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## A BILL FOR AN ACT

RELATING TO PROFESSIONS AND OCCUPATIONS.

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

1           SECTION 1. Section 26-9, Hawaii Revised Statutes, is  
2 amended by amending subsection (c) to read as follows:  
3           "(c) The board of acupuncture, board of public  
4 accountancy, [~~board of barbering and cosmetology,~~] boxing  
5 commission, board of chiropractic examiners, contractors license  
6 board, board of dental examiners, board of electricians and  
7 plumbers, elevator mechanics licensing board, board of  
8 professional engineers, architects, surveyors, and landscape  
9 architects, board of massage therapy, Hawaii medical board,  
10 motor vehicle industry licensing board, motor vehicle repair  
11 industry board, board of naturopathic medicine, board of  
12 nursing, board of examiners in optometry, pest control board,  
13 board of pharmacy, board of physical therapy, board of  
14 psychology, board of private detectives and guards, real estate  
15 commission, board of veterinary examiners, board of speech  
16 pathology and audiology, and any board, commission, program, or  
17 entity created pursuant to or specified by statute in  
18 furtherance of the purpose of this section including but not



1 limited to section 26H-4, or chapters 484, 514A, 514B, and 514E  
2 shall be placed within the department of commerce and consumer  
3 affairs for administrative purposes."

4 SECTION 2. Section 92-28, Hawaii Revised Statutes, is  
5 amended to read as follows:

6 "§92-28 State service fees; increase or decrease of. Any  
7 law to the contrary notwithstanding, the fees or other nontax  
8 revenues assessed or charged by any board, commission, or other  
9 governmental agency may be increased or decreased by the body in  
10 an amount not to exceed fifty per cent of the statutorily  
11 assessed fee or nontax revenue, to maintain a reasonable  
12 relation between the revenues derived from such fee or nontax  
13 revenue and the cost or value of services rendered,  
14 comparability among fees imposed by the State, or any other  
15 purpose which it may deem necessary and reasonable; provided  
16 that:

- 17 (1) The authority to increase or decrease fees or nontax  
18 revenues shall be subject to the approval of the  
19 governor and extend only to the following: chapters  
20 36, 92, 94, 142, 144, 145, 147, 150, 171, 188, 189,  
21 231, 269, 271, 321, 338, 373, 412, 414, 414D, 415A,  
22 417E, 419, 421, 421C, 421H, 421I, 425, 425E, 428, 431,



1 436E, 437, 437B, 438, 439, 440, 441, 442, 443B, 444,  
2 447, 448, 448E, [~~448F,~~] 448H, [~~451A, 451J,~~] 452, 453,  
3 453D, 454, 455, 456, 457, 457A, 457B, [~~457G, 458,~~]  
4 459, 460J, 461, 461J, 462A, 463, 463E, 464, 465, 466,  
5 466K, 467, 467E, 468E, 468L, 468M, 469, 471, 482,  
6 482E, 484, 485A, 501, 502, 505, 514A, 514B, 514E, 572,  
7 574, and 846 (part II);

8 (2) The authority to increase or decrease fees or nontax  
9 revenues under the chapters listed in paragraph (1)  
10 that are established by the department of commerce and  
11 consumer affairs shall apply to fees or nontax  
12 revenues established by statute or rule;

13 (3) The authority to increase or decrease fees or nontax  
14 revenues established by the University of Hawaii under  
15 chapter 304A shall be subject to the approval of the  
16 board of regents; provided that the board's approval  
17 of any increase or decrease in tuition for regular  
18 credit courses shall be preceded by an open public  
19 meeting held during or prior to the semester preceding  
20 the semester to which the tuition applies;

21 (4) This section shall not apply to judicial fees as may  
22 be set by any chapter cited in this section;



1           (5) The authority to increase or decrease fees or nontax  
2           revenues pursuant to this section shall be exempt from  
3           the public notice and public hearing requirements of  
4           chapter 91; and

5           (6) Fees for copies of proposed and final rules and public  
6           notices of proposed rulemaking actions under chapter  
7           91 shall not exceed 10 cents a page, as required by  
8           section 91-2.5."

9           SECTION 3. Section 323D-2, Hawaii Revised Statutes, is  
10          amended by amending the definition of "health care provider" to  
11          read as follows:

12          "Health care provider" means a health care facility,  
13          physician, dentist licensed under chapter 448, chiropractor  
14          licensed under chapter 442, optometrist licensed under chapter  
15          459, podiatrist licensed under chapter 463E, psychologist  
16          licensed under chapter 465, occupational therapist [~~subject to~~  
17          ~~chapter 457G~~], and physical therapist licensed under chapter  
18          461J."

19          SECTION 4. Section 386-1, Hawaii Revised Statutes, is  
20          amended by amending the definition of "medical care", "medical  
21          services", or medical supplies" to read as follows:



1            "Medical care", "medical services", or "medical supplies"  
2 means every type of care, treatment, surgery, hospitalization,  
3 attendance, service, and supplies as the nature of the work  
4 injury requires, and includes such care, services, and supplies  
5 rendered or furnished by a licensed or certified physician,  
6 dispensing optician, physical therapist, physical therapist  
7 assistant as recognized pursuant to section 461J-3(e), nurse,  
8 advanced practice registered nurse as recognized pursuant to  
9 chapter 457, occupational therapist, certified occupational  
10 therapy assistant [~~as recognized pursuant to chapter 457G~~], or  
11 licensed massage therapist as recognized pursuant to chapter  
12 452."

13            SECTION 5. Section 431:10C-308.7, Hawaii Revised Statutes,  
14 is amended by amending subsection (g) to read as follows:

15            "(g) For the purposes of this section, the term "health  
16 care provider" means any person who is licensed to provide  
17 health care services pursuant to chapters 436E, 442, 448, 452,  
18 453, 455, [~~457G~~] 459, 461J, 463E, and 465."

19            SECTION 6. Section 431M-1, Hawaii Revised Statutes, is  
20 amended by amending the definition of "marriage and family  
21 therapist" to read as follows:



1            "Marriage and family therapist" means a person [~~licensed~~  
2 ~~in marriage and family therapy practice pursuant to chapter~~  
3 ~~451J.~~] who applies psychotherapeutic and family systems theories  
4 and techniques in the delivery of services to individuals,  
5 couples, or families in order to diagnose and treat mental,  
6 emotional, and nervous disorders, whether these are behavioral,  
7 cognitive, or affective, within the context of the individual's  
8 relationships."

9            SECTION 7. Section 438-5, Hawaii Revised Statutes, is  
10 amended as follows:

11            1. By amending the title to read as follows:

12            "~~§438-5 Powers and duties of the [board.]~~ director."

13            2. By amending subsection (a) to read as follows:

14            "(a) In addition to any other powers and duties authorized  
15 by law, the [~~board~~] director may give examinations for the  
16 issuance of licenses to practice barbering and cosmetology;  
17 issue apprentice permits or temporary permits; grant, revoke, or  
18 suspend licenses, apprentice permits, or temporary permits; and  
19 establish, subject to chapter 91 and with the approval of the  
20 governor [~~and the director~~], rules governing the practice of  
21 barbering and cosmetology that shall have the force and effect  
22 of law."



1           3. By amending subsection (c) to read as follows:

2           "(c) Any investigation, inquiry, or hearing which the  
3   ~~[beard]~~ director is empowered by law to hold or undertake may be  
4 held or undertaken by or before ~~[any member or members of the~~  
5 ~~board or]~~ an appointed hearings officer and the finding or order  
6 of that ~~[member, members, or]~~ hearings officer shall be deemed  
7 to be the finding or order of the ~~[beard]~~ director when approved  
8 and confirmed by ~~[it.]~~ the director."

9           SECTION 8. Section 459-2, Hawaii Revised Statutes, is  
10 amended to read as follows:

11           "**§459-2 Optometry; unauthorized practice, unlawful.** It  
12 shall be unlawful for any person to practice optometry or to  
13 append the letters "O.D." or any other optometric degree to a  
14 person's name with the intent thereby to imply that the  
15 individual is a practitioner of optometry, without first  
16 securing and holding an unrevoked and unsuspended license under  
17 and as provided in this chapter. This chapter shall not apply  
18 to, or prohibit, a duly licensed physician from practicing  
19 optometry as in this chapter defined, nor shall it prohibit a  
20 duly licensed physician or optometrist from filling  
21 prescriptions or orders, nor shall it prohibit the replacement,  
22 duplication, or repair of ophthalmic lenses, contact lenses,



1 frames, or fittings thereof, by persons qualified to write or  
2 fill prescriptions or orders under this chapter, nor shall it  
3 [~~prohibit or prevent~~] apply to any dispensing optician [~~licensed~~  
4 ~~under chapter 458 from performing the activities authorized by~~  
5 ~~the license~~], nor shall it apply to optometric service  
6 corporations formed for the primary purpose of contracting with  
7 individuals, groups of individuals, and corporations for  
8 defraying or assuming the cost of services of optometrists and  
9 of contracting on behalf of optometrists to furnish services as  
10 provided in chapter 424.

11 An "ophthalmic lens" within the meaning of this chapter  
12 means any spectacle lens which has a spherical, cylindrical, or  
13 prismatic power or value, and is ground pursuant to a  
14 prescription."

15 SECTION 9. Section 438-1, Hawaii Revised Statutes, is  
16 amended by repealing the definition of "board".

17 [~~"Board" means the board of barbering and cosmetology as~~  
18 ~~established pursuant to sections 438-3, 438-5, and 438-6."]~~

19 SECTION 10. Section 438-3, Hawaii Revised Statutes, is  
20 repealed.

21 [~~§438-3 Board of barbering and cosmetology. (a) There~~  
22 ~~shall be a state board of barbering and cosmetology consisting~~



1 ~~of seven members who shall be appointed and may be removed by~~  
2 ~~the governor. The members shall be residents of the State, of~~  
3 ~~which.~~

4 ~~(1) Two members shall be barbers licensed under chapter~~  
5 ~~438 who have been licensed to practice for at least~~  
6 ~~five years and have been actively and continuously~~  
7 ~~engaged as licensees for that period;~~

8 ~~(2) Two members shall be beauty operators licensed under~~  
9 ~~chapter 439, who have been licensed to practice for at~~  
10 ~~least five years and have been actively and~~  
11 ~~continuously engaged as licensees for that period; and~~

12 ~~(3) Three shall be public members.~~

13 ~~Each member shall serve for a term of four years, and until the~~  
14 ~~member's successor is appointed and qualified.~~

15 ~~(b) Board members affiliated with any school teaching any~~  
16 ~~of the classified occupations shall disclose that affiliation~~  
17 ~~and at all times shall adhere to chapter 84 and the~~  
18 ~~interpretations of that chapter by the state ethics~~  
19 ~~commission." ]~~

20 SECTION 11. Section 439-1, Hawaii Revised Statutes, is  
21 amended by repealing the definition of "board".



1       ~~["Board" means the board of barbering and cosmetology~~  
2 ~~pursuant to sections 438-3, 438-5 and 438-6."]~~

3       SECTION 12. Section 468E-2, Hawaii Revised Statutes, is  
4 amended by repealing the definition of "board".

5       ~~["Board" means the state board of speech pathology and~~  
6 ~~audiology, established under section 468E-6."]~~

7       SECTION 13. Section 468E-6, Hawaii Revised Statutes, is  
8 repealed.

9       ~~["~~468E-6 Board of speech pathology and audiology.~~ (a)~~  
10 ~~There is hereby established within the department of commerce~~  
11 ~~and consumer affairs a state board of speech pathology and~~  
12 ~~audiology consisting of seven members.~~

13       ~~(b) The membership of the board shall include two speech~~  
14 ~~pathologists, two audiologists, and three public members, one of~~  
15 ~~whom shall be licensed to practice medicine in the State and~~  
16 ~~hold a certificate of qualification from the American Board of~~  
17 ~~Otorhinolaryngology. Appointees shall be fully licensed speech~~  
18 ~~pathologists or audiologists.~~

19       ~~All members of the board shall be residents of the State.~~

20       ~~(c) Members shall serve for a term of three years. Terms~~  
21 ~~shall begin on the first day of the fiscal year and end on the~~  
22 ~~last day of the fiscal year.~~



1       ~~(d) Four members of the board shall constitute a quorum~~  
2 ~~for all purposes, but in no instance shall a meeting of the two~~  
3 ~~speech pathologist members and two audiologist members alone be~~  
4 ~~considered a quorum." ]~~

5       SECTION 14. Chapters 448F, 451A, 451J, 457G, 458, and  
6 481E, Hawaii Revised Statutes, are repealed.

7       SECTION 15. All rights, powers, functions, and duties of:

8       (1) The board of barbering and cosmetology under chapters  
9           438 and 439, Hawaii Revised Statutes; and

10       (2) The board of speech pathology and audiology under  
11           chapter 468E, Hawaii Revised Statutes;

12 are transferred to the department of commerce and consumer  
13 affairs.

14       SECTION 16. All appropriations, records, equipment,  
15 machines, files, supplies, contracts, books, papers, documents,  
16 maps, and other personal property heretofore made, used,  
17 acquired, or held by:

18       (1) The board of barbering and cosmetology; and

19       (2) The board of speech pathology and audiology;

20 relating to the functions transferred to the department of  
21 commerce and consumer affairs shall be transferred with the  
22 functions to which they relate.



1 SECTION 17. All rules, policies, procedures, guidelines,  
2 and other material adopted or developed by:

3 (1) The board of barbering and cosmetology; and

4 (2) The board of speech pathology and audiology;

5 to implement provisions of the Hawaii Revised Statutes that are  
6 made applicable to the department of commerce and consumer  
7 affairs by this Act, shall remain in full force and effect until  
8 amended or repealed by the department of commerce and consumer  
9 affairs, pursuant to chapter 91, Hawaii Revised Statutes.

10 In the interim, every reference to the board of barbering  
11 or cosmetology or the board of speech pathology and audiology in  
12 those respective rules, policies, procedures, guidelines, and  
13 other material is amended to refer to the department of commerce  
14 and consumer affairs or the director of commerce and consumer  
15 affairs, as the case may be and as the context requires.

16 SECTION 18. (a) All references to the "board of barbering  
17 and cosmetology", or "board", or similar terms as the case may  
18 be in chapters 438 and 439, Hawaii Revised Statutes, shall be  
19 amended to "department of commerce and consumer affairs",  
20 "department", "director of commerce and consumer affairs",  
21 "director", or similar terms, as the case may be and as the  
22 context requires.



1 (b) All references to the "board of speech pathology and  
2 audiology", or "board", or similar terms as the case may be in  
3 chapter 468E, Hawaii Revised Statutes, shall be amended to  
4 "department of commerce and consumer affairs", "department",  
5 "director of commerce and consumer affairs", "director", or  
6 similar terms, as the case may be and as the context requires.

7 SECTION 19. Statutory material to be repealed is bracketed  
8 and stricken. New statutory material is underscored.

9 SECTION 20. This Act shall take effect upon its approval;  
10 provided that sections 1, 7, 9, 10, 11, 12, 13, 15, 16, 17, and  
11 18 of this Act shall take effect on January 1, 2011.

12

INTRODUCED BY: \_\_\_\_\_



**Report Title:**

Professions and Occupations; Regulatory Boards and Programs;  
Repeal

**Description:**

Repeals the regulatory programs for marriage and family therapists, dispensing opticians, occupational therapists, athlete agents, hearing aid dealers and fitters, and electrologists. Replaces the regulatory boards for Barbering and Cosmetology, and Speech Pathologists and Audiologists, with the Department of Commerce and Consumer Affairs.

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