

CHAPTER 457B
NURSING HOME ADMINISTRATORS ACT

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Cross References

Sunset evaluations modified, see §§26H-4 and 26H-5.

" **§457B-1 Short title.** This chapter may be cited as the "Nursing Home Administrators Act". [L 1970, c 63, pt of §1]

" **§457B-2 Definitions.** As used in this chapter, unless the context otherwise requires:

"Administrator" means the individual responsible for planning, organizing, directing, and controlling of the operation of a nursing home.

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

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

"Nursing home" means any nursing facility licensed by the department of health.

"Practice of nursing home administration" means the planning, organizing, directing, or controlling of the operation of a nursing home. [L 1970, c 63, pt of §1; am L 1994, c 184, §3; am L 1997, c 235, §2]

Revision Note

Numeric designations deleted and definitions rearranged.

" **§457B-3 License required.** No person shall operate a nursing home in the State without having a nursing home administrator's license from the department as hereinafter provided. It shall be unlawful for any person not licensed under this chapter to practice or offer to practice nursing home administration or to use any sign, card, or device to indicate that the person is licensed as a nursing home administrator. [L 1970, c 63, pt of §1; am L 1983, c 135, §1; am L 1997, c 235, §3]

" **§457B-3.1 Conditions concerning qualifications for licensure examination.** The director shall adopt rules setting minimum educational, training, and experience qualifications that must be satisfied before an applicant is allowed to sit for the licensing examination. [L 1985, c 199, §1; am L 1989, c 103, §2; am L 1994, c 184, §4; am L 1997, c 235, §4]

" **§457B-3.2 Grounds for refusal to renew, reinstate, or restore, and for revocation, suspension, denial, or condition of licenses.** The director may refuse to renew, reinstate, or

restore, or may revoke, suspend, deny, or condition in any manner, any license for any one or more of the following acts or conditions on the part of the licensee or the applicant:

- (1) Altering in any way the physician's order for any patient's or resident's medical or therapeutic care unless the orders are clearly hazardous to the patient or resident, in which case the physician shall be immediately notified;
- (2) Defrauding any federal, state, county, or social agency, business, or individual in the operation of a nursing home;
- (3) Engaging in false, fraudulent, or deceptive advertising, or making false or improbable statements regarding the services of the nursing home; and
- (4) Submitting or filing with the board any notice, statement, or other document required under this chapter which is false or which contains any material misstatement of fact. [L 1994, c 184, §1; am L 1997, c 235, §5]

" **§457B-3.5 Limited and temporary licenses.** The director may issue a limited and temporary license to an applicant who has not been examined as required by section 457B-6, if the applicant is otherwise qualified to be examined. Such a license shall be effective only until the next licensure examination process has been completed. [L 1989, c 103, §1; am L 1997, c 235, §6]

" **§457B-4 REPEALED.** L 1997, c 235, §11.

" **§457B-5 REPEALED.** L 1992, c 202, §218.

" **§457B-6 Powers and duties of director.** In addition to any other powers and duties authorized by law, the director shall:

- (1) Develop, impose, and enforce standards which shall be met by individuals in order to receive a license as a nursing home administrator, which standards shall be designed to insure that nursing home administrators shall be individuals who by training or experience in the field of institutional administration, are qualified to serve as nursing home administrators;
- (2) Develop and apply appropriate techniques, including examinations and investigations, for determining whether an individual meets the standards of this chapter or the rules adopted pursuant thereto;
- (3) Issue licenses to individuals determined, after the application of appropriate techniques, to meet the

required standards, and revoke or suspend licenses in any case where the individual holding a license is determined substantially to have failed to conform to the required standards of this chapter or the rules adopted pursuant thereto;

- (4) Establish and carry out procedures designed to insure that individuals licensed as nursing home administrators shall, during any period that they serve as such, comply with the required standards. The director shall also initiate and maintain cooperative arrangements with the long-term care ombudsman, department of human services, and the department of health for the sharing of information on the performance of administrators;
- (5) Receive, investigate, and take appropriate action with respect to any charge or complaint filed with the department to the effect that any individual licensed as a nursing home administrator has failed to comply with the requirements of this chapter or the rules adopted pursuant thereto;
- (6) Adopt in accordance with chapter 91 rules as may be necessary for the purposes of this chapter; and
- (7) Maintain a record of all proceedings. [L 1970, c 63, pt of §1; am L 1983, c 135, §3; am L 1985, c 199, §3; am L 1987, c 339, §4; am L 1992, c 202, §113; am L 1997, c 235, §7]

Law Journals and Reviews

Holding Hawai`i Nursing Facilities Accountable for the Inadequate Pain Management of Elderly Residents. 27 UH L. Rev. 233 (2004).

" **§457B-7 Subpoenas.** The director may issue subpoenas to compel the attendance of witnesses and the production of documentary evidence or the production of any books, papers, or records. If any person subpoenaed as a witness fails or refuses to respond thereto, or refuses to answer questions material to the matter pending before the department propounded by an examiner, any circuit judge, upon application of the department or any examiner thereof, may enforce by proper proceeding the attendance and testimony of the witnesses. If any person wilfully testifies falsely under oath before the department or wilfully makes a false affidavit in any proceeding before the department, the person shall be charged for perjury and shall be subject to the penalties for perjury provided by law. [L 1970, c 63, pt of §1; am L 1997, c 235, §8]

" **§457B-8 REPEALED.** L 1983, c 135, §6.

" **§457B-9 Fees.** (a) An applicant for a license to practice nursing home administration by examination shall pay application and examination fees. A reexamination fee is required for each reexamination. Application fees shall not be refundable. Each applicant who successfully passes the examination shall pay a license fee.

(b) There shall be a biennial renewal fee which shall be paid to the department on or before June 30 of each even-numbered year. Failure, neglect, or refusal of any duly licensed nursing home administrator to pay the biennial renewal fee shall constitute a forfeiture of the nursing home administrator's license. The license may be restored within three years upon written application therefor and the payment to the department of all delinquent fees plus a penalty fee and evidence of participation in educational programs. [L 1970, c 63, pt of §1; am L 1971, c 54, §2; am L 1973, c 22, §1; am L 1975, c 118, §20; am L 1982, c 204, §8; am L 1983, c 124, §17; am L 1984, c 7, §49; am L 1992, c 202, §114; am L 1997, c 235, §9]

" **§457B-10 Injunctive relief.** The director may apply for an injunction in any court of competent jurisdiction to enjoin any person who has not been issued a license or whose license has been suspended or revoked or has expired from practicing nursing home administration; and, upon the filing of a verified petition in the court, the court or any judge thereof, if satisfied by affidavit or otherwise, may issue a temporary injunction, without notice or bond, enjoining the defendant from further practicing nursing home administration. A copy of the verified complaint shall be served upon the defendant and the proceedings shall thereafter be conducted as in other civil cases. If it is established that the defendant has been or is practicing nursing home administration without having been issued a license or has been or is practicing nursing home administration after the defendant's license has been suspended or revoked or has expired, the court or any judge thereof may enter a decree enjoining the defendant from further practicing nursing home administration. In case of violation of any injunction issued under this section, the court may summarily try and punish the offender for contempt of court. The injunction proceeding shall be in addition to, and not in lieu of, all penalties and other remedies provided in this chapter. [L 1970, c 63, pt of §1; am L 1983, c 135, §4; am L 1997, c 235, §10]

" **[\$457B-11] Severability.** If any provision of this chapter, or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are severable. [L 1970, c 63, pt of §1]

" **§457B-12 Penalties.** Any person who violates this chapter shall be fined not more than \$500 for a first offense. For each subsequent offense the person shall be fined not more than \$1,000, or imprisoned not more than one year, or both. [L 1970, c 63, pt of §1; am L 1983, c 135, §5]

" **[\$457B-13] Remedies or penalties cumulative.** Unless otherwise expressly provided, the remedies or penalties provided by this chapter are cumulative to each other and to the remedies or penalties available under all other laws of this State. [L 1986, c 211, §5]