) Maintained continued competencies through
16 recertification in role and population-focused
17 competencies through a national certification program
18 recognized by the board;
- 19 (7) Acquired advanced clinical knowledge and skills
20 preparing the nurse to provide direct care to patients



- 1 through a significant educational and practical
2 concentration on the direct care of patients;
- 3 (8) Demonstrated a greater breadth of knowledge, a greater
4 synthesis of data, greater complexity of skills and
5 interventions, and greater role autonomy than
6 demonstrated by a registered nurse;
- 7 (9) Been educationally prepared to assume responsibility
8 and accountability for health promotion and
9 maintenance and to assess, diagnose, and manage
10 patient problems through the use and prescription of
11 pharmacologic and non-pharmacologic interventions;
- 12 (10) Acquired clinical experience of sufficient depth and
13 breadth to reflect the intended license; [and]
- 14 (11) Submitted a full set of fingerprints for the purpose
15 of obtaining federal and state criminal history record
16 checks in accordance with section 846-2.7; and
- 17 [~~(11)~~] (12) Paid the appropriate fees."

18 SECTION 6. Section 457-9, Hawaii Revised Statutes, is
19 amended by amending subsections (a) and (b) to read as follows:

20 "(a) The license of every person licensed or granted
21 prescriptive authority shall expire on June 30 of every odd-



1 numbered year and shall be renewed biennially, except as
2 provided in this section. Biennially in each odd-numbered year,
3 the board shall make available an application for renewal of
4 license before the deadline set forth by the board to every
5 person to whom a license was issued or renewed during the
6 biennium. The applicant shall complete the application and
7 submit it to the board with a renewal fee, a full set of
8 fingerprints for the purpose of obtaining federal and state
9 criminal history record checks in accordance with section 846-
10 2.7, and all required documents on or before the deadline set by
11 the board. The applicant shall provide documents from proper
12 agencies or parties of any criminal conviction or any
13 disciplinary action taken or pending in this State or any other
14 state in the United States or any territory or possession under
15 the jurisdiction of the United States within the two years prior
16 to application for renewal of license. Upon receipt of the
17 application and fee, the board shall verify the accuracy of the
18 application and issue to the applicant a certificate of renewal
19 for the biennium expiring two years hence on the deadline set by
20 the board. The renewal shall render the holder thereof a legal



1 practitioner of nursing for the period stated on the renewal
2 form.

3 (b) Any licensee who fails to renew a license as provided
4 in subsection (a) but continues to practice shall be considered
5 an illegal practitioner and shall be subject to the penalties
6 provided for violations of this chapter. The failure to timely
7 renew a license, the failure to pay all applicable fees, the
8 dishonoring of any check upon first deposit, or the failure to
9 comply with any other requirement provided by law shall cause
10 the license to be automatically forfeited; provided that the
11 person's license may be restored by the board within two years
12 after the date of forfeiture upon compliance with the licensing
13 renewal fees, penalty fees, and compliance resolution fund fees.

14 A nurse who does not intend to practice nursing in the
15 State and elects to be placed on inactive status shall so
16 indicate in writing during the license renewal period or by so
17 indicating on the license renewal application, and paying
18 inactivation and all appropriate fees. Should the nurse wish to
19 resume nursing at some future time, the nurse shall notify the
20 board in writing and remit the reactivation and renewal fees
21 [~~and~~], submit an application form as provided in subsection



1 (a) [-], and submit a full set of fingerprints for the purpose of
2 obtaining federal and state criminal history record checks in
3 accordance with section 846-2.7. A nurse who has not actively
4 practiced in this State or any other state in the United States
5 or any territory or possession under the jurisdiction of the
6 United States for more than five years may be required by the
7 board to submit proof of continued competency by retaking and
8 passing the licensing examination or successfully completing
9 appropriate continuing education recognized by the board."

10 SECTION 7. Section 846-2.7, Hawaii Revised Statutes, is
11 amended by amending subsection (b) to read as follows:

12 "(b) Criminal history record checks may be conducted by:

13 (1) The department of health or its designee on operators
14 of adult foster homes for individuals with
15 developmental disabilities or developmental
16 disabilities domiciliary homes and their employees, as
17 provided by section 321-15.2;

18 (2) The department of health or its designee on
19 prospective employees, persons seeking to serve as
20 providers, or subcontractors in positions that place
21 them in direct contact with clients when providing



- 1 non-witnessed direct mental health or health care
2 services as provided by section 321-171.5;
- 3 (3) The department of health or its designee on all
4 applicants for licensure or certification for,
5 operators for, prospective employees, adult
6 volunteers, and all adults, except adults in care, at
7 health care facilities as defined in section 321-15.2;
- 8 (4) The department of education on employees, prospective
9 employees, and teacher trainees in any public school
10 in positions that necessitate close proximity to
11 children as provided by section 302A-601.5;
- 12 (5) The counties on employees and prospective employees
13 who may be in positions that place them in close
14 proximity to children in recreation or child care
15 programs and services;
- 16 (6) The county liquor commissions on applicants for liquor
17 licenses as provided by section 281-53.5;
- 18 (7) The county liquor commissions on employees and
19 prospective employees involved in liquor
20 administration, law enforcement, and liquor control
21 investigations;



- 1 (8) The department of human services on operators and
2 employees of child caring institutions, child placing
3 organizations, and foster boarding homes as provided
4 by section 346-17;
- 5 (9) The department of human services on prospective
6 adoptive parents as established under section
7 346-19.7;
- 8 (10) The department of human services on applicants to
9 operate child care facilities, prospective employees
10 of the applicant, and new employees of the provider
11 after registration or licensure as provided by section
12 346-154;
- 13 (11) The department of human services on persons exempt
14 pursuant to section 346-152 to be eligible to provide
15 child care and receive child care subsidies as
16 provided by section 346-152.5;
- 17 (12) The department of health on operators and employees of
18 home and community-based case management agencies and
19 operators and other adults, except for adults in care,
20 residing in community care foster family homes as
21 provided by section 321-15.2;



- 1 (13) The department of human services on staff members of
2 the Hawaii youth correctional facility as provided by
3 section 352-5.5;
- 4 (14) The department of human services on employees,
5 prospective employees, and volunteers of contracted
6 providers and subcontractors in positions that place
7 them in close proximity to youth when providing
8 services on behalf of the office or the Hawaii youth
9 correctional facility as provided by section 352D-4.3;
- 10 (15) The judiciary on employees and applicants at detention
11 and shelter facilities as provided by section 571-34;
- 12 (16) The department of public safety on employees and
13 prospective employees who are directly involved with
14 the treatment and care of persons committed to a
15 correctional facility or who possess police powers
16 including the power of arrest as provided by section
17 353C-5;
- 18 (17) The board of private detectives and guards on
19 applicants for private detective or private guard
20 licensure as provided by section 463-9;



- 1 (18) Private schools and designated organizations on
2 employees and prospective employees who may be in
3 positions that necessitate close proximity to
4 children; provided that private schools and designated
5 organizations receive only indications of the states
6 from which the national criminal history record
7 information was provided pursuant to section 302C-1;
- 8 (19) The public library system on employees and prospective
9 employees whose positions place them in close
10 proximity to children as provided by section
11 302A-601.5;
- 12 (20) The State or any of its branches, political
13 subdivisions, or agencies on applicants and employees
14 holding a position that has the same type of contact
15 with children, vulnerable adults, or persons committed
16 to a correctional facility as other public employees
17 who hold positions that are authorized by law to
18 require criminal history record checks as a condition
19 of employment as provided by section 78-2.7;
- 20 (21) The department of health on licensed adult day care
21 center operators, employees, new employees,



- 1 subcontracted service providers and their employees,
2 and adult volunteers as provided by section 321-15.2;
- 3 (22) The department of human services on purchase of
4 service contracted and subcontracted service providers
5 and their employees serving clients of the adult
6 protective and community services branch, as provided
7 by section 346-97;
- 8 (23) The department of human services on foster grandparent
9 program, senior companion program, and respite
10 companion program participants as provided by section
11 346-97;
- 12 (24) The department of human services on contracted and
13 subcontracted service providers and their current and
14 prospective employees that provide home and community-
15 based services under section 1915(c) of the Social
16 Security Act, title 42 United States Code section
17 1396n(c), or under any other applicable section or
18 sections of the Social Security Act for the purposes
19 of providing home and community-based services, as
20 provided by section 346-97;



- 1 (25) The department of commerce and consumer affairs on
2 proposed directors and executive officers of a bank,
3 savings bank, savings and loan association, trust
4 company, and depository financial services loan
5 company as provided by section 412:3-201;
- 6 (26) The department of commerce and consumer affairs on
7 proposed directors and executive officers of a
8 nondepository financial services loan company as
9 provided by section 412:3-301;
- 10 (27) The department of commerce and consumer affairs on the
11 original chartering applicants and proposed executive
12 officers of a credit union as provided by section
13 412:10-103;
- 14 (28) The department of commerce and consumer affairs on:
15 (A) Each principal of every non-corporate applicant
16 for a money transmitter license; and
17 (B) The executive officers, key shareholders, and
18 managers in charge of a money transmitter's
19 activities of every corporate applicant for a
20 money transmitter license,
21 as provided by sections 489D-9 and 489D-15;



- 1 (29) The department of commerce and consumer affairs on
- 2 applicants for licensure and persons licensed under
- 3 title 24;

- 4 (30) The Hawaii health systems corporation on:
- 5 (A) Employees;
- 6 (B) Applicants seeking employment;
- 7 (C) Current or prospective members of the corporation
- 8 board or regional system board; or
- 9 (D) Current or prospective volunteers, providers, or
- 10 contractors,
- 11 in any of the corporation's health facilities as
- 12 provided by section 323F-5.5;

- 13 (31) The department of commerce and consumer affairs on:
- 14 (A) An applicant for a mortgage loan originator
- 15 license; and
- 16 (B) Each control person, executive officer, director,
- 17 general partner, and manager of an applicant for
- 18 a mortgage loan originator company license,
- 19 as provided by chapter 454F;

- 20 (32) The state public charter school commission or public
- 21 charter schools on employees, teacher trainees,

- 1 prospective employees, and prospective teacher
2 trainees in any public charter school for any position
3 that places them in close proximity to children, as
4 provided in section 302D-33;
- 5 (33) The counties on prospective employees who work with
6 children, vulnerable adults, or senior citizens in
7 community-based programs;
- 8 (34) The counties on prospective employees for fire
9 department positions which involve contact with
10 children or vulnerable adults;
- 11 (35) The counties on prospective employees for emergency
12 medical services positions which involve contact with
13 children or vulnerable adults;
- 14 (36) The counties on prospective employees for emergency
15 management positions and community volunteers whose
16 responsibilities involve planning and executing
17 homeland security measures including viewing,
18 handling, and engaging in law enforcement or
19 classified meetings and assisting vulnerable citizens
20 during emergencies or crises;



- 1 (37) The State and counties on employees, prospective
2 employees, volunteers, and contractors whose position
3 responsibilities require unescorted access to secured
4 areas and equipment related to a traffic management
5 center;
- 6 (38) The State and counties on employees and prospective
7 employees whose positions involve the handling or use
8 of firearms for other than law enforcement purposes;
- 9 (39) The State and counties on current and prospective
10 systems analysts and others involved in an agency's
11 information technology operation whose position
12 responsibilities provide them with access to
13 proprietary, confidential, or sensitive information;
- 14 (40) The department of commerce and consumer affairs on
15 applicants for real estate appraiser licensure or
16 certification as provided by chapter 466K;
- 17 (41) The department of health or its designee on all
18 license applicants, licensees, employees, contractors,
19 and prospective employees of medical marijuana
20 dispensaries, and individuals permitted to enter and
21 remain in medical marijuana dispensary facilities as



1 provided under sections 329D-15(a)(4) and
 2 329D-16(a)(3); [~~and~~]
 3 (42) The department of commerce and consumer affairs on
 4 applicants for nurse licensure or license renewal as
 5 provided by sections 457-5, 457-7, 457-8, 457-8.5, and
 6 457-9; and
 7 [~~(42)~~] (43) Any other organization, entity, or the State,
 8 its branches, political subdivisions, or agencies as
 9 may be authorized by state law."

10 SECTION 8. Statutory material to be repealed is bracketed
 11 and stricken. New statutory material is underscored.

12 SECTION 9. This Act shall take effect on July 1, 2070;
 13 provided that application of criminal history record check
 14 requirements pursuant to this Act shall commence with the
 15 renewal licensing biennium that commences in 2019.



Report Title:

Nursing; Licensure; Registration; Registered Nurses; Practical Nurses

Description:

Requires all nurse licensure applicants and nurse license renewal applicants to comply with state and federal criminal history record checks. Authorizes the Board of Nursing to develop and adopt rules to implement required criminal history record checks. (HB1756 HD2)

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

