

ACT 185

H.B. NO. 3211

A Bill for an Act Relating to Nurse Aides.

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

SECTION 1. Section 26H-4, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

1994: “(a) The following chapters are hereby repealed effective December 31,

- (1) Chapter 447 (Dental Hygienists)
- (2) Chapter 457 (Board of Nursing)
- [(3)] Chapter 457A (Nurse Aides)
- (4)] (3) Chapter 457B (Board of Examiners of Nursing Home Administrators)
- [(5)] (4) Chapter 461 (Board of Pharmacy)
- [(6)] (5) Chapter 468L (Travel Agencies)”

SECTION 2. Section 26H-4, Hawaii Revised Statutes, is amended by amending subsection (g) to read as follows:

2000: “(g) The following chapters are hereby repealed effective December 31,

- (1) Chapter 439 (Board of Cosmetology)
- (2) Chapter 448F (Electrologists)
- (3) Chapter 454 (Mortgage Brokers and Solicitors)
- (4) Chapter 454D (Real Estate Collection Servicing Agents)
- (5) Chapter 466 (Board of Public Accountancy)
- (6) Chapter 467 (Real Estate Commission)
- (7) Chapter 457A (Nurse Aides)”

SECTION 3. Chapter 457A, Hawaii Revised Statutes, is amended:

1. By amending section 457A-1 to read as follows:

“**[[§457A-1]] Findings and purpose.** (a) The legislature recognizes that 42 United States Code §1395i-3 and §1396R [requires] require nurse aides working in nursing facilities participating in medicare and medicaid programs to be certified. This chapter implements [the provisions of] 42 United States Code §1395i-3 and §1396R with respect to [establishing]:

- (1) Establishing the State’s regulatory scheme for certifying nurse aides[.];
- (2) Defining the scope of regulation;
- (3) Establishing standards for certification and biennial recertification;
- and
- (4) Establishing an interagency agreement between the state agencies responsible for various aspects of the program.

(b) As used in this chapter, “nurse aide” means a person who performs a variety of duties relating to patients and patient care under the supervision of a nurse, including but not limited to assisting patients in all activities of daily living such as serving and collecting food trays, and helping patients get out of bed, bathe, and dress. A nurse aide may also assist a nurse by changing bed linens, delivering messages, and sterilizing instruments.”

2. By amending section 457A-2 to read as follows:

“**[[§457A-2]] Implementation.** The director of commerce and consumer affairs shall implement the provisions of 42 United States Code §1395i-3 and §1396R as [it relates] they relate only to establishing [the]:

- (1) The minimum requirements and standards necessary for certification as a nurse aide[, examination];
- (2) Examination requirements, [maintenance] including the passing score;
- (3) Maintenance requirements for continued certification[, and implementation] on a biennial basis; and
- (4) Implementation of a nurse aide registry.”

3. By amending section 457A-3 to read as follows:

“**[[§457A-3]] Power of director.** (a) The director, in accordance with [the provisions of] chapters 91 and 92, shall adopt [such] rules [as] that may be necessary to implement the provisions of 42 United States Code §1395i-3 and §1396R, as well as the federal regulations adopted pursuant thereto, as [it relates] they relate only to establishing [the]:

- (1) The minimum requirements necessary for certification as a nurse aide[, examination];
- (2) Examination requirements, [maintenance] including the passing score and provisions for contesting examination results;
- (3) Maintenance requirements for continued certification[,]; and [implementation]
- (4) Implementation and maintenance of a nurse aide registry.

(b) The director shall issue certificates to qualified nurse aides and shall be responsible for maintenance of an up-to-date nurse aide registry which shall include the names of certified nurse aides, their places of employment, and disciplinary actions. Disciplinary actions shall be limited to the placement of substantiated findings from the department of health into the nurse aide registry within ten working days of court settlement."

SECTION 4. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 5. This Act shall take effect upon its approval.

(Approved June 21, 1994.)