

**"CHAPTER 26H
HAWAII REGULATORY LICENSING REFORM ACT**

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" **§26H-1 Title.** This chapter shall be known as the "Hawaii Regulatory Licensing Reform Act". [L 1977, c 70, pt of §2]

" **§26H-2 Policy.** The legislature hereby adopts the following policies regarding the regulation of certain professions and vocations:

- (1) The regulation and licensing of professions and vocations shall be undertaken only where reasonably necessary to protect the health, safety, or welfare of consumers of the services; the purpose of regulation shall be the protection of the public welfare and not that of the regulated profession or vocation;
- (2) Regulation in the form of full licensure or other restrictions on certain professions or vocations shall be retained or adopted when the health, safety, or welfare of the consumer may be jeopardized by the nature of the service offered by the provider;
- (3) Evidence of abuses by providers of the service shall be accorded great weight in determining whether regulation is desirable;
- (4) Professional and vocational regulations which artificially increase the costs of goods and services to the consumer shall be avoided except in those cases where the legislature determines that this cost is exceeded by the potential danger to the consumer;
- (5) Professional and vocational regulations shall be eliminated when the legislature determines that they have no further benefits to consumers;
- (6) Regulation shall not unreasonably restrict entry into professions and vocations by all qualified persons; and
- (7) Fees for regulation and licensure shall be imposed for all vocations and professions subject to regulation; provided that the aggregate of the fees for any given regulatory program shall not be less than the full cost of administering that program. [L 1977, c 70, pt of §2; am L 1980, c 142, §1; am L 1996, c 45, §1]

" **[§26H-2.5] Impact of inclusion.** The inclusion of any regulatory program into the provisions of this chapter shall not be held to confer any regulatory authority or jurisdiction on any department which does not otherwise have jurisdiction. In particular, the department of commerce and consumer affairs shall not be conferred any authority or jurisdiction not

directly conferred by assignment of a regulatory measure to that department. [L 1990, c 166, §2]

" **§26H-3 Definitions.** As used in this chapter:

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

"Repeal date" means the effective date of repeal established for various chapters by section 26H-4. [L 1977, c 70, pt of §2; am L 1979, c 121, §1; am L 1982, c 204, §8; am L 1983, c 124, §17]

Revision Note

Numeric designations deleted.

" **§26H-4 [OLD] REPEALED.** L 1982, c 110, §1.

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

(b) Chapter 436H (athletic trainers) shall be repealed on June 30, 2018.

(c) Chapter 465D (behavior analysts) shall be repealed on June 30, 2021. [L 1994, c 279, §3; am L 1996, c 202, §1; am L 1998, c 100, §3 and c 159, §3; am L 2000, c 225, §2; am L 2002, c 260, §3; am L 2003, c 97, §2; am L 2004, c 209, §3; am L 2008, c 206, §1; am L 2010, c 178, §3; am L 2012, c 198, §3; am L 2015, c 199, §3; am L 2016, c 14, §2]

Revision Note

The source notes for this section begin with L 1994, c 279, §3 which replaced the contents of this section in its entirety.

" **§26H-5 Evaluation; report.** (a) The legislative auditor shall evaluate each board, commission, and regulatory program subject to repeal by section 26H-4 and shall submit an evaluation report to the legislature prior to the convening of the regular session of the year of the repeal date. The evaluation shall assess whether the regulatory program as established complies with the policies established by section

26H-2 and whether the public interest requires that the law establishing the regulatory program be reenacted, modified, or permitted to expire.

(b) If the auditor finds that the law establishing the regulatory program should be modified, the auditor shall incorporate in the auditor's report, drafts of recommended legislation to be considered for enactment and that if enacted, would improve the policies, procedures, and practices of the regulatory program evaluated. The auditor may request the assistance of the legislative reference bureau in drafting recommended legislation. Any other law to the contrary notwithstanding, the auditor may release copies of preliminary reports to the legislative reference bureau if the auditor requests the legislative reference bureau's assistance under this subsection. The legislative reference bureau shall comply with the auditor's request if the auditor provides a copy of the preliminary report to the bureau at the same time the report is provided to a board, commission, or regulatory program pursuant to subsection (d).

(c) Each board or commission and the director shall assist the auditor in collecting and reporting data as the auditor may require to conduct the evaluation. Even if the auditor finds that the law establishing the regulatory program should not be reenacted, the auditor shall evaluate the effectiveness and efficiency of the regulatory program and make appropriate recommendations to improve the policies, procedures, and practices. The legislature may hold a public hearing on each evaluation report. If the auditor finds that the law establishing a regulatory program should be permitted to expire, the auditor shall make recommendations, if needed, for appropriate restrictions to be placed on the program subsequent to the termination of regulation.

(d) The legislative auditor shall provide each board, commission, or regulatory program evaluated pursuant to this chapter not less than thirty days to review and comment upon the evaluation report prior to submission of the report to the legislature; provided that if the legislative auditor fails to provide the thirty-day review and comment period to the board, commission, or regulatory program being evaluated, the law establishing the regulatory program that is subject to repeal shall be automatically reenacted for a period of one year. If the legislative auditor receives written comments from the board, commission, or department of commerce and consumer affairs, the legislative auditor shall append the written comments to each copy of the evaluation report prior to submission to the legislature.

(e) Except as provided in this chapter, no board, commission, or regulatory program shall be evaluated automatically by the auditor. Nothing in this section is intended to prevent the auditor from conducting an evaluation of a board, commission, or regulatory program at the specific request or direction of the legislature. [L 1977, c 70, pt of §2; am L 1979, c 121, §2; am L 1980, c 142, §2; am L 1981, c 87, §3; am L 1982, c 204, §8; am L 1986, c 136, §1; am L 1994, c 279, §4]

" **§26H-6 New regulatory measures.** New regulatory measures being considered for enactment that, if enacted, would subject unregulated professions and vocations to licensing or other regulatory controls shall be referred to the auditor for analysis. Referral shall be by concurrent resolution that identifies a specific legislative bill to be analyzed. The analysis required by this section shall set forth the probable effects of the proposed regulatory measure and assess whether its enactment is consistent with the policies set forth in section 26H-2. The analysis also shall assess alternative forms of regulation. The auditor shall submit each report of analysis to the legislature. [L 1977, c 70, pt of §2; am L 1979, c 121, §3; am L 1984, c 156, §2; am L 1996, c 270, §3]

" **§26H-7 Repeal of subsections.** Any subsection of section 26H-2 may be repealed or amended and such action shall not affect other provisions or applications of this chapter. [L 1977, c 70, pt of §2]

" **§26H-8 REPEALED.** L 1994, c 279, §8.