



GOV. MSG. NO. 1198

EXECUTIVE CHAMBERS
HONOLULU

DAVID Y. IGE
GOVERNOR

June 21, 2016

The Honorable Ronald D. Kouchi,
President
and Members of the Senate
Twenty-Eighth State Legislature
State Capitol, Room 409
Honolulu, Hawai'i 96813

The Honorable Joseph M. Souki,
Speaker and Members of the
House of Representatives
Twenty-Eighth State Legislature
State Capitol, Room 431
Honolulu, Hawai'i 96813

Dear President Kouchi, Speaker Souki, and Members of the Legislature:

This is to inform you that on June 21, 2016, the following bill was signed into law:

HB1756 HD3 SD2 CD1

RELATING TO NURSING
ACT 097 (16)

Sincerely,

A handwritten signature in black ink that reads "David Y. Ige".

DAVID Y. IGE
Governor, State of Hawai'i

Approved by the Governor

on JUN 21 2016

HOUSE OF REPRESENTATIVES
TWENTY-EIGHTH LEGISLATURE, 2016
STATE OF HAWAII

ORIGINAL

ACT 097
H.B. NO.

1756
H.D. 3
S.D. 2
C.D. 1

A BILL FOR AN ACT

RELATING TO NURSING.

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

1 SECTION 1. The legislature finds there is a need to
2 protect public safety by ensuring that licensed nurses are safe
3 to practice and care for patients. While nearly all
4 jurisdictions require applicants for nurse licensure to self-
5 report any criminal history upon application for licensure, data
6 reflects that many nurses with criminal histories fail to do so.
7 According to information published by the National Council of
8 State Boards of Nursing, there may be criminal history within
9 the background of an applicant that could violate public trust
10 and jeopardize the safety of patients.

11 The legislature further finds that the Council of State
12 Governments recommends that each state work with its board of
13 nursing to develop plans to conduct comprehensive federal and
14 state criminal background checks as part of nurse licensure
15 protocol. Of the fifty-five boards of nursing nationwide,
16 currently Hawaii is one of only twelve states that do not
17 conduct federal and state criminal background checks. The
18 legislature finds that boards of nursing, employers, and other



1 stakeholders need criminal history information to ensure that a
2 nurse is safe and unlikely to harm patients.

3 Accordingly, the purpose of this Act is to:

4 (1) Require all nurse licensure applicants, beginning with
5 the July 1, 2017, licensing biennium, and all nurse
6 license renewal and reactivation applicants, beginning
7 with the July 1, 2019, licensing biennium, to comply
8 with criminal history record checks; and

9 (2) Authorize the state board of nursing to:

10 (A) Reactivate licenses and conduct investigations of
11 applicants; and

12 (B) Request, beginning July 1, 2017, criminal history
13 records of qualified applicants and request, no
14 later than July 1, 2023, criminal history records
15 required for licensees who were issued licenses
16 prior to July 1, 2017.

17 SECTION 2. Section 457-5, Hawaii Revised Statutes, is
18 amended by amending subsection (a) to read as follows:

19 "(a) In addition to any other powers and duties authorized
20 by law, the board may:



- 1 (1) Adopt, amend, or repeal rules, pursuant to chapter 91,
2 not inconsistent with the law, as may be necessary to
3 enable it to carry into effect this chapter, including
4 the definition of the scope of practice of nursing and
5 the delegation of nursing tasks based upon
6 professional nursing standards, which include but are
7 not limited to the standards set forth by national
8 certifying bodies recognized by the board;
- 9 (2) Prescribe standards for preparing persons for
10 licensure as practical nurses, registered nurses, and
11 advanced practice registered nurses under this
12 chapter;
- 13 (3) Conduct surveys of educational programs as it may deem
14 necessary and practical;
- 15 (4) Approve educational programs that meet the
16 requirements of this chapter and the rules of the
17 board;
- 18 (5) Deny or withdraw approval of educational programs for
19 failure to meet or maintain the standards prescribed
20 in this chapter;



1 (6) License qualified applicants by examination or
2 endorsement, including advanced practice registered
3 nurses, and renew, reinstate, reactivate, and restore
4 licenses[+] and shall conduct an investigation of the
5 qualified applicant's background, character,
6 competency, and integrity, as the board deems
7 appropriate. The board shall:

8 (A) Request, beginning July 1, 2017, the criminal
9 history records of qualified applicants, in
10 accordance with section 846-2.7; and

11 (B) Request the criminal history records, pursuant to
12 section 846-2.7, of licensees who were issued
13 licenses by the board prior to July 1, 2017;
14 provided that the board shall request criminal history
15 records under this paragraph not less than once for
16 each individual qualified applicant or licensee;
17 provided further that all requests for criminal
18 history records required for licensees issued a
19 license by the board prior to July 1, 2017, shall be
20 made by the board no later than July 1, 2023. The
21 Hawaii criminal justice data center shall provide the



1 information on request to the director of commerce and
2 consumer affairs;

3 (7) Conduct hearings upon request of a denied applicant or
4 upon charges calling for discipline of a licensee;

5 (8) Exercise the power to issue subpoenas, compel the
6 attendance of witnesses, and administer oaths to
7 persons giving testimony at hearings;

8 (9) Cause the prosecution of all persons violating this
9 chapter and incur necessary expenses therefor;

10 (10) Keep a record of all its proceedings;

11 (11) Provide consultation, conduct conferences, forums,
12 studies, and research on nursing education and
13 practice;

14 (12) Communicate with national organizations that promote
15 the improvement of the legal standards of practice of
16 nursing for the protection of public health, safety,
17 and welfare;

18 (13) Authorize the administration of examinations to
19 eligible applicants for licensure as registered nurses
20 or licensed practical nurses, or other examinations
21 required by the board as designated in its rules;



1 (14) Employ, contract, and cooperate, to the extent
 2 allowable by law, with any board-approved organization
 3 in the preparation and grading of an appropriate
 4 nationally uniform examination; provided the board
 5 shall retain sole discretion and responsibility for
 6 determining the standard of successful completion of
 7 such an examination. When such a national examination
 8 is used, access to questions and answers shall be
 9 restricted by the board; and

10 (15) Develop and adopt rules as necessary relating to the
 11 practice of nursing in telehealth."

12 SECTION 3. Section 457-7, Hawaii Revised Statutes, is
 13 amended by amending subsection (a) to read as follows:

14 "(a) An applicant for a license to practice nursing as a
 15 registered nurse shall submit [a]:

- 16 (1) An application on a form prescribed by the board;
- 17 (2) Beginning with the July 1, 2017, licensing biennium, a
 18 full set of electronic fingerprints for the purpose of
 19 obtaining federal and state criminal history record
 20 checks in accordance with section 846-2.7 directly to
 21 the Hawaii criminal justice data center for processing



1 with the Federal Bureau of Investigation. The
 2 applicant shall bear the cost of the fingerprint
 3 processing and the application shall not be considered
 4 complete until the results of the criminal history
 5 record check have been received by the board; and
 6 ~~[shall provide written]~~

7 (3) Written evidence that the applicant has completed a
 8 nursing program approved by the board."

9 SECTION 4. Section 457-8, Hawaii Revised Statutes, is
 10 amended by amending subsection (a) to read as follows:

11 "(a) An applicant for a license to practice nursing as a
 12 licensed practical nurse shall submit ~~[aa]~~;

13 (1) An application on a form prescribed by the board;

14 (2) Beginning with the July 1, 2017, licensing biennium, a
 15 full set of electronic fingerprints for the purpose of
 16 obtaining federal and state criminal history record
 17 checks in accordance with section 846-2.7 directly to
 18 the Hawaii criminal justice data center for processing
 19 with the Federal Bureau of Investigation. The
 20 applicant shall bear the cost of the fingerprint
 21 processing and the application shall not be considered



1 complete until the results of the criminal history
2 record check have been received by the board; and
3 ~~[shall provide written]~~

4 (3) Written evidence that the applicant has completed a
5 licensed practical nurse program, or its equivalent,
6 approved by the board, and holds a diploma or
7 certificate therefrom."

8 SECTION 5. Section 457-8.5, Hawaii Revised Statutes, is
9 amended by amending subsection (a) to read as follows:

10 "(a) The board shall grant an advanced practice registered
11 nurse license to a nurse who has:

- 12 (1) A current, unencumbered license as a registered nurse
13 in this State;
- 14 (2) An unencumbered license as a registered nurse in all
15 other states in which the nurse has a current and
16 active license;
- 17 (3) An unencumbered license as an advanced practice
18 registered nurse or similar designation in all other
19 states in which the nurse has a current and active
20 license as an advanced practice registered nurse;



- 1 (4) Completed an accredited graduate-level education
2 program preparing the nurse for one of the four
3 recognized advanced practice registered nurse roles;
- 4 (5) A current, unencumbered certification of having passed
5 a national certification examination that measures
6 role and population-focused competencies and is
7 recognized by the board;
- 8 (6) Maintained continued competencies through
9 recertification in role and population-focused
10 competencies through a national certification program
11 recognized by the board;
- 12 (7) Acquired advanced clinical knowledge and skills
13 preparing the nurse to provide direct care to patients
14 through a significant educational and practical
15 concentration on the direct care of patients;
- 16 (8) Demonstrated a greater breadth of knowledge, a greater
17 synthesis of data, greater complexity of skills and
18 interventions, and greater role autonomy than
19 demonstrated by a registered nurse;
- 20 (9) Been educationally prepared to assume responsibility
21 and accountability for health promotion and

- 1 maintenance and to assess, diagnose, and manage
2 patient problems through the use and prescription of
3 pharmacologic and non-pharmacologic interventions;
- 4 (10) Acquired clinical experience of sufficient depth and
5 breadth to reflect the intended license; ~~and~~
- 6 (11) Beginning with the July 1, 2017, licensing biennium,
7 submitted a full set of electronic fingerprints for
8 the purpose of obtaining federal and state criminal
9 history record checks in accordance with section 846-
10 2.7 directly to the Hawaii criminal justice data
11 center for processing with the Federal Bureau of
12 Investigation. The applicant shall bear the cost of
13 the fingerprint processing and the application shall
14 not be considered complete until the results of the
15 criminal history record check have been received by
16 the board; and
- 17 ~~[(11)]~~ (12) Paid the appropriate fees."

18 SECTION 6. Section 457-9, Hawaii Revised Statutes, is
19 amended by amending subsections (a) and (b) to read as follows:

20 "(a) The license of every person licensed or granted
21 prescriptive authority shall expire on June 30 of every odd-

1 numbered year and shall be renewed biennially, except as
2 provided in this section. Biennially in each odd-numbered year,
3 the board shall make available an application for renewal of
4 license before the deadline set forth by the board to every
5 person to whom a license was issued or renewed during the
6 biennium. The applicant shall complete the application and
7 submit it to the board with a renewal fee, and shall also
8 submit, beginning with the July 1, 2019, licensing biennium, a
9 full set of electronic fingerprints for the purpose of obtaining
10 federal and state criminal history record checks in accordance
11 with section 846-2.7 directly to the Hawaii criminal justice
12 data center for processing with the Federal Bureau of
13 Investigation. The applicant shall bear the cost of the
14 fingerprint processing and the application shall not be
15 considered complete until the results of the criminal history
16 record check has been received by the board; and all required
17 documents on or before the deadline set by the board. The
18 applicant shall provide documents from proper agencies or
19 parties of any criminal conviction or any disciplinary action
20 taken or pending in this State or any other state in the United
21 States or any territory or possession under the jurisdiction of



1 the United States within the two years prior to application for
2 renewal of license. Upon receipt of the application and fee,
3 the board shall verify the accuracy of the application and issue
4 to the applicant a certificate of renewal for the biennium
5 expiring two years hence on the deadline set by the board. The
6 renewal shall render the holder thereof a legal practitioner of
7 nursing for the period stated on the renewal form.

8 (b) Any licensee who fails to renew a license as provided
9 in subsection (a) but continues to practice shall be considered
10 an illegal practitioner and shall be subject to the penalties
11 provided for violations of this chapter. The failure to timely
12 renew a license, the failure to pay all applicable fees, the
13 dishonoring of any check upon first deposit, or the failure to
14 comply with any other requirement provided by law shall cause
15 the license to be automatically forfeited; provided that the
16 person's license may be restored by the board within two years
17 after the date of forfeiture upon compliance with the licensing
18 renewal fees, penalty fees, and compliance resolution fund fees.

19 A nurse who does not intend to practice nursing in the
20 State and elects to be placed on inactive status shall so
21 indicate in writing during the license renewal period or by so



1 indicating on the license renewal application, and paying
2 inactivation and all appropriate fees. Should the nurse wish to
3 resume nursing at some future time, the nurse shall notify the
4 board in writing and remit the reactivation and renewal fees
5 ~~[and]~~; submit an application form as provided in subsection
6 (a) [-]; and beginning with the July 1, 2019, licensing biennium,
7 submit a full set of electronic fingerprints for the purpose of
8 obtaining federal and state criminal history record checks in
9 accordance with section 846-2.7 directly to the Hawaii criminal
10 justice data center for processing with the Federal Bureau of
11 Investigation. The applicant shall bear the cost of the
12 fingerprint processing and the application shall not be
13 considered complete until the results of the criminal history
14 record check has been received by the board. A nurse who has
15 not actively practiced in this State or any other state in the
16 United States or any territory or possession under the
17 jurisdiction of the United States for more than five years may
18 be required by the board to submit proof of continued competency
19 by retaking and passing the licensing examination or
20 successfully completing appropriate continuing education
21 recognized by the board."

1 SECTION 7. Section 846-2.7, Hawaii Revised Statutes, is
2 amended by amending subsection (b) to read as follows:

3 "(b) Criminal history record checks may be conducted by:

4 (1) The department of health or its designee on operators
5 of adult foster homes for individuals with
6 developmental disabilities or developmental
7 disabilities domiciliary homes and their employees, as
8 provided by section 321-15.2;

9 (2) The department of health or its designee on
10 prospective employees, persons seeking to serve as
11 providers, or subcontractors in positions that place
12 them in direct contact with clients when providing
13 non-witnessed direct mental health or health care
14 services as provided by section 321-171.5;

15 (3) The department of health or its designee on all
16 applicants for licensure or certification for,
17 operators for, prospective employees, adult
18 volunteers, and all adults, except adults in care, at
19 health care facilities as defined in section 321-15.2;

20 (4) The department of education on employees, prospective
21 employees, and teacher trainees in any public school



- 1 in positions that necessitate close proximity to
2 children as provided by section 302A-601.5;
- 3 (5) The counties on employees and prospective employees
4 who may be in positions that place them in close
5 proximity to children in recreation or child care
6 programs and services;
- 7 (6) The county liquor commissions on applicants for liquor
8 licenses as provided by section 281-53.5;
- 9 (7) The county liquor commissions on employees and
10 prospective employees involved in liquor
11 administration, law enforcement, and liquor control
12 investigations;
- 13 (8) The department of human services on operators and
14 employees of child caring institutions, child placing
15 organizations, and foster boarding homes as provided
16 by section 346-17;
- 17 (9) The department of human services on prospective
18 adoptive parents as established under section
19 346-19.7;
- 20 (10) The department of human services on applicants to
21 operate child care facilities, prospective employees



- 1 of the applicant, and new employees of the provider
2 after registration or licensure as provided by section
3 346-154;
- 4 (11) The department of human services on persons exempt
5 pursuant to section 346-152 to be eligible to provide
6 child care and receive child care subsidies as
7 provided by section 346-152.5;
- 8 (12) The department of health on operators and employees of
9 home and community-based case management agencies and
10 operators and other adults, except for adults in care,
11 residing in community care foster family homes as
12 provided by section 321-15.2;
- 13 (13) The department of human services on staff members of
14 the Hawaii youth correctional facility as provided by
15 section 352-5.5;
- 16 (14) The department of human services on employees,
17 prospective employees, and volunteers of contracted
18 providers and subcontractors in positions that place
19 them in close proximity to youth when providing
20 services on behalf of the office or the Hawaii youth
21 correctional facility as provided by section 352D-4.3;



- 1 (15) The judiciary on employees and applicants at detention
2 and shelter facilities as provided by section 571-34;
- 3 (16) The department of public safety on employees and
4 prospective employees who are directly involved with
5 the treatment and care of persons committed to a
6 correctional facility or who possess police powers
7 including the power of arrest as provided by section
8 353C-5;
- 9 (17) The board of private detectives and guards on
10 applicants for private detective or private guard
11 licensure as provided by section 463-9;
- 12 (18) Private schools and designated organizations on
13 employees and prospective employees who may be in
14 positions that necessitate close proximity to
15 children; provided that private schools and designated
16 organizations receive only indications of the states
17 from which the national criminal history record
18 information was provided pursuant to section 302C-1;
- 19 (19) The public library system on employees and prospective
20 employees whose positions place them in close



- 1 proximity to children as provided by section
2 302A-601.5;
- 3 (20) The State or any of its branches, political
4 subdivisions, or agencies on applicants and employees
5 holding a position that has the same type of contact
6 with children, vulnerable adults, or persons committed
7 to a correctional facility as other public employees
8 who hold positions that are authorized by law to
9 require criminal history record checks as a condition
10 of employment as provided by section 78-2.7;
- 11 (21) The department of health on licensed adult day care
12 center operators, employees, new employees,
13 subcontracted service providers and their employees,
14 and adult volunteers as provided by section 321-15.2;
- 15 (22) The department of human services on purchase of
16 service contracted and subcontracted service providers
17 and their employees serving clients of the adult
18 protective and community services branch, as provided
19 by section 346-97;
- 20 (23) The department of human services on foster grandparent
21 program, senior companion program, and respite



- 1 companion program participants as provided by section
2 346-97;
- 3 (24) The department of human services on contracted and
4 subcontracted service providers and their current and
5 prospective employees that provide home and community-
6 based services under section 1915(c) of the Social
7 Security Act, title 42 United States Code section
8 1396n(c), or under any other applicable section or
9 sections of the Social Security Act for the purposes
10 of providing home and community-based services, as
11 provided by section 346-97;
- 12 (25) The department of commerce and consumer affairs on
13 proposed directors and executive officers of a bank,
14 savings bank, savings and loan association, trust
15 company, and depository financial services loan
16 company as provided by section 412:3-201;
- 17 (26) The department of commerce and consumer affairs on
18 proposed directors and executive officers of a
19 nondepository financial services loan company as
20 provided by section 412:3-301;



- 1 (27) The department of commerce and consumer affairs on the
2 original chartering applicants and proposed executive
3 officers of a credit union as provided by section
4 412:10-103;
- 5 (28) The department of commerce and consumer affairs on:
6 (A) Each principal of every non-corporate applicant
7 for a money transmitter license; and
8 (B) The executive officers, key shareholders, and
9 managers in charge of a money transmitter's
10 activities of every corporate applicant for a
11 money transmitter license,
12 as provided by sections 489D-9 and 489D-15;
- 13 (29) The department of commerce and consumer affairs on
14 applicants for licensure and persons licensed under
15 title 24;
- 16 (30) The Hawaii health systems corporation on:
17 (A) Employees;
18 (B) Applicants seeking employment;
19 (C) Current or prospective members of the corporation
20 board or regional system board; or



- 1 (D) Current or prospective volunteers, providers, or
- 2 contractors,
- 3 in any of the corporation's health facilities as
- 4 provided by section 323F-5.5;
- 5 (31) The department of commerce and consumer affairs on:
- 6 (A) An applicant for a mortgage loan originator
- 7 license; and
- 8 (B) Each control person, executive officer, director,
- 9 general partner, and manager of an applicant for
- 10 a mortgage loan originator company license,
- 11 as provided by chapter 454F;
- 12 (32) The state public charter school commission or public
- 13 charter schools on employees, teacher trainees,
- 14 prospective employees, and prospective teacher
- 15 trainees in any public charter school for any position
- 16 that places them in close proximity to children, as
- 17 provided in section 302D-33;
- 18 (33) The counties on prospective employees who work with
- 19 children, vulnerable adults, or senior citizens in
- 20 community-based programs;



- 1 (34) The counties on prospective employees for fire
2 department positions which involve contact with
3 children or vulnerable adults;
- 4 (35) The counties on prospective employees for emergency
5 medical services positions which involve contact with
6 children or vulnerable adults;
- 7 (36) The counties on prospective employees for emergency
8 management positions and community volunteers whose
9 responsibilities involve planning and executing
10 homeland security measures including viewing,
11 handling, and engaging in law enforcement or
12 classified meetings and assisting vulnerable citizens
13 during emergencies or crises;
- 14 (37) The State and counties on employees, prospective
15 employees, volunteers, and contractors whose position
16 responsibilities require unescorted access to secured
17 areas and equipment related to a traffic management
18 center;
- 19 (38) The State and counties on employees and prospective
20 employees whose positions involve the handling or use
21 of firearms for other than law enforcement purposes;



- 1 (39) The State and counties on current and prospective
2 systems analysts and others involved in an agency's
3 information technology operation whose position
4 responsibilities provide them with access to
5 proprietary, confidential, or sensitive information;
- 6 (40) The department of commerce and consumer affairs on
7 applicants for real estate appraiser licensure or
8 certification as provided by chapter 466K;
- 9 (41) The department of health or its designee on all
10 license applicants, licensees, employees, contractors,
11 and prospective employees of medical marijuana
12 dispensaries, and individuals permitted to enter and
13 remain in medical marijuana dispensary facilities as
14 provided under sections 329D-15(a)(4) and
15 329D-16(a)(3); [and]
- 16 (42) The department of commerce and consumer affairs on
17 applicants for nurse licensure or license renewal,
18 reactivation, or restoration as provided by sections
19 457-7, 457-8, 457-8.5, and 457-9; and



1 [~~(42)~~] (43) Any other organization, entity, or the State,
2 its branches, political subdivisions, or agencies as
3 may be authorized by state law."

4 SECTION 8. Statutory material to be repealed is bracketed
5 and stricken. New statutory material is underscored.

6 SECTION 9. This Act shall take effect on July 1, 2016.

APPROVED this 21 day of JUN , 2016



GOVERNOR OF THE STATE OF HAWAII

