
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, many nurses with a criminal history
9 violate public trust and jeopardize the safety of patients.

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

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

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

- 10 (1) Adopt, amend, or repeal rules, pursuant to chapter 91,
11 not inconsistent with the law, as may be necessary to
12 enable it to carry into effect this chapter, including
13 the definition of the scope of practice of nursing and
14 the delegation of nursing tasks based upon
15 professional nursing standards, which include but are
16 not limited to the standards set forth by national
17 certifying bodies recognized by the board;
- 18 (2) Prescribe standards for preparing persons for
19 licensure as practical nurses, registered nurses, and
20 advanced practice registered nurses under this
21 chapter;



- 1 (3) Conduct surveys of educational programs as it may deem
2 necessary and practical;
- 3 (4) Approve educational programs that meet the
4 requirements of this chapter and the rules of the
5 board;
- 6 (5) Deny or withdraw approval of educational programs for
7 failure to meet or maintain the standards prescribed
8 in this chapter;
- 9 (6) License qualified applicants by examination or
10 endorsement, including advanced practice registered
11 nurses, and renew, reinstate, and restore licenses [7].
12 The board shall conduct an investigation of the
13 applicant's background, character, competency, and
14 integrity as it deems appropriate, and shall request,
15 in accordance with section 846-2.7, criminal history
16 records of the applicant or licensee. The Hawaii
17 criminal justice data center shall provide such
18 information on request to the director of commerce and
19 consumer affairs;
- 20 (7) Conduct hearings upon request of a denied applicant or
21 upon charges calling for discipline of a licensee;



- 1 (8) Exercise the power to issue subpoenas, compel the
2 attendance of witnesses, and administer oaths to
3 persons giving testimony at hearings;
- 4 (9) Cause the prosecution of all persons violating this
5 chapter and incur necessary expenses therefor;
- 6 (10) Keep a record of all its proceedings;
- 7 (11) Provide consultation, conduct conferences, forums,
8 studies, and research on nursing education and
9 practice;
- 10 (12) Communicate with national organizations that promote
11 the improvement of the legal standards of practice of
12 nursing for the protection of public health, safety,
13 and welfare;
- 14 (13) Authorize the administration of examinations to
15 eligible applicants for licensure as registered nurses
16 or licensed practical nurses, or other examinations
17 required by the board as designated in its rules;
- 18 (14) Employ, contract, and cooperate, to the extent
19 allowable by law, with any board-approved organization
20 in the preparation and grading of an appropriate
21 nationally uniform examination; provided the board



1 shall retain sole discretion and responsibility for
2 determining the standard of successful completion of
3 such an examination. When such a national examination
4 is used, access to questions and answers shall be
5 restricted by the board; [~~and~~]

6 (15) Develop and adopt rules as necessary relating to the
7 practice of nursing in telehealth[~~-~~]; and

8 (16) Develop and adopt rules as necessary to implement the
9 criminal history record checks required by this
10 chapter."

11 SECTION 3. Section 457-7, Hawaii Revised Statutes, is
12 amended as follows:

13 1. By amending subsection (a) to read:

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

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

17 (2) A full set of electronic fingerprints for the purpose
18 of obtaining federal and state criminal history record
19 checks in accordance with section 846-2.7; and [~~shall~~
20 provide-written]



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

3 2. By amending subsection (c) to read:

4 "(c) The applicant applying for a license to practice as a
5 registered nurse by examination shall pay application,
6 examination, ~~[and]~~ reexamination, and criminal history record
7 check fees, if applicable, as prescribed by the board. Each
8 applicant who successfully passes the examination shall pay a
9 license fee. The applicant applying for a license to practice
10 as a registered nurse by endorsement shall pay application and
11 license fees."

12 SECTION 4. Section 457-8, Hawaii Revised Statutes, is
13 amended as follows:

14 1. By amending subsection (a) to read:

15 "(a) An applicant for a license to practice nursing as a
16 licensed practical nurse shall submit ~~[an]~~ :

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

18 (2) A full set of electronic fingerprints for the purpose
19 of obtaining federal and state criminal history record
20 checks in accordance with section 846-2.7; and ~~[shall~~
21 provide written]



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

5 2. By amending subsection (c) to read:

6 "(c) The applicant applying for a license to practice as a
7 licensed practical nurse by examination shall pay application,
8 examination, [~~and~~] reexamination, and criminal history record
9 check fees, if applicable, as prescribed by the board. Each
10 applicant who successfully passes the examination shall pay a
11 license fee. The applicant applying for a license to practice
12 as a licensed practical nurse by endorsement shall pay
13 application and license fees."

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

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

18 (1) A current, unencumbered license as a registered nurse
19 in this State;



- 1 (2) An unencumbered license as a registered nurse in all
2 other states in which the nurse has a current and
3 active license;
- 4 (3) An unencumbered license as an advanced practice
5 registered nurse or similar designation in all other
6 states in which the nurse has a current and active
7 license as an advanced practice registered nurse;
- 8 (4) Completed an accredited graduate-level education
9 program preparing the nurse for one of the four
10 recognized advanced practice registered nurse roles;
- 11 (5) A current, unencumbered certification of having passed
12 a national certification examination that measures
13 role and population-focused competencies and is
14 recognized by the board;
- 15 (6) Maintained continued competencies through
16 recertification in role and population-focused
17 competencies through a national certification program
18 recognized by the board;
- 19 (7) Acquired advanced clinical knowledge and skills
20 preparing the nurse to provide direct care to patients



- 1 through a significant educational and practical
2 concentration on the direct care of patients;
- 3 (8) Demonstrated a greater breadth of knowledge, a greater
4 synthesis of data, greater complexity of skills and
5 interventions, and greater role autonomy than
6 demonstrated by a registered nurse;
- 7 (9) Been educationally prepared to assume responsibility
8 and accountability for health promotion and
9 maintenance and to assess, diagnose, and manage
10 patient problems through the use and prescription of
11 pharmacologic and non-pharmacologic interventions;
- 12 (10) Acquired clinical experience of sufficient depth and
13 breadth to reflect the intended license; ~~and~~
- 14 (11) Submitted a full set of electronic fingerprints for
15 the purpose of obtaining federal and state criminal
16 history record checks in accordance with section 846-
17 2.7; and
- 18 ~~[(11)]~~ (12) Paid the appropriate fees."

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



1 "(a) The license of every person licensed or granted
2 prescriptive authority shall expire on June 30 of every odd-
3 numbered year and shall be renewed biennially, except as
4 provided in this section. Biennially in each odd-numbered year,
5 the board shall make available an application for renewal of
6 license before the deadline set forth by the board to every
7 person to whom a license was issued or renewed during the
8 biennium. The applicant shall complete the application and
9 submit it to the board with a renewal fee, a full set of
10 electronic fingerprints for the purpose of obtaining federal and
11 state criminal history record checks in accordance with section
12 846-2.7, and all required documents on or before the deadline
13 set by the board. The applicant shall provide documents from
14 proper agencies or parties of any criminal conviction or any
15 disciplinary action taken or pending in this State or any other
16 state in the United States or any territory or possession under
17 the jurisdiction of the United States within the two years prior
18 to application for renewal of license. Upon receipt of the
19 application and fee, the board shall verify the accuracy of the
20 application and issue to the applicant a certificate of renewal
21 for the biennium expiring two years hence on the deadline set by



1 the board. The renewal shall render the holder thereof a legal
2 practitioner of nursing for the period stated on the renewal
3 form.

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

15 A nurse who does not intend to practice nursing in the
16 State and elects to be placed on inactive status shall so
17 indicate in writing during the license renewal period or by so
18 indicating on the license renewal application, and paying
19 inactivation and all appropriate fees. Should the nurse wish to
20 resume nursing at some future time, the nurse shall notify the
21 board in writing and remit the reactivation and renewal fees



1 ~~[and]~~, submit an application form as provided in subsection
2 (a) ~~[-]~~, and submit a full set of electronic fingerprints for the
3 purpose of obtaining federal and state criminal history record
4 checks in accordance with section 846-2.7. A nurse who has not
5 actively practiced in this State or any other state in the
6 United States or any territory or possession under the
7 jurisdiction of the United States for more than five years may
8 be required by the board to submit proof of continued competency
9 by retaking and passing the licensing examination or
10 successfully completing appropriate continuing education
11 recognized by the board."

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

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

15 (1) The department of health or its designee on operators
16 of adult foster homes for individuals with
17 developmental disabilities or developmental
18 disabilities domiciliary homes and their employees, as
19 provided by section 321-15.2;

20 (2) The department of health or its designee on
21 prospective employees, persons seeking to serve as



1 providers, or subcontractors in positions that place
2 them in direct contact with clients when providing
3 non-witnessed direct mental health or health care
4 services as provided by section 321-171.5;

5 (3) The department of health or its designee on all
6 applicants for licensure or certification for,
7 operators for, prospective employees, adult
8 volunteers, and all adults, except adults in care, at
9 health care facilities as defined in section 321-15.2;

10 (4) The department of education on employees, prospective
11 employees, and teacher trainees in any public school
12 in positions that necessitate close proximity to
13 children as provided by section 302A-601.5;

14 (5) The counties on employees and prospective employees
15 who may be in positions that place them in close
16 proximity to children in recreation or child care
17 programs and services;

18 (6) The county liquor commissions on applicants for liquor
19 licenses as provided by section 281-53.5;

20 (7) The county liquor commissions on employees and
21 prospective employees involved in liquor



- 1 administration, law enforcement, and liquor control
2 investigations;
- 3 (8) The department of human services on operators and
4 employees of child caring institutions, child placing
5 organizations, and foster boarding homes as provided
6 by section 346-17;
- 7 (9) The department of human services on prospective
8 adoptive parents as established under section
9 346-19.7;
- 10 (10) The department of human services on applicants to
11 operate child care facilities, prospective employees
12 of the applicant, and new employees of the provider
13 after registration or licensure as provided by section
14 346-154;
- 15 (11) The department of human services on persons exempt
16 pursuant to section 346-152 to be eligible to provide
17 child care and receive child care subsidies as
18 provided by section 346-152.5;
- 19 (12) The department of health on operators and employees of
20 home and community-based case management agencies and
21 operators and other adults, except for adults in care,



1 residing in community care foster family homes as
2 provided by section 321-15.2;

3 (13) The department of human services on staff members of
4 the Hawaii youth correctional facility as provided by
5 section 352-5.5;

6 (14) The department of human services on employees,
7 prospective employees, and volunteers of contracted
8 providers and subcontractors in positions that place
9 them in close proximity to youth when providing
10 services on behalf of the office or the Hawaii youth
11 correctional facility as provided by section 352D-4.3;

12 (15) The judiciary on employees and applicants at detention
13 and shelter facilities as provided by section 571-34;

14 (16) The department of public safety on employees and
15 prospective employees who are directly involved with
16 the treatment and care of persons committed to a
17 correctional facility or who possess police powers
18 including the power of arrest as provided by section
19 353C-5;



- 1 (17) The board of private detectives and guards on
2 applicants for private detective or private guard
3 licensure as provided by section 463-9;
- 4 (18) Private schools and designated organizations on
5 employees and prospective employees who may be in
6 positions that necessitate close proximity to
7 children; provided that private schools and designated
8 organizations receive only indications of the states
9 from which the national criminal history record
10 information was provided pursuant to section 302C-1;
- 11 (19) The public library system on employees and prospective
12 employees whose positions place them in close
13 proximity to children as provided by section
14 302A-601.5;
- 15 (20) The State or any of its branches, political
16 subdivisions, or agencies on applicants and employees
17 holding a position that has the same type of contact
18 with children, vulnerable adults, or persons committed
19 to a correctional facility as other public employees
20 who hold positions that are authorized by law to



- 1 require criminal history record checks as a condition
2 of employment as provided by section 78-2.7;
- 3 (21) The department of health on licensed adult day care
4 center operators, employees, new employees,
5 subcontracted service providers and their employees,
6 and adult volunteers as provided by section 321-15.2;
- 7 (22) The department of human services on purchase of
8 service contracted and subcontracted service providers
9 and their employees serving clients of the adult
10 protective and community services branch, as provided
11 by section 346-97;
- 12 (23) The department of human services on foster grandparent
13 program, senior companion program, and respite
14 companion program participants as provided by section
15 346-97;
- 16 (24) The department of human services on contracted and
17 subcontracted service providers and their current and
18 prospective employees that provide home and community-
19 based services under section 1915(c) of the Social
20 Security Act, title 42 United States Code section
21 1396n(c), or under any other applicable section or



1 sections of the Social Security Act for the purposes
2 of providing home and community-based services, as
3 provided by section 346-97;

4 (25) The department of commerce and consumer affairs on
5 proposed directors and executive officers of a bank,
6 savings bank, savings and loan association, trust
7 company, and depository financial services loan
8 company as provided by section 412:3-201;

9 (26) The department of commerce and consumer affairs on
10 proposed directors and executive officers of a
11 nondepository financial services loan company as
12 provided by section 412:3-301;

13 (27) The department of commerce and consumer affairs on the
14 original chartering applicants and proposed executive
15 officers of a credit union as provided by section
16 412:10-103;

17 (28) The department of commerce and consumer affairs on:
18 (A) Each principal of every non-corporate applicant
19 for a money transmitter license; and
20 (B) The executive officers, key shareholders, and
21 managers in charge of a money transmitter's



- 1 activities of every corporate applicant for a
2 money transmitter license,
3 as provided by sections 489D-9 and 489D-15;
- 4 (29) The department of commerce and consumer affairs on
5 applicants for licensure and persons licensed under
6 title 24;
- 7 (30) The Hawaii health systems corporation on:
- 8 (A) Employees;
- 9 (B) Applicants seeking employment;
- 10 (C) Current or prospective members of the corporation
11 board or regional system board; or
- 12 (D) Current or prospective volunteers, providers, or
13 contractors,
14 in any of the corporation's health facilities as
15 provided by section 323F-5.5;
- 16 (31) The department of commerce and consumer affairs on:
- 17 (A) An applicant for a mortgage loan originator
18 license; and
- 19 (B) Each control person, executive officer, director,
20 general partner, and manager of an applicant for
21 a mortgage loan originator company license,



1 as provided by chapter 454F;

2 (32) The state public charter school commission or public
3 charter schools on employees, teacher trainees,
4 prospective employees, and prospective teacher
5 trainees in any public charter school for any position
6 that places them in close proximity to children, as
7 provided in section 302D-33;

8 (33) The counties on prospective employees who work with
9 children, vulnerable adults, or senior citizens in
10 community-based programs;

11 (34) The counties on prospective employees for fire
12 department positions which involve contact with
13 children or vulnerable adults;

14 (35) The counties on prospective employees for emergency
15 medical services positions which involve contact with
16 children or vulnerable adults;

17 (36) The counties on prospective employees for emergency
18 management positions and community volunteers whose
19 responsibilities involve planning and executing
20 homeland security measures including viewing,
21 handling, and engaging in law enforcement or



- 1 classified meetings and assisting vulnerable citizens
2 during emergencies or crises;
- 3 (37) The State and counties on employees, prospective
4 employees, volunteers, and contractors whose position
5 responsibilities require unescorted access to secured
6 areas and equipment related to a traffic management
7 center;
- 8 (38) The State and counties on employees and prospective
9 employees whose positions involve the handling or use
10 of firearms for other than law enforcement purposes;
- 11 (39) The State and counties on current and prospective
12 systems analysts and others involved in an agency's
13 information technology operation whose position
14 responsibilities provide them with access to
15 proprietary, confidential, or sensitive information;
- 16 (40) The department of commerce and consumer affairs on
17 applicants for real estate appraiser licensure or
18 certification as provided by chapter 466K;
- 19 (41) The department of health or its designee on all
20 license applicants, licensees, employees, contractors,
21 and prospective employees of medical marijuana



1 dispensaries, and individuals permitted to enter and
 2 remain in medical marijuana dispensary facilities as
 3 provided under sections 329D-15(a)(4) and
 4 329D-16(a)(3); [and]

5 (42) The department of commerce and consumer affairs on
 6 applicants for nurse licensure, renewal, reactivation,
 7 or restoration as provided by sections 457-5, 457-7,
 8 457-8, 457-8.5, and 457-9; and

9 ~~[(42)]~~ (43) Any other organization, entity, or the State,
 10 its branches, political subdivisions, or agencies as
 11 may be authorized by state law."

12 SECTION 8. Statutory material to be repealed is bracketed
 13 and stricken. New statutory material is underscored.

14 SECTION 9. This Act shall take effect on July 1, 2070;
 15 provided that application of criminal history record check
 16 requirements pursuant to this Act shall commence with the
 17 renewal licensing biennium that commences in 2019.



Report Title:

Nursing; Licensure; Nurses; Criminal History Record Checks

Description:

Requires all applicants for nurse licensure, renewal, reactivation, or restoration to comply with state and federal criminal history record checks. Authorizes the Board of Nursing to develop and adopt rules to implement required criminal history record checks. (HB1756 HD3)

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

