

ACT 240

S.B. NO. 1385

A Bill for an Act Relating to Podiatrists.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 463E-1, Hawaii Revised Statutes, is amended to read as follows:

“[§463E-1]<sup>1</sup> **Definitions.** As used in this chapter:

“Board” means board of medical examiners.

“Department” means department of commerce and consumer affairs.

“Foot appliance” means any artificial apparatus used as a replacement for, an addition to, or in the treatment of the human foot whether it is medical, surgical, mechanical, manipulative, or electrical in nature.

“Podiatrist” means a person in the professional practice of [podiatry.] podiatric medicine.

“[Podiatry] Podiatric medicine” means the medical, surgical, mechanical, manipulative, and electrical diagnosis and treatment of the human foot, malleoli, and soft tissues about the ankle, except for ankle fractures, including the nonsurgical treatment of the muscles and tendons of the leg governing the functions of the foot, but does not include any amputation, except for digital amputation, treatment of systemic conditions, or the use of any anesthetic except local anesthetic.”

SECTION 2. Section 463E-2, Hawaii Revised Statutes, is amended to read as follows:

“[§463E-2] **License required.** Except as otherwise provided by law, no person shall practice, offer to practice, advertise, or announce oneself, either publicly or privately, as prepared or qualified to practice [podiatry,] podiatric medicine, either gratuitously or for pay, or use any sign or advertisement or otherwise use the [term] title “podiatrist”, “D.P.M.” or “doctor of podiatric medicine”, “foot specialist”, or any other term or terms indicating or implying that the person is practicing [podiatry,] podiatric medicine, without having a valid unrevoked license obtained from the board of medical examiners, as prescribed in this chapter.”

SECTION 3. Section 463E-3, Hawaii Revised Statutes, is amended to read as follows:

“**§463E-3 Qualification for examination.** No person shall be licensed to practice [podiatry] podiatric medicine unless the applicant has passed the examinations described in section 463E-4 and has been found to be possessed of the necessary qualifications as required by the board.

Before any applicant shall be eligible for the examinations, the applicant shall furnish satisfactory proof to the board that:

- (1) The applicant is a graduate in [podiatry] podiatric medicine of a college approved by the Council on Podiatric Medical Education of the American Podiatric Medical Association and by the board of medical examiners;

- (2) The applicant has taken and satisfactorily completed in a college, a residence course of professional instruction in [podiatry,] podiatric medicine, which has been approved by the board; and
- (3) The applicant is of demonstrated competence and professional knowledge.”

SECTION 4. Section 463E-5, Hawaii Revised Statutes, is amended to read as follows:

**“§463E-5 Fees; expenses.** No applicant shall be examined under this chapter until the applicant has paid to the board of medical examiners application, examination, and license fees. The board may provide separate fees for licensure by endorsement and for limited and temporary licenses. Every person holding a license under this chapter shall reregister with the board biennially in each even-numbered year, not later than January 31, and for registration shall pay a renewal fee. At the time of reregistration, the licensee shall provide written proof of a minimum of forty hours of postgraduate work or continuing education of [podiatry] podiatric medicine taken during the previous biennium. Failure to reregister and present this proof shall constitute a forfeiture of the license, which may be restored only upon written application therefor and payment to the board of a restoration fee. All fees shall be as provided in rules adopted by the director of commerce and consumer affairs pursuant to chapter 91 and shall be deposited with the director of finance to the credit of the general fund.”

SECTION 5. Section 463E-6, Hawaii Revised Statutes, is amended to read as follows:

**“§463E-6 Revocation, suspension, or denial of license; sanctions.** (a) Any license to practice [podiatry] podiatric medicine may be revoked or suspended by the board of medical examiners at any time in a proceeding before the board, or may be denied, for any one or more of the following acts or conditions on the part of the holder of the license or the applicant therefor:

- (1) Employing what is popularly known as a “capper” or “steerer”;
- (2) Obtaining any fee on the assurance that a manifestly incurable disease can be permanently cured;
- (3) Wilfully betraying a professional secret;
- (4) Advertising one’s podiatrist business with any untruthful and improbable statement;
- (5) False or fraudulent advertising;
- (6) Procuring a license through fraud, misrepresentation, or deceit, or knowingly permitting an unlicensed person to perform activities requiring a license;
- (7) Violation of section 453-2;
- (8) Professional misconduct or gross negligence or manifest incapacity in the practice of [podiatry;] podiatric medicine;
- (9) Engaging in the practice of [podiatry] podiatric medicine other than as defined in section 463E-1;
- (10) Being habituated to the excessive use of drugs or alcohol; or being addicted to, dependent on, or a habitual user of a narcotic, barbiturate, amphetamine, hallucinogen, or other drug having similar effect;
- (11) Practicing medicine while the ability to practice is impaired by alcohol, drugs, physical disability, or mental instability;

- (12) Incompetence or multiple instances of negligence, including, but not limited to, the consistent use of medical service which is inappropriate or unnecessary;
  - (13) Revocation, suspension, or other disciplinary action by another state or federal agency of a license or practice privilege for reasons as provided in this section;
  - (14) Conviction, whether by nolo contendere or otherwise, of a penal offense substantially related to the qualifications, functions, or duties of a podiatrist, notwithstanding any statutory provision to the contrary;
  - (15) Violation of chapter 329, uniform controlled substance act, or any rule adopted thereunder;
  - (16) Failure to report to the board, in writing, any disciplinary action taken against the licensee in another jurisdiction within thirty days after the disciplinary action becomes final; or
  - (17) Submitting to or filing with the board any notice, statement, or other document required under this chapter, which is false or untrue or contains any material misstatement or omission of fact.
- (b) In addition to or in lieu of revoking or suspending a license to practice [podiatry,] podiatric medicine, the board may impose one or more of the following actions:
- (1) Place the licensee on probation, including such conditions of probation as requiring observation of the licensee by an appropriate group or society of licensed podiatrists;
  - (2) Limit the license by restricting the field of practice in which the licensee may engage;
  - (3) Fine the licensee, including assessment against the licensee of the cost of the disciplinary proceedings. Any fine imposed by the board after a hearing in accordance with chapter 91 shall be no less than \$500 and no more than \$5,000 for each violation, exclusive of the costs of the disciplinary proceedings;
  - (4) Temporarily suspend the license for not more than thirty days without a hearing, when the board finds the practice of the licensee probably constitutes an immediate and grave danger to the public; or
  - (5) Require further education or training or require proof of performance competency."

SECTION 6. Section 463E-7, Hawaii Revised Statutes is amended to read as follows:

**"§463E-7 Hearing; procedure.** In any proceeding before the board of medical examiners for the revocation or suspension of a license to practice [podiatry] podiatric medicine for any act or condition listed in section 463E-6, the person whose license is sought to be revoked or suspended shall be given notice and opportunity for a hearing in accordance with chapter 91. Any applicant whose application for a license to practice [podiatry] podiatric medicine has been denied shall be given notice and the opportunity for a hearing pursuant to chapter 91."

SECTION 7. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 8. This Act shall take effect upon its approval.

(Approved June 8, 1989.)

**Note**

- 1. So in original.