

HAWAII MEDICAL BOARD
Professional and Vocational Licensing Division
Department of Commerce and Consumer Affairs
State of Hawaii

AGENDA

Date: February 13, 2025

Time: 1:00 p.m.

In-Person Meeting Location: Queen Liliuokalani Conference Room
HRH King Kalakaua Building
335 Merchant Street, First Floor
Honolulu, Hawaii 96813

Agenda: The agenda was posted to the State electronic calendar as required by Hawaii Revised Statutes (“HRS”) section 92-7(b).

Virtual

Participation: Virtual Videoconference Meeting – Zoom Meeting (use link below)

<https://dcca-hawaii-gov.zoom.us/j/89946447930?pwd=swaHXHjQvQEYnaUFODYS1jpSCvI5C1.1>

Phone: (669) 900-6833

Meeting ID: 899 4644 7930

Passcode: 277973

If you wish to submit written testimony on any agenda item, please email your testimony to medical@dcca.hawaii.gov or by hard copy mail to: Attn: Hawaii Medical Board, P.O. Box 3469, Honolulu, HI 96801. We request submission of testimony at least 24 hours prior to the meeting to ensure that it can be distributed to the Board members.

INTERNET ACCESS:

To view the meeting and provide live oral testimony, please use the link at the top of the agenda. You will be asked to enter your name. The Board requests that you enter your full name, but you may use a pseudonym or other identifier if you wish to remain anonymous. You will also be asked for an email address. You may fill in this field with any entry in an email format, e.g., *****@***mail.com.

Your microphone will be automatically muted. When the Chairperson asks for public testimony, you may click the Raise Hand button found on your Zoom screen to indicate that you wish to testify about that agenda item. The Chairperson will individually enable each testifier to unmute their microphone.

When recognized by the Chairperson, please unmute your microphone before speaking and mute your microphone after you finish speaking.

PHONE ACCESS:

If you cannot get internet access, you may get audio-only access by calling the Zoom Phone Number listed at the top on the agenda.

Upon dialing the number, you will be prompted to enter the Meeting ID which is also listed at the top of the agenda. After entering the Meeting ID, you will be asked to either enter your panelist number or wait to be admitted into the meeting. You will not have a panelist number. So, please wait until you are admitted into the meeting.

When the Chairperson asks for public testimony, you may indicate you want to testify by entering "*" and then "9" on your phone's keypad. After entering "*" and then "9", a voice prompt will let you know that the host of the meeting has been notified. When recognized by the Chairperson, you may unmute yourself by pressing "*" and then "6" on your phone. A voice prompt will let you know that you are unmuted. Once you are finished speaking, please enter "*" and then "6" again to mute yourself.

For both internet and phone access, when testifying, you will be asked to identify yourself and the organization, if any, that you represent. Each testifier will be limited to five minutes of testimony per agenda item.

If connection to the meeting is lost for more than 30 minutes, the meeting will be continued on a specified date and time. This information will be provided on the Board's website at <http://cca.hawaii.gov/pvl/boards/medical/board-meeting-schedule/>.

Instructions to attend State of Hawaii virtual board meetings may be found online at <https://cca.hawaii.gov/pvl/files/2020/08/State-of-Hawaii-Virtual-Board-Attendee-Instructions.pdf>

1. Call to Order
2. Approval of Minutes:
 - A. December 12, 2024, Executive Session Meeting Minutes
 - B. January 16, 2025, Open Session Meeting Minutes
 - C. January 16, 2025, Executive Session Meeting Minutes

The Board may enter into Executive Session to consult with the Board's attorney on questions and issues pertaining to the Board's powers, duties, privileges, immunities, and liabilities in accordance with HRS section 92-5(a)(4) to review the executive session minutes.

3. Applications for License/Certification:

The Board will enter into Executive Session pursuant to Hawaii Revised Statutes §§ 92-5(a)(1) and 92-5(a)(4) to consider and evaluate personal information relating to individuals applying for professional or vocational licenses cited in section 26-9 or both and to consult with the board's attorney on questions and issues pertaining to the board's powers, duties, privileges, immunities, and liabilities.

A. Applications:

(i) Physician (Permanent/Non-Endorsement):

- a. Anna Bowling, M.D.
- b. Amy Ellingson, M.D.
- c. Michael Maurska, D.O.,
- d. James John Teet, D.O.

B. Ratification List (See attached list)

- (i) February 13, 2025, Ratification List

4. 2025 Legislative Session

A. Legislation

See attached list of bills.

5. Board Member Orientation

A. Hawaii State Ethics Code – A Quick Guide for New Employees and Board/Commission Members.

The Board will review the Hawaii State Ethics document, "A Quick Guide for New Employees and Board/Commission Members".

B. Hawaii State Ethics Code – A quick Guide on Gifts

The Board will review the Hawaii State Ethics document, "A quick Guide on Gifts".

C. Administrative Boards Process

The Board will review the Administrative Boards Process.

6. Next Meeting: March 13, 2025
- Virtual Videoconference Meeting – Zoom Meeting
- and
- In-Person Meeting Location: Queen Liliuokalani Conference Room
HRH King Kalakaua Building
335 Merchant Street, First Floor
Honolulu, HI 96813

7. Adjournment

If you need an auxiliary aid/service or other accommodation due to a disability, contact Chelsea Fukunaga at (808) 586-2699, between the hours of 7:45 a.m. – 4:30 p.m. or by email at medical@dcca.hawaii.gov preferably by February 11, 2025, or as soon as possible. Requests made as early as possible have a greater likelihood of being fulfilled. Upon request, this notice is available in alternate/accessible formats.

02/03/2025

**Hawaii Medical Board
February 13, 2025, Ratification List**

AMD-1426-0	ART YURIEVICH FILITOVICH
AMD-1427-0	NATALIE K NGUYEN
AMD-1428-0	TONIA RENEE HUDSON
AMD-1429-0	CARRIE B MORRISON
AMD-1430-0	SASHA PRINCESS URE
AMD-1431-0	AMY E HEHRE
AMD-1426-0	ART YURIEVICH FILITOVICH
DOS-2659-0	MATTHEW A GOLDENBERG
DOS-2660-0	ERICA PEREZ
DOS-2661-0	SHAWN H WILSON
DOS-2662-0	CHRISTOPHER BORREGO
DOS-2663-0	EDSEL ANTONIO
DOS-2664-0	DANIEL S PASSERMAN
DOS-2665-0	MATTHEW RICHARD MALIVUK
DOS-2666-0	HENRY CHANG
DOS-2667-0	EMILY K HURST
DOS-2668-0	KRISTY B LINDER
DOS-2669-0	CHARLES F SINERI
DOS-2670-0	EDMUND T VU
DOS-2671-0	TARANG V PATEL
DOS-2672-0	JULIEANNE SEES
DOS-2673-0	KHA H P NGO
EMT-3451-0	CHRISTIAN JEDIDIAH YOUSLING
EMT-3452-0	MAXIMUS MARC MARREL
EMT-3453-0	VANESSA GABRIEL
EMTA-51-0	IBRAHIM EMIRALP BINGOL
EMTP-2501-0	NICHOLAS ADAM CORY
EMTP-2502-0	MARYSSA ANDREA DONAGHY
MD-24958-0	MICHAEL STEVEN ZBIEGIEN
MD-24959-0	GONZALO LAJE
MD-24960-0	JENNIFER NICOLE STONEKING
MD-24961-0	STUART SCOTT REMER
MD-24962-0	SHYLA M PENAROZA
MD-24963-0	VEENA JACOB KORAH
MD-24964-0	HARRY BERJ MATOSSIAN
MD-24965-0	CLETUS KOBIAH OPPONG
MD-24966-0	ANUJA TRIVEDI

**Hawaii Medical Board
February 13, 2025, Ratification List**

MD-24967-0	LISA NASON
MD-24968-0	STEPHEN MYHRE PAULSON
MD-24969-0	LAURA MORGAN BAYNE
MD-24970-0	HEATHER HAZEL WALSH
MD-24971-0	ANNE VICTORIA LEE
MD-24972-0	JOHN MICHAEL DIVERIS
MD-24973-0	DEVIN JAMES BUSTIN
MD-24974-0	REZA EMAMI
MD-24975-0	MEREDITH MCDERMOTT
MD-24976-0	JESSICA ANNE DUNCAN
MD-24977-0	CASTEL ALANIZ SANTANA
MD-24978-0	SUSAN MUMM FITZGERALD
MD-24979-0	CAROLINE PATRICIA CARNEY
MD-24980-0	KRISTINA SHANNON KING
MD-24981-0	ABDULLAH ALMEHBASH
MD-24982-0	DINA ABDELWAHAB ELHAMAHMI
MD-24983-0	RYAN PHASOUK
MD-24984-0	ABDELRAHMAN ABDELAZIZ
MD-24985-0	VINUTA MOHAN
MD-24986-0	ROBERTO BELLI
MD-24987-0	TIMOTHY WILLIAM WRIGHT
MD-24988-0	PAUL TUREK
MD-24989-0	JAMES LAWRENCE
MD-24990-0	JOHNATHAN LINDMAN
MD-24991-0	MICHELLE FORCIER
MD-24992-0	DIRK PERRITT
MD-24993-0	JILLIAN ANNE AHRENS
MD-24994-0	CHUKWUJEKWU OKPALAJI
MD-24995-0	TAEKWONDO JONOHN BYRD
MD-24996-0	LORI E SUMMERS
MD-24997-0	SHEILA ROSE BOYLE
MD-24998-0	NICHOLAS TRAVIS FERGUSON
MD-24999-0	ALEXYS BERMUDEZ
MD-25000-0	LORI LYN JOGAN
	KYLE MARTIN SACASAS
MD-25001-0	ALIMURUNG
MD-25002-0	CAROLYN DAVIS
MD-25003-0	KELLY A RHONE
MD-25004-0	JEFFREY LEE HARRIS
MD-25005-0	JIN HEE RA
MD-25006-0	GARY CRAIG MALLIS

**Hawaii Medical Board
February 13, 2025, Ratification List**

MD-25007-0	PHILLIP ULYANOVSKIY
MD-25008-0	MARY C REVOLINSKY
MD-25009-0	ZAHOORUL HASSAN
MD-25010-0	ELIZABETH R BIGELOW
MD-25011-0	BRIAN DEAN TOYOTA
MD-25012-0	NICOLAS L CUTTRISS
MD-25013-0	PRAJEET REDDY
MD-25014-0	DONALD EBERSOLE
MD-25015-0	ROBERT AMBROSE MARTIN
MD-25016-0	ANDREW D NICHOLSON
MD-25017-0	ARVIN JEREMY NGO TAN
MD-25018-0	BROOKS ALBERT BAHR
MD-25019-0	JEFFREY LOUIS GOULD
MD-25020-0	KEVIN HSU
MD-25021-0	ROY GORDON BRYAN
MD-25022-0	CONSTANTIN NZOUKIO CHIKANDO
MD-25023-0	TUAN THANH NGUYEN
MD-25024-0	LAILA CORDERO
MD-25025-0	ERIC TONG
MD-25026-0	THOMAS P TARSHIS
MD-25027-0	JOSEPH LEE MITCHELL
MD-25028-0	ANTHONY JOSEPH BUECKER
MD-25029-0	BRADLEY EUGENE CHATLIN
MD-25030-0	SHAILA GOWDA
MD-25031-0	LYE-CHING WONG
MD-25032-0	JOSE ALFONSO PIZARRO
MD-25033-0	MOTTSIN THOMAS
MD-25034-0	ANGIE HARSHAW HARRIS
MD-25035-0	KATRINA GORDON
MD-25036-0	THAO TRUONG PASCUAL
MD-25037-0	SOYONA RAFATJAH
MD-25038-0	PAIGE LATHAM
MD-25039-0	KENNETH ESE OTAH
MD-25040-0	MICHELE SARTORI
MD-25041-0	AISHAH YANSSANEH
MD-25042-0	GEORGE HADDAD
MD-25043-0	RAMON LEIMANAOKALANI RUIZ IV
MD-25044-0	BRANDON KOBAYASHI
MD-25045-0	LILY AWATIF HANNA
MD-25046-0	JOSHUA ADAM BEMPORAD
MD-25047-0	KAREN GALE PHILLIPS

**Hawaii Medical Board
February 13, 2025, Ratification List**

MD-25048-0	FILIP TURCER
MD-25049-0	JASON MARK BUCHWALD
MD-25050-0	CHRISTIN BARRY
MD-25051-0	KINJAL ANIL DESAI
MD-25052-0	CARRIE MARSALA
MD-25053-0	ROBERT MARION GORDON
MD-25054-0	JAMES SIMINSKI
MD-25055-0	NANDINI UMESH YADAV
MD-25056-0	ALEX MCKINLAY
MD-25057-0	BROOK ANNE CALTON
MD-25058-0	VINITA DHIR TANDON
MD-25059-0	CINDY T VUONG
MD-25060-0	THAI MINH PHAM
MD-25061-0	KIM MARIE CLABBERS
MD-25062-0	CORNELL VICTOR CALINESCU
MD-25063-0	AMIER AHMAD
MD-25064-0	ANKIT BHARATKUMAR UPADHYAY
MD-25065-0	SPENCER KIM MICHALKE
MD-25066-0	CLETE WORTHINGTON BARRICK
MD-25067-0	NEEL CHANDEL
MD-25068-0	MUHAMMAD AMIR KHAN
MD-25069-0	LAURIE JEAN MERCIER
MD-25070-0	LEONID VADIMOVICH KIM
MD-25071-0	ROBERT ROLAND BYERLY
MD-25072-0	KATHRYN ELISE PARRIS
MD-25073-0	LAKSHMI DEEPA REDDY YERRAM
MD-25074-0	DAVID LEBEC
MD-25075-0	IKSHVANKU AMRUTLAL BAROT
MD-25076-0	JOHNSON K LAY
MD-25077-0	TOCHI AJIWE
MD-25078-0	SANDIP THAKOR PATEL
MD-25079-0	DAVID SPOUGE
MD-25080-0	KATHRYN SHAW WILLIAMS
MD-25081-0	JIWON YOUM
MD-25082-0	COREY DEAN ANDERSON
MD-25083-0	CARLOS R ZAMORA
MD-25084-0	DAVID MICHAEL LARSON
MD-25085-0	SIMON YU-WAI CHE
MD-25086-0	ALAN DONG SHING CHAN LAHAINA KU'UMOMIMAKAMAE
MD-25087-0	ZOLLER WHITE

**Hawaii Medical Board
February 13, 2025, Ratification List**

MD-25088-0	CHRISTOPHER KODIAK ALVORD
MD-25089-0	BRIAN HYUNMIN LEE
MD-25090-0	LAUREN LAJOS
MD-25091-0	KRUPA REVANNA NATARAJ
MD-25092-0	SWETHA SUDHAKAR BEKARA
MD-25093-0	JENELL RUTH DECKER
MD-25094-0	SHANNON MICHELE JENNINGS
MD-25095-0	ZHIPING LI
MD-25096-0	RYAN VEGA
MD-25097-0	JASMIT SINGH MINHAS
MD-25098-0	MICHAEL DUSTIN NICOLAY
MD-25099-0	VIKAS JAIN
MD-25100-0	YVES-DANY ACCILIE
MD-25101-0	JAMES MCDOWELL DURANT
MD-25102-0	NATALIYA BOCHAROVA
MD-25103-0	CATHERINE ANN COMPITO
MD-25104-0	ANGIE MARIE REYNOLDS
MD-25105-0	CARLO ROBERTO LAZZARO
MD-25106-0	PATRICK CURTIS MAYOLO
MD-25107-0	GINA MOORE WILLIAMS
MD-25108-0	KATHARINE TYLER CLARK
MD-25109-0	KEITH KWOK MD
MD-25110-0	NICOLE BOBE CHONG
MD-25111-0	KELSEY KWONG
MD-25112-0	NARUT PRASITLUMKUM
MD-25113-0	DAVID PERES HERNANDEZ
MD-25114-0	ARTURO JOSE LARA LLERENA
MD-25115-0	PETER JAMES SWARR
MD-25116-0	KIRAN SAMINDLA
MD-25117-0	CRAIG TORK
MD-25118-0	MISTY YI TU
MD-25119-0	JOE DONOHUE-TORRES
MD-25120-0	JASON E ROGERS
MD-25121-0	SOPHIA GIANG
MD-25122-0	STACEY GUNN
MD-25123-0	EILEEN HU-WANG
MD-25124-0	NAUMAN WAHEED RASHID
MD-25125-0	ARIAN MICHEL NIKPOUR MD
MD-25126-0	MEGHAN M CRUTE
MD-25127-0	MOHAMMAD REZA MOVAHED
	SHARIAT PANAHI

**Hawaii Medical Board
February 13, 2025, Ratification List**

MD-25128-0	ALLEN SI WON OAK
MD-25129-0	ANDREW SUMARSONO
MD-25130-0	TITUS SAMUEL DAVID
MD-25131-0	AIKO MURAKAMI
MD-25132-0	VANDANA SETHI RAO OKSANA VIKTOROVNA
MD-25133-0	SHULZHENKO
MD-25134-0	NEHA VASHNEY
MD-25135-0	VINAY CHOPRA
MD-25136-0	MAZIE TSANG
MD-25137-0	MALUIKEAU NOAH TANG
MD-25138-0	KAIVALYA VYAS
MD-25139-0	VINCENT ANDREW DIAZ
MD-25140-0	LUKE PAINE SORRELL
MD-25141-0	CARI ELAINE MATTHEWS
MD-25142-0	MATTHEW ISAIAH EBIA
MD-25143-0	TU ANH LUONG
MD-25144-0	RYAN LUONG
MD-9004-0	ROBYN A HITCHCOCK
MD-9561-0	JOSEPH J CURRIER

HAWAII MEDICAL BOARD
Professional and Vocational Licensing Division
Department of Commerce and Consumer Affairs
State of Hawaii

MINUTES OF MEETING

Date: January 16, 2025

Time: 1:00 p.m.

In-Person Meeting Location: Queen Liliuokalani Conference Room
HRH King Kalakaua Building
335 Merchant Street, Third Floor
Honolulu, Hawaii 96813

Virtual Participation: Virtual Videoconference Meeting – Zoom Webinar

<https://dcca-hawaii.gov.zoom.us/j/89891215757?pwd=L0sneNI533DRClINKnH0OwEMeEMXRy.1>

Zoom Recoding Link: https://youtu.be/eFsAog-7_9s

Present: Danny M. Takanishi, M.D., Chairperson, Honolulu Member
Gary Belcher, Vice Chairperson, Public Member
Michael Jaffe, D.O., Honolulu, Osteopathic Member
Elizabeth “Lisa Ann” Ignacio, M.D., Maui Member
Wesley Mun, Public Member
Angela Pratt, M.D., Honolulu Member
Rebecca Sawai, M.D., Honolulu Member
Geri Young, M.D., Kauai Member
William Brian Hatten, D.O., Osteopathic Member
Shari J. Wong, Deputy Attorney General (“DAG”)
Chelsea Fukunaga, Executive Officer
Dawn Lee, Administrative Assistant
Johnny Li (Technical Support)

Excused: Andrew “Rick” Fong, M.D., Hawaii Member

Zoom Guests: May Weber
Raymon Nelson
James Teet
19043750584

In-Person Guest(s): No in-person guests.

Agenda: The agenda for this meeting was posted to the State electronic calendar as required by Hawaii Revised Statutes (“HRS”) section 92-7(b).

A short video was played to explain the meeting procedures and how members of the public could participate in the virtual meeting.

Call to Order: The meeting was called to order at 1:08 p.m., at which time quorum was established.

Chair Takanishi welcomed everyone to the meeting and proceeded with a roll call of the Board members. All Board members confirmed that they were present and alone.

Chair Takanishi asked if anyone from the public would like to provide oral testimony on this agenda item. There was none.

Approval of the December 12, 2024, Minutes: Mr. Belcher stated that there were several typographical and grammatical mistakes in the executive session meeting minutes. Mr. Belcher suggested that the approval of the executive session minutes be deferred until the February meeting.

It was moved by Dr. Young, seconded by Dr. Jaffe, and carried by a majority, with the exception of Chair Takanishi, who abstained from the discussion and vote on this matter, to approve the open session minutes and defer the executive session minutes of the December 12, 2024, meeting. The vote to approve the open session minutes and defer the executive session minutes are as follows:

Ayes: Mr. Belcher, Dr. Jaffe, Dr. Ignacio, Dr. Mun, Dr. Pratt, Dr. Sawai, Dr. Young, and C.

Abstentions: Chair Takanishi.

Chair Takanishi informed meeting attendees that applicants whose applications were on the agenda would be invited to join the executive session to provide their testimony.

Chair Takanishi asked if anyone from the public would like to provide oral testimony on this agenda item. There was none.

Applications for License/Certification:

A. Applications:

It was moved by Dr. Jaffe, seconded by Dr. Hatten, and unanimously carried to enter into executive session at 1:12 p.m., pursuant to HRS §92-5(a)(1), to consider and evaluate personal information relating to individuals applying for professional licenses cited in HRS §26-9 and, pursuant to HRS §92-5 (a)(4), to consult with the Board's attorney on questions and issues pertaining to the Board's powers, duties, privileges, immunities and liabilities. (Note: Board members and staff entered the Zoom Breakout Room).

Chair Takanishi proceeded with a roll call of the Board members in the Zoom Breakout Room. All members confirmed that they were present and alone.

(i) Physician (Permanent/Endorsement):

- a. James John Teet, D.O.

James John Teet, D.O. entered the Zoom Breakout Room at 1:31 p.m.

James John Teet, D.O. exited the Zoom Breakout Room at 1:33 p.m.

- b. Michael Maruska, D.O.
c. Ikshvanku Amrutlal Barot, M.D.
d. Raymon Kevin Nelson, M.D.

Raymon Kevin Nelson, M.D. entered the Zoom Breakout Room at 1:47 p.m.

Raymon Kevin Nelson, M.D. exited the Zoom Breakout Room at 1:52 p.m.

(ii) Physician (Permanent/Non-Endorsement):

- a. Johnson Kevin Lay, M.D.
b. Tochi Ajiwe, M.D.

It was moved by Dr. Sawai, seconded by Dr. Young, and unanimously carried to return to the open session meeting at 2:35 p.m. Board members and staff returned to the main Zoom meeting. All Board members confirmed that they were present and alone. Chair Takanishi asked if anyone from the public would like to provide oral testimony on this agenda item. There was none.

(i) Physician (Permanent/Endorsement):

- a. James John Teet, D.O.

After due review of the information received, Chair Takanishi stated that Dr. Teet's endorsement application did not meet the statutory criteria required for the endorsement pathway and was thus, not considered by the Board.

b. Michael Maruska, D.O.

After due review of the information received, Chair Takanishi stated that Dr. Maruska's endorsement application did not meet the statutory criteria required for the endorsement pathway and was thus, not considered by the Board.

d. Raymon Kevin Nelson, M.D.

After due review of the information received, Chair Takanishi stated that Dr. Nelson's endorsement application did not meet the statutory criteria required for the endorsement pathway and was thus, not considered by the Board.

c. Ikshvanku Amrutlal Barot, M.D.

After due consideration of the information received, it was moved by Dr. Sawai, seconded by Dr. Pratt, and unanimously carried to approve Dr. Barot's application for licensure.

(ii) Physician (Permanent/Non-Endorsement):

a. Johnson Kevin Lay, M.D.

After due consideration of the information received, it was moved by Chair Takanishi, seconded by Md. Hatten, and unanimously carried to approve Dr. Lay's application for licensure.

b. Tochi Ajiwe, M.D.

After due consideration of the information received, it was moved by Dr. Young, seconded by Dr. Ignacio, and unanimously carried to approve Dr. Ajiwe's application.

Chair Takanishi asked if anyone from the public would like to provide oral testimony on this agenda item. There was none.

B. Ratification List (See attached list)

(i) January 16, 2025, Ratification List

It was moved Dr. Ignacio, seconded by Dr. Jaffe, and unanimously carried to ratify the attached lists of individuals for licensure or certification from January 16, 2025.

2025 Legislative
Session:

A. Proposed Legislation Relating to Foreign Medical Graduates

The Board discussed the proposed legislation.

The purpose of this bill is to amend HRS section 453-4.5. The amendments would authorize the Hawaii Medical Board to provide graduates of foreign medical schools with alternate methods of qualifying for a Hawaii medical license.

It was moved by Chair Takanishi, seconded by Dr. Jaffe, and unanimously carried to defer rendering a position on this bill until the next meeting. In the interim between meetings, Chair Takanishi stated that he will seek explanatory information from the Education Commission regarding foreign medical graduates. This is to ensure that any revisions to the statutes align with the practices of that organization.

B. S.B. 107 RELATING TO MEDICAL INFORMED CONSENT

The Board discussed this bill.

The purposes of this bill are to: require the Hawaii Medical Board to establish standards for health care providers to ensure that a patient's consent to treatment is an informed consent, require that informed consent for a proposed medical or surgical treatment or a diagnostic or therapeutic procedure shall be obtained before the day of that treatment or procedure, and specify that if the treatment or procedure is to occur on the same day it is scheduled, the informed consent shall be obtained at the time the decision is made to schedule that treatment or procedure.

It was moved by Chair Takanishi, seconded by Dr. Pratt, and unanimously carried to oppose this bill as outlined in prior years when similar measures were introduced.

Chair Takanishi stated that Subchapter 4 of Hawaii Administrative Rules (HAR), chapter 16-85, addresses the purpose of informed consent, general standards of categories of information, manner of disclosure, refusal of information, etc. This was mandated by Act 114, Session Laws of Hawaii 2003.

Executive Officer
Report:

A. Implementation of Interstate Medical Licensure Compact Commission (IMLCC)

Ms. Fukunaga reported:

- On January 1, 2025, the IMLC went into effect.
- As of January 9, 2025, 16 Non-State of Principal Licensure licenses were issued

- 6 Osteopathic Physician (DOS) Licenses
- 10 Physician (MD) Licenses
- Average processing time of four (4) business days
- The Board's staff are currently working to add information to the Hawaii Medical Board's website that will provide information regarding the IMLCC and will provide a direct link to the IMLCC's website for interested applicants.

Interstate Medical
Licensure Compact
Commission (IMLCC):

Ms. Fukunaga reported that Mr. Ho's departure has left a commissioner position vacant. Typically, the executive officer serves as one of the commissioners to ensure continuity of information and knowledge. Ms. Fukunaga stated that the final decision is subject to a Board vote.

Chair Takanishi asked the Board members if they had any questions or comments.

It was moved by Mr. Belcher, seconded by Mr. Mun, and unanimously carried to nominate Ms. Fukunaga to serve as the second commissioner alongside Dr. Jaffe.

Chair Takanishi stated that he believes it is a wonderful opportunity for the new executive officer to become involved in this important process. He commented that the IMLCC has taken some time to gain traction, and there are many who are very happy with the progress.

Federation of State
Medical Boards
(FSMB):

A. Reentry to Practice: Report of the FSMB Workgroup on Reentry to Practice, Draft, January 2025

Chair Takanishi stated that there are two items for informational purposes. The first item included in the board members' packets, is about the re-entry to practice. He stated that the FSMB did an excellent job constructing this document which is currently open for public comment. Chair Takanishi stated that comments may be added via Federation's website or they may be sent to Ms. Fukunaga, who will ensure that they reach the Federation. Any feedback related to this work group, particularly regarding the final draft document, is welcome.

Chair Takanishi stated that the Federation is seeking input from member boards and various organizations which include a diverse group of individuals with extensive backgrounds. Participants come from the Federation, medical boards, and notable organizations such as the American Academy of Pediatrics, the National Commission on Certification of Physician Assistants, and the American Osteopathic College of Physical Medicine and Rehabilitation among others.

This information was provided for the Board's awareness.

B. Invitation to USMLE Workshop for State Board Members:

Chair Takanishi stated that the second item is the USMLE Workshop for State Board members which is scheduled for March 14, 2025. He stated that this opportunity is open to all state medical board members interested in serving on one of the USMLE committees. He added that the USMLE is always seeking members from the state medical boards and are very welcoming in this regard.

Chair Takanishi directed Board members to contact Ms. Fukunaga if they are interested. Chair Takanishi noted that serving on these committees requires a significant time commitment. He explained that depending on the specific test development committee you join, (i.e. acute care, chronic care, behavioral health, professionalism, or patient safety) you may be assigned 50 questions to write. The USMLE typically provides about six months to complete this task, and each question takes approximately one hour to write. The questions are then reviewed by a series of three editors; the questions are then returned to the writer for approval of suggested revisions.

Chair Takanishi stated that members generally convene in Philadelphia for two and a half days for collaborative discussions. He added that all expenses including: round-trip airfare, hotel accommodations, ground transportation, and meals provided on-site are covered. Additionally, the FSMB will pay for travel expenses. Chair Takanishi encouraged those interested to consider this opportunity.

This information was provided for the Board's awareness.

Next Meeting: Thursday, February 13, 2025

In-Person Meeting Location: Queen Liliuokalani Conference Room
King Kalakaua Building, 1st Floor
335 Merchant Street
Honolulu, Hawaii 96813

Virtual Videoconference Meeting – Zoom Webinar

Adjournment: The meeting adjourned at 2:50 p.m.

Reviewed and Approved by:

/s/ Chelsea Fukunaga

Ms. Chelsea Fukunaga
Executive Officer

Taken and Recorded by:

/s/ Dawn Lee

Ms. Dawn Lee
Administrative Assistant

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Minutes approved as is.

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Minutes approved with changes:

DRAFT

Testimony of the Hawaii Medical Board

**Before the
House Committee on Consumer Protection and Commerce
Tuesday, February 4, 2025
2:00 p.m.
Conference Room 329 and Videoconference**

**On the following measure:
H.B. 1054, RELATING TO ADMINISTRATIVE LICENSURE ACTIONS AGAINST SEX
OFFENDERS**

Chair Matayoshi and Members of the Committee:

My name is Chelsea Fukunaga, and I am the Executive Officer of the Hawaii Medical Board (Board). The Board supports sections 12 and 24 of this bill and takes no positions on other sections of the bill.

The purpose of this bill is to authorize the Department of Commerce and Consumer Affairs and certain licensing boards to automatically revoke and refuse to renew, restore, or reinstate the professional licenses of registered sex offenders.

The amendments to HRS chapter 453 under section 12 and HRS chapter 463E under section 24 of the bill will provide enhanced protections for the public by facilitating the timely revocation of licenses for individuals found to be a registered sex offender. Further, the provisions which enable the Board to automatically deny the renewal, restoration, or reinstatement of licenses for individuals found to be a registered sex offender will allow for more expeditious removal of these individuals from practice than the current laws allow.

Thank you for the opportunity to testify on this bill.

A BILL FOR AN ACT

RELATING TO ADMINISTRATIVE LICENSURE ACTIONS AGAINST SEX
OFFENDERS.

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

1 SECTION 1. The legislature finds that a recent Civil Beat
2 article highlighted the inability of state licensing boards and
3 agencies to promptly revoke the professional licenses of
4 registered sex offenders. The legislature believes that timely
5 action in cases where certain professional license holders are
6 registered sex offenders is a vital aspect of consumer
7 protection. Delayed action in revoking a license and preventing
8 further practice by a registered sex offender places consumers
9 at unnecessary risk.

10 Accordingly, the purposes of this Act are to:

11 (1) Authorize the board of acupuncture, athletic trainer
12 program, board of barbering and cosmetology, state
13 board of chiropractic, board of dental examiners,
14 electrologist program, hearing aid dealer and fitter
15 program, marriage and family therapist licensing
16 program, state board of massage therapy, Hawaii
17 medical board, mental health counselors licensing

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1 program, state board of naturopathic medicine, state
2 board of nursing, nurse aide program, nursing home
3 administrator program, occupational therapy program,
4 midwives licensing program, dispensing opticians
5 program, board of examiners in optometry, board of
6 pharmacy, board of physical therapy, board of
7 psychology, behavior analyst program, respiratory
8 therapist program, social worker licensing program,
9 and state board of speech pathology and audiology to
10 automatically revoke and deny the renewal,
11 restoration, or reinstatement of a license to a
12 licensee who is a registered sex offender;

- 13 (2) Establish conditions for the disciplinary action; and
14 (3) Ensure consumer protection by requiring any final
15 order of discipline taken to be public record.

16 SECTION 2. Chapter 436E, Hawaii Revised Statutes, is
17 amended by adding a new section to be appropriately designated
18 and to read as follows:

19 "§436E- Revocation of license or denial of application
20 to renew, restore, or reinstate a license based on conviction as
21 a registered sex offender; conditions. (a) Notwithstanding any
22 law to the contrary, the board shall automatically revoke a

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1 license or deny an application to renew, restore, or reinstate a
2 license under either of the following circumstances:

3 (1) The licensee has been convicted in any court in or
4 outside of this State of any offense that, if
5 committed or attempted in this State, based on the
6 elements of the convicted offense, would have been
7 punishable as one or more of the offenses described in
8 chapter 846E; or

9 (2) The licensee has been required to register as a sex
10 offender pursuant to the requirements of chapter 846E,
11 regardless of whether the related conviction has been
12 appealed.

13 (b) The board shall notify the licensee of the license
14 revocation or denial of application to renew, restore, or
15 reinstate the license and of the right to elect to have a
16 hearing as provided in subsection (c).

17 (c) Upon revocation of the license or denial of an
18 application to renew, restore, or reinstate, the licensee may
19 file a written request for a hearing with the licensing
20 authority within ten days of the notice. The hearing shall be
21 held within thirty days of the revocation or denial. The
22 proceeding shall be conducted in accordance with chapter 91.

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1 (d) For the purposes of enforcement of this section, a
2 plea or verdict of guilty, or a conviction after a plea of nolo
3 contendere, shall be deemed a conviction. The record of
4 conviction shall be conclusive evidence of the fact that the
5 conviction occurred.

6 (e) If the related conviction of the license holder is
7 overturned upon appeal, the revocation or denial ordered
8 pursuant to this section shall automatically cease. Nothing in
9 this subsection shall prohibit the board from pursuing
10 disciplinary action based on any cause other than the overturned
11 conviction.

12 (f) Any final order of discipline taken pursuant to this
13 section shall be a matter of public record.

14 (g) The board shall not restore, renew, or otherwise
15 reinstate the license of a person under any of the following
16 circumstances:

17 (1) The person has been required to register as a sex
18 offender pursuant to the requirements of chapter 846E,
19 regardless of whether the conviction has been
20 appealed; and

21 (2) The person engaged in the offense with a patient or
22 client, or with a former patient or client if the

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1 relationship was terminated primarily for the purpose
2 of committing the offense."

3 SECTION 3. Chapter 436H, Hawaii Revised Statutes, is
4 amended by adding a new section to be appropriately designated
5 and to read as follows:

6 "§436H- Revocation of license or denial of application
7 to renew, restore, or reinstate a license based on conviction as
8 a registered sex offender; conditions. (a) Notwithstanding any
9 law to the contrary, the director shall automatically revoke a
10 license or deny an application to renew, restore, or reinstate a
11 license under either of the following circumstances:

12 (1) The licensee has been convicted in any court in or
13 outside of this State of any offense that, if
14 committed or attempted in this State, based on the
15 elements of the convicted offense, would have been
16 punishable as one or more of the offenses described in
17 chapter 846E; or

18 (2) The licensee has been required to register as a sex
19 offender pursuant to the provisions of chapter 846E,
20 regardless of whether the related conviction has been
21 appealed.

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1 (b) The director shall notify the licensee of the license
2 revocation or denial of application to renew, restore, or
3 reinstate the license and of the right to elect to have a
4 hearing as provided in subsection (c).

5 (c) Upon revocation of the license or denial of an
6 application to renew, restore, or reinstate, the licensee may
7 file a written request for a hearing with the licensing
8 authority within ten days of the notice. The hearing shall be
9 held within thirty days of the revocation or denial. The
10 proceeding shall be conducted in accordance with chapter 91.

11 (d) For the purposes of enforcement of this section, a
12 plea or verdict of guilty, or a conviction after a plea of nolo
13 contendere, shall be deemed a conviction. The record of
14 conviction shall be conclusive evidence of the fact that the
15 conviction occurred.

16 (e) If the related conviction of the license holder is
17 overturned upon appeal, the revocation or denial ordered
18 pursuant to this section shall automatically cease. Nothing in
19 this subsection shall prohibit the program from pursuing
20 disciplinary action based on any cause other than the overturned
21 conviction.

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1 (f) Any final order of discipline taken pursuant to this
2 section shall be a matter of public record.

3 (g) The director shall not restore, renew, or otherwise
4 reinstate the license of a person under any of the following
5 circumstances:

6 (1) The person has been required to register as a sex
7 offender pursuant to the requirements of chapter 846E,
8 regardless of whether the conviction has been
9 appealed; and

10 (2) The person engaged in the offense with a patient or
11 client, or with a former patient or client if the
12 relationship was terminated primarily for the purpose
13 of committing the offense."

14 SECTION 4. Chapter 439A, Hawaii Revised Statutes, is
15 amended by adding a new section to be appropriately designated
16 and to read as follows:

17 "§439A- Revocation of license or denial of application
18 to renew, restore, or reinstate a license based on conviction as
19 a registered sex offender; conditions. (a) Notwithstanding any
20 law to the contrary, the board shall automatically revoke a
21 license or deny an application to renew, restore, or reinstate a
22 license under either of the following circumstances:

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1 (1) The licensee has been convicted in any court in or
2 outside of this State of any offense that, if
3 committed or attempted in this State, based on the
4 elements of the convicted offense, would have been
5 punishable as one or more of the offenses described in
6 chapter 846E; or

7 (2) The licensee has been required to register as a sex
8 offender pursuant to the requirements of chapter 846E,
9 regardless of whether the related conviction has been
10 appealed.

11 (b) The board shall notify the licensee of the license
12 revocation or denial of application to renew, restore, or
13 reinstate the license and of the right to elect to have a
14 hearing as provided in subsection (c).

15 (c) Upon revocation of the license or denial of an
16 application to renew, restore, or reinstate, the licensee may
17 file a written request for a hearing with the licensing
18 authority within ten days of the notice. The hearing shall be
19 held within thirty days of the revocation or denial. The
20 proceeding shall be conducted in accordance with chapter 91.

21 (d) For the purposes of enforcement of this section, a
22 plea or verdict of guilty, or a conviction after a plea of nolo

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1 contendere, shall be deemed a conviction. The record of
2 conviction shall be conclusive evidence of the fact that the
3 conviction occurred.

4 (e) If the related conviction of the license holder is
5 overturned upon appeal, the revocation or denial ordered
6 pursuant to this section shall automatically cease. Nothing in
7 this subsection shall prohibit the board from pursuing
8 disciplinary action based on any cause other than the overturned
9 conviction.

10 (f) Any final order of discipline taken pursuant to this
11 section shall be a matter of public record.

12 (g) The board shall not restore, renew, or otherwise
13 reinstate the license of a person under any of the following
14 circumstances:

15 (1) The person has been required to register as a sex
16 offender pursuant to the requirements of chapter 846E,
17 regardless of whether the conviction has been
18 appealed; and

19 (2) The person engaged in the offense with a patient or
20 client, or with a former patient or client if the
21 relationship was terminated primarily for the purpose
22 of committing the offense."

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1 SECTION 5. Chapter 442, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:

4 "§442- Revocation of license or denial of application
5 to renew, restore, or reinstate a license based on conviction as
6 a registered sex offender; conditions. (a) Notwithstanding any
7 law to the contrary, the board shall automatically revoke a
8 license or deny an application to renew, restore, or reinstate a
9 license under either of the following circumstances:

10 (1) The licensee has been convicted in any court in or
11 outside of this State of any offense that, if
12 committed or attempted in this State, based on the
13 elements of the convicted offense, would have been
14 punishable as one or more of the offenses described in
15 chapter 846E; or

16 (2) The licensee has been required to register as a sex
17 offender pursuant to the requirements of chapter 846E,
18 regardless of whether the related conviction has been
19 appealed.

20 (b) The board shall notify the licensee of the license
21 revocation or denial of application to renew, restore, or

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1 reinstate the license and of the right to elect to have a
2 hearing as provided in subsection (c).

3 (c) Upon revocation of the license or denial of an
4 application to renew, restore, or reinstate, the licensee may
5 file a written request for a hearing with the licensing
6 authority within ten days of the notice. The hearing shall be
7 held within thirty days of the revocation or denial. The
8 proceeding shall be conducted in accordance with chapter 91.

9 (d) For the purposes of enforcement of this section, a
10 plea or verdict of guilty, or a conviction after a plea of nolo
11 contendere, shall be deemed a conviction. The record of
12 conviction shall be conclusive evidence of the fact that the
13 conviction occurred.

14 (e) If the related conviction of the license holder is
15 overturned upon appeal, the revocation or denial ordered
16 pursuant to this section shall automatically cease. Nothing in
17 this subsection shall prohibit the board from pursuing
18 disciplinary action based on any cause other than the overturned
19 conviction.

20 (f) Any final order of discipline taken pursuant to this
21 section shall be a matter of public record.

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1 (g) The board shall not restore, renew, or otherwise
2 reinstate the license of a person under any of the following
3 circumstances:

4 (1) The person has been required to register as a sex
5 offender pursuant to the requirements of chapter 846E,
6 regardless of whether the conviction has been
7 appealed; and

8 (2) The person engaged in the offense with a patient or
9 client, or with a former patient or client if the
10 relationship was terminated primarily for the purpose
11 of committing the offense."

12 SECTION 6. Chapter 447, Hawaii Revised Statutes, is
13 amended by adding a new section to be appropriately designated
14 and to read as follows:

15 "§447- Revocation of license or denial of application
16 to renew, restore, or reinstate a license based on conviction as
17 a registered sex offender; conditions. (a) Notwithstanding any
18 law to the contrary, the board shall automatically revoke a
19 license or deny an application to renew, restore, or reinstate a
20 license under either of the following circumstances:

21 (1) The licensee has been convicted in any court in or
22 outside of this State of any offense that, if

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1 committed or attempted in this State, based on the
2 elements of the convicted offense, would have been
3 punishable as one or more of the offenses described in
4 chapter 846E; or

5 (2) The licensee has been required to register as a sex
6 offender pursuant to the requirements of chapter 846E,
7 regardless of whether the related conviction has been
8 appealed.

9 (b) The board shall notify the licensee of the license
10 revocation or denial of application to renew, restore, or
11 reinstate the license and of the right to elect to have a
12 hearing as provided in subsection (c).

13 (c) Upon revocation of the license or denial of an
14 application to renew, restore, or reinstate, the licensee may
15 file a written request for a hearing with the licensing
16 authority within ten days of the notice. The hearing shall be
17 held within thirty days of the revocation or denial. The
18 proceeding shall be conducted in accordance with chapter 91.

19 (d) For the purposes of enforcement of this section, a
20 plea or verdict of guilty, or a conviction after a plea of nolo
21 contendere, shall be deemed a conviction. The record of

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1 conviction shall be conclusive evidence of the fact that the
2 conviction occurred.

3 (e) If the related conviction of the license holder is
4 overturned upon appeal, the revocation or denial ordered
5 pursuant to this section shall automatically cease. Nothing in
6 this subsection shall prohibit the board from pursuing
7 disciplinary action based on any cause other than the overturned
8 conviction.

9 (f) Any final order of discipline taken pursuant to this
10 section shall be a matter of public record.

11 (g) The board shall not restore, renew, or otherwise
12 reinstate the license of a person under any of the following
13 circumstances:

14 (1) The person has been required to register as a sex
15 offender pursuant to the requirements of chapter 846E,
16 regardless of whether the conviction has been
17 appealed; and

18 (2) The person engaged in the offense with a patient or
19 client, or with a former patient or client if the
20 relationship was terminated primarily for the purpose
21 of committing the offense."

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1 SECTION 7. Chapter 448, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:

4 "§448- Revocation of license or denial of application
5 to renew, restore, or reinstate a license based on conviction as
6 a registered sex offender; conditions. (a) Notwithstanding any
7 law to the contrary, the board shall automatically revoke a
8 license or deny an application to renew, restore, or reinstate a
9 license under either of the following circumstances:

10 (1) The licensee has been convicted in any court in or
11 outside of this State of any offense that, if
12 committed or attempted in this State, based on the
13 elements of the convicted offense, would have been
14 punishable as one or more of the offenses described in
15 chapter 846E; or

16 (2) The licensee has been required to register as a sex
17 offender pursuant to the requirements of chapter 846E,
18 regardless of whether the related conviction has been
19 appealed.

20 (b) The board shall notify the licensee of the license
21 revocation or denial of application to renew, restore, or

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1 reinstate the license and of the right to elect to have a
2 hearing as provided in subsection (c).

3 (c) Upon revocation of the license or denial of an
4 application to renew, restore, or reinstate, the licensee may
5 file a written request for a hearing with the licensing
6 authority within ten days of the notice. The hearing shall be
7 held within thirty days of the revocation or denial. The
8 proceeding shall be conducted in accordance with chapter 91.

9 (d) For the purposes of enforcement of this section, a
10 plea or verdict of guilty, or a conviction after a plea of nolo
11 contendere, shall be deemed a conviction. The record of
12 conviction shall be conclusive evidence of the fact that the
13 conviction occurred.

14 (e) If the related conviction of the license holder is
15 overturned upon appeal, the revocation or denial ordered
16 pursuant to this section shall automatically cease. Nothing in
17 this subsection shall prohibit the board from pursuing
18 disciplinary action based on any cause other than the overturned
19 conviction.

20 (f) Any final order of discipline taken pursuant to this
21 section shall be a matter of public record.

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1 (g) The board shall not restore, renew, or otherwise
2 reinstate the license of a person under any of the following
3 circumstances:

4 (1) The person has been required to register as a sex
5 offender pursuant to the requirements of chapter 846E,
6 regardless of whether the conviction has been
7 appealed; and

8 (2) The person engaged in the offense with a patient or
9 client, or with a former patient or client if the
10 relationship was terminated primarily for the purpose
11 of committing the offense."

12 SECTION 8. Chapter 448F, Hawaii Revised Statutes, is
13 amended by adding a new section to be appropriately designated
14 and to read as follows:

15 "§448F- Revocation of license or denial of application
16 to renew, restore, or reinstate a license based on conviction as
17 a registered sex offender; conditions. (a) Notwithstanding any
18 law to the contrary, the director shall automatically revoke a
19 license or deny an application to renew, restore, or reinstate a
20 license under either of the following circumstances:

21 (1) The licensee has been convicted in any court in or
22 outside of this State of any offense that, if

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1 committed or attempted in this State, based on the
2 elements of the convicted offense, would have been
3 punishable as one or more of the offenses described in
4 chapter 846E; or

5 (2) The licensee has been required to register as a sex
6 offender pursuant to the provisions of chapter 846E,
7 regardless of whether the related conviction has been
8 appealed.

9 (b) The director shall notify the licensee of the license
10 revocation or denial of application to renew, restore, or
11 reinstate the license and of the right to elect to have a
12 hearing as provided in subsection (c).

13 (c) Upon revocation of the license or denial of an
14 application to renew, restore, or reinstate, the licensee may
15 file a written request for a hearing with the licensing
16 authority within ten days of the notice. The hearing shall be
17 held within thirty days of the revocation or denial. The
18 proceeding shall be conducted in accordance with chapter 91.

19 (d) For the purposes of enforcement of this section, a
20 plea or verdict of guilty, or a conviction after a plea of nolo
21 contendere, shall be deemed a conviction. The record of

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1 conviction shall be conclusive evidence of the fact that the
2 conviction occurred.

3 (e) If the related conviction of the license holder is
4 overturned upon appeal, the revocation or denial ordered
5 pursuant to this section shall automatically cease. Nothing in
6 this subsection shall prohibit the program from pursuing
7 disciplinary action based on any cause other than the overturned
8 conviction.

9 (f) Any final order of discipline taken pursuant to this
10 section shall be a matter of public record.

11 (g) The director shall not restore, renew, or otherwise
12 reinstate the license of a person under any of the following
13 circumstances:

14 (1) The person has been required to register as a sex
15 offender pursuant to the requirements of chapter 846E,
16 regardless of whether the conviction has been
17 appealed; and

18 (2) The person engaged in the offense with a patient or
19 client, or with a former patient or client if the
20 relationship was terminated primarily for the purpose
21 of committing the offense."

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1 SECTION 9. Chapter 451A, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:

4 "§451A- Revocation of license or denial of application
5 to renew, restore, or reinstate a license based on conviction as
6 a registered sex offender; conditions. (a) Notwithstanding any
7 law to the contrary, the director shall automatically revoke a
8 license or deny an application to renew, restore, or reinstate a
9 license under either of the following circumstances:

10 (1) The licensee has been convicted in any court in or
11 outside of this State of any offense that, if
12 committed or attempted in this State, based on the
13 elements of the convicted offense, would have been
14 punishable as one or more of the offenses described in
15 chapter 846E; or

16 (2) The licensee has been required to register as a sex
17 offender pursuant to the provisions of chapter 846E,
18 regardless of whether the related conviction has been
19 appealed.

20 (b) The director shall notify the licensee of the license
21 revocation or denial of application to renew, restore, or

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1 reinstate the license and of the right to elect to have a
2 hearing as provided in subsection (c).

3 (c) Upon revocation of the license or denial of an
4 application to renew, restore, or reinstate, the licensee may
5 file a written request for a hearing with the licensing
6 authority within ten days of the notice. The hearing shall be
7 held within thirty days of the revocation or denial. The
8 proceeding shall be conducted in accordance with chapter 91.

9 (d) For the purposes of enforcement of this section, a
10 plea or verdict of guilty, or a conviction after a plea of nolo
11 contendere, shall be deemed a conviction. The record of
12 conviction shall be conclusive evidence of the fact that the
13 conviction occurred.

14 (e) If the related conviction of the license holder is
15 overturned upon appeal, the revocation or denial ordered
16 pursuant to this section shall automatically cease. Nothing in
17 this subsection shall prohibit the program from pursuing
18 disciplinary action based on any cause other than the overturned
19 conviction.

20 (f) Any final order of discipline taken pursuant to this
21 section shall be a matter of public record.

1 (g) The director shall not restore, renew, or otherwise
2 reinstate the license of a person under any of the following
3 circumstances:

4 (1) The person has been required to register as a sex
5 offender pursuant to the requirements of chapter 846E,
6 regardless of whether the conviction has been
7 appealed; and

8 (2) The person engaged in the offense with a patient or
9 client, or with a former patient or client if the
10 relationship was terminated primarily for the purpose
11 of committing the offense."

12 SECTION 10. Chapter 451J, Hawaii Revised Statutes, is
13 amended by adding a new section to be appropriately designated
14 and to read as follows:

15 "§451J- Revocation of license or denial of application
16 to renew, restore, or reinstate a license based on conviction as
17 a registered sex offender; conditions. (a) Notwithstanding any
18 law to the contrary, the director shall automatically revoke a
19 license or deny an application to renew, restore, or reinstate a
20 license under either of the following circumstances:

21 (1) The licensee has been convicted in any court in or
22 outside of this State of any offense that, if

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1 committed or attempted in this State, based on the
2 elements of the convicted offense, would have been
3 punishable as one or more of the offenses described in
4 chapter 846E; or

5 (2) The licensee has been required to register as a sex
6 offender pursuant to the provisions of chapter 846E,
7 regardless of whether the related conviction has been
8 appealed.

9 (b) The director shall notify the licensee of the license
10 revocation or denial of application to renew, restore, or
11 reinstate the license and of the right to elect to have a
12 hearing as provided in subsection (c).

13 (c) Upon revocation of the license or denial of an
14 application to renew, restore, or reinstate, the licensee may
15 file a written request for a hearing with the licensing
16 authority within ten days of the notice. The hearing shall be
17 held within thirty days of the revocation or denial. The
18 proceeding shall be conducted in accordance with chapter 91.

19 (d) For the purposes of enforcement of this section, a
20 plea or verdict of guilty, or a conviction after a plea of nolo
21 contendere, shall be deemed a conviction. The record of

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1 conviction shall be conclusive evidence of the fact that the
2 conviction occurred.

3 (e) If the related conviction of the license holder is
4 overturned upon appeal, the revocation or denial ordered
5 pursuant to this section shall automatically cease. Nothing in
6 this subsection shall prohibit the program from pursuing
7 disciplinary action based on any cause other than the overturned
8 conviction.

9 (f) Any final order of discipline taken pursuant to this
10 section shall be a matter of public record.

11 (g) The director shall not restore, renew, or otherwise
12 reinstate the license of a person under any of the following
13 circumstances:

14 (1) The person has been required to register as a sex
15 offender pursuant to the requirements of chapter 846E,
16 regardless of whether the conviction has been
17 appealed; and

18 (2) The person engaged in the offense with a patient or
19 client, or with a former patient or client if the
20 relationship was terminated primarily for the purpose
21 of committing the offense."

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1 SECTION 11. Chapter 452, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:

4 "§452- Revocation of license or denial of application
5 to renew, restore, or reinstate a license based on conviction as
6 a registered sex offender; conditions. (a) Notwithstanding any
7 law to the contrary, the board shall automatically revoke a
8 license or deny an application to renew, restore, or reinstate a
9 license under either of the following circumstances:

10 (1) The licensee has been convicted in any court in or
11 outside of this State of any offense that, if
12 committed or attempted in this State, based on the
13 elements of the convicted offense, would have been
14 punishable as one or more of the offenses described in
15 chapter 846E; or

16 (2) The licensee has been required to register as a sex
17 offender pursuant to the requirements of chapter 846E,
18 regardless of whether the related conviction has been
19 appealed.

20 (b) The board shall notify the licensee of the license
21 revocation or denial of application to renew, restore, or

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1 reinstate the license and of the right to elect to have a
2 hearing as provided in subsection (c).

3 (c) Upon revocation of the license or denial of an
4 application to renew, restore, or reinstate, the licensee may
5 file a written request for a hearing with the licensing
6 authority within ten days of the notice. The hearing shall be
7 held within thirty days of the revocation or denial. The
8 proceeding shall be conducted in accordance with chapter 91.

9 (d) For the purposes of enforcement of this section, a
10 plea or verdict of guilty, or a conviction after a plea of nolo
11 contendere, shall be deemed a conviction. The record of
12 conviction shall be conclusive evidence of the fact that the
13 conviction occurred.

14 (e) If the related conviction of the license holder is
15 overturned upon appeal, the revocation or denial ordered
16 pursuant to this section shall automatically cease. Nothing in
17 this subsection shall prohibit the board from pursuing
18 disciplinary action based on any cause other than the overturned
19 conviction.

20 (f) Any final order of discipline taken pursuant to this
21 section shall be a matter of public record.

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1 (g) The board shall not restore, renew, or otherwise
2 reinstate the license of a person under any of the following
3 circumstances:

4 (1) The person has been required to register as a sex
5 offender pursuant to the requirements of chapter 846E,
6 regardless of whether the conviction has been
7 appealed; and

8 (2) The person engaged in the offense with a patient or
9 client, or with a former patient or client if the
10 relationship was terminated primarily for the purpose
11 of committing the offense."

12 SECTION 12. Chapter 453, Hawaii Revised Statutes, is
13 amended by adding a new section to be appropriately designated
14 and to read as follows:

15 "§453- Revocation of license or denial of application
16 to renew, restore, or reinstate a license based on conviction as
17 a registered sex offender; conditions. (a) Notwithstanding any
18 law to the contrary, the board shall automatically revoke a
19 license or deny an application to renew, restore, or reinstate a
20 license under either of the following circumstances:

21 (1) The licensee has been convicted in any court in or
22 outside of this State of any offense that, if

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1 committed or attempted in this State, based on the
2 elements of the convicted offense, would have been
3 punishable as one or more of the offenses described in
4 chapter 846E; or

5 (2) The licensee has been required to register as a sex
6 offender pursuant to the requirements of chapter 846E,
7 regardless of whether the related conviction has been
8 appealed.

9 (b) The board shall notify the licensee of the license
10 revocation or denial of application to renew, restore, or
11 reinstate the license and of the right to elect to have a
12 hearing as provided in subsection (c).

13 (c) Upon revocation of the license or denial of an
14 application to renew, restore, or reinstate, the licensee may
15 file a written request for a hearing with the licensing
16 authority within ten days of the notice. The hearing shall be
17 held within thirty days of the revocation or denial. The
18 proceeding shall be conducted in accordance with chapter 91.

19 (d) For the purposes of enforcement of this section, a
20 plea or verdict of guilty, or a conviction after a plea of nolo
21 contendere, shall be deemed a conviction. The record of

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1 conviction shall be conclusive evidence of the fact that the
2 conviction occurred.

3 (e) If the related conviction of the license holder is
4 overturned upon appeal, the revocation or denial ordered
5 pursuant to this section shall automatically cease. Nothing in
6 this subsection shall prohibit the board from pursuing
7 disciplinary action based on any cause other than the overturned
8 conviction.

9 (f) Any final order of discipline taken pursuant to this
10 section shall be a matter of public record.

11 (g) The board shall not restore, renew, or otherwise
12 reinstate the license of a person under any of the following
13 circumstances:

14 (1) The person has been required to register as a sex
15 offender pursuant to the requirements of chapter 846E,
16 regardless of whether the conviction has been
17 appealed; and

18 (2) The person engaged in the offense with a patient or
19 client, or with a former patient or client if the
20 relationship was terminated primarily for the purpose
21 of committing the offense."

1 SECTION 13. Chapter 453D, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:

4 "§453D- Revocation of license or denial of application
5 to renew, restore, or reinstate a license based on conviction as
6 a registered sex offender; conditions. (a) Notwithstanding any
7 law to the contrary, the director shall automatically revoke a
8 license or deny an application to renew, restore, or reinstate a
9 license under either of the following circumstances:

10 (1) The licensee has been convicted in any court in or
11 outside of this State of any offense that, if
12 committed or attempted in this State, based on the
13 elements of the convicted offense, would have been
14 punishable as one or more of the offenses described in
15 chapter 846E; or

16 (2) The licensee has been required to register as a sex
17 offender pursuant to the provisions of chapter 846E,
18 regardless of whether the related conviction has been
19 appealed.

20 (b) The director shall notify the licensee of the license
21 revocation or denial of application to renew, restore, or

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1 reinstate the license and of the right to elect to have a
2 hearing as provided in subsection (c).

3 (c) Upon revocation of the license or denial of an
4 application to renew, restore, or reinstate, the licensee may
5 file a written request for a hearing with the licensing
6 authority within ten days of the notice. The hearing shall be
7 held within thirty days of the revocation or denial. The
8 proceeding shall be conducted in accordance with chapter 91.

9 (d) For the purposes of enforcement of this section, a
10 plea or verdict of guilty, or a conviction after a plea of nolo
11 contendere, shall be deemed a conviction. The record of
12 conviction shall be conclusive evidence of the fact that the
13 conviction occurred.

14 (e) If the related conviction of the license holder is
15 overturned upon appeal, the revocation or denial ordered
16 pursuant to this section shall automatically cease. Nothing in
17 this subsection shall prohibit the program from pursuing
18 disciplinary action based on any cause other than the overturned
19 conviction.

20 (f) Any final order of discipline taken pursuant to this
21 section shall be a matter of public record.

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1 (g) The director shall not restore, renew, or otherwise
2 reinstate the license of a person under any of the following
3 circumstances:

4 (1) The person has been required to register as a sex
5 offender pursuant to the requirements of chapter 846E,
6 regardless of whether the conviction has been
7 appealed; and

8 (2) The person engaged in the offense with a patient or
9 client, or with a former patient or client if the
10 relationship was terminated primarily for the purpose
11 of committing the offense."

12 SECTION 14. Chapter 455, Hawaii Revised Statutes, is
13 amended by adding a new section to be appropriately designated
14 and to read as follows:

15 "§455- Revocation of license or denial of application
16 to renew, restore, or reinstate a license based on conviction as
17 a registered sex offender; conditions. (a) Notwithstanding any
18 law to the contrary, the board shall automatically revoke a
19 license or deny an application to renew, restore, or reinstate a
20 license under either of the following circumstances:

21 (1) The licensee has been convicted in any court in or
22 outside of this State of any offense that, if

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1 committed or attempted in this State, based on the
2 elements of the convicted offense, would have been
3 punishable as one or more of the offenses described in
4 chapter 846E; or

5 (2) The licensee has been required to register as a sex
6 offender pursuant to the requirements of chapter 846E,
7 regardless of whether the related conviction has been
8 appealed.

9 (b) The board shall notify the licensee of the license
10 revocation or denial of application to renew, restore, or
11 reinstate the license and of the right to elect to have a
12 hearing as provided in subsection (c).

13 (c) Upon revocation of the license or denial of an
14 application to renew, restore, or reinstate, the licensee may
15 file a written request for a hearing with the licensing
16 authority within ten days of the notice. The hearing shall be
17 held within thirty days of the revocation or denial. The
18 proceeding shall be conducted in accordance with chapter 91.

19 (d) For the purposes of enforcement of this section, a
20 plea or verdict of guilty, or a conviction after a plea of nolo
21 contendere, shall be deemed a conviction. The record of

1 conviction shall be conclusive evidence of the fact that the
2 conviction occurred.

3 (e) If the related conviction of the license holder is
4 overturned upon appeal, the revocation or denial ordered
5 pursuant to this section shall automatically cease. Nothing in
6 this subsection shall prohibit the board from pursuing
7 disciplinary action based on any cause other than the overturned
8 conviction.

9 (f) Any final order of discipline taken pursuant to this
10 section shall be a matter of public record.

11 (g) The board shall not restore, renew, or otherwise
12 reinstate the license of a person under any of the following
13 circumstances:

14 (1) The person has been required to register as a sex
15 offender pursuant to the requirements of chapter 846E,
16 regardless of whether the conviction has been
17 appealed; and

18 (2) The person engaged in the offense with a patient or
19 client, or with a former patient or client if the
20 relationship was terminated primarily for the purpose
21 of committing the offense."

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1 SECTION 15. Chapter 457, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:

4 "§457- Revocation of license or denial of application
5 to renew, restore, or reinstate a license based on conviction as
6 a registered sex offender; conditions. (a) Notwithstanding any
7 law to the contrary, the board shall automatically revoke a
8 license or deny an application to renew, restore, or reinstate a
9 license under either of the following circumstances:

10 (1) The licensee has been convicted in any court in or
11 outside of this State of any offense that, if
12 committed or attempted in this State, based on the
13 elements of the convicted offense, would have been
14 punishable as one or more of the offenses described in
15 chapter 846E; or

16 (2) The licensee has been required to register as a sex
17 offender pursuant to the requirements of chapter 846E,
18 regardless of whether the related conviction has been
19 appealed.

20 (b) The board shall notify the licensee of the license
21 revocation or denial of application to renew, restore, or

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1 reinstate the license and of the right to elect to have a
2 hearing as provided in subsection (c).

3 (c) Upon revocation of the license or denial of an
4 application to renew, restore, or reinstate, the licensee may
5 file a written request for a hearing with the licensing
6 authority within ten days of the notice. The hearing shall be
7 held within thirty days of the revocation or denial. The
8 proceeding shall be conducted in accordance with chapter 91.

9 (d) For the purposes of enforcement of this section, a
10 plea or verdict of guilty, or a conviction after a plea of nolo
11 contendere, shall be deemed a conviction. The record of
12 conviction shall be conclusive evidence of the fact that the
13 conviction occurred.

14 (e) If the related conviction of the license holder is
15 overturned upon appeal, the revocation or denial ordered
16 pursuant to this section shall automatically cease. Nothing in
17 this subsection shall prohibit the board from pursuing
18 disciplinary action based on any cause other than the overturned
19 conviction.

20 (f) Any final order of discipline taken pursuant to this
21 section shall be a matter of public record.

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1 (g) The board shall not restore, renew, or otherwise
2 reinstate the license of a person under any of the following
3 circumstances:

4 (1) The person has been required to register as a sex
5 offender pursuant to the requirements of chapter 846E,
6 regardless of whether the conviction has been
7 appealed; and

8 (2) The person engaged in the offense with a patient or
9 client, or with a former patient or client if the
10 relationship was terminated primarily for the purpose
11 of committing the offense."

12 SECTION 16. Chapter 457A, Hawaii Revised Statutes, is
13 amended by adding a new section to be appropriately designated
14 and to read as follows:

15 "§457A- Revocation of license or denial of application
16 to renew, restore, or reinstate a license based on conviction as
17 a registered sex offender; conditions. (a) Notwithstanding any
18 law to the contrary, the director shall automatically revoke a
19 license or deny an application to renew, restore, or reinstate a
20 license under either of the following circumstances:

21 (1) The licensee has been convicted in any court in or
22 outside of this State of any offense that, if

1 committed or attempted in this State, based on the
2 elements of the convicted offense, would have been
3 punishable as one or more of the offenses described in
4 chapter 846E; or

5 (2) The licensee has been required to register as a sex
6 offender pursuant to the provisions of chapter 846E,
7 regardless of whether the related conviction has been
8 appealed.

9 (b) The director shall notify the licensee of the license
10 revocation or denial of application to renew, restore, or
11 reinstate the license and of the right to elect to have a
12 hearing as provided in subsection (c).

13 (c) Upon revocation of the license or denial of an
14 application to renew, restore, or reinstate, the licensee may
15 file a written request for a hearing with the licensing
16 authority within ten days of the notice. The hearing shall be
17 held within thirty days of the revocation or denial. The
18 proceeding shall be conducted in accordance with chapter 91.

19 (d) For the purposes of enforcement of this section, a
20 plea or verdict of guilty, or a conviction after a plea of nolo
21 contendere, shall be deemed a conviction. The record of

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1 conviction shall be conclusive evidence of the fact that the
2 conviction occurred.

3 (e) If the related conviction of the license holder is
4 overturned upon appeal, the revocation or denial ordered
5 pursuant to this section shall automatically cease. Nothing in
6 this subsection shall prohibit the program from pursuing
7 disciplinary action based on any cause other than the overturned
8 conviction.

9 (f) Any final order of discipline taken pursuant to this
10 section shall be a matter of public record.

11 (g) The director shall not restore, renew, or otherwise
12 reinstate the license of a person under any of the following
13 circumstances:

14 (1) The person has been required to register as a sex
15 offender pursuant to the requirements of chapter 846E,
16 regardless of whether the conviction has been
17 appealed; and

18 (2) The person engaged in the offense with a patient or
19 client, or with a former patient or client if the
20 relationship was terminated primarily for the purpose
21 of committing the offense."

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1 SECTION 17. Chapter 457B, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:

4 "§457B- Revocation of license or denial of application
5 to renew, restore, or reinstate a license based on conviction as
6 a registered sex offender; conditions. (a) Notwithstanding any
7 law to the contrary, the director shall automatically revoke a
8 license or deny an application to renew, restore, or reinstate a
9 license under either of the following circumstances:

10 (1) The licensee has been convicted in any court in or
11 outside of this State of any offense that, if
12 committed or attempted in this State, based on the
13 elements of the convicted offense, would have been
14 punishable as one or more of the offenses described in
15 chapter 846E; or

16 (2) The licensee has been required to register as a sex
17 offender pursuant to the provisions of chapter 846E,
18 regardless of whether the related conviction has been
19 appealed.

20 (b) The director shall notify the licensee of the license
21 revocation or denial of application to renew, restore, or

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1 reinstate the license and of the right to elect to have a
2 hearing as provided in subsection (c).

3 (c) Upon revocation of the license or denial of an
4 application to renew, restore, or reinstate, the licensee may
5 file a written request for a hearing with the licensing
6 authority within ten days of the notice. The hearing shall be
7 held within thirty days of the revocation or denial. The
8 proceeding shall be conducted in accordance with chapter 91.

9 (d) For the purposes of enforcement of this section, a
10 plea or verdict of guilty, or a conviction after a plea of nolo
11 contendere, shall be deemed a conviction. The record of
12 conviction shall be conclusive evidence of the fact that the
13 conviction occurred.

14 (e) If the related conviction of the license holder is
15 overturned upon appeal, the revocation or denial ordered
16 pursuant to this section shall automatically cease. Nothing in
17 this subsection shall prohibit the program from pursuing
18 disciplinary action based on any cause other than the overturned
19 conviction.

20 (f) Any final order of discipline taken pursuant to this
21 section shall be a matter of public record.

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1 (g) The director shall not restore, renew, or otherwise
2 reinstate the license of a person under any of the following
3 circumstances:

4 (1) The person has been required to register as a sex
5 offender pursuant to the requirements of chapter 846E,
6 regardless of whether the conviction has been
7 appealed; and

8 (2) The person engaged in the offense with a patient or
9 client, or with a former patient or client if the
10 relationship was terminated primarily for the purpose
11 of committing the offense."

12 SECTION 18. Chapter 457G, Hawaii Revised Statutes, is
13 amended by adding a new section to be appropriately designated
14 and to read as follows:

15 "§457G- Revocation of license or denial of application
16 to renew, restore, or reinstate a license based on conviction as
17 a registered sex offender; conditions. (a) Notwithstanding any
18 law to the contrary, the director shall automatically revoke a
19 license or deny an application to renew, restore, or reinstate a
20 license under either of the following circumstances:

21 (1) The licensee has been convicted in any court in or
22 outside of this State of any offense that, if

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1 committed or attempted in this State, based on the
2 elements of the convicted offense, would have been
3 punishable as one or more of the offenses described in
4 chapter 846E; or

5 (2) The licensee has been required to register as a sex
6 offender pursuant to the provisions of chapter 846E,
7 regardless of whether the related conviction has been
8 appealed.

9 (b) The director shall notify the licensee of the license
10 revocation or denial of application to renew, restore, or
11 reinstate the license and of the right to elect to have a
12 hearing as provided in subsection (c).

13 (c) Upon revocation of the license or denial of an
14 application to renew, restore, or reinstate, the licensee may
15 file a written request for a hearing with the licensing
16 authority within ten days of the notice. The hearing shall be
17 held within thirty days of the revocation or denial. The
18 proceeding shall be conducted in accordance with chapter 91.

19 (d) For the purposes of enforcement of this section, a
20 plea or verdict of guilty, or a conviction after a plea of nolo
21 contendere, shall be deemed a conviction. The record of

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1 conviction shall be conclusive evidence of the fact that the
2 conviction occurred.

3 (e) If the related conviction of the license holder is
4 overturned upon appeal, the revocation or denial ordered
5 pursuant to this section shall automatically cease. Nothing in
6 this subsection shall prohibit the program from pursuing
7 disciplinary action based on any cause other than the overturned
8 conviction.

9 (f) Any final order of discipline taken pursuant to this
10 section shall be a matter of public record.

11 (g) The director shall not restore, renew, or otherwise
12 reinstate the license of a person under any of the following
13 circumstances:

14 (1) The person has been required to register as a sex
15 offender pursuant to the requirements of chapter 846E,
16 regardless of whether the conviction has been
17 appealed; and

18 (2) The person engaged in the offense with a patient or
19 client, or with a former patient or client if the
20 relationship was terminated primarily for the purpose
21 of committing the offense."

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1 SECTION 19. Chapter 457J, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:

4 "§457J- Revocation of license or denial of application
5 to renew, restore, or reinstate a license based on conviction as
6 a registered sex offender; conditions. (a) Notwithstanding any
7 law to the contrary, the director shall automatically revoke a
8 license or deny an application to renew, restore, or reinstate a
9 license under either of the following circumstances:

10 (1) The licensee has been convicted in any court in or
11 outside of this State of any offense that, if
12 committed or attempted in this State, based on the
13 elements of the convicted offense, would have been
14 punishable as one or more of the offenses described in
15 chapter 846E; or

16 (2) The licensee has been required to register as a sex
17 offender pursuant to the provisions of chapter 846E,
18 regardless of whether the related conviction has been
19 appealed.

20 (b) The director shall notify the licensee of the license
21 revocation or denial of application to renew, restore, or

1 reinstate the license and of the right to elect to have a
2 hearing as provided in subsection (c).

3 (c) Upon revocation of the license or denial of an
4 application to renew, restore, or reinstate, the licensee may
5 file a written request for a hearing with the licensing
6 authority within ten days of the notice. The hearing shall be
7 held within thirty days of the revocation or denial. The
8 proceeding shall be conducted in accordance with chapter 91.

9 (d) For the purposes of enforcement of this section, a
10 plea or verdict of guilty, or a conviction after a plea of nolo
11 contendere, shall be deemed a conviction. The record of
12 conviction shall be conclusive evidence of the fact that the
13 conviction occurred.

14 (e) If the related conviction of the license holder is
15 overturned upon appeal, the revocation or denial ordered
16 pursuant to this section shall automatically cease. Nothing in
17 this subsection shall prohibit the program from pursuing
18 disciplinary action based on any cause other than the overturned
19 conviction.

20 (f) Any final order of discipline taken pursuant to this
21 section shall be a matter of public record.

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1 (g) The director shall not restore, renew, or otherwise
2 reinstate the license of a person under any of the following
3 circumstances:

4 (1) The person has been required to register as a sex
5 offender pursuant to the requirements of chapter 846E,
6 regardless of whether the conviction has been
7 appealed; and

8 (2) The person engaged in the offense with a patient or
9 client, or with a former patient or client if the
10 relationship was terminated primarily for the purpose
11 of committing the offense."

12 SECTION 20. Chapter 458, Hawaii Revised Statutes, is
13 amended by adding a new section to be appropriately designated
14 and to read as follows:

15 "§458- Revocation of license or denial of application
16 to renew, restore, or reinstate a license based on conviction as
17 a registered sex offender; conditions. (a) Notwithstanding any
18 law to the contrary, the director shall automatically revoke a
19 license or deny an application to renew, restore, or reinstate a
20 license under either of the following circumstances:

21 (1) The licensee has been convicted in any court in or
22 outside of this State of any offense that, if

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1 committed or attempted in this State, based on the
2 elements of the convicted offense, would have been
3 punishable as one or more of the offenses described in
4 chapter 846E; or

5 (2) The licensee has been required to register as a sex
6 offender pursuant to the provisions of chapter 846E,
7 regardless of whether the related conviction has been
8 appealed.

9 (b) The director shall notify the licensee of the license
10 revocation or denial of application to renew, restore, or
11 reinstate the license and of the right to elect to have a
12 hearing as provided in subsection (c).

13 (c) Upon revocation of the license or denial of an
14 application to renew, restore, or reinstate, the licensee may
15 file a written request for a hearing with the licensing
16 authority within ten days of the notice. The hearing shall be
17 held within thirty days of the revocation or denial. The
18 proceeding shall be conducted in accordance with chapter 91.

19 (d) For the purposes of enforcement of this section, a
20 plea or verdict of guilty, or a conviction after a plea of nolo
21 contendere, shall be deemed a conviction. The record of

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1 conviction shall be conclusive evidence of the fact that the
2 conviction occurred.

3 (e) If the related conviction of the license holder is
4 overturned upon appeal, the revocation or denial ordered
5 pursuant to this section shall automatically cease. Nothing in
6 this subsection shall prohibit the program from pursuing
7 disciplinary action based on any cause other than the overturned
8 conviction.

9 (f) Any final order of discipline taken pursuant to this
10 section shall be a matter of public record.

11 (g) The director shall not restore, renew, or otherwise
12 reinstate the license of a person under any of the following
13 circumstances:

14 (1) The person has been required to register as a sex
15 offender pursuant to the requirements of chapter 846E,
16 regardless of whether the conviction has been
17 appealed; and

18 (2) The person engaged in the offense with a patient or
19 client, or with a former patient or client if the
20 relationship was terminated primarily for the purpose
21 of committing the offense."

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1 SECTION 21. Chapter 459, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:

4 "§459- Revocation of license or denial of application
5 to renew, restore, or reinstate a license based on conviction as
6 a registered sex offender; conditions. (a) Notwithstanding any
7 law to the contrary, the board shall automatically revoke a
8 license or deny an application to renew, restore, or reinstate a
9 license under either of the following circumstances:

10 (1) The licensee has been convicted in any court in or
11 outside of this State of any offense that, if
12 committed or attempted in this State, based on the
13 elements of the convicted offense, would have been
14 punishable as one or more of the offenses described in
15 chapter 846E; or

16 (2) The licensee has been required to register as a sex
17 offender pursuant to the requirements of chapter 846E,
18 regardless of whether the related conviction has been
19 appealed.

20 (b) The board shall notify the licensee of the license
21 revocation or denial of application to renew, restore, or

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1 reinstate the license and of the right to elect to have a
2 hearing as provided in subsection (c).

3 (c) Upon revocation of the license or denial of an
4 application to renew, restore, or reinstate, the licensee may
5 file a written request for a hearing with the licensing
6 authority within ten days of the notice. The hearing shall be
7 held within thirty days of the revocation or denial. The
8 proceeding shall be conducted in accordance with chapter 91.

9 (d) For the purposes of enforcement of this section, a
10 plea or verdict of guilty, or a conviction after a plea of nolo
11 contendere, shall be deemed a conviction. The record of
12 conviction shall be conclusive evidence of the fact that the
13 conviction occurred.

14 (e) If the related conviction of the license holder is
15 overturned upon appeal, the revocation or denial ordered
16 pursuant to this section shall automatically cease. Nothing in
17 this subsection shall prohibit the board from pursuing
18 disciplinary action based on any cause other than the overturned
19 conviction.

20 (f) Any final order of discipline taken pursuant to this
21 section shall be a matter of public record.

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1 (g) The board shall not restore, renew, or otherwise
2 reinstate the license of a person under any of the following
3 circumstances:

4 (1) The person has been required to register as a sex
5 offender pursuant to the requirements of chapter 846E,
6 regardless of whether the conviction has been
7 appealed; and

8 (2) The person engaged in the offense with a patient or
9 client, or with a former patient or client if the
10 relationship was terminated primarily for the purpose
11 of committing the offense."

12 SECTION 22. Chapter 461, Hawaii Revised Statutes, is
13 amended by adding a new section to be appropriately designated
14 and to read as follows:

15 "§461- Revocation of license or denial of application
16 to renew, restore, or reinstate a license based on conviction as
17 a registered sex offender; conditions. (a) Notwithstanding any
18 law to the contrary, the board shall automatically revoke a
19 license or deny an application to renew, restore, or reinstate a
20 license under either of the following circumstances:

21 (1) The licensee has been convicted in any court in or
22 outside of this State of any offense that, if

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1 committed or attempted in this State, based on the
2 elements of the convicted offense, would have been
3 punishable as one or more of the offenses described in
4 chapter 846E; or

5 (2) The licensee has been required to register as a sex
6 offender pursuant to the requirements of chapter 846E,
7 regardless of whether the related conviction has been
8 appealed.

9 (b) The board shall notify the licensee of the license
10 revocation or denial of application to renew, restore, or
11 reinstate the license and of the right to elect to have a
12 hearing as provided in subsection (c).

13 (c) Upon revocation of the license or denial of an
14 application to renew, restore, or reinstate, the licensee may
15 file a written request for a hearing with the licensing
16 authority within ten days of the notice. The hearing shall be
17 held within thirty days of the revocation or denial. The
18 proceeding shall be conducted in accordance with chapter 91.

19 (d) For the purposes of enforcement of this section, a
20 plea or verdict of guilty, or a conviction after a plea of nolo
21 contendere, shall be deemed a conviction. The record of

1 conviction shall be conclusive evidence of the fact that the
2 conviction occurred.

3 (e) If the related conviction of the license holder is
4 overturned upon appeal, the revocation or denial ordered
5 pursuant to this section shall automatically cease. Nothing in
6 this subsection shall prohibit the board from pursuing
7 disciplinary action based on any cause other than the overturned
8 conviction.

9 (f) Any final order of discipline taken pursuant to this
10 section shall be a matter of public record.

11 (g) The board shall not restore, renew, or otherwise
12 reinstate the license of a person under any of the following
13 circumstances:

14 (1) The person has been required to register as a sex
15 offender pursuant to the requirements of chapter 846E,
16 regardless of whether the conviction has been
17 appealed; and

18 (2) The person engaged in the offense with a patient or
19 client, or with a former patient or client if the
20 relationship was terminated primarily for the purpose
21 of committing the offense."

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1 SECTION 23. Chapter 461J, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:

4 "§461J- Revocation of license or denial of application
5 to renew, restore, or reinstate a license based on conviction as
6 a registered sex offender; conditions. (a) Notwithstanding any
7 law to the contrary, the board shall automatically revoke a
8 license or deny an application to renew, restore, or reinstate a
9 license under either of the following circumstances:

10 (1) The licensee has been convicted in any court in or
11 outside of this State of any offense that, if
12 committed or attempted in this State, based on the
13 elements of the convicted offense, would have been
14 punishable as one or more of the offenses described in
15 chapter 846E; or

16 (2) The licensee has been required to register as a sex
17 offender pursuant to the requirements of chapter 846E,
18 regardless of whether the related conviction has been
19 appealed.

20 (b) The board shall notify the licensee of the license
21 revocation or denial of application to renew, restore, or

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1 reinstate the license and of the right to elect to have a
2 hearing as provided in subsection (c).

3 (c) Upon revocation of the license or denial of an
4 application to renew, restore, or reinstate, the licensee may
5 file a written request for a hearing with the licensing
6 authority within ten days of the notice. The hearing shall be
7 held within thirty days of the revocation or denial. The
8 proceeding shall be conducted in accordance with chapter 91.

9 (d) For the purposes of enforcement of this section, a
10 plea or verdict of guilty, or a conviction after a plea of nolo
11 contendere, shall be deemed a conviction. The record of
12 conviction shall be conclusive evidence of the fact that the
13 conviction occurred.

14 (e) If the related conviction of the license holder is
15 overturned upon appeal, the revocation or denial ordered
16 pursuant to this section shall automatically cease. Nothing in
17 this subsection shall prohibit the board from pursuing
18 disciplinary action based on any cause other than the overturned
19 conviction.

20 (f) Any final order of discipline taken pursuant to this
21 section shall be a matter of public record.

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1 (g) The board shall not restore, renew, or otherwise
2 reinstate the license of a person under any of the following
3 circumstances:

4 (1) The person has been required to register as a sex
5 offender pursuant to the requirements of chapter 846E,
6 regardless of whether the conviction has been
7 appealed; and

8 (2) The person engaged in the offense with a patient or
9 client, or with a former patient or client if the
10 relationship was terminated primarily for the purpose
11 of committing the offense."

12 SECTION 24. Chapter 463E, Hawaii Revised Statutes, is
13 amended by adding a new section to be appropriately designated
14 and to read as follows:

15 "§463E- Revocation of license or denial of application
16 to renew, restore, or reinstate a license based on conviction as
17 a registered sex offender; conditions. (a) Notwithstanding any
18 law to the contrary, the board shall automatically revoke a
19 license or deny an application to renew, restore, or reinstate a
20 license under either of the following circumstances:

21 (1) The licensee has been convicted in any court in or
22 outside of this State of any offense that, if

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1 committed or attempted in this State, based on the
2 elements of the convicted offense, would have been
3 punishable as one or more of the offenses described in
4 chapter 846E; or

5 (2) The licensee has been required to register as a sex
6 offender pursuant to the requirements of chapter 846E,
7 regardless of whether the related conviction has been
8 appealed.

9 (b) The board shall notify the licensee of the license
10 revocation or denial of application to renew, restore, or
11 reinstate the license and of the right to elect to have a
12 hearing as provided in subsection (c).

13 (c) Upon revocation of the license or denial of an
14 application to renew, restore, or reinstate, the licensee may
15 file a written request for a hearing with the licensing
16 authority within ten days of the notice. The hearing shall be
17 held within thirty days of the revocation or denial. The
18 proceeding shall be conducted in accordance with chapter 91.

19 (d) For the purposes of enforcement of this section, a
20 plea or verdict of guilty, or a conviction after a plea of nolo
21 contendere, shall be deemed a conviction. The record of

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1 conviction shall be conclusive evidence of the fact that the
2 conviction occurred.

3 (e) If the related conviction of the license holder is
4 overturned upon appeal, the revocation or denial ordered
5 pursuant to this section shall automatically cease. Nothing in
6 this subsection shall prohibit the board from pursuing
7 disciplinary action based on any cause other than the overturned
8 conviction.

9 (f) Any final order of discipline taken pursuant to this
10 section shall be a matter of public record.

11 (g) The board shall not restore, renew, or otherwise
12 reinstate the license of a person under any of the following
13 circumstances:

14 (1) The person has been required to register as a sex
15 offender pursuant to the requirements of chapter 846E,
16 regardless of whether the conviction has been
17 appealed; and

18 (2) The person engaged in the offense with a patient or
19 client, or with a former patient or client if the
20 relationship was terminated primarily for the purpose
21 of committing the offense."

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1 SECTION 25. Chapter 465, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:

4 "§465- Revocation of license or denial of application
5 to renew, restore, or reinstate a license based on conviction as
6 a registered sex offender; conditions. (a) Notwithstanding any
7 law to the contrary, the board shall automatically revoke a
8 license or deny an application to renew, restore, or reinstate a
9 license under either of the following circumstances:

10 (1) The licensee has been convicted in any court in or
11 outside of this State of any offense that, if
12 committed or attempted in this State, based on the
13 elements of the convicted offense, would have been
14 punishable as one or more of the offenses described in
15 chapter 846E; or

16 (2) The licensee has been required to register as a sex
17 offender pursuant to the requirements of chapter 846E,
18 regardless of whether the related conviction has been
19 appealed.

20 (b) The board shall notify the licensee of the license
21 revocation or denial of application to renew, restore, or

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1 reinstate the license and of the right to elect to have a
2 hearing as provided in subsection (c).

3 (c) Upon revocation of the license or denial of an
4 application to renew, restore, or reinstate, the licensee may
5 file a written request for a hearing with the licensing
6 authority within ten days of the notice. The hearing shall be
7 held within thirty days of the revocation or denial. The
8 proceeding shall be conducted in accordance with chapter 91.

9 (d) For the purposes of enforcement of this section, a
10 plea or verdict of guilty or a conviction after a plea of nolo
11 contendere, shall be deemed a conviction. The record of
12 conviction shall be conclusive evidence of the fact that the
13 conviction occurred.

14 (e) If the related conviction of the license holder is
15 overturned upon appeal, the revocation or denial ordered
16 pursuant to this section shall automatically cease. Nothing in
17 this subsection shall prohibit the board from pursuing
18 disciplinary action based on any cause other than the overturned
19 conviction.

20 (f) Any final order of discipline taken pursuant to this
21 section shall be a matter of public record.

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1 (g) The board shall not restore, renew, or otherwise
2 reinstate the license of a person under any of the following
3 circumstances:

4 (1) The person has been required to register as a sex
5 offender pursuant to the requirements of chapter 846E,
6 regardless of whether the conviction has been
7 appealed; and

8 (2) The person engaged in the offense with a patient or
9 client, or with a former patient or client if the
10 relationship was terminated primarily for the purpose
11 of committing the offense."

12 SECTION 26. Chapter 465D, Hawaii Revised Statutes, is
13 amended by adding a new section to be appropriately designated
14 and to read as follows:

15 "§465D- Revocation of license or denial of application
16 to renew, restore, or reinstate a license based on conviction as
17 a registered sex offender; conditions. (a) Notwithstanding any
18 law to the contrary, the director shall automatically revoke a
19 license or deny an application to renew, restore, or reinstate a
20 license under either of the following circumstances:

21 (1) The licensee has been convicted in any court in or
22 outside of this State of any offense that, if

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1 committed or attempted in this State, based on the
2 elements of the convicted offense, would have been
3 punishable as one or more of the offenses described in
4 chapter 846E; or

5 (2) The licensee has been required to register as a sex
6 offender pursuant to the provisions of chapter 846E,
7 regardless of whether the related conviction has been
8 appealed.

9 (b) The director shall notify the licensee of the license
10 revocation or denial of application to renew, restore, or
11 reinstate the license and of the right to elect to have a
12 hearing as provided in subsection (c).

13 (c) Upon revocation of the license or denial of an
14 application to renew, restore, or reinstate, the licensee may
15 file a written request for a hearing with the licensing
16 authority within ten days of the notice. The hearing shall be
17 held within thirty days of the revocation or denial. The
18 proceeding shall be conducted in accordance with chapter 91.

19 (d) For the purposes of enforcement of this section, a
20 plea or verdict of guilty, or a conviction after a plea of nolo
21 contendere, shall be deemed a conviction. The record of

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1 conviction shall be conclusive evidence of the fact that the
2 conviction occurred.

3 (e) If the related conviction of the license holder is
4 overturned upon appeal, the revocation or denial ordered
5 pursuant to this section shall automatically cease. Nothing in
6 this subsection shall prohibit the program from pursuing
7 disciplinary action based on any cause other than the overturned
8 conviction.

9 (f) Any final order of discipline taken pursuant to this
10 section shall be a matter of public record.

11 (g) The director shall not restore, renew, or otherwise
12 reinstate the license of a person under any of the following
13 circumstances:

14 (1) The person has been required to register as a sex
15 offender pursuant to the requirements of chapter 846E,
16 regardless of whether the conviction has been
17 appealed; and

18 (2) The person engaged in the offense with a patient or
19 client, or with a former patient or client if the
20 relationship was terminated primarily for the purpose
21 of committing the offense."

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1 SECTION 27. Chapter 466D, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:

4 "§466D- Revocation of license or denial of application
5 to renew, restore, or reinstate a license based on conviction as
6 a registered sex offender; conditions. (a) Notwithstanding any
7 law to the contrary, the director shall automatically revoke a
8 license or deny an application to renew, restore, or reinstate a
9 license under either of the following circumstances:

10 (1) The licensee has been convicted in any court in or
11 outside of this State of any offense that, if
12 committed or attempted in this State, based on the
13 elements of the convicted offense, would have been
14 punishable as one or more of the offenses described in
15 chapter 846E; or

16 (2) The licensee has been required to register as a sex
17 offender pursuant to the provisions of chapter 846E,
18 regardless of whether the related conviction has been
19 appealed.

20 (b) The director shall notify the licensee of the license
21 revocation or denial of application to renew, restore, or

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1 reinstate the license and of the right to elect to have a
2 hearing as provided in subsection (c).

3 (c) Upon revocation of the license or denial of an
4 application to renew, restore, or reinstate, the licensee may
5 file a written request for a hearing with the licensing
6 authority within ten days of the notice. The hearing shall be
7 held within thirty days of the revocation or denial. The
8 proceeding shall be conducted in accordance with chapter 91.

9 (d) For the purposes of enforcement of this section, a
10 plea or verdict of guilty, or a conviction after a plea of nolo
11 contendere, shall be deemed a conviction. The record of
12 conviction shall be conclusive evidence of the fact that the
13 conviction occurred.

14 (e) If the related conviction of the license holder is
15 overturned upon appeal, the revocation or denial ordered
16 pursuant to this section shall automatically cease. Nothing in
17 this subsection shall prohibit the program from pursuing
18 disciplinary action based on any cause other than the overturned
19 conviction.

20 (f) Any final order of discipline taken pursuant to this
21 section shall be a matter of public record.

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1 (g) The director shall not restore, renew, or otherwise
2 reinstate the license of a person under any of the following
3 circumstances:

4 (1) The person has been required to register as a sex
5 offender pursuant to the requirements of chapter 846E,
6 regardless of whether the conviction has been
7 appealed; and

8 (2) The person engaged in the offense with a patient or
9 client, or with a former patient or client if the
10 relationship was terminated primarily for the purpose
11 of committing the offense."

12 SECTION 28. Chapter 467E, Hawaii Revised Statutes, is
13 amended by adding a new section to be appropriately designated
14 and to read as follows:

15 "§467E- Revocation of license or denial of application
16 to renew, restore, or reinstate a license based on conviction as
17 a registered sex offender; conditions. (a) Notwithstanding any
18 law to the contrary, the director shall automatically revoke a
19 license or deny an application to renew, restore, or reinstate a
20 license under either of the following circumstances:

21 (1) The licensee has been convicted in any court in or
22 outside of this State of any offense that, if

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1 committed or attempted in this State, based on the
2 elements of the convicted offense, would have been
3 punishable as one or more of the offenses described in
4 chapter 846E; or

5 (2) The licensee has been required to register as a sex
6 offender pursuant to the provisions of chapter 846E,
7 regardless of whether the related conviction has been
8 appealed.

9 (b) The director shall notify the licensee of the license
10 revocation or denial of application to renew, restore, or
11 reinstate the license and of the right to elect to have a
12 hearing as provided in subsection (c).

13 (c) Upon revocation of the license or denial of an
14 application to renew, restore, or reinstate, the licensee may
15 file a written request for a hearing with the licensing
16 authority within ten days of the notice. The hearing shall be
17 held within thirty days of the revocation or denial. The
18 proceeding shall be conducted in accordance with chapter 91.

19 (d) For the purposes of enforcement of this section, a
20 plea or verdict of guilty, or a conviction after a plea of nolo
21 contendere, shall be deemed a conviction. The record of

1 conviction shall be conclusive evidence of the fact that the
2 conviction occurred.

3 (e) If the related conviction of the license holder is
4 overturned upon appeal, the revocation or denial ordered
5 pursuant to this section shall automatically cease. Nothing in
6 this subsection shall prohibit the program from pursuing
7 disciplinary action based on any cause other than the overturned
8 conviction.

9 (f) Any final order of discipline taken pursuant to this
10 section shall be a matter of public record.

11 (g) The director shall not restore, renew, or otherwise
12 reinstate the license of a person under any of the following
13 circumstances:

14 (1) The person has been required to register as a sex
15 offender pursuant to the requirements of chapter 846E,
16 regardless of whether the conviction has been
17 appealed; and

18 (2) The person engaged in the offense with a patient or
19 client, or with a former patient or client if the
20 relationship was terminated primarily for the purpose
21 of committing the offense."

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1 SECTION 29. Chapter 468E, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:

4 "§468E- Revocation of license or denial of application
5 to renew, restore, or reinstate a license based on conviction as
6 a registered sex offender; conditions. (a) Notwithstanding any
7 law to the contrary, the board shall automatically revoke a
8 license or deny an application to renew, restore, or reinstate a
9 license under either of the following circumstances:

10 (1) The licensee has been convicted in any court in or
11 outside of this State of any offense that, if
12 committed or attempted in this State, based on the
13 elements of the convicted offense, would have been
14 punishable as one or more of the offenses described in
15 chapter 846E; or

16 (2) The licensee has been required to register as a sex
17 offender pursuant to the requirements of chapter 846E,
18 regardless of whether the related conviction has been
19 appealed.

20 (b) The board shall notify the licensee of the license
21 revocation or denial of application to renew, restore, or

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1 reinstate the license and of the right to elect to have a
2 hearing as provided in subsection (c).

3 (c) Upon revocation of the license or denial of an
4 application to renew, restore, or reinstate, the licensee may
5 file a written request for a hearing with the licensing
6 authority within ten days of the notice. The hearing shall be
7 held within thirty days of the revocation or denial. The
8 proceeding shall be conducted in accordance with chapter 91.

9 (d) For the purposes of enforcement of this section, a
10 plea or verdict of guilty, or a conviction after a plea of nolo
11 contendere, shall be deemed a conviction. The record of
12 conviction shall be conclusive evidence of the fact that the
13 conviction occurred.

14 (e) If the related conviction of the license holder is
15 overturned upon appeal, the revocation or denial ordered
16 pursuant to this section shall automatically cease. Nothing in
17 this subsection shall prohibit the board from pursuing
18 disciplinary action based on any cause other than the overturned
19 conviction.

20 (f) Any final order of discipline taken pursuant to this
21 section shall be a matter of public record.

H . B . NO . 1054

Report Title:

DCCA; Registered Sex Offenders; Professional Licenses; Automatic Revocation and Denial of Application to Renew, Restore, or Reinstatement

Description:

Authorizes the Department of Commerce and Consumer Affairs and certain licensing boards to automatically revoke and refuse to renew, restore, or reinstate the professional licenses of registered sex offenders.

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

JUSTIFICATION SHEET

DEPARTMENT: Commerce and Consumer Affairs

TITLE: A BILL FOR AN ACT RELATING TO ADMINISTRATIVE LICENSURE ACTIONS AGAINST SEX OFFENDERS.

PURPOSE: To allow the timely revocation of a license and denial of a renewal, restoration, or reinstatement of a license for certain professions when the licensee is a registered sex offender.

MEANS: Add new sections to chapters 436E, 436H, 439A, 442, 447, 448, 448F, 451A, 451J, 452, 453, 453D, 455, 457, 457A, 457B, 457G, 457J, 458, 459, 461, 461J, 463E, 465, 465D, 466D, 467E, and 468E, Hawaii Revised Statutes (HRS).

JUSTIFICATION: Current laws do not facilitate the timely revocation of a license and denial of a renewal, restoration, or reinstatement of a license for certain professions when the licensee becomes or is found to be a registered sex offender. This bill allows for the automatic revocation of a license or denial of an application to renew, reinstate, or restore a license for certain professions when the licensee is a registered sex offender.

Impact on the public: Increases consumer safety and welfare.

Impact on the department and other agencies: None.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM DESIGNATION: CCA-105.

OTHER AFFECTED AGENCIES: None.

EFFECTIVE DATE: Upon approval.

Testimony of the Hawaii Medical Board

**Before the
House Committee on Health
Friday, February 7, 2025
8:45 a.m.
Conference Room 329 and Videoconference**

**On the following measure:
H.B. 1379, RELATING TO HEALTH**

Chair Takayama and Members of the Committee:

My name is Chelsea Fukunaga, and I am the Executive Officer of the Hawaii Medical Board (Board). The Board offers comments on this bill.

The purposes of this bill are to: (1) exempt graduates from international medical schools from the residency requirements for medical licensure if the applicant has had at least one year of fellowship training in a program whose parent program or hospital is accredited by the Accreditation Council for Graduate Medical Education, American Osteopathic Association, Royal College of Physicians and Surgeons of Canada, or College of Family Physicians of Canada; and (2) authorize the board to waive the residency requirements if the applicant has graduated from a foreign medical school, passed the USMLE, and practices in a specialty that no other licensed physician in the State practices in.

While the Board has not had the opportunity to review this bill, the Board supports the intent of this measure to amend Hawaii Revised Statutes section 453-4.5, to add language related to alternative pathways of licensure requirements for foreign medical graduates.

For the Committee's information, the Board will review this bill at its next publicly noticed meeting on February 13, 2025.

Thank you for the opportunity to testify on this bill.

A BILL FOR AN ACT

RELATING TO HEALTH.

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

1 SECTION 1. Section 453-4, Hawaii Revised Statutes, is
2 amended by amending subsection (b) to read as follows:

3 "(b) Before any applicant shall be eligible for licensure,
4 the applicant shall furnish proof satisfactory to the board
5 that:

6 (1) The applicant is of demonstrated competence and
7 professional knowledge; and

8 (2) The applicant is a graduate of:

9 (A) A medical school or college whose program leading
10 to the M.D. degree is accredited by the Liaison
11 Committee on Medical Education or whose program
12 leading to the D.O. degree is approved by the
13 American Osteopathic Association Commission on
14 Osteopathic College Accreditation, and has served
15 a residency of at least one year in a program
16 that has been accredited for the training of
17 resident physicians or osteopathic physicians by



1 the Accreditation Council for Graduate Medical
2 Education or the American Osteopathic
3 Association, respectively, or a residency of at
4 least one year in a program in Canada that has
5 been accredited for the training of resident
6 physicians by the Royal College of Physicians and
7 Surgeons of Canada, or the College of Family
8 Physicians of Canada; or

9 (B) A foreign medical school and has had at least two
10 years of residency in a program accredited by the
11 Accreditation Council for Graduate Medical
12 Education or the American Osteopathic
13 Association, or has had at least two years of
14 residency in a program in Canada that has been
15 accredited for the training of resident
16 physicians by the Royal College of Physicians and
17 Surgeons of Canada, or by the College of Family
18 Physicians of Canada; and:

19 (i) Holds the national certificate of the
20 Educational Commission for Foreign Medical
21 Graduates, or its successor, or for



1 applicants with residency training in
2 Canada, has passed with scores deemed
3 satisfactory by the board, the Medical
4 Council of Canada Evaluating Examination, or
5 its successor; or
6 (ii) Holds the certificate of the Fifth Pathway
7 Program of the American Medical Association;
8 provided that for a period of two years after
9 June 26, 2004, the requirements of subsection
10 (b) (2) (B) (i) and (ii) shall not apply to any
11 applicant who has had four years of residency in
12 a program accredited by the Accreditation Council
13 for Graduate Medical Education or the American
14 Osteopathic Association and who has passed, with
15 scores deemed satisfactory by the board, the
16 Special Purpose Examination (SPEX) [÷]; provided
17 further that the requirement that an applicant
18 complete at least two years of residency in an
19 accredited program shall not apply to any
20 applicant who has had at least one year of
21 fellowship training in a program whose parent



1 program or hospital is accredited by the
2 Accreditation Council for Graduate Medical
3 Education or the American Osteopathic
4 Association, or who has had at least one year of
5 fellowship training in Canada in a program whose
6 parent program or hospital is accredited by the
7 Royal College of Physicians and Surgeons of
8 Canada, or by the College of Family Physicians of
9 Canada; provided further that the board may waive
10 the residency requirement under this subparagraph
11 for an applicant who is a graduate from a foreign
12 medical school who has passed, with scores deemed
13 satisfactory by the board, the United States
14 Medical Licensing Examination (USMLE) and who
15 provides services in a specialty that no other
16 physician licensed in the State provides."

17 SECTION 2. Statutory material to be repealed is bracketed
18 and stricken. New statutory material is underscored.

19 SECTION 3. This Act shall take effect upon its approval.



H.B. NO. 1379

1

INTRODUCED BY: *M. She*

JAN 23 2025



Report Title:

Medical Students; Licensure; Waiver; International Medical Graduates; Exemptions

Description:

Exempts graduates from international medical schools from the residency requirements for medical licensure if the applicant has had at least one year of fellowship training in a program whose parent program or hospital is accredited by the Accreditation Council for Graduate Medical Education, American Osteopathic Association, Royal College of Physicians and Surgeons of Canada, or College of Family Physicians of Canada. Authorizes the board to waive the residency requirements if the applicant has graduated from a foreign medical school, passed the USMLE, and practices in a specialty that no other licensed physician in the State practices in.

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



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ADVISORY COMMISSION RELEASES RECOMMENDATIONS TO INFORM LEGISLATION ON LICENSING INTERNATIONALLY-TRAINED PHYSICIANS

Nine recommendations focus on eligibility requirements for internationally-trained physicians entering into additional licensure pathways

WASHINGTON, D.C. (February 4, 2025) - The Advisory Commission on Additional Licensing Models has released its first **set of recommendations** to guide and advise state medical boards, state legislators, policymakers and others, as they develop and implement laws specific to the licensing of physicians who have already trained and practiced medicine outside the United States or Canada.

The Advisory Commission **was formed** in December 2023 by the Federation of State Medical Boards (FSMB), Intealth™, and the Accreditation Council for Graduate Medical Education (ACGME) in response to increasing interest among state policymakers to improve patient access and reduce workforce shortages by changing licensure requirements for physicians who have completed training and/or practiced abroad. Some of these proposals bypass certain requirements, including requirements related to U.S. postgraduate training, that are designed to ensure physicians have acquired the necessary knowledge, skills, abilities, and attitudes to provide safe and competent patient care.

The following nine recommendations, which are not intended as an endorsement, focus on the aforementioned eligibility requirements and related considerations for entry by internationally-trained

DCCA ▼



monetizing public comment period in which more than 150 individuals and organizations participated.

The following recommendations are offered for consideration by state medical boards, state legislators, policymakers, and other relevant parties:

1. Rulemaking authority should be delegated, and resources allocated, to the state medical board for implementing and evaluating any additional licensure pathways.
2. An offer of employment should be required for pathway eligibility. State medical boards should be authorized to define what is an appropriate clinical facility for the supervision and assessment of internationally trained physicians (ITPs) for their provisional licensure period.
3. ECFMG Certification and graduation from a duly recognized medical school should be required for pathway eligibility.
4. Completion of postgraduate training (graduate medical education) outside the United States should be required for pathway eligibility.
5. Possession of authorization from another country or jurisdiction to lawfully practice medicine in that country or jurisdiction, and at least three years of experience in medical practice should be required for pathway eligibility.
6. A limit on the physician's time "out of practice" that is consistent with that state's existing re-entry to practice requirements should be considered.
7. A successfully completed period of supervision and assessment by an employer should be required of ITPs to transition from provisional licensure to full licensure.
8. State medical boards should preserve their authority to assess each candidate for full and unrestricted licensure.
9. State medical boards implementing additional licensure pathways should collect and share data to evaluate the program's effectiveness.

The full guidance document and recommendations can be viewed [here](#).

Additional recommendations from the Advisory Commission, which will be essential to supplement the initial recommendations being shared today for feedback, are anticipated later in 2025 to address other important areas, such as the criteria or assurances that should be required for a physician to transition from provisional to full and unrestricted licensure.

About FSMB

The Federation of State Medical Boards (FSMB) is a national non-profit organization representing the medical boards within the United States and its territories that license and discipline allopathic and osteopathic physicians and, in some jurisdictions, other health care professionals. The FSMB serves as the voice for state medical boards, supporting them through education, assessment, research and advocacy while providing services and initiatives that promote patient safety, quality health care and regulatory best practices. The FSMB serves the public through Docinfo.org, a free physician search tool which provides background information on the more than 1 million doctors in the United States. To learn more about the FSMB, visit www.fsmb.org.

About Intealth



integration of its divisions, ECFMGSM and FAIMERSM, Intealth offers a flexible and multi-layered portfolio of services. These services enhance and support the education and training of health care professionals, verify their qualifications required to practice, and inform the development of health workforce policies around the world. By leveraging these combined competencies, Intealth powers innovation in areas critical to the health professions. Learn more at www.intealth.org.

About ACGME

The Accreditation Council for Graduate Medical Education (**ACGME**) is an independent, 501(c)(3), not-for-profit organization that sets and monitors voluntary professional educational standards essential in preparing physicians to deliver safe, high-quality medical care to all Americans. Graduate medical education (GME) refers to the period of education in a particular specialty (residency) or subspecialty (fellowship) following medical school; the ACGME oversees the accreditation of residency and fellowship programs in the US.

Testimony of the Hawaii Medical Board

**Before the
Senate Committee on Health and Human Services
Monday, January 27, 2025
1:00 p.m.
Conference Room 225 and Videoconference**

**On the following measure:
S.B. 107, RELATING TO MEDICAL INFORMED CONSENT**

Chair San Buenaventura and Members of the Committee:

My name is Chelsea Fukunaga, and I am the Executive Officer of the Hawaii Medical Board (Board). The Board opposes this bill.

The purposed of this bill are to: (1) require the Hawaii Medical Board to establish standards for health care providers to ensure that a patient's consent to treatment is an informed consent; (2) require that informed consent for a proposed medical or surgical treatment or a diagnostic or therapeutic procedure shall be obtained before the day of that treatment or procedure; and (3) specify that if the treatment or procedure is to occur on the same day it is scheduled, the informed consent shall be obtained at the time the decision is made to schedule that treatment or procedure.

For the Committee's information, Act 114, Session Laws of Hawaii 2003 mandated that the Board establish standards for health care providers to follow in giving information to a patient, or to a patient's guardian or legal surrogate if the patient lacks the capacity to give an informed consent, to ensure that the patient's consent to treatment is an informed consent. Subchapter 4 of the Hawaii Administrative Rules Chapter 16-85 addresses the purpose of informed consent, general standards of categories of information, manner of disclosure, refusal of information, etc.

In addition to the duplicative language between the bill and existing administrative rules, the Board is concerned that requiring two visits for a single procedure will place an extra burden on patients. This would be especially burdensome for neighbor island patients that receive health care on Oahu, resulting in patients having to travel twice between islands for a single procedure. Further, the Board is concerned that emergency procedures which require immediate attention may be negatively impacted and cause a disruption to emergency health care.

For these reasons, the Board opposes Senate Bill No. 107 and respectfully requests that it be held in committee.

Thank you for the opportunity to testify on this bill.

JAN 15 2025

A BILL FOR AN ACT

RELATING TO MEDICAL INFORMED CONSENT.

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

1 SECTION 1. Section 671-3, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "**§671-3 Informed consent.** (a) The Hawaii medical board
4 [~~may~~] shall establish standards for health care providers to
5 follow in giving information to a patient, or to a patient's
6 guardian or legal surrogate if the patient lacks the capacity to
7 give an informed consent, to ensure that the patient's consent
8 to treatment is an informed consent. The standards shall be
9 consistent with [~~subsection~~] subsections (b) and (c) and may
10 include:

- 11 (1) The substantive content of the information to be
12 given;
- 13 (2) The manner in which the information is to be given by
14 the health care provider; and
- 15 (3) The manner in which consent is to be given by the
16 patient or the patient's guardian or legal surrogate.



- 1 (b) The following information shall be supplied to the
2 patient or the patient's guardian or legal surrogate [~~prior to~~]
3 before obtaining consent to a proposed medical or surgical
4 treatment or a diagnostic or therapeutic procedure:
- 5 (1) The condition to be treated;
 - 6 (2) A description of the proposed treatment or procedure;
 - 7 (3) The intended and anticipated results of the proposed
8 treatment or procedure;
 - 9 (4) The recognized alternative treatments or procedures,
10 including the option of not providing these treatments
11 or procedures;
 - 12 (5) The recognized material risks of serious complications
13 or mortality associated with:
 - 14 (A) The proposed treatment or procedure;
 - 15 (B) The recognized alternative treatments or
16 procedures; and
 - 17 (C) Not undergoing any treatment or procedure; and
 - 18 (6) The recognized benefits of the recognized alternative
19 treatments or procedures.
- 20 (c) Informed consent to a proposed medical or surgical
21 treatment or a diagnostic or therapeutic procedure shall be



1 obtained from the patient or the patient's guardian or legal
2 surrogate before the date that the treatment or procedure is to
3 take place; provided that if the proposed procedure or treatment
4 is to take place on the same day on which it is scheduled, the
5 informed consent shall be obtained at the time the decision is
6 made to schedule that procedure or treatment. A confirmation of
7 the informed consent that was previously acquired may be
8 obtained by the treating health care provider from the patient
9 or patient's guardian or legal surrogate on the day of the
10 treatment or procedure.

11 [~~(e)~~] (d) On or before January 1, 1984, the Hawaii medical
12 board shall establish standards for health care providers to
13 follow in giving information to a patient or a patient's
14 guardian, to ensure that the patient's consent to the
15 performance of a mastectomy is an informed consent. The
16 standards shall include the substantive content of the
17 information to be given, the manner in which the information is
18 to be given by the health care provider and the manner in which
19 consent is to be given by the patient or the patient's guardian.
20 The substantive content of the information to be given shall



Report Title:

Medical Informed Consent; Timing; Hawaii Medical Board;
Standards

Description:

Requires the Hawaii Medical Board to establish standards for health care providers to ensure that a patient's consent to treatment is an informed consent. Requires that informed consent for a proposed medical or surgical treatment or a diagnostic or therapeutic procedure shall be obtained before the day of that treatment or procedure. Specifies that if the treatment or procedure is to occur on the same day it is scheduled, the informed consent shall be obtained at the time the decision is made to schedule that treatment or procedure.

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



Testimony of the Hawaii Medical Board

**Before the
Senate Committee on Health and Human Services
Friday, January 31, 2025
1:34 p.m.
Conference Room 225 and Videoconference**

**On the following measure:
S.B. 1243, RELATING TO FOREIGN MEDICAL GRADUATES**

Chair San Buenaventura and Members of the Committee:

My name is Chelsea Fukunaga, and I am the Executive Officer of the Hawaii Medical Board (Board). The Board offers comments on this bill.

The purpose of this bill is to allow foreign medical school graduates applying for a license to practice medicine and surgery to substitute one year of required medical training or experience in a hospital with one year of fellowship training where the parent program or hospital is accredited by the Accreditation Council for Graduate Medical Education.

While the Board has not had the opportunity to review this bill, the Board supports the intent of this measure to amend Hawaii Revised Statutes section 453-4.5, to amended language related to alternative pathways of licensure requirements for foreign medical graduates.

For the Committee's information, the Board will review this bill at its next publicly noticed meeting on February 13, 2025.

Thank you for the opportunity to testify on this bill.

STAND. COM. REP. NO. 150

Honolulu, Hawaii

FEB 10 2025

RE: S.B. No. 1243
S.D. 1

Honorable Ronald D. Kouchi
President of the Senate
Thirty-Third State Legislature
Regular Session of 2025
State of Hawaii

Sir:

Your Committee on Health and Human Services, to which was referred S.B. No. 1243 entitled:

"A BILL FOR AN ACT RELATING TO FOREIGN MEDICAL GRADUATES,"

begs leave to report as follows:

The purpose and intent of this measure is to allow foreign medical school graduates applying for a license to practice medicine and surgery to substitute one year of required medical training or experience in a hospital with one year of fellowship training where the parent program or hospital is accredited by the Accreditation Council for Graduate Medical Education.

Your Committee received testimony in support of this measure from World Education Services.

Your Committee received testimony in opposition to this measure from one individual.

Your Committee received comments on this measure from the Hawaii Medical Board and Hawai'i Pacific Health.

Your Committee finds that international medical graduates (IMG) are well positioned to assist the State in meeting its health care workforce shortages, particularly in underserved areas with physician shortages. Your Committee further finds that fellowship training as a substitute for approved hospital or

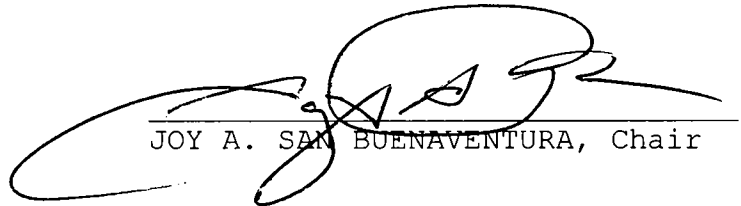


medical training is a meaningful improvement to the current IMG pathway in the State. This measure is an important step in reducing barriers to entry to for international medical graduates.

Your Committee has amended this measure by inserting an effective date of December 31, 2050, to encourage further discussion.

As affirmed by the record of votes of the members of your Committee on Health and Human Services that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 1243, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1243, S.D. 1, and be referred to your Committee on Commerce and Consumer Protection.

Respectfully submitted on
behalf of the members of the
Committee on Health and Human
Services,



JOY A. SAN BUENAVENTURA, Chair



The Senate
 Thirty-Third Legislature
 State of Hawai'i

Record of Votes
Committee on Health and Human Services
HHS

Bill / Resolution No.:* SB 1243	Committee Referral: HHS, CPN	Date: 1/31/25		
<input type="checkbox"/> The Committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is: <input checked="" type="checkbox"/> Pass, unamended 2312 <input checked="" type="checkbox"/> Pass, with amendments 2311 <input type="checkbox"/> Hold 2310 <input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
SAN BUENAVENTURA, Joy A. (C)	✓			
AQUINO, Henry J.C. (VC)	✓			
HASHIMOTO, Troy N.	✓			
KEOHOKALOLE, Jarrett	✓			
FEVELLA, Kurt				✓
TOTAL	4			1
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature:				
Distribution: Original Yellow Pink Goldenrod File with Committee Report Clerk's Office Drafting Agency Committee File Copy				

*Only one measure per Record of Votes

A BILL FOR AN ACT

RELATING TO FOREIGN MEDICAL GRADUATES.

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

1 SECTION 1. Section 453-4.5, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "**§453-4.5 Foreign medical graduates; alternative**
4 **qualifications.** Notwithstanding section 453-4(b)(2)(B), a
5 graduate of a foreign medical school who has ~~passed~~:

6 (1) Passed the Federation Licensing Examination (FLEX) or
7 the United States Medical Licensing Examination
8 (USMLE), or a combination of these examinations as
9 approved by the board, with scores deemed satisfactory
10 to the board~~[, passed]~~;

11 (2) Passed the qualifying examination of the Educational
12 Commission for Foreign Medical Graduates prior to
13 1984~~[,]~~; and ~~has at~~

14 (3) At least three years of medical training or experience
15 in a hospital approved by the Council on Medical
16 Education and Hospitals of the American Medical
17 Association for internship or residency; provided that



1 one of the three years of medical training or
2 experience may be substituted by one year of
3 fellowship training where the parent program or
4 hospital is accredited by the Accreditation Council
5 for Graduate Medical Education;

6 may be licensed by the Hawaii medical board under
7 section 453-4(c)."

8 SECTION 2. Statutory material to be repealed is bracketed
9 and stricken. New statutory material is underscored.

10 SECTION 3. This Act shall take effect on December 31,
11 2050.



Report Title:

Medical and Surgery; License; Qualifications; Foreign Medical Graduates; Alternative Qualifications; Fellowship

Description:

Allows foreign medical school graduates applying for a license to practice medicine and surgery to substitute one year of required medical training or experience in a hospital with one year of fellowship training where the parent program or hospital is accredited by the Accreditation Council for Graduate Medical Education. Effective 12/31/2050. (SD1)

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



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ADVISORY COMMISSION RELEASES RECOMMENDATIONS TO INFORM LEGISLATION ON LICENSING INTERNATIONALLY-TRAINED PHYSICIANS

Nine recommendations focus on eligibility requirements for internationally-trained physicians entering into additional licensure pathways

WASHINGTON, D.C. (February 4, 2025) - The Advisory Commission on Additional Licensing Models has released its first **set of recommendations** to guide and advise state medical boards, state legislators, policymakers and others, as they develop and implement laws specific to the licensing of physicians who have already trained and practiced medicine outside the United States or Canada.

The Advisory Commission **was formed** in December 2023 by the Federation of State Medical Boards (FSMB), Intealth™, and the Accreditation Council for Graduate Medical Education (ACGME) in response to increasing interest among state policymakers to improve patient access and reduce workforce shortages by changing licensure requirements for physicians who have completed training and/or practiced abroad. Some of these proposals bypass certain requirements, including requirements related to U.S. postgraduate training, that are designed to ensure physicians have acquired the necessary knowledge, skills, abilities, and attitudes to provide safe and competent patient care.

The following nine recommendations, which are not intended as an endorsement, focus on the aforementioned eligibility requirements and related considerations for entry by internationally-trained

DCCA ▼



monetizing public comment period in which more than 150 individuals and organizations participated.

The following recommendations are offered for consideration by state medical boards, state legislators, policymakers, and other relevant parties:

1. Rulemaking authority should be delegated, and resources allocated, to the state medical board for implementing and evaluating any additional licensure pathways.
2. An offer of employment should be required for pathway eligibility. State medical boards should be authorized to define what is an appropriate clinical facility for the supervision and assessment of internationally trained physicians (ITPs) for their provisional licensure period.
3. ECFMG Certification and graduation from a duly recognized medical school should be required for pathway eligibility.
4. Completion of postgraduate training (graduate medical education) outside the United States should be required for pathway eligibility.
5. Possession of authorization from another country or jurisdiction to lawfully practice medicine in that country or jurisdiction, and at least three years of experience in medical practice should be required for pathway eligibility.
6. A limit on the physician's time "out of practice" that is consistent with that state's existing re-entry to practice requirements should be considered.
7. A successfully completed period of supervision and assessment by an employer should be required of ITPs to transition from provisional licensure to full licensure.
8. State medical boards should preserve their authority to assess each candidate for full and unrestricted licensure.
9. State medical boards implementing additional licensure pathways should collect and share data to evaluate the program's effectiveness.

The full guidance document and recommendations can be viewed [here](#).

Additional recommendations from the Advisory Commission, which will be essential to supplement the initial recommendations being shared today for feedback, are anticipated later in 2025 to address other important areas, such as the criteria or assurances that should be required for a physician to transition from provisional to full and unrestricted licensure.

About FSMB

The Federation of State Medical Boards (FSMB) is a national non-profit organization representing the medical boards within the United States and its territories that license and discipline allopathic and osteopathic physicians and, in some jurisdictions, other health care professionals. The FSMB serves as the voice for state medical boards, supporting them through education, assessment, research and advocacy while providing services and initiatives that promote patient safety, quality health care and regulatory best practices. The FSMB serves the public through Docinfo.org, a free physician search tool which provides background information on the more than 1 million doctors in the United States. To learn more about the FSMB, visit www.fsmb.org.

About Intealth



integration of its divisions, ECFMG[™] and FAIMER[™], Intealth offers a flexible and multi-layered portfolio of services. These services enhance and support the education and training of health care professionals, verify their qualifications required to practice, and inform the development of health workforce policies around the world. By leveraging these combined competencies, Intealth powers innovation in areas critical to the health professions. Learn more at www.intealth.org.

About ACGME

The Accreditation Council for Graduate Medical Education (**ACGME**) is an independent, 501(c)(3), not-for-profit organization that sets and monitors voluntary professional educational standards essential in preparing physicians to deliver safe, high-quality medical care to all Americans. Graduate medical education (GME) refers to the period of education in a particular specialty (residency) or subspecialty (fellowship) following medical school; the ACGME oversees the accreditation of residency and fellowship programs in the US.

Testimony of the Hawaii Medical Board

**Before the
Senate Committee on Commerce and Consumer Protection
Tuesday, February 4, 2025
9:35 a.m.
Conference Room 229 and Videoconference**

**On the following measure:
S.B. 1373, RELATING TO ADMINISTRATIVE LICENSURE ACTIONS AGAINST SEX
OFFENDERS**

Chair Keohokalole and Members of the Committee:

My name is Chelsea Fukunaga, and I am the Executive Officer of the Hawaii Medical Board (Board). The Board supports sections 12 and 24 of this bill and takes no positions on other sections of the bill.

The purpose of this bill is to authorize the Department of Commerce and Consumer Affairs and certain licensing boards to automatically revoke and refuse to renew, restore, or reinstate the professional licenses of registered sex offenders.

The amendments to Hawaii Revised Statutes (HRS) chapter 453 section 12 and HRS chapter 463E section 24 of the bill will provide enhanced protections for the public by facilitating the timely revocation of licenses for individuals found to be a registered sex offender. Further, the provisions which enable the Board to automatically deny the renewal, restoration, or reinstatement of licenses for individuals found to be a registered sex offender will allow for a more expeditious removal of these individuals from practice than current laws allow.

Thank you for the opportunity to testify on this bill.

JAN 23 2025

A BILL FOR AN ACT

RELATING TO ADMINISTRATIVE LICENSURE ACTIONS AGAINST SEX
OFFENDERS.

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

1 SECTION 1. The legislature finds that a recent Civil Beat
2 article highlighted the inability of state licensing boards and
3 agencies to promptly revoke the professional licenses of
4 registered sex offenders. The legislature believes that timely
5 action in cases where certain professional license holders are
6 registered sex offenders is a vital aspect of consumer
7 protection. Delayed action in revoking a license and preventing
8 further practice by a registered sex offender places consumers
9 at unnecessary risk.

10 Accordingly, the purposes of this Act are to:

11 (1) Authorize the board of acupuncture, athletic trainer
12 program, board of barbering and cosmetology, state
13 board of chiropractic, board of dental examiners,
14 electrologist program, hearing aid dealer and fitter
15 program, marriage and family therapist licensing
16 program, state board of massage therapy, Hawaii
17 medical board, mental health counselors licensing

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1 program, state board of naturopathic medicine, state
2 board of nursing, nurse aide program, nursing home
3 administrator program, occupational therapy program,
4 midwives licensing program, dispensing opticians
5 program, board of examiners in optometry, board of
6 pharmacy, board of physical therapy, board of
7 psychology, behavior analyst program, respiratory
8 therapist program, social worker licensing program,
9 and state board of speech pathology and audiology to
10 automatically revoke and deny the renewal,
11 restoration, or reinstatement of a license to a
12 licensee who is a registered sex offender;

13 (2) Establish conditions for the disciplinary action; and

14 (3) Ensure consumer protection by requiring any final
15 order of discipline taken to be public record.

16 SECTION 2. Chapter 436E, Hawaii Revised Statutes, is
17 amended by adding a new section to be appropriately designated
18 and to read as follows:

19 "§436E- _____ Revocation of license or denial of application
20 to renew, restore, or reinstate a license based on conviction as
21 a registered sex offender; conditions. (a) Notwithstanding any
22 law to the contrary, the board shall automatically revoke a

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1 license or deny an application to renew, restore, or reinstate a
2 license under either of the following circumstances:

3 (1) The licensee has been convicted in any court in or
4 outside of this State of any offense that, if
5 committed or attempted in this State, based on the
6 elements of the convicted offense, would have been
7 punishable as one or more of the offenses described in
8 chapter 846E; or

9 (2) The licensee has been required to register as a sex
10 offender pursuant to the requirements of chapter 846E,
11 regardless of whether the related conviction has been
12 appealed.

13 (b) The board shall notify the licensee of the license
14 revocation or denial of application to renew, restore, or
15 reinstate the license and of the right to elect to have a
16 hearing as provided in subsection (c).

17 (c) Upon revocation of the license or denial of an
18 application to renew, restore, or reinstate, the licensee may
19 file a written request for a hearing with the licensing
20 authority within ten days of the notice. The hearing shall be
21 held within thirty days of the revocation or denial. The
22 proceeding shall be conducted in accordance with chapter 91.

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1 (d) For the purposes of enforcement of this section, a
2 plea or verdict of guilty, or a conviction after a plea of nolo
3 contendere, shall be deemed a conviction. The record of
4 conviction shall be conclusive evidence of the fact that the
5 conviction occurred.

6 (e) If the related conviction of the license holder is
7 overturned upon appeal, the revocation or denial ordered
8 pursuant to this section shall automatically cease. Nothing in
9 this subsection shall prohibit the board from pursuing
10 disciplinary action based on any cause other than the overturned
11 conviction.

12 (f) Any final order of discipline taken pursuant to this
13 section shall be a matter of public record.

14 (g) The board shall not restore, renew, or otherwise
15 reinstate the license of a person under any of the following
16 circumstances:

17 (1) The person has been required to register as a sex
18 offender pursuant to the requirements of chapter 846E,
19 regardless of whether the conviction has been
20 appealed; and

21 (2) The person engaged in the offense with a patient or
22 client, or with a former patient or client if the

S.B. NO. 1373

1 relationship was terminated primarily for the purpose
2 of committing the offense."

3 SECTION 3. Chapter 436H, Hawaii Revised Statutes, is
4 amended by adding a new section to be appropriately designated
5 and to read as follows:

6 "§436H- Revocation of license or denial of application
7 to renew, restore, or reinstate a license based on conviction as
8 a registered sex offender; conditions. (a) Notwithstanding any
9 law to the contrary, the director shall automatically revoke a
10 license or deny an application to renew, restore, or reinstate a
11 license under either of the following circumstances:

- 12 (1) The licensee has been convicted in any court in or
13 outside of this State of any offense that, if
14 committed or attempted in this State, based on the
15 elements of the convicted offense, would have been
16 punishable as one or more of the offenses described in
17 chapter 846E; or
- 18 (2) The licensee has been required to register as a sex
19 offender pursuant to the provisions of chapter 846E,
20 regardless of whether the related conviction has been
21 appealed.

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1 (b) The director shall notify the licensee of the license
2 revocation or denial of application to renew, restore, or
3 reinstate the license and of the right to elect to have a
4 hearing as provided in subsection (c).

5 (c) Upon revocation of the license or denial of an
6 application to renew, restore, or reinstate, the licensee may
7 file a written request for a hearing with the licensing
8 authority within ten days of the notice. The hearing shall be
9 held within thirty days of the revocation or denial. The
10 proceeding shall be conducted in accordance with chapter 91.

11 (d) For the purposes of enforcement of this section, a
12 plea or verdict of guilty, or a conviction after a plea of nolo
13 contendere, shall be deemed a conviction. The record of
14 conviction shall be conclusive evidence of the fact that the
15 conviction occurred.

16 (e) If the related conviction of the license holder is
17 overturned upon appeal, the revocation or denial ordered
18 pursuant to this section shall automatically cease. Nothing in
19 this subsection shall prohibit the program from pursuing
20 disciplinary action based on any cause other than the overturned
21 conviction.

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1 (f) Any final order of discipline taken pursuant to this
2 section shall be a matter of public record.

3 (g) The director shall not restore, renew, or otherwise
4 reinstate the license of a person under any of the following
5 circumstances:

6 (1) The person has been required to register as a sex
7 offender pursuant to the requirements of chapter 846E,
8 regardless of whether the conviction has been
9 appealed; and

10 (2) The person engaged in the offense with a patient or
11 client, or with a former patient or client if the
12 relationship was terminated primarily for the purpose
13 of committing the offense."

14 SECTION 4. Chapter 439A, Hawaii Revised Statutes, is
15 amended by adding a new section to be appropriately designated
16 and to read as follows:

17 "§439A- Revocation of license or denial of application
18 to renew, restore, or reinstate a license based on conviction as
19 a registered sex offender; conditions. (a) Notwithstanding any
20 law to the contrary, the board shall automatically revoke a
21 license or deny an application to renew, restore, or reinstate a
22 license under either of the following circumstances:

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1 (1) The licensee has been convicted in any court in or
2 outside of this State of any offense that, if
3 committed or attempted in this State, based on the
4 elements of the convicted offense, would have been
5 punishable as one or more of the offenses described in
6 chapter 846E; or

7 (2) The licensee has been required to register as a sex
8 offender pursuant to the requirements of chapter 846E,
9 regardless of whether the related conviction has been
10 appealed.

11 (b) The board shall notify the licensee of the license
12 revocation or denial of application to renew, restore, or
13 reinstate the license and of the right to elect to have a
14 hearing as provided in subsection (c).

15 (c) Upon revocation of the license or denial of an
16 application to renew, restore, or reinstate, the licensee may
17 file a written request for a hearing with the licensing
18 authority within ten days of the notice. The hearing shall be
19 held within thirty days of the revocation or denial. The
20 proceeding shall be conducted in accordance with chapter 91.

21 (d) For the purposes of enforcement of this section, a
22 plea or verdict of guilty, or a conviction after a plea of nolo

S.B. NO. 1373

1 contendere, shall be deemed a conviction. The record of
2 conviction shall be conclusive evidence of the fact that the
3 conviction occurred.

4 (e) If the related conviction of the license holder is
5 overturned upon appeal, the revocation or denial ordered
6 pursuant to this section shall automatically cease. Nothing in
7 this subsection shall prohibit the board from pursuing
8 disciplinary action based on any cause other than the overturned
9 conviction.

10 (f) Any final order of discipline taken pursuant to this
11 section shall be a matter of public record.

12 (g) The board shall not restore, renew, or otherwise
13 reinstate the license of a person under any of the following
14 circumstances:

15 (1) The person has been required to register as a sex
16 offender pursuant to the requirements of chapter 846E,
17 regardless of whether the conviction has been
18 appealed; and

19 (2) The person engaged in the offense with a patient or
20 client, or with a former patient or client if the
21 relationship was terminated primarily for the purpose
22 of committing the offense."

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1 SECTION 5. Chapter 442, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:

4 "§442- Revocation of license or denial of application
5 to renew, restore, or reinstate a license based on conviction as
6 a registered sex offender; conditions. (a) Notwithstanding any
7 law to the contrary, the board shall automatically revoke a
8 license or deny an application to renew, restore, or reinstate a
9 license under either of the following circumstances:

10 (1) The licensee has been convicted in any court in or
11 outside of this State of any offense that, if
12 committed or attempted in this State, based on the
13 elements of the convicted offense, would have been
14 punishable as one or more of the offenses described in
15 chapter 846E; or

16 (2) The licensee has been required to register as a sex
17 offender pursuant to the requirements of chapter 846E,
18 regardless of whether the related conviction has been
19 appealed.

20 (b) The board shall notify the licensee of the license
21 revocation or denial of application to renew, restore, or

S.B. NO. 1373

1 reinstate the license and of the right to elect to have a
2 hearing as provided in subsection (c).

3 (c) Upon revocation of the license or denial of an
4 application to renew, restore, or reinstate, the licensee may
5 file a written request for a hearing with the licensing
6 authority within ten days of the notice. The hearing shall be
7 held within thirty days of the revocation or denial. The
8 proceeding shall be conducted in accordance with chapter 91.

9 (d) For the purposes of enforcement of this section, a
10 plea or verdict of guilty, or a conviction after a plea of nolo
11 contendere, shall be deemed a conviction. The record of
12 conviction shall be conclusive evidence of the fact that the
13 conviction occurred.

14 (e) If the related conviction of the license holder is
15 overturned upon appeal, the revocation or denial ordered
16 pursuant to this section shall automatically cease. Nothing in
17 this subsection shall prohibit the board from pursuing
18 disciplinary action based on any cause other than the overturned
19 conviction.

20 (f) Any final order of discipline taken pursuant to this
21 section shall be a matter of public record.

S.B. NO. 1373

1 (g) The board shall not restore, renew, or otherwise
2 reinstate the license of a person under any of the following
3 circumstances:

4 (1) The person has been required to register as a sex
5 offender pursuant to the requirements of chapter 846E,
6 regardless of whether the conviction has been
7 appealed; and

8 (2) The person engaged in the offense with a patient or
9 client, or with a former patient or client if the
10 relationship was terminated primarily for the purpose
11 of committing the offense."

12 SECTION 6. Chapter 447, Hawaii Revised Statutes, is
13 amended by adding a new section to be appropriately designated
14 and to read as follows:

15 "§447- Revocation of license or denial of application
16 to renew, restore, or reinstate a license based on conviction as
17 a registered sex offender; conditions. (a) Notwithstanding any
18 law to the contrary, the board shall automatically revoke a
19 license or deny an application to renew, restore, or reinstate a
20 license under either of the following circumstances:

21 (1) The licensee has been convicted in any court in or
22 outside of this State of any offense that, if

S.B. NO. /373

1 committed or attempted in this State, based on the
2 elements of the convicted offense, would have been
3 punishable as one or more of the offenses described in
4 chapter 846E; or

5 (2) The licensee has been required to register as a sex
6 offender pursuant to the requirements of chapter 846E,
7 regardless of whether the related conviction has been
8 appealed.

9 (b) The board shall notify the licensee of the license
10 revocation or denial of application to renew, restore, or
11 reinstate the license and of the right to elect to have a
12 hearing as provided in subsection (c).

13 (c) Upon revocation of the license or denial of an
14 application to renew, restore, or reinstate, the licensee may
15 file a written request for a hearing with the licensing
16 authority within ten days of the notice. The hearing shall be
17 held within thirty days of the revocation or denial. The
18 proceeding shall be conducted in accordance with chapter 91.

19 (d) For the purposes of enforcement of this section, a
20 plea or verdict of guilty, or a conviction after a plea of nolo
21 contendere, shall be deemed a conviction. The record of

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1 conviction shall be conclusive evidence of the fact that the
2 conviction occurred.

3 (e) If the related conviction of the license holder is
4 overturned upon appeal, the revocation or denial ordered
5 pursuant to this section shall automatically cease. Nothing in
6 this subsection shall prohibit the board from pursuing
7 disciplinary action based on any cause other than the overturned
8 conviction.

9 (f) Any final order of discipline taken pursuant to this
10 section shall be a matter of public record.

11 (g) The board shall not restore, renew, or otherwise
12 reinstate the license of a person under any of the following
13 circumstances:

14 (1) The person has been required to register as a sex
15 offender pursuant to the requirements of chapter 846E,
16 regardless of whether the conviction has been
17 appealed; and

18 (2) The person engaged in the offense with a patient or
19 client, or with a former patient or client if the
20 relationship was terminated primarily for the purpose
21 of committing the offense."

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1 SECTION 7. Chapter 448, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:

4 "§448- Revocation of license or denial of application
5 to renew, restore, or reinstate a license based on conviction as
6 a registered sex offender; conditions. (a) Notwithstanding any
7 law to the contrary, the board shall automatically revoke a
8 license or deny an application to renew, restore, or reinstate a
9 license under either of the following circumstances:

10 (1) The licensee has been convicted in any court in or
11 outside of this State of any offense that, if
12 committed or attempted in this State, based on the
13 elements of the convicted offense, would have been
14 punishable as one or more of the offenses described in
15 chapter 846E; or

16 (2) The licensee has been required to register as a sex
17 offender pursuant to the requirements of chapter 846E,
18 regardless of whether the related conviction has been
19 appealed.

20 (b) The board shall notify the licensee of the license
21 revocation or denial of application to renew, restore, or

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1 reinstate the license and of the right to elect to have a
2 hearing as provided in subsection (c).

3 (c) Upon revocation of the license or denial of an
4 application to renew, restore, or reinstate, the licensee may
5 file a written request for a hearing with the licensing
6 authority within ten days of the notice. The hearing shall be
7 held within thirty days of the revocation or denial. The
8 proceeding shall be conducted in accordance with chapter 91.

9 (d) For the purposes of enforcement of this section, a
10 plea or verdict of guilty, or a conviction after a plea of nolo
11 contendere, shall be deemed a conviction. The record of
12 conviction shall be conclusive evidence of the fact that the
13 conviction occurred.

14 (e) If the related conviction of the license holder is
15 overturned upon appeal, the revocation or denial ordered
16 pursuant to this section shall automatically cease. Nothing in
17 this subsection shall prohibit the board from pursuing
18 disciplinary action based on any cause other than the overturned
19 conviction.

20 (f) Any final order of discipline taken pursuant to this
21 section shall be a matter of public record.

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1 (g) The board shall not restore, renew, or otherwise
2 reinstate the license of a person under any of the following
3 circumstances:

4 (1) The person has been required to register as a sex
5 offender pursuant to the requirements of chapter 846E,
6 regardless of whether the conviction has been
7 appealed; and

8 (2) The person engaged in the offense with a patient or
9 client, or with a former patient or client if the
10 relationship was terminated primarily for the purpose
11 of committing the offense."

12 SECTION 8. Chapter 448F, Hawaii Revised Statutes, is
13 amended by adding a new section to be appropriately designated
14 and to read as follows:

15 "§448F- Revocation of license or denial of application
16 to renew, restore, or reinstate a license based on conviction as
17 a registered sex offender; conditions. (a) Notwithstanding any
18 law to the contrary, the director shall automatically revoke a
19 license or deny an application to renew, restore, or reinstate a
20 license under either of the following circumstances:

21 (1) The licensee has been convicted in any court in or
22 outside of this State of any offense that, if

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1 committed or attempted in this State, based on the
2 elements of the convicted offense, would have been
3 punishable as one or more of the offenses described in
4 chapter 846E; or

5 (2) The licensee has been required to register as a sex
6 offender pursuant to the provisions of chapter 846E,
7 regardless of whether the related conviction has been
8 appealed.

9 (b) The director shall notify the licensee of the license
10 revocation or denial of application to renew, restore, or
11 reinstate the license and of the right to elect to have a
12 hearing as provided in subsection (c).

13 (c) Upon revocation of the license or denial of an
14 application to renew, restore, or reinstate, the licensee may
15 file a written request for a hearing with the licensing
16 authority within ten days of the notice. The hearing shall be
17 held within thirty days of the revocation or denial. The
18 proceeding shall be conducted in accordance with chapter 91.

19 (d) For the purposes of enforcement of this section, a
20 plea or verdict of guilty, or a conviction after a plea of nolo
21 contendere, shall be deemed a conviction. The record of

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1 conviction shall be conclusive evidence of the fact that the
2 conviction occurred.

3 (e) If the related conviction of the license holder is
4 overturned upon appeal, the revocation or denial ordered
5 pursuant to this section shall automatically cease. Nothing in
6 this subsection shall prohibit the program from pursuing
7 disciplinary action based on any cause other than the overturned
8 conviction.

9 (f) Any final order of discipline taken pursuant to this
10 section shall be a matter of public record.

11 (g) The director shall not restore, renew, or otherwise
12 reinstate the license of a person under any of the following
13 circumstances:

14 (1) The person has been required to register as a sex
15 offender pursuant to the requirements of chapter 846E,
16 regardless of whether the conviction has been
17 appealed; and

18 (2) The person engaged in the offense with a patient or
19 client, or with a former patient or client if the
20 relationship was terminated primarily for the purpose
21 of committing the offense."

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1 SECTION 9. Chapter 451A, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:

4 "§451A- Revocation of license or denial of application
5 to renew, restore, or reinstate a license based on conviction as
6 a registered sex offender; conditions. (a) Notwithstanding any
7 law to the contrary, the director shall automatically revoke a
8 license or deny an application to renew, restore, or reinstate a
9 license under either of the following circumstances:

10 (1) The licensee has been convicted in any court in or
11 outside of this State of any offense that, if
12 committed or attempted in this State, based on the
13 elements of the convicted offense, would have been
14 punishable as one or more of the offenses described in
15 chapter 846E; or

16 (2) The licensee has been required to register as a sex
17 offender pursuant to the provisions of chapter 846E,
18 regardless of whether the related conviction has been
19 appealed.

20 (b) The director shall notify the licensee of the license
21 revocation or denial of application to renew, restore, or

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1 reinstate the license and of the right to elect to have a
2 hearing as provided in subsection (c).

3 (c) Upon revocation of the license or denial of an
4 application to renew, restore, or reinstate, the licensee may
5 file a written request for a hearing with the licensing
6 authority within ten days of the notice. The hearing shall be
7 held within thirty days of the revocation or denial. The
8 proceeding shall be conducted in accordance with chapter 91.

9 (d) For the purposes of enforcement of this section, a
10 plea or verdict of guilty, or a conviction after a plea of nolo
11 contendere, shall be deemed a conviction. The record of
12 conviction shall be conclusive evidence of the fact that the
13 conviction occurred.

14 (e) If the related conviction of the license holder is
15 overturned upon appeal, the revocation or denial ordered
16 pursuant to this section shall automatically cease. Nothing in
17 this subsection shall prohibit the program from pursuing
18 disciplinary action based on any cause other than the overturned
19 conviction.

20 (f) Any final order of discipline taken pursuant to this
21 section shall be a matter of public record.

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1 (g) The director shall not restore, renew, or otherwise
2 reinstate the license of a person under any of the following
3 circumstances:

4 (1) The person has been required to register as a sex
5 offender pursuant to the requirements of chapter 846E,
6 regardless of whether the conviction has been
7 appealed; and

8 (2) The person engaged in the offense with a patient or
9 client, or with a former patient or client if the
10 relationship was terminated primarily for the purpose
11 of committing the offense."

12 SECTION 10. Chapter 451J, Hawaii Revised Statutes, is
13 amended by adding a new section to be appropriately designated
14 and to read as follows:

15 "§451J- Revocation of license or denial of application
16 to renew, restore, or reinstate a license based on conviction as
17 a registered sex offender; conditions. (a) Notwithstanding any
18 law to the contrary, the director shall automatically revoke a
19 license or deny an application to renew, restore, or reinstate a
20 license under either of the following circumstances:

21 (1) The licensee has been convicted in any court in or
22 outside of this State of any offense that, if

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1 committed or attempted in this State, based on the
2 elements of the convicted offense, would have been
3 punishable as one or more of the offenses described in
4 chapter 846E; or

5 (2) The licensee has been required to register as a sex
6 offender pursuant to the provisions of chapter 846E,
7 regardless of whether the related conviction has been
8 appealed.

9 (b) The director shall notify the licensee of the license
10 revocation or denial of application to renew, restore, or
11 reinstate the license and of the right to elect to have a
12 hearing as provided in subsection (c).

13 (c) Upon revocation of the license or denial of an
14 application to renew, restore, or reinstate, the licensee may
15 file a written request for a hearing with the licensing
16 authority within ten days of the notice. The hearing shall be
17 held within thirty days of the revocation or denial. The
18 proceeding shall be conducted in accordance with chapter 91.

19 (d) For the purposes of enforcement of this section, a
20 plea or verdict of guilty, or a conviction after a plea of nolo
21 contendere, shall be deemed a conviction. The record of

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1 conviction shall be conclusive evidence of the fact that the
2 conviction occurred.

3 (e) If the related conviction of the license holder is
4 overturned upon appeal, the revocation or denial ordered
5 pursuant to this section shall automatically cease. Nothing in
6 this subsection shall prohibit the program from pursuing
7 disciplinary action based on any cause other than the overturned
8 conviction.

9 (f) Any final order of discipline taken pursuant to this
10 section shall be a matter of public record.

11 (g) The director shall not restore, renew, or otherwise
12 reinstate the license of a person under any of the following
13 circumstances:

14 (1) The person has been required to register as a sex
15 offender pursuant to the requirements of chapter 846E,
16 regardless of whether the conviction has been
17 appealed; and

18 (2) The person engaged in the offense with a patient or
19 client, or with a former patient or client if the
20 relationship was terminated primarily for the purpose
21 of committing the offense."

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1 SECTION 11. Chapter 452, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:

4 "§452- Revocation of license or denial of application
5 to renew, restore, or reinstate a license based on conviction as
6 a registered sex offender; conditions. (a) Notwithstanding any
7 law to the contrary, the board shall automatically revoke a
8 license or deny an application to renew, restore, or reinstate a
9 license under either of the following circumstances:

10 (1) The licensee has been convicted in any court in or
11 outside of this State of any offense that, if
12 committed or attempted in this State, based on the
13 elements of the convicted offense, would have been
14 punishable as one or more of the offenses described in
15 chapter 846E; or

16 (2) The licensee has been required to register as a sex
17 offender pursuant to the requirements of chapter 846E,
18 regardless of whether the related conviction has been
19 appealed.

20 (b) The board shall notify the licensee of the license
21 revocation or denial of application to renew, restore, or

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1 reinstate the license and of the right to elect to have a
2 hearing as provided in subsection (c).

3 (c) Upon revocation of the license or denial of an
4 application to renew, restore, or reinstate, the licensee may
5 file a written request for a hearing with the licensing
6 authority within ten days of the notice. The hearing shall be
7 held within thirty days of the revocation or denial. The
8 proceeding shall be conducted in accordance with chapter 91.

9 (d) For the purposes of enforcement of this section, a
10 plea or verdict of guilty, or a conviction after a plea of nolo
11 contendere, shall be deemed a conviction. The record of
12 conviction shall be conclusive evidence of the fact that the
13 conviction occurred.

14 (e) If the related conviction of the license holder is
15 overturned upon appeal, the revocation or denial ordered
16 pursuant to this section shall automatically cease. Nothing in
17 this subsection shall prohibit the board from pursuing
18 disciplinary action based on any cause other than the overturned
19 conviction.

20 (f) Any final order of discipline taken pursuant to this
21 section shall be a matter of public record.

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1 (g) The board shall not restore, renew, or otherwise
2 reinstate the license of a person under any of the following
3 circumstances:

4 (1) The person has been required to register as a sex
5 offender pursuant to the requirements of chapter 846E,
6 regardless of whether the conviction has been
7 appealed; and

8 (2) The person engaged in the offense with a patient or
9 client, or with a former patient or client if the
10 relationship was terminated primarily for the purpose
11 of committing the offense."

12 SECTION 12. Chapter 453, Hawaii Revised Statutes, is
13 amended by adding a new section to be appropriately designated
14 and to read as follows:

15 "§453- Revocation of license or denial of application
16 to renew, restore, or reinstate a license based on conviction as
17 a registered sex offender; conditions. (a) Notwithstanding any
18 law to the contrary, the board shall automatically revoke a
19 license or deny an application to renew, restore, or reinstate a
20 license under either of the following circumstances:

21 (1) The licensee has been convicted in any court in or
22 outside of this State of any offense that, if

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1 committed or attempted in this State, based on the
2 elements of the convicted offense, would have been
3 punishable as one or more of the offenses described in
4 chapter 846E; or

5 (2) The licensee has been required to register as a sex
6 offender pursuant to the requirements of chapter 846E,
7 regardless of whether the related conviction has been
8 appealed.

9 (b) The board shall notify the licensee of the license
10 revocation or denial of application to renew, restore, or
11 reinstate the license and of the right to elect to have a
12 hearing as provided in subsection (c).

13 (c) Upon revocation of the license or denial of an
14 application to renew, restore, or reinstate, the licensee may
15 file a written request for a hearing with the licensing
16 authority within ten days of the notice. The hearing shall be
17 held within thirty days of the revocation or denial. The
18 proceeding shall be conducted in accordance with chapter 91.

19 (d) For the purposes of enforcement of this section, a
20 plea or verdict of guilty, or a conviction after a plea of nolo
21 contendere, shall be deemed a conviction. The record of

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1 conviction shall be conclusive evidence of the fact that the
2 conviction occurred.

3 (e) If the related conviction of the license holder is
4 overturned upon appeal, the revocation or denial ordered
5 pursuant to this section shall automatically cease. Nothing in
6 this subsection shall prohibit the board from pursuing
7 disciplinary action based on any cause other than the overturned
8 conviction.

9 (f) Any final order of discipline taken pursuant to this
10 section shall be a matter of public record.

11 (g) The board shall not restore, renew, or otherwise
12 reinstate the license of a person under any of the following
13 circumstances:

14 (1) The person has been required to register as a sex
15 offender pursuant to the requirements of chapter 846E,
16 regardless of whether the conviction has been
17 appealed; and

18 (2) The person engaged in the offense with a patient or
19 client, or with a former patient or client if the
20 relationship was terminated primarily for the purpose
21 of committing the offense."

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1 SECTION 13. Chapter 453D, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:

4 "§453D- Revocation of license or denial of application
5 to renew, restore, or reinstate a license based on conviction as
6 a registered sex offender; conditions. (a) Notwithstanding any
7 law to the contrary, the director shall automatically revoke a
8 license or deny an application to renew, restore, or reinstate a
9 license under either of the following circumstances:

10 (1) The licensee has been convicted in any court in or
11 outside of this State of any offense that, if
12 committed or attempted in this State, based on the
13 elements of the convicted offense, would have been
14 punishable as one or more of the offenses described in
15 chapter 846E; or

16 (2) The licensee has been required to register as a sex
17 offender pursuant to the provisions of chapter 846E,
18 regardless of whether the related conviction has been
19 appealed.

20 (b) The director shall notify the licensee of the license
21 revocation or denial of application to renew, restore, or

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1 reinstate the license and of the right to elect to have a
2 hearing as provided in subsection (c).

3 (c) Upon revocation of the license or denial of an
4 application to renew, restore, or reinstate, the licensee may
5 file a written request for a hearing with the licensing
6 authority within ten days of the notice. The hearing shall be
7 held within thirty days of the revocation or denial. The
8 proceeding shall be conducted in accordance with chapter 91.

9 (d) For the purposes of enforcement of this section, a
10 plea or verdict of guilty, or a conviction after a plea of nolo
11 contendere, shall be deemed a conviction. The record of
12 conviction shall be conclusive evidence of the fact that the
13 conviction occurred.

14 (e) If the related conviction of the license holder is
15 overturned upon appeal, the revocation or denial ordered
16 pursuant to this section shall automatically cease. Nothing in
17 this subsection shall prohibit the program from pursuing
18 disciplinary action based on any cause other than the overturned
19 conviction.

20 (f) Any final order of discipline taken pursuant to this
21 section shall be a matter of public record.

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1 (g) The director shall not restore, renew, or otherwise
2 reinstate the license of a person under any of the following
3 circumstances:

4 (1) The person has been required to register as a sex
5 offender pursuant to the requirements of chapter 846E,
6 regardless of whether the conviction has been
7 appealed; and

8 (2) The person engaged in the offense with a patient or
9 client, or with a former patient or client if the
10 relationship was terminated primarily for the purpose
11 of committing the offense."

12 SECTION 14. Chapter 455, Hawaii Revised Statutes, is
13 amended by adding a new section to be appropriately designated
14 and to read as follows:

15 **"§455- Revocation of license or denial of application**
16 **to renew, restore, or reinstate a license based on conviction as**
17 **a registered sex offender; conditions. (a) Notwithstanding any**
18 **law to the contrary, the board shall automatically revoke a**
19 **license or deny an application to renew, restore, or reinstate a**
20 **license under either of the following circumstances:**

21 (1) The licensee has been convicted in any court in or
22 outside of this State of any offense that, if

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1 committed or attempted in this State, based on the
2 elements of the convicted offense, would have been
3 punishable as one or more of the offenses described in
4 chapter 846E; or

5 (2) The licensee has been required to register as a sex
6 offender pursuant to the requirements of chapter 846E,
7 regardless of whether the related conviction has been
8 appealed.

9 (b) The board shall notify the licensee of the license
10 revocation or denial of application to renew, restore, or
11 reinstate the license and of the right to elect to have a
12 hearing as provided in subsection (c).

13 (c) Upon revocation of the license or denial of an
14 application to renew, restore, or reinstate, the licensee may
15 file a written request for a hearing with the licensing
16 authority within ten days of the notice. The hearing shall be
17 held within thirty days of the revocation or denial. The
18 proceeding shall be conducted in accordance with chapter 91.

19 (d) For the purposes of enforcement of this section, a
20 plea or verdict of guilty, or a conviction after a plea of nolo
21 contendere, shall be deemed a conviction. The record of

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1 conviction shall be conclusive evidence of the fact that the
2 conviction occurred.

3 (e) If the related conviction of the license holder is
4 overturned upon appeal, the revocation or denial ordered
5 pursuant to this section shall automatically cease. Nothing in
6 this subsection shall prohibit the board from pursuing
7 disciplinary action based on any cause other than the overturned
8 conviction.

9 (f) Any final order of discipline taken pursuant to this
10 section shall be a matter of public record.

11 (g) The board shall not restore, renew, or otherwise
12 reinstate the license of a person under any of the following
13 circumstances:

14 (1) The person has been required to register as a sex
15 offender pursuant to the requirements of chapter 846E,
16 regardless of whether the conviction has been
17 appealed; and

18 (2) The person engaged in the offense with a patient or
19 client, or with a former patient or client if the
20 relationship was terminated primarily for the purpose
21 of committing the offense."

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1 SECTION 15. Chapter 457, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:

4 "§457- Revocation of license or denial of application
5 to renew, restore, or reinstate a license based on conviction as
6 a registered sex offender; conditions. (a) Notwithstanding any
7 law to the contrary, the board shall automatically revoke a
8 license or deny an application to renew, restore, or reinstate a
9 license under either of the following circumstances:

10 (1) The licensee has been convicted in any court in or
11 outside of this State of any offense that, if
12 committed or attempted in this State, based on the
13 elements of the convicted offense, would have been
14 punishable as one or more of the offenses described in
15 chapter 846E; or

16 (2) The licensee has been required to register as a sex
17 offender pursuant to the requirements of chapter 846E,
18 regardless of whether the related conviction has been
19 appealed.

20 (b) The board shall notify the licensee of the license
21 revocation or denial of application to renew, restore, or

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1 reinstate the license and of the right to elect to have a
2 hearing as provided in subsection (c).

3 (c) Upon revocation of the license or denial of an
4 application to renew, restore, or reinstate, the licensee may
5 file a written request for a hearing with the licensing
6 authority within ten days of the notice. The hearing shall be
7 held within thirty days of the revocation or denial. The
8 proceeding shall be conducted in accordance with chapter 91.

9 (d) For the purposes of enforcement of this section, a
10 plea or verdict of guilty, or a conviction after a plea of nolo
11 contendere, shall be deemed a conviction. The record of
12 conviction shall be conclusive evidence of the fact that the
13 conviction occurred.

14 (e) If the related conviction of the license holder is
15 overturned upon appeal, the revocation or denial ordered
16 pursuant to this section shall automatically cease. Nothing in
17 this subsection shall prohibit the board from pursuing
18 disciplinary action based on any cause other than the overturned
19 conviction.

20 (f) Any final order of discipline taken pursuant to this
21 section shall be a matter of public record.

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1 (g) The board shall not restore, renew, or otherwise
2 reinstate the license of a person under any of the following
3 circumstances:

4 (1) The person has been required to register as a sex
5 offender pursuant to the requirements of chapter 846E,
6 regardless of whether the conviction has been
7 appealed; and

8 (2) The person engaged in the offense with a patient or
9 client, or with a former patient or client if the
10 relationship was terminated primarily for the purpose
11 of committing the offense."

12 SECTION 16. Chapter 457A, Hawaii Revised Statutes, is
13 amended by adding a new section to be appropriately designated
14 and to read as follows:

15 "§457A- Revocation of license or denial of application
16 to renew, restore, or reinstate a license based on conviction as
17 a registered sex offender; conditions. (a) Notwithstanding any
18 law to the contrary, the director shall automatically revoke a
19 license or deny an application to renew, restore, or reinstate a
20 license under either of the following circumstances:

21 (1) The licensee has been convicted in any court in or
22 outside of this State of any offense that, if

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1 committed or attempted in this State, based on the
2 elements of the convicted offense, would have been
3 punishable as one or more of the offenses described in
4 chapter 846E; or

5 (2) The licensee has been required to register as a sex
6 offender pursuant to the provisions of chapter 846E,
7 regardless of whether the related conviction has been
8 appealed.

9 (b) The director shall notify the licensee of the license
10 revocation or denial of application to renew, restore, or
11 reinstate the license and of the right to elect to have a
12 hearing as provided in subsection (c).

13 (c) Upon revocation of the license or denial of an
14 application to renew, restore, or reinstate, the licensee may
15 file a written request for a hearing with the licensing
16 authority within ten days of the notice. The hearing shall be
17 held within thirty days of the revocation or denial. The
18 proceeding shall be conducted in accordance with chapter 91.

19 (d) For the purposes of enforcement of this section, a
20 plea or verdict of guilty, or a conviction after a plea of nolo
21 contendere, shall be deemed a conviction. The record of

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1 conviction shall be conclusive evidence of the fact that the
2 conviction occurred.

3 (e) If the related conviction of the license holder is
4 overturned upon appeal, the revocation or denial ordered
5 pursuant to this section shall automatically cease. Nothing in
6 this subsection shall prohibit the program from pursuing
7 disciplinary action based on any cause other than the overturned
8 conviction.

9 (f) Any final order of discipline taken pursuant to this
10 section shall be a matter of public record.

11 (g) The director shall not restore, renew, or otherwise
12 reinstate the license of a person under any of the following
13 circumstances:

14 (1) The person has been required to register as a sex
15 offender pursuant to the requirements of chapter 846E,
16 regardless of whether the conviction has been
17 appealed; and

18 (2) The person engaged in the offense with a patient or
19 client, or with a former patient or client if the
20 relationship was terminated primarily for the purpose
21 of committing the offense."

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1 SECTION 17. Chapter 457B, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:

4 "§457B- Revocation of license or denial of application
5 to renew, restore, or reinstate a license based on conviction as
6 a registered sex offender; conditions. (a) Notwithstanding any
7 law to the contrary, the director shall automatically revoke a
8 license or deny an application to renew, restore, or reinstate a
9 license under either of the following circumstances:

10 (1) The licensee has been convicted in any court in or
11 outside of this State of any offense that, if
12 committed or attempted in this State, based on the
13 elements of the convicted offense, would have been
14 punishable as one or more of the offenses described in
15 chapter 846E; or

16 (2) The licensee has been required to register as a sex
17 offender pursuant to the provisions of chapter 846E,
18 regardless of whether the related conviction has been
19 appealed.

20 (b) The director shall notify the licensee of the license
21 revocation or denial of application to renew, restore, or

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1 reinstate the license and of the right to elect to have a
2 hearing as provided in subsection (c).

3 (c) Upon revocation of the license or denial of an
4 application to renew, restore, or reinstate, the licensee may
5 file a written request for a hearing with the licensing
6 authority within ten days of the notice. The hearing shall be
7 held within thirty days of the revocation or denial. The
8 proceeding shall be conducted in accordance with chapter 91.

9 (d) For the purposes of enforcement of this section, a
10 plea or verdict of guilty, or a conviction after a plea of nolo
11 contendere, shall be deemed a conviction. The record of
12 conviction shall be conclusive evidence of the fact that the
13 conviction occurred.

14 (e) If the related conviction of the license holder is
15 overturned upon appeal, the revocation or denial ordered
16 pursuant to this section shall automatically cease. Nothing in
17 this subsection shall prohibit the program from pursuing
18 disciplinary action based on any cause other than the overturned
19 conviction.

20 (f) Any final order of discipline taken pursuant to this
21 section shall be a matter of public record.

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1 (g) The director shall not restore, renew, or otherwise
2 reinstate the license of a person under any of the following
3 circumstances:

4 (1) The person has been required to register as a sex
5 offender pursuant to the requirements of chapter 846E,
6 regardless of whether the conviction has been
7 appealed; and

8 (2) The person engaged in the offense with a patient or
9 client, or with a former patient or client if the
10 relationship was terminated primarily for the purpose
11 of committing the offense."

12 SECTION 18. Chapter 457G, Hawaii Revised Statutes, is
13 amended by adding a new section to be appropriately designated
14 and to read as follows:

15 "§457G- Revocation of license or denial of application
16 to renew, restore, or reinstate a license based on conviction as
17 a registered sex offender; conditions. (a) Notwithstanding any
18 law to the contrary, the director shall automatically revoke a
19 license or deny an application to renew, restore, or reinstate a
20 license under either of the following circumstances:

21 (1) The licensee has been convicted in any court in or
22 outside of this State of any offense that, if

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1 committed or attempted in this State, based on the
2 elements of the convicted offense, would have been
3 punishable as one or more of the offenses described in
4 chapter 846E; or

5 (2) The licensee has been required to register as a sex
6 offender pursuant to the provisions of chapter 846E,
7 regardless of whether the related conviction has been
8 appealed.

9 (b) The director shall notify the licensee of the license
10 revocation or denial of application to renew, restore, or
11 reinstate the license and of the right to elect to have a
12 hearing as provided in subsection (c).

13 (c) Upon revocation of the license or denial of an
14 application to renew, restore, or reinstate, the licensee may
15 file a written request for a hearing with the licensing
16 authority within ten days of the notice. The hearing shall be
17 held within thirty days of the revocation or denial. The
18 proceeding shall be conducted in accordance with chapter 91.

19 (d) For the purposes of enforcement of this section, a
20 plea or verdict of guilty, or a conviction after a plea of nolo
21 contendere, shall be deemed a conviction. The record of

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1 conviction shall be conclusive evidence of the fact that the
2 conviction occurred.

3 (e) If the related conviction of the license holder is
4 overturned upon appeal, the revocation or denial ordered
5 pursuant to this section shall automatically cease. Nothing in
6 this subsection shall prohibit the program from pursuing
7 disciplinary action based on any cause other than the overturned
8 conviction.

9 (f) Any final order of discipline taken pursuant to this
10 section shall be a matter of public record.

11 (g) The director shall not restore, renew, or otherwise
12 reinstate the license of a person under any of the following
13 circumstances:

14 (1) The person has been required to register as a sex
15 offender pursuant to the requirements of chapter 846E,
16 regardless of whether the conviction has been
17 appealed; and

18 (2) The person engaged in the offense with a patient or
19 client, or with a former patient or client if the
20 relationship was terminated primarily for the purpose
21 of committing the offense."

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1 SECTION 19. Chapter 457J, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:

4 "§457J- Revocation of license or denial of application
5 to renew, restore, or reinstate a license based on conviction as
6 a registered sex offender; conditions. (a) Notwithstanding any
7 law to the contrary, the director shall automatically revoke a
8 license or deny an application to renew, restore, or reinstate a
9 license under either of the following circumstances:

10 (1) The licensee has been convicted in any court in or
11 outside of this State of any offense that, if
12 committed or attempted in this State, based on the
13 elements of the convicted offense, would have been
14 punishable as one or more of the offenses described in
15 chapter 846E; or

16 (2) The licensee has been required to register as a sex
17 offender pursuant to the provisions of chapter 846E,
18 regardless of whether the related conviction has been
19 appealed.

20 (b) The director shall notify the licensee of the license
21 revocation or denial of application to renew, restore, or

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1 reinstate the license and of the right to elect to have a
2 hearing as provided in subsection (c).

3 (c) Upon revocation of the license or denial of an
4 application to renew, restore, or reinstate, the licensee may
5 file a written request for a hearing with the licensing
6 authority within ten days of the notice. The hearing shall be
7 held within thirty days of the revocation or denial. The
8 proceeding shall be conducted in accordance with chapter 91.

9 (d) For the purposes of enforcement of this section, a
10 plea or verdict of guilty, or a conviction after a plea of nolo
11 contendere, shall be deemed a conviction. The record of
12 conviction shall be conclusive evidence of the fact that the
13 conviction occurred.

14 (e) If the related conviction of the license holder is
15 overturned upon appeal, the revocation or denial ordered
16 pursuant to this section shall automatically cease. Nothing in
17 this subsection shall prohibit the program from pursuing
18 disciplinary action based on any cause other than the overturned
19 conviction.

20 (f) Any final order of discipline taken pursuant to this
21 section shall be a matter of public record.

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1 (g) The director shall not restore, renew, or otherwise
2 reinstate the license of a person under any of the following
3 circumstances:

4 (1) The person has been required to register as a sex
5 offender pursuant to the requirements of chapter 846E,
6 regardless of whether the conviction has been
7 appealed; and

8 (2) The person engaged in the offense with a patient or
9 client, or with a former patient or client if the
10 relationship was terminated primarily for the purpose
11 of committing the offense."

12 SECTION 20. Chapter 458, Hawaii Revised Statutes, is
13 amended by adding a new section to be appropriately designated
14 and to read as follows:

15 "§458- Revocation of license or denial of application
16 to renew, restore, or reinstate a license based on conviction as
17 a registered sex offender; conditions. (a) Notwithstanding any
18 law to the contrary, the director shall automatically revoke a
19 license or deny an application to renew, restore, or reinstate a
20 license under either of the following circumstances:

21 (1) The licensee has been convicted in any court in or
22 outside of this State of any offense that, if

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1 committed or attempted in this State, based on the
2 elements of the convicted offense, would have been
3 punishable as one or more of the offenses described in
4 chapter 846E; or

5 (2) The licensee has been required to register as a sex
6 offender pursuant to the provisions of chapter 846E,
7 regardless of whether the related conviction has been
8 appealed.

9 (b) The director shall notify the licensee of the license
10 revocation or denial of application to renew, restore, or
11 reinstate the license and of the right to elect to have a
12 hearing as provided in subsection (c).

13 (c) Upon revocation of the license or denial of an
14 application to renew, restore, or reinstate, the licensee may
15 file a written request for a hearing with the licensing
16 authority within ten days of the notice. The hearing shall be
17 held within thirty days of the revocation or denial. The
18 proceeding shall be conducted in accordance with chapter 91.

19 (d) For the purposes of enforcement of this section, a
20 plea or verdict of guilty, or a conviction after a plea of nolo
21 contendere, shall be deemed a conviction. The record of

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1 conviction shall be conclusive evidence of the fact that the
2 conviction occurred.

3 (e) If the related conviction of the license holder is
4 overturned upon appeal, the revocation or denial ordered
5 pursuant to this section shall automatically cease. Nothing in
6 this subsection shall prohibit the program from pursuing
7 disciplinary action based on any cause other than the overturned
8 conviction.

9 (f) Any final order of discipline taken pursuant to this
10 section shall be a matter of public record.

11 (g) The director shall not restore, renew, or otherwise
12 reinstate the license of a person under any of the following
13 circumstances:

14 (1) The person has been required to register as a sex
15 offender pursuant to the requirements of chapter 846E,
16 regardless of whether the conviction has been
17 appealed; and

18 (2) The person engaged in the offense with a patient or
19 client, or with a former patient or client if the
20 relationship was terminated primarily for the purpose
21 of committing the offense."

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1 SECTION 21. Chapter 459, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:

4 "§459- Revocation of license or denial of application
5 to renew, restore, or reinstate a license based on conviction as
6 a registered sex offender; conditions. (a) Notwithstanding any
7 law to the contrary, the board shall automatically revoke a
8 license or deny an application to renew, restore, or reinstate a
9 license under either of the following circumstances:

10 (1) The licensee has been convicted in any court in or
11 outside of this State of any offense that, if
12 committed or attempted in this State, based on the
13 elements of the convicted offense, would have been
14 punishable as one or more of the offenses described in
15 chapter 846E; or

16 (2) The licensee has been required to register as a sex
17 offender pursuant to the requirements of chapter 846E,
18 regardless of whether the related conviction has been
19 appealed.

20 (b) The board shall notify the licensee of the license
21 revocation or denial of application to renew, restore, or

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1 reinstate the license and of the right to elect to have a
2 hearing as provided in subsection (c).

3 (c) Upon revocation of the license or denial of an
4 application to renew, restore, or reinstate, the licensee may
5 file a written request for a hearing with the licensing
6 authority within ten days of the notice. The hearing shall be
7 held within thirty days of the revocation or denial. The
8 proceeding shall be conducted in accordance with chapter 91.

9 (d) For the purposes of enforcement of this section, a
10 plea or verdict of guilty, or a conviction after a plea of nolo
11 contendere, shall be deemed a conviction. The record of
12 conviction shall be conclusive evidence of the fact that the
13 conviction occurred.

14 (e) If the related conviction of the license holder is
15 overturned upon appeal, the revocation or denial ordered
16 pursuant to this section shall automatically cease. Nothing in
17 this subsection shall prohibit the board from pursuing
18 disciplinary action based on any cause other than the overturned
19 conviction.

20 (f) Any final order of discipline taken pursuant to this
21 section shall be a matter of public record.

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1 (g) The board shall not restore, renew, or otherwise
2 reinstate the license of a person under any of the following
3 circumstances:

4 (1) The person has been required to register as a sex
5 offender pursuant to the requirements of chapter 846E,
6 regardless of whether the conviction has been
7 appealed; and

8 (2) The person engaged in the offense with a patient or
9 client, or with a former patient or client if the
10 relationship was terminated primarily for the purpose
11 of committing the offense."

12 SECTION 22. Chapter 461, Hawaii Revised Statutes, is
13 amended by adding a new section to be appropriately designated
14 and to read as follows:

15 "§461- Revocation of license or denial of application
16 to renew, restore, or reinstate a license based on conviction as
17 a registered sex offender; conditions. (a) Notwithstanding any
18 law to the contrary, the board shall automatically revoke a
19 license or deny an application to renew, restore, or reinstate a
20 license under either of the following circumstances:

21 (1) The licensee has been convicted in any court in or
22 outside of this State of any offense that, if

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1 committed or attempted in this State, based on the
2 elements of the convicted offense, would have been
3 punishable as one or more of the offenses described in
4 chapter 846E; or

5 (2) The licensee has been required to register as a sex
6 offender pursuant to the requirements of chapter 846E,
7 regardless of whether the related conviction has been
8 appealed.

9 (b) The board shall notify the licensee of the license
10 revocation or denial of application to renew, restore, or
11 reinstate the license and of the right to elect to have a
12 hearing as provided in subsection (c).

13 (c) Upon revocation of the license or denial of an
14 application to renew, restore, or reinstate, the licensee may
15 file a written request for a hearing with the licensing
16 authority within ten days of the notice. The hearing shall be
17 held within thirty days of the revocation or denial. The
18 proceeding shall be conducted in accordance with chapter 91.

19 (d) For the purposes of enforcement of this section, a
20 plea or verdict of guilty, or a conviction after a plea of nolo
21 contendere, shall be deemed a conviction. The record of

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1 conviction shall be conclusive evidence of the fact that the
2 conviction occurred.

3 (e) If the related conviction of the license holder is
4 overturned upon appeal, the revocation or denial ordered
5 pursuant to this section shall automatically cease. Nothing in
6 this subsection shall prohibit the board from pursuing
7 disciplinary action based on any cause other than the overturned
8 conviction.

9 (f) Any final order of discipline taken pursuant to this
10 section shall be a matter of public record.

11 (g) The board shall not restore, renew, or otherwise
12 reinstate the license of a person under any of the following
13 circumstances:

14 (1) The person has been required to register as a sex
15 offender pursuant to the requirements of chapter 846E,
16 regardless of whether the conviction has been
17 appealed; and

18 (2) The person engaged in the offense with a patient or
19 client, or with a former patient or client if the
20 relationship was terminated primarily for the purpose
21 of committing the offense."

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1 SECTION 23. Chapter 461J, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:

4 "§461J- Revocation of license or denial of application
5 to renew, restore, or reinstate a license based on conviction as
6 a registered sex offender; conditions. (a) Notwithstanding any
7 law to the contrary, the board shall automatically revoke a
8 license or deny an application to renew, restore, or reinstate a
9 license under either of the following circumstances:

10 (1) The licensee has been convicted in any court in or
11 outside of this State of any offense that, if
12 committed or attempted in this State, based on the
13 elements of the convicted offense, would have been
14 punishable as one or more of the offenses described in
15 chapter 846E; or

16 (2) The licensee has been required to register as a sex
17 offender pursuant to the requirements of chapter 846E,
18 regardless of whether the related conviction has been
19 appealed.

20 (b) The board shall notify the licensee of the license
21 revocation or denial of application to renew, restore, or

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1 reinstate the license and of the right to elect to have a
2 hearing as provided in subsection (c).

3 (c) Upon revocation of the license or denial of an
4 application to renew, restore, or reinstate, the licensee may
5 file a written request for a hearing with the licensing
6 authority within ten days of the notice. The hearing shall be
7 held within thirty days of the revocation or denial. The
8 proceeding shall be conducted in accordance with chapter 91.

9 (d) For the purposes of enforcement of this section, a
10 plea or verdict of guilty, or a conviction after a plea of nolo
11 contendere, shall be deemed a conviction. The record of
12 conviction shall be conclusive evidence of the fact that the
13 conviction occurred.

14 (e) If the related conviction of the license holder is
15 overturned upon appeal, the revocation or denial ordered
16 pursuant to this section shall automatically cease. Nothing in
17 this subsection shall prohibit the board from pursuing
18 disciplinary action based on any cause other than the overturned
19 conviction.

20 (f) Any final order of discipline taken pursuant to this
21 section shall be a matter of public record.

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1 (g) The board shall not restore, renew, or otherwise
2 reinstate the license of a person under any of the following
3 circumstances:

4 (1) The person has been required to register as a sex
5 offender pursuant to the requirements of chapter 846E,
6 regardless of whether the conviction has been
7 appealed; and

8 (2) The person engaged in the offense with a patient or
9 client, or with a former patient or client if the
10 relationship was terminated primarily for the purpose
11 of committing the offense."

12 SECTION 24. Chapter 463E, Hawaii Revised Statutes, is
13 amended by adding a new section to be appropriately designated
14 and to read as follows:

15 "§463E- **Revocation of license or denial of application**
16 to renew, restore, or reinstate a license based on conviction as
17 a registered sex offender; conditions. (a) Notwithstanding any
18 law to the contrary, the board shall automatically revoke a
19 license or deny an application to renew, restore, or reinstate a
20 license under either of the following circumstances:

21 (1) The licensee has been convicted in any court in or
22 outside of this State of any offense that, if

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1 committed or attempted in this State, based on the
2 elements of the convicted offense, would have been
3 punishable as one or more of the offenses described in
4 chapter 846E; or

5 (2) The licensee has been required to register as a sex
6 offender pursuant to the requirements of chapter 846E,
7 regardless of whether the related conviction has been
8 appealed.

9 (b) The board shall notify the licensee of the license
10 revocation or denial of application to renew, restore, or
11 reinstate the license and of the right to elect to have a
12 hearing as provided in subsection (c).

13 (c) Upon revocation of the license or denial of an
14 application to renew, restore, or reinstate, the licensee may
15 file a written request for a hearing with the licensing
16 authority within ten days of the notice. The hearing shall be
17 held within thirty days of the revocation or denial. The
18 proceeding shall be conducted in accordance with chapter 91.

19 (d) For the purposes of enforcement of this section, a
20 plea or verdict of guilty, or a conviction after a plea of nolo
21 contendere, shall be deemed a conviction. The record of

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1 conviction shall be conclusive evidence of the fact that the
2 conviction occurred.

3 (e) If the related conviction of the license holder is
4 overturned upon appeal, the revocation or denial ordered
5 pursuant to this section shall automatically cease. Nothing in
6 this subsection shall prohibit the board from pursuing
7 disciplinary action based on any cause other than the overturned
8 conviction.

9 (f) Any final order of discipline taken pursuant to this
10 section shall be a matter of public record.

11 (g) The board shall not restore, renew, or otherwise
12 reinstate the license of a person under any of the following
13 circumstances:

14 (1) The person has been required to register as a sex
15 offender pursuant to the requirements of chapter 846E,
16 regardless of whether the conviction has been
17 appealed; and

18 (2) The person engaged in the offense with a patient or
19 client, or with a former patient or client if the
20 relationship was terminated primarily for the purpose
21 of committing the offense."

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1 SECTION 25. Chapter 465, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:

4 "§465- Revocation of license or denial of application
5 to renew, restore, or reinstate a license based on conviction as
6 a registered sex offender; conditions. (a) Notwithstanding any
7 law to the contrary, the board shall automatically revoke a
8 license or deny an application to renew, restore, or reinstate a
9 license under either of the following circumstances:

10 (1) The licensee has been convicted in any court in or
11 outside of this State of any offense that, if
12 committed or attempted in this State, based on the
13 elements of the convicted offense, would have been
14 punishable as one or more of the offenses described in
15 chapter 846E; or

16 (2) The licensee has been required to register as a sex
17 offender pursuant to the requirements of chapter 846E,
18 regardless of whether the related conviction has been
19 appealed.

20 (b) The board shall notify the licensee of the license
21 revocation or denial of application to renew, restore, or

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1 reinstate the license and of the right to elect to have a
2 hearing as provided in subsection (c).

3 (c) Upon revocation of the license or denial of an
4 application to renew, restore, or reinstate, the licensee may
5 file a written request for a hearing with the licensing
6 authority within ten days of the notice. The hearing shall be
7 held within thirty days of the revocation or denial. The
8 proceeding shall be conducted in accordance with chapter 91.

9 (d) For the purposes of enforcement of this section, a
10 plea or verdict of guilty or a conviction after a plea of nolo
11 contendere, shall be deemed a conviction. The record of
12 conviction shall be conclusive evidence of the fact that the
13 conviction occurred.

14 (e) If the related conviction of the license holder is
15 overturned upon appeal, the revocation or denial ordered
16 pursuant to this section shall automatically cease. Nothing in
17 this subsection shall prohibit the board from pursuing
18 disciplinary action based on any cause other than the overturned
19 conviction.

20 (f) Any final order of discipline taken pursuant to this
21 section shall be a matter of public record.

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1 (g) The board shall not restore, renew, or otherwise
2 reinstate the license of a person under any of the following
3 circumstances:

4 (1) The person has been required to register as a sex
5 offender pursuant to the requirements of chapter 846E,
6 regardless of whether the conviction has been
7 appealed; and

8 (2) The person engaged in the offense with a patient or
9 client, or with a former patient or client if the
10 relationship was terminated primarily for the purpose
11 of committing the offense."

12 SECTION 26. Chapter 465D, Hawaii Revised Statutes, is
13 amended by adding a new section to be appropriately designated
14 and to read as follows:

15 "§465D- Revocation of license or denial of application
16 to renew, restore, or reinstate a license based on conviction as
17 a registered sex offender; conditions. (a) Notwithstanding any
18 law to the contrary, the director shall automatically revoke a
19 license or deny an application to renew, restore, or reinstate a
20 license under either of the following circumstances:

21 (1) The licensee has been convicted in any court in or
22 outside of this State of any offense that, if

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1 committed or attempted in this State, based on the
2 elements of the convicted offense, would have been
3 punishable as one or more of the offenses described in
4 chapter 846E; or

5 (2) The licensee has been required to register as a sex
6 offender pursuant to the provisions of chapter 846E,
7 regardless of whether the related conviction has been
8 appealed.

9 (b) The director shall notify the licensee of the license
10 revocation or denial of application to renew, restore, or
11 reinstate the license and of the right to elect to have a
12 hearing as provided in subsection (c).

13 (c) Upon revocation of the license or denial of an
14 application to renew, restore, or reinstate, the licensee may
15 file a written request for a hearing with the licensing
16 authority within ten days of the notice. The hearing shall be
17 held within thirty days of the revocation or denial. The
18 proceeding shall be conducted in accordance with chapter 91.

19 (d) For the purposes of enforcement of this section, a
20 plea or verdict of guilty, or a conviction after a plea of nolo
21 contendere, shall be deemed a conviction. The record of

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1 conviction shall be conclusive evidence of the fact that the
2 conviction occurred.

3 (e) If the related conviction of the license holder is
4 overturned upon appeal, the revocation or denial ordered
5 pursuant to this section shall automatically cease. Nothing in
6 this subsection shall prohibit the program from pursuing
7 disciplinary action based on any cause other than the overturned
8 conviction.

9 (f) Any final order of discipline taken pursuant to this
10 section shall be a matter of public record.

11 (g) The director shall not restore, renew, or otherwise
12 reinstate the license of a person under any of the following
13 circumstances:

14 (1) The person has been required to register as a sex
15 offender pursuant to the requirements of chapter 846E,
16 regardless of whether the conviction has been
17 appealed; and

18 (2) The person engaged in the offense with a patient or
19 client, or with a former patient or client if the
20 relationship was terminated primarily for the purpose
21 of committing the offense."

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1 SECTION 27. Chapter 466D, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:

4 "§466D- Revocation of license or denial of application
5 to renew, restore, or reinstate a license based on conviction as
6 a registered sex offender; conditions. (a) Notwithstanding any
7 law to the contrary, the director shall automatically revoke a
8 license or deny an application to renew, restore, or reinstate a
9 license under either of the following circumstances:

10 (1) The licensee has been convicted in any court in or
11 outside of this State of any offense that, if
12 committed or attempted in this State, based on the
13 elements of the convicted offense, would have been
14 punishable as one or more of the offenses described in
15 chapter 846E; or

16 (2) The licensee has been required to register as a sex
17 offender pursuant to the provisions of chapter 846E,
18 regardless of whether the related conviction has been
19 appealed.

20 (b) The director shall notify the licensee of the license
21 revocation or denial of application to renew, restore, or

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1 reinstate the license and of the right to elect to have a
2 hearing as provided in subsection (c).

3 (c) Upon revocation of the license or denial of an
4 application to renew, restore, or reinstate, the licensee may
5 file a written request for a hearing with the licensing
6 authority within ten days of the notice. The hearing shall be
7 held within thirty days of the revocation or denial. The
8 proceeding shall be conducted in accordance with chapter 91.

9 (d) For the purposes of enforcement of this section, a
10 plea or verdict of guilty, or a conviction after a plea of nolo
11 contendere, shall be deemed a conviction. The record of
12 conviction shall be conclusive evidence of the fact that the
13 conviction occurred.

14 (e) If the related conviction of the license holder is
15 overturned upon appeal, the revocation or denial ordered
16 pursuant to this section shall automatically cease. Nothing in
17 this subsection shall prohibit the program from pursuing
18 disciplinary action based on any cause other than the overturned
19 conviction.

20 (f) Any final order of discipline taken pursuant to this
21 section shall be a matter of public record.

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1 (g) The director shall not restore, renew, or otherwise
2 reinstate the license of a person under any of the following
3 circumstances:

4 (1) The person has been required to register as a sex
5 offender pursuant to the requirements of chapter 846E,
6 regardless of whether the conviction has been
7 appealed; and

8 (2) The person engaged in the offense with a patient or
9 client, or with a former patient or client if the
10 relationship was terminated primarily for the purpose
11 of committing the offense."

12 SECTION 28. Chapter 467E, Hawaii Revised Statutes, is
13 amended by adding a new section to be appropriately designated
14 and to read as follows:

15 "§467E- Revocation of license or denial of application
16 to renew, restore, or reinstate a license based on conviction as
17 a registered sex offender; conditions. (a) Notwithstanding any
18 law to the contrary, the director shall automatically revoke a
19 license or deny an application to renew, restore, or reinstate a
20 license under either of the following circumstances:

21 (1) The licensee has been convicted in any court in or
22 outside of this State of any offense that, if

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1 committed or attempted in this State, based on the
2 elements of the convicted offense, would have been
3 punishable as one or more of the offenses described in
4 chapter 846E; or

5 (2) The licensee has been required to register as a sex
6 offender pursuant to the provisions of chapter 846E,
7 regardless of whether the related conviction has been
8 appealed.

9 (b) The director shall notify the licensee of the license
10 revocation or denial of application to renew, restore, or
11 reinstate the license and of the right to elect to have a
12 hearing as provided in subsection (c).

13 (c) Upon revocation of the license or denial of an
14 application to renew, restore, or reinstate, the licensee may
15 file a written request for a hearing with the licensing
16 authority within ten days of the notice. The hearing shall be
17 held within thirty days of the revocation or denial. The
18 proceeding shall be conducted in accordance with chapter 91.

19 (d) For the purposes of enforcement of this section, a
20 plea or verdict of guilty, or a conviction after a plea of nolo
21 contendere, shall be deemed a conviction. The record of

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1 conviction shall be conclusive evidence of the fact that the
2 conviction occurred.

3 (e) If the related conviction of the license holder is
4 overturned upon appeal, the revocation or denial ordered
5 pursuant to this section shall automatically cease. Nothing in
6 this subsection shall prohibit the program from pursuing
7 disciplinary action based on any cause other than the overturned
8 conviction.

9 (f) Any final order of discipline taken pursuant to this
10 section shall be a matter of public record.

11 (g) The director shall not restore, renew, or otherwise
12 reinstate the license of a person under any of the following
13 circumstances:

14 (1) The person has been required to register as a sex
15 offender pursuant to the requirements of chapter 846E,
16 regardless of whether the conviction has been
17 appealed; and

18 (2) The person engaged in the offense with a patient or
19 client, or with a former patient or client if the
20 relationship was terminated primarily for the purpose
21 of committing the offense."

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1 SECTION 29. Chapter 468E, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:

4 "§468E- Revocation of license or denial of application
5 to renew, restore, or reinstate a license based on conviction as
6 a registered sex offender; conditions. (a) Notwithstanding any
7 law to the contrary, the board shall automatically revoke a
8 license or deny an application to renew, restore, or reinstate a
9 license under either of the following circumstances:

10 (1) The licensee has been convicted in any court in or
11 outside of this State of any offense that, if
12 committed or attempted in this State, based on the
13 elements of the convicted offense, would have been
14 punishable as one or more of the offenses described in
15 chapter 846E; or

16 (2) The licensee has been required to register as a sex
17 offender pursuant to the requirements of chapter 846E,
18 regardless of whether the related conviction has been
19 appealed.

20 (b) The board shall notify the licensee of the license
21 revocation or denial of application to renew, restore, or

S.B. NO. 1373

1 reinstate the license and of the right to elect to have a
2 hearing as provided in subsection (c).

3 (c) Upon revocation of the license or denial of an
4 application to renew, restore, or reinstate, the licensee may
5 file a written request for a hearing with the licensing
6 authority within ten days of the notice. The hearing shall be
7 held within thirty days of the revocation or denial. The
8 proceeding shall be conducted in accordance with chapter 91.

9 (d) For the purposes of enforcement of this section, a
10 plea or verdict of guilty, or a conviction after a plea of nolo
11 contendere, shall be deemed a conviction. The record of
12 conviction shall be conclusive evidence of the fact that the
13 conviction occurred.

14 (e) If the related conviction of the license holder is
15 overturned upon appeal, the revocation or denial ordered
16 pursuant to this section shall automatically cease. Nothing in
17 this subsection shall prohibit the board from pursuing
18 disciplinary action based on any cause other than the overturned
19 conviction.

20 (f) Any final order of discipline taken pursuant to this
21 section shall be a matter of public record.

S.B. NO. 1373

1 (g) The board shall not restore, renew, or otherwise
2 reinstate the license of a person under any of the following
3 circumstances:

4 (1) The person has been required to register as a sex
5 offender pursuant to the requirements of chapter 846E,
6 regardless of whether the conviction has been
7 appealed; and

8 (2) The person engaged in the offense with a patient or
9 client, or with a former patient or client if the
10 relationship was terminated primarily for the purpose
11 of committing the offense."

12 SECTION 30. This Act does not affect rights and duties
13 that matured, penalties that were incurred, and proceedings that
14 were begun before its effective date.

15 SECTION 31. New statutory material is underscored.

16 SECTION 32. This Act shall take effect upon its approval.

17

18

INTRODUCED BY:



19

BY REQUEST

S.B. NO. 1373

Report Title:

DCCA; Registered Sex Offenders; Professional Licenses; Automatic Revocation and Denial of Application to Renew, Restore, or Reinstatement

Description:

Authorizes the Department of Commerce and Consumer Affairs and certain licensing boards to automatically revoke and refuse to renew, restore, or reinstate the professional licenses of registered sex offenders.

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

SB. NO. 1373

JUSTIFICATION SHEET

DEPARTMENT: Commerce and Consumer Affairs

TITLE: A BILL FOR AN ACT RELATING TO ADMINISTRATIVE LICENSURE ACTIONS AGAINST SEX OFFENDERS.

PURPOSE: To allow the timely revocation of a license and denial of a renewal, restoration, or reinstatement of a license for certain professions when the licensee is a registered sex offender.

MEANS: Add new sections to chapters 436E, 436H, 439A, 442, 447, 448, 448F, 451A, 451J, 452, 453, 453D, 455, 457, 457A, 457B, 457G, 457J, 458, 459, 461, 461J, 463E, 465, 465D, 466D, 467E, and 468E, Hawaii Revised Statutes (HRS).

JUSTIFICATION: Current laws do not facilitate the timely revocation of a license and denial of a renewal, restoration, or reinstatement of a license for certain professions when the licensee becomes or is found to be a registered sex offender. This bill allows for the automatic revocation of a license or denial of an application to renew, reinstate, or restore a license for certain professions when the licensee is a registered sex offender.

Impact on the public: Increases consumer safety and welfare.

Impact on the department and other agencies:
None.

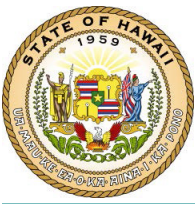
GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM DESIGNATION: CCA-105.

OTHER AFFECTED AGENCIES: None.

EFFECTIVE DATE: Upon approval.



HAWAII STATE ETHICS COMMISSION

1001 Bishop Street, Suite 970 | Honolulu, Hawaii 96813 | ethics@hawaiiethics.org | (808) 587-0460 | Twitter: @HawaiiEthics

THE STATE ETHICS CODE – A QUICK GUIDE FOR NEW EMPLOYEES AND BOARD/COMMISSION MEMBERS

Congratulations, and thank you for your service to the people of Hawai'i!

As a state employee or board/commission member (even if you aren't paid!), you must now follow Hawaii's Ethics Code, a set of laws designed to ensure integrity in state government. Here are some of the key things you need to know:

- 1.** The State Ethics Commission is here to help you! Any time you have a question about the Ethics Code – for example, if you're wondering whether you can (or should) do something – contact us! We have an attorney of the day ready to take your call or e-mail. You can reach us at ethics@hawaiiethics.org or **(808) 587-0460**.
- 2.** The Ethics Code has several major requirements, including:
 - **No "gifts" for doing your state job.** You may not accept any gifts where there is a reasonable inference that the gift is intended to influence you in the performance of your job. There are some times when you can accept gifts, but you may have to report them to the Ethics Commission. Contact us if you have questions!
 - **No extra "perks" for doing your state job.** You may not use your state position to gain "unwarranted" benefits for yourself or someone else. This means:
 - Don't use your state position to try to get employment for yourself;
 - Don't accept any extra pay or perks for doing your job (like an honorarium or any type of extra money or prize);
 - Don't use state time, equipment, or resources for private business purposes (for example, don't do any fundraising for a non-profit or a school group in the office, and don't engage in anything campaign-related using state resources);
 - Don't engage in substantial financial transactions with subordinates (for example, don't sell a car or rent an apartment to a subordinate).
 - **No conflicts of interest.** You may not take official action affecting a company in your state capacity where you, your spouse, or your dependent children have a financial interest in the company. For example, you can't award a state contract to a company that employs your spouse, and you can't be paid to represent a company on a matter before your state agency or board/commission. Contact us if you have questions!
 - **Financial disclosures.** Many state employees and board/commission members are required to file a financial disclosure within 30 days of taking office (and annually thereafter). If you don't know whether you're covered, please contact us and we can help!
 - **Restrictions on post employment.** There are laws that cover what you can (and can't) do once you leave your state office – in many instances, there is a one-year or two-year "cooling off" period before you can represent a private company before your former state agency.
- 3.** The Ethics Commission offers trainings at least once a month. Check <http://ethics.hawaii.gov> for the latest schedule. Some employees and board/commission members are required to attend training – ask your department or contact us to find out whether this applies to you.

More information is available on our website and at <http://bit.ly/hsec-board-commission>. Don't hesitate to contact us if you have any questions! We look forward to working with you – and more than 50,000 other state employees, board members, and commission members – to maintain the highest ethical standards in government!

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THE STATE ETHICS CODE – A QUICK GUIDE ON GIFTS

Whether you can accept a gift, an invitation to an event, or a trip, and what (and when) you need to report

This guide provides general guidelines on whether state officials can accept gifts. However, every situation is different, so please call us if you have questions!

Any time you are offered a gift, there are three ethics laws to consider:

1. The **gifts law** prohibits you from accepting any gift where there is a reasonable inference that the gift is intended to influence you in the performance of your job.
2. The **gifts reporting law** requires that you file an annual report (in June) if you have received, from one source, any gift(s) that, singly or together, are valued at more than \$200.
3. The **fair treatment law** prohibits you from getting extra perks (or “unwarranted” benefits) for yourself or someone else.

The first question is whether you can accept a gift. The State Ethics Commission looks at three factors:

1. **Donor.** Who is offering the gift to you? What is that person’s relationship to you? If you are directly regulating someone – that is, if you decide whether someone gets a permit, or funding, or a citation – then you generally should not accept anything from that person, regardless of its value. If the person giving the gift is a long-time personal friend who never does business with your state agency, that’s probably okay. This is usually the first question we ask – if the donor relationship creates a problem, we usually don’t even look at the second two factors.
2. **Value.** How much is the gift worth? Is someone giving you a pencil worth a few cents or a round of golf worth \$100? The public should trust you to do your job with integrity; this trust may be lost if people see you taking lavish trips, eating fancy meals, or otherwise enjoying expensive things that are paid for by someone else.
3. **State purpose.** How will the State benefit if you accept the gift?

Here are some things to consider when deciding whether to accept a gift:

Educational value. Will the gift (for example, a gift that involves travel to attend a conference) help you better perform your state job? Usually, we look at whether there is real educational value in attending an event or going on a trip (either for you to gain knowledge or for you to impart your expertise, if that’s within your agency’s mission). On the other hand, is the event really just entertainment, like a sports event or a concert? Keep in mind that “networking” alone probably isn’t enough to show that a gift will benefit the State.

Protocol. Some government officials have some discretion to go to events for protocol purposes. Legislators and others may be allowed to accept free admission to nonprofit organizations’ events.

The Commission may allow individuals to accept certain gifts when refusing such a gift would be culturally inappropriate. The Commission looks at what your job is with the state and how your acceptance of this gift may – or may not – fit within the State’s mission and your job duties.

No State Purpose. Certain gifts are almost always prohibited:

- Travel upgrades (for example, an upgrade to first-class plane travel or to a nicer hotel room offered to you because of your position with the state);
- Golf;
- Tickets to concerts, sporting events, theatrical performances, movies, and other entertainment events;
- Cash or gift cards.

Some things are okay to accept, like a lei (in connection with an event) or things like branded pens with no market value.

Keep in mind: you’re generally prohibited from accepting **any** gift where you’re in a position to take official action specifically affecting the donor. This means no gifts from parties to a contested case hearing before your agency, individuals/ organizations regulated by or involved in procurement with your agency, or lobbyists (or their clients) seeking action from your agency.

The following charts may help, but please remember, the State Ethics Commission is here to help you! Any time you have a question about the Ethics Code – for example, if you’re wondering whether you can (or should) do something – please contact us. We have an attorney of the day ready to take your (confidential) call or e-mail. You can reach us at ethics@hawaiiethics.org or (808) 587-0460. Also, the Ethics Commission offers trainings at least once a month. Check <http://ethics.hawaii.gov> for the latest schedule. We look forward to working with you – and more than 50,000 other state employees, board members, and commission members – to maintain the highest ethical standards in government!

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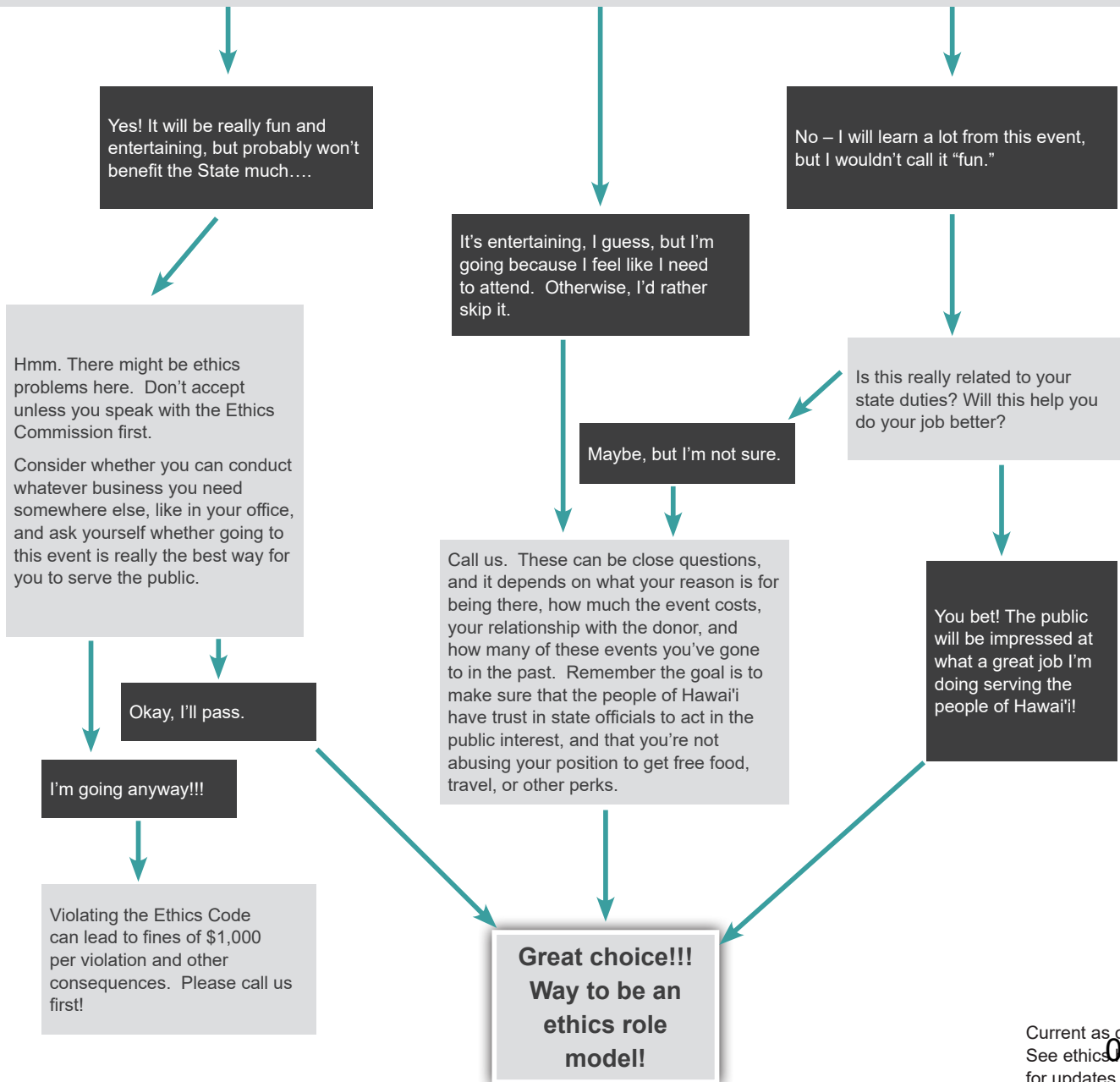
000002

Events / Conferences / Other Gifts 4(A) Board Member Orientation

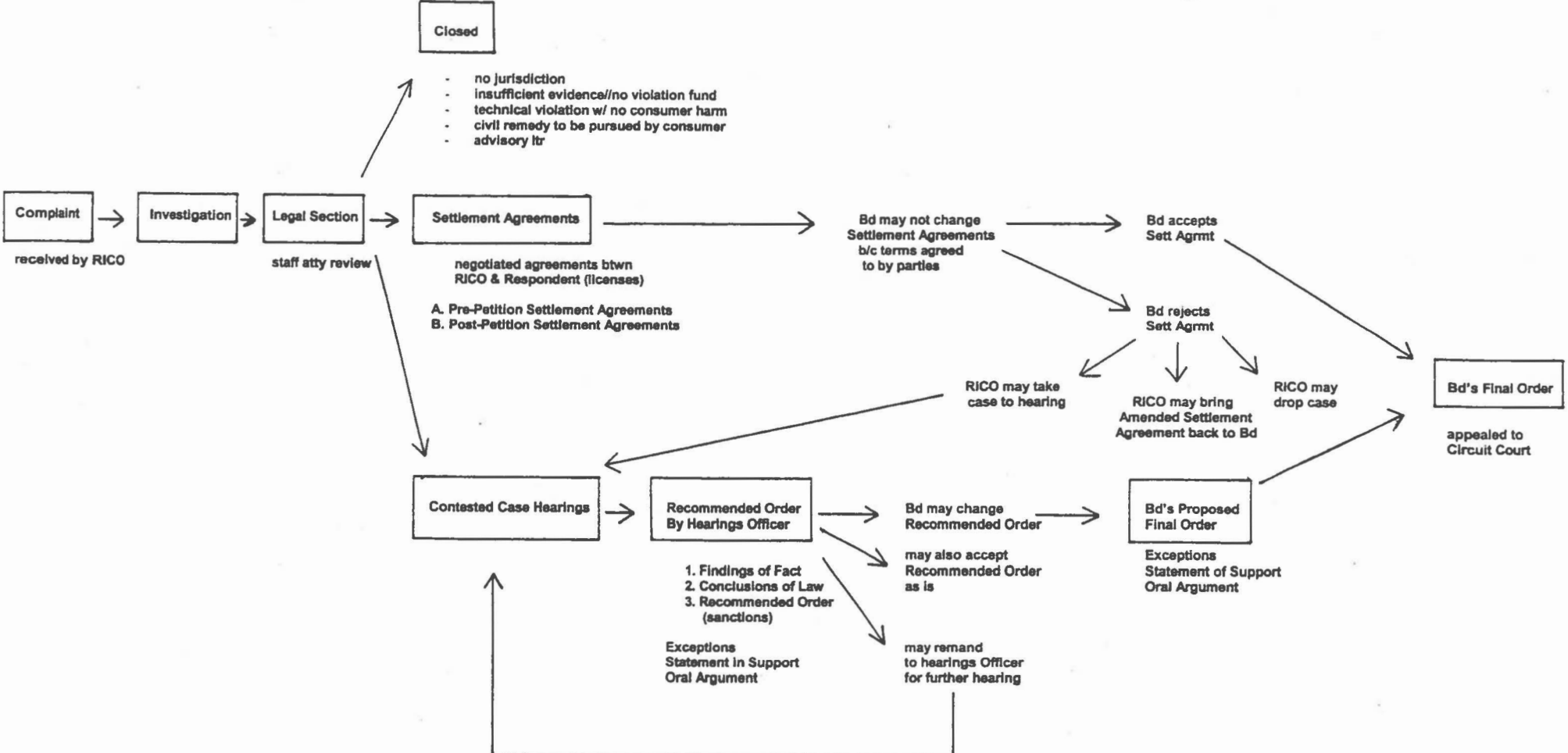
Question #1: Who's offering the gift to you?

Usually prohibited regardless of the value of the gift	May be allowed depending on the circumstances	Usually allowed
<p>A person or business that is:</p> <ul style="list-style-type: none"> regulated by my agency; applying for a permit with my agency; or involved in a contested case with my agency. <p><i>These "gifts" are more like bribes – they are prohibited.</i></p>	<p>A non-profit organization or trade association.</p> <p><i>These kinds of gifts are allowable in some circumstances and prohibited in others. Call us for advice.</i></p>	<p>A foundation or government agency that wants to support government employees working in my field</p> <p><i>These kinds of gifts may be allowable depending upon the value of the gift and the state purpose. Move on to Question #2</i></p>
<p>A contractor, consultant, or vendor of my agency, or a lobbyist seeking action from my agency.</p> <p><i>These kinds of gifts are generally prohibited, though there are times when you can accept. Call for advice.</i></p>		<p>A family member or long-time friend who doesn't do any business with my agency.</p> <p><i>These kinds of gifts are usually okay to accept unless you think you were given the gift because of your state position.</i></p>

Question #2: Consider the kind of gift that's being offered and whether there is a benefit to the State. Let's assume we're talking about an invitation to an event: is there any benefit to the State or is it just for your personal entertainment?



Disciplinary Process for Administrative Boards



stenoall/md/sjw-disciplinary revised 10/19/05

BOARD or COMMISSION

4(A) Board Member Orientation

Executive

Legislative

Judicial

HRS Chapter 92
Sunshine Law
open to public
voting
open session minutes

rulemaking

HRS Chapter 91
need not be an item on agenda
minutes not necessarily taken
deliberations not open to public

Executive Session
HRS § 92-5
Executive Session minutes
not open to public

- (1) to consider and evaluate personal information relating to individuals applying for professional or vocational licenses cited in section 26-9 or both
- (4) to consult with the board's attorney on questions and issues pertaining to the board's powers, duties, privileges, immunities, and liabilities

convictions rationally or directly related to the profession
satisfactory evidence of sufficient rehabilitation



OPEN MEETINGS

Guide to
“The Sunshine Law”
for State and County Boards

Office of Information Practices
State of Hawaii
September 2022



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250 South Hotel Street, Suite 107
Honolulu, Hawaii 96813
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OPEN MEETINGS

Guide to “The Sunshine Law” *for State and County Boards*

September 2022

Part I of Chapter 92,
Hawaii Revised Statutes

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INTRODUCTION

This Open Meetings Guide (Guide) was prepared by the Office of Information Practices (OIP) as a reference tool for board members and members of the public to understand the open meetings requirements of Hawaii's "Sunshine Law" (Part I of Chapter 92, HRS). This edition of the Guide is applicable to all State and county boards, except neighborhood boards. A separate edition was developed by OIP specifically for neighborhood boards, which have some unique provisions under Part VII of Chapter 92, HRS.

Every year, in response to questions and complaints about the manner in which State and county boards conduct their business, OIP initiates investigations into alleged Sunshine Law violations. Many of the questions, complaints, and violations arise because of a misunderstanding or a lack of understanding, and sometimes both, about the statute and its requirements.

The Sunshine Law imposes numerous requirements and restrictions on the manner in which a State or county board can conduct its business. Many board members, especially those who serve or have served on non-governmental boards, are surprised by the restrictions placed on how they, in their capacity as State or county board members, must conduct board business.

For instance, with a few exceptions, board members are not allowed to discuss board business with each other outside of a meeting, including by telephone or through email or social media. In addition, a board usually cannot consider at a meeting matters that were not included in its published agenda.

If you are elected or appointed to a government board, the honor and privilege of serving comes with the added responsibility of learning and complying with the Sunshine Law. We hope that this Guide will assist you and members of the public in generally understanding the statute's requirements.

We have attempted to present the law in “plain English” through the types of questions that are most frequently asked. We have also included the statute, various forms, and checklists.

Please note that the comments contained in this Guide are general in nature. OIP provides more detailed comments on various topics in Quick Reviews and other guidance that can be found on the [Training page at oip.hawaii.gov](https://oip.hawaii.gov/training).

If you have questions about specific factual circumstances that may not be answered by this Guide, you should consult with your attorney, your board’s attorney, or OIP. OIP provides an “Attorney of the Day” (AOD) service, through which you may speak with an OIP staff attorney to receive, typically on the same day, general legal guidance and assistance with Sunshine Law issues.

Thank you for your participation in Hawaii’s open government.

Cheryl Kakazu Park, Director

1

GENERAL INFORMATION

What is the Sunshine Law?

The Sunshine Law is Hawaii’s open meetings law. It governs the manner in which all State and county boards must conduct their business. The law is codified at Part I of chapter 92, Hawaii Revised Statutes (HRS).

What is the general policy and intent of the Sunshine Law?

The intent of the Sunshine Law is to open up governmental processes to public scrutiny and participation by requiring State and county boards to conduct their business as openly as possible. The Legislature expressly declared in the statute that “it is the policy of this State that the formation and conduct of public policy — the discussions, deliberations, decisions, and actions of governmental agencies — shall be conducted as openly as possible.”

In implementing this policy, the Legislature directed that the provisions in the Sunshine Law requiring open meetings be liberally construed and the provisions providing for exceptions to open meeting requirements be strictly construed against closed meetings. Thus, with certain specific exceptions, all discussions, deliberations, decisions, and actions of a board relating to the official business of the board must be conducted in a public meeting.

In other words, absent a specific statutory exception, board business cannot be discussed in secret. There must be advance notice; public access to the board’s discussions, deliberations, and decisions; opportunity for public testimony; and board minutes.

What boards are covered by the Sunshine Law?

There is no list that specifically identifies the boards that are subject to the Sunshine Law. As a general statement, the Sunshine Law applies to all State and county boards, commissions, authorities, task forces, and committees that have supervision, control, jurisdiction, or advisory power over a specific matter and are created by the State Constitution, statute, county charter, rule, executive order, or some similar official act. A committee or other subgroup of a board that is subject to the Sunshine Law is also considered to be a “board” for purposes of the Sunshine Law and must comply with the statute’s requirements.

Examples of State and county boards that are subject to the Sunshine Law include the county councils, neighborhood boards, police commissions, liquor commissions, licensing boards, island burial councils, Board of Water Supply, Board of Land and Natural Resources, Land Use Commission, Board of Agriculture, Board of Health, University of Hawaii’s Board of Regents, Board of Education, Small Business Regulatory Review Board, Real Estate Commission, and the boards of the Hawaii Tourism Authority, Aloha Tower Development Corporation, Hawaii Health Systems Corporation, Natural Energy Laboratory of Hawaii Authority, and Stadium Authority.

The Sunshine Law does not apply to the judicial branch or to the adjudicatory functions exercised by certain boards (with the exception of Land Use Commission hearings, which are open to the public). The Legislature sets its own rules and procedures concerning notice, agenda, minutes, enforcement, penalties, and sanctions, which take precedence over similar provisions in the Sunshine Law.

What government agency administers the Sunshine Law?

Since 1998, OIP has administered the Sunshine Law. OIP also oversees the Uniform Information Practices Act (Modified), chapter 92F, HRS (UIPA), which is commonly referred to as Hawaii’s “open records” law or Hawaii’s version of the federal Freedom of Information Act.

2

PUBLIC MEETINGS

MEETINGS DEFINED

Are all meetings of State and county boards open to the public?

Generally, yes. All meetings of State and county boards are required to be open to the public unless an executive meeting or other exception is authorized under the law. The open meeting requirement also applies to the meetings of a board's committees or subgroups.

Are site inspections, presentations, workshops, retreats and other informal sessions that involve board business considered to be meetings open to the public?

Generally, yes. Apart from the permitted interactions set forth in section 92-2.5, HRS, which are discussed below, the Sunshine Law requires a board to conduct, in either open or executive meeting, all of its discussions, deliberations, decisions, and actions regarding matters over which the board has supervision, control, jurisdiction, or advisory power.

Moreover, based upon the express policy and intent of the Legislature that the formation and conduct of public policy be conducted as openly as possible, OIP interprets the statute to require that any site inspection or presentation regarding a matter before the board, or which is reasonably likely to come before the board for a decision in the foreseeable future, be conducted as part of a properly noticed meeting.

Because the site inspection or presentation of a matter before the board are an integral part of the board's deliberation and decision-making process, they must be conducted in a properly noticed meeting. If it is not practical to allow the public to attend a site inspection as part of a meeting, the board may still be able to conduct the site inspection as a "limited" meeting under section 92-3.1, HRS.

With respect to board retreats, if board business is to be discussed, the retreat must be conducted as a meeting, which requires public notice, the keeping of minutes, the opportunity for public testimony, and public access to the board's discussions, deliberations, and decisions. Conversely, so long as no board business is discussed, the retreat is not considered a meeting subject to the Sunshine Law's requirements.

MULTI-SITE AND REMOTE MEETINGS

Can a member of the public attend public meetings in person?

Yes. Public meetings have traditionally been held in person, whether at a single site or multiple connected sites. Although the Sunshine Law now allows boards to hold remote meetings over the internet, as described below, a board must still provide at least one physical location where members of the public may attend a public meeting in person, even if the rest of the meeting is being conducted remotely.

Must board members attend public meetings in person?

It depends on what type of meeting the board is holding. For an in-person meeting held at a single site or multiple connected sites, members must generally attend in person at a public meeting site listed in the board's notice. However, if the board is holding a remote meeting, board members can attend the meeting remotely from private locations such as their homes or offices.

Even when a board is holding an in-person meeting, a board member with a disability that limits or impairs the member's ability to physically attend may participate from a location not noticed and not accessible to the public, so long as the member is connected by audio and video means and identifies where the member is and who else is present with the member. Thus, for example, a disabled board member may participate from a non-noticed location such as a private residence or hospital, so long as the other Sunshine Law requirements are met. § 92-3.5, HRS.

What is a remote meeting?

The Sunshine Law allows a board to hold a remote meeting by interactive conference technology (ICT). The law does not define a "remote meeting," but ICT is defined in section 92-2, HRS, as "any form of audio and visual conference technology, or audio conference

technology where permitted under this part, including teleconference, videoconference, and voice over internet protocol, that facilitates interaction between the public and board members.” Because remote meetings require video interactivity with limited exceptions, a remote meeting held by ICT will typically be hosted via an online meeting platform such as Zoom or WebEx.

The remote meeting option requires the ICT used by the board to allow interaction among all members of the board participating in the meeting and all members of the public attending the meeting. The new section also establishes various requirements for remote meetings discussed below that would allow members of boards and the public to participate in a public meeting held online, from the privacy of their own homes, offices, or other nonpublic locations.

What is the difference between a remote meeting and a multi-site meeting?

A remote meeting allows “remote” board and public participation, typically online, from private locations. By contrast, a multi-site meeting is an in-person meeting held at multiple public locations that are connected by ICT. Even though ICT is used to connect the different sites, **board members must attend a multi-site meeting in person** at one of the physical locations identified in the notice as a public meeting site, unless they are disabled and meet the requirements of section 92-3.5, HRS, to be able to participate remotely. Members of the public are not necessarily required to be in-person — the board has the option, but is not required, to allow members of the public to participate remotely in a multi-site meeting, such as by phoning in oral testimony.

What is the difference between an “additional location” and the official meeting location(s)?

Besides the official in-person meeting site(s) that a board is required to provide for every meeting, the Sunshine Law allows boards to also set up additional unofficial in-person sites, also known as “courtesy” sites. Before the Sunshine Law was amended to allow remote meetings, OIP had interpreted the requirement for meetings held via ICT to terminate if connection was lost to one site as only applying to sites noticed as official meeting sites where board members may be present. OIP’s interpretation was codified by Act 220, SLH 2021, to expressly allow boards the option to set up unofficial “additional locations” for the public’s convenience. There are two differences between an official meeting site and an additional location. First, for any type of meeting, if a noticed “additional location” is cut off from the rest of the meeting by

a connection failure, the meeting can still continue without that location so long as the notice made it clear that such an occurrence could happen. This is in contrast to an official meeting site where the meeting would have to recess and perhaps terminate if that site was cut off. Second, for an in-person meeting, board members cannot participate from an “additional location,” but instead must go to an official meeting site; the “additional location” is offered as an option for the public rather than for board members.

This option allows boards with a widespread constituency to improve public access to their in-person meetings for constituents in rural areas or on other islands while still limiting the number of sites for which a communication failure could require cancellation of the whole meeting.

What are the requirements for a board to hold a remote meeting online?

A board must provide **public access to the remote meeting**. The meeting has to be on a platform that allows for audio-visual interaction between board members and the public, who can attend and participate from anywhere they wish via an online connection, or in some cases a phone connection. Board members and the public do not need to be at a public meeting site, and the meeting notice is not required to list private locations where board members are attending from or to allow the public to join members at private locations. Instead, **the notice must tell the public how to remotely view and testify at the meeting**. This will usually be in the form of a link to an online platform, perhaps with a phone number as an additional option for the public. A board can choose to have separate connections for viewing and for testifying at a meeting; for instance, a board expecting large public interest in a contentious issue might prefer to offer the public a view-only online connection separate from the link used by board members, paired with a phone number for presenting oral testimony, to avoid the potential for abuse of the online platform and disruption to the meeting. In most cases, though, boards will find it easier to use the same online meeting link for all meeting attendees. In either case, public access to the meeting must be contemporaneous with the meeting and allow members and the public to hear the oral testimony provided.

Although board members and the public need not physically attend a remote meeting and can instead participate from private locations, the board must still **provide for the public at least one physical meeting site linked by ICT** to the remote meeting. This requirement recognizes that in-person meetings are the traditional way of holding public meetings and that not all persons, including board members, have

the ability, equipment, internet capacity, or desire to attend online meetings.

Except during executive meetings closed to the public or when the ICT connection is interrupted, a **quorum of board members must be visible** to other members and the public during the public portion of a remote meeting. As with an in-person meeting, a board member's brief absence from view during a meeting, such as to take a five-minute restroom break, would not cause the board to lose quorum. However, if a board member who is needed to meet the quorum requirement will be out of view for an extended period of time or will be absent during a vote, the board should call for a recess until quorum can be reestablished.

At the start of the meeting, the presiding officer must **announce the names** of the participating board members, and board members attending from private locations must state who else is with them, though board members are not generally required to name anyone under 18 years old. All votes must be conducted by **roll call**, unless the vote is unanimous.

The notice and minutes requirements for remote meetings are discussed later in the Procedural Requirements section. The requirements when a remote meeting's ICT connection is interrupted or lost are discussed below.

What happens if the ICT connection is interrupted or lost?

If the audio-visual connection is lost during the public portion of a remote meeting or during a multi-site meeting, the Sunshine Law **requires the meeting to automatically recess for up to 30 minutes while the board attempts to restore the connection**. This requirement applies for all official meeting sites and the remote connection(s) provided as part of a remote meeting, however, it does not apply when the remote connection is working properly but a member of the public has lost internet connectivity or is otherwise unable to access the remote connection due to issues on that person's end.

The board **may reconvene with audio-only communication** if the visual link cannot be restored, **provided that the board has provided reasonable notice** to the public as to how to access the reconvened meeting after an interruption. For remote meetings only, the law specifically **requires speakers to state their names before speaking**, if the meeting has been reconvened with audio-only communication.

Within 15 minutes of establishing audio-only communication, copies of nonconfidential visual aids that are required by or brought to the meeting by board members or as part of a scheduled presentation must be made available by posting on the internet or other means to all meeting participants (including those participating remotely), otherwise agenda items with unavailable visual aids cannot be acted upon at the reconvened meeting.

If the meeting cannot be reconvened within 30 minutes after interruption to communication, and reasonable notice has not been provided to the public of how the meeting will be continued to another date or time, then the meeting is **automatically terminated**. OIP recommends that board prepare in advance for the possibility of technical difficulties and has provided tips in the next section.

What are some tips to provide reasonable notice to continue any Sunshine Law meeting, whether in person or connected by ICT?

Here are some tips for providing reasonable notice to continue any Sunshine Law meeting:

- The board's **notice may contain a contingency provision** stating that if the board loses online connection, then people should check the board's website (give address) for reconnection information. Alternatively, the notice could provide that if the connection is lost for more than 30 minutes, the meeting will be continued to a specific date and time, with the new link for the continued meeting either on the agenda itself or to be provided on the board's website.
- **At the start of the online meeting, the board could announce audibly** that if online connection is lost, information on reconvening or continuing the meeting will be posted on its website and give the website address.
- If the audio and video have gone down but there is still a chat function or something similar available, the board should also **post a visual notice** of the continuation of a meeting in that way.
- If visual connection has been lost during a meeting using ICT, the board could **audibly announce** that the meeting will be continued and direct people to its website where the relevant information has been posted.

- If time permits, the board can **email** people on its email list with a notice of continuation of the meeting. See the appendix or OIP’s website for a form notice of continuation.

May a board hold an in-person multi-site meeting via telephone?

Yes. Section 92-3.5, HRS, continues to allow board members to participate at an in-person meeting held at multiple meeting sites connected by ICT that provides for audio or audiovisual interaction among all board members and meeting participants. Unless the disability provisions of section 92-3.5, HRS, apply as described below, board members may participate only from the official, physical meeting sites noticed. Therefore, while the multiple sites may be connected only via telephone, board members must be at one of the in-person locations that was identified on the meeting notice as being open to the public.

If copies of visual aids are brought to such a meeting by board members or members of the public, they must be available to all meeting participants at all locations. Therefore, if audio-only interactive conference technology (*e.g.*, teleconference) is being used, all visual aids must be available within 15 minutes to all participants, or those agenda items for which visual aids are not available cannot be acted upon at the meeting.

If audio communication cannot be maintained at all noticed locations, then the meeting is automatically recessed for up to 30 minutes to restore communication. The meeting may reconvene if either audio or audiovisual communication is restored within 30 minutes. If it is not possible to timely reconvene the meeting, and the board has not provided reasonable notice to the public as to how the meeting will be continued at an alternative date and time, then the meeting shall be automatically terminated. Note that the failure to maintain at least audio communication at all noticed locations will require termination of the meeting, even if all or a quorum of board members are physically present in one location.

May a sick or disabled board member participate in a meeting from home or another private location?

Yes. If it is a remote meeting, that member can participate via the remote meeting link from a private location in the same way that other members and the general public can. Even for an in-person meeting, under the provisions for in-person multi-site meetings “a board member

with a disability that limits or impairs the member’s ability to physically attend the meeting” may attend a meeting via a connection by **audio and video** means (*e.g.*, by videoconference, Skype, or Zoom) from a **private** location not open to the public, such as a home or hospital room. HRS § 92-3.5. The disability need not be permanent, so for example, a board member that has the flu or is hospitalized may participate via videoconference from home or a hospital room. A disabled board member attending from a private location must identify the location and any persons who are present at that location with the member. To protect the disabled member’s privacy interests and because members of the public are not able to participate from the private location, the disabled member’s location during a meeting may be generally identified, such as “home” or “hospital,” without providing an exact address.

Because members of the public are not able to participate from the private location, the filed notice does not have to state that a disabled board member will be participating from home, a hospital, or other location. It is sufficient for the disabled board member to announce at the meeting that he or she is participating from a stated location, without providing an exact address, and to state the names of any person that are present at the location with the member.

Must a board provide additional in-person meeting sites to allow the public to more easily participate?

No. The Sunshine Law does not require a board to provide more than the one in-person meeting site for any meeting. For an in-person meeting, it also does not require accommodating requests to remotely participate. At the same time, the Sunshine Law does not restrict remote participation in an in-person meeting by people who are not board members. However, it is **up to the board to decide** whether or not to allow testifiers, presenters, and other members of the public to watch, testify, or otherwise participate in an in-person meeting from places other than the official meeting site(s) by:

- Allowing testifiers to call in from home;
- Allowing their participation via audio or videoconferencing from a location not listed on the notice; or
- Setting up audio or videoconferencing at a location where no board member will be present, such as an additional location listed as such on the notice and not guaranteed to remain open for the whole meeting.

Boards are not required by the Sunshine Law to provide additional locations or accommodate requests from testifiers to testify remotely by telephone or other means. Boards may be required, however, to reasonably accommodate individuals with disabilities under the Americans with Disabilities Act (ADA), and should consult with their own attorneys or the State Disability and Communication Access Board at (808) 586-8121 (Voice) or (808) 586-6162 (TTY), email dcab@doh.hawaii.gov, or go to DCAB's website at health.hawaii.gov/dcab/ for advice on how to comply with the ADA. OIP does not have authority to provide legal advice on the ADA.

If the notice lists one or more additional locations for the convenience of members of the public who cannot make it to the official in-person meeting location(s), the notice must make clear the distinction between the noticed official meeting location(s) and the listed additional location. An additional location may be cancelled or shut down early while the meeting continues at the public meeting locations listed on the filed notice. Moreover, in most cases, board members themselves cannot attend an in-person meeting from an additional location or another non-noticed location, which also means that they cannot call in, cannot participate or just listen in by phone, and cannot vote or be counted toward quorum for an in-person meeting if they are at an additional location or other non-noticed location. The only exception to this rule is for disabled board members, as described above.

BOARD PACKETS

What is a board packet?

A board packet consists of the documents that are compiled by the board or its staff and distributed to board members before a public meeting for use at that meeting. Not all boards create and distribute board packets, and the requirements relating to board packets only apply to those boards that actually distribute board packets.

Must board packets be made available to the public?

Yes, but documents may be redacted or withheld as discussed below. Any board packet prepared for a meeting must be made available for public inspection in the board's office at the time it is distributed to board members, **but no later than 48 hours before the meeting**. Although the board is not required to automatically mail or email the

packet itself to people on its notification list, it must notify them that the board packet is available for inspection in the board's office and must provide "reasonably prompt" access to the packet to any person upon request. The board must accommodate requests for electronic access to the board packet as soon as practicable, which it can do by emailing the packet to requesters or by posting the packet on its website or in a file-sharing site and letting the public know where it can be found.

What board packet documents may be withheld or redacted from public inspection?

The public disclosure requirement for board packets only applies to information that would be disclosable under the UIPA; in other words, non-public information within board packets can be redacted. In addition, the law allows the board to potentially withhold more records in creating the public version of the board packet than could have been withheld in response to a formal UIPA record request. Specifically, the public version of a board packet is not required to include executive meeting minutes, license applications, and other records for which the board cannot reasonably complete its redaction of nonpublic information in the time available before the meeting. In this way, the board packet provision recognizes the challenge facing a board when it must both put together a board packet and create a public version of the board packet in the short time before a meeting, when the board packet may include materials from third parties that the board has not previously reviewed, or materials with public information and nonpublic information mixed together.

For example, if a board packet includes a long document with confidential information embedded throughout it, which would make redaction unreasonable or overly time-consuming in the days before the board meeting, the board could withhold the entire record from the public board packet. On the other hand, if a similarly long document is made up of several distinct sections, only some of which are confidential, then it may be relatively straightforward for the board to separate them and include only the non-confidential sections in the public board packet. If a document includes some confidential information but is only a few pages long, then the confidential information can readily be redacted before the record is included in the public board packet. If a document of any length is fully public, then it should be included in an unredacted form in the public board packet.

If a board has made a public board packet available, does it still need to respond to a UIPA request for the original packet?

Yes. The UIPA has separate and different requirements from the Sunshine Law, and **the Sunshine Law's board packet disclosure requirement does not replace the right of a member of the public to request a board packet under the UIPA.** In responding to such a request, a board would follow the UIPA's deadlines, standards for what may be redacted, and fees. For most members of the public, however, free access to the public version of the board packet prior to the meeting under the Sunshine Law will be preferable to waiting two weeks or more to receive what may be a slightly less redacted version for which review and segregation fees may be assessed under the UIPA.

Do you have any practice tips for boards to prepare public board packets?

- When compiling a board packet, prepare the public version at the same time. As each document comes in, determine whether it must be included in the public packet and prepare a redacted version if necessary.
- Have a copy of the public board packet available in the board's office by the time the packet goes out to board members. If the public board packet is available for public inspection only in electronic format, have equipment available for the public to be able to view the packet.
- Have a PDF version of the public packet ready to be emailed or faxed upon request, or if the board prefers, available to download from the board's website or a file-sharing service.

TESTIMONY

Must a board accept testimony at its meetings?

Yes. Boards are required to accept both oral and written testimony from the public on any item listed on the meeting agenda. Boards can decline to accept public testimony that is unrelated to a matter listed on the agenda.

Can the public provide testimony from a remote location by telephone, videoconference, or using other interactive technology?

If a board is holding a remote meeting via ICT, the public has a right to attend and testify at the meeting from a remote location using the ICT link(s) provided by the board.

If a board is conducting an in-person meeting, however, the law does NOT require a board to allow public testimony or participation from a location that was not listed on the notice as a meeting site, such as a person's home. Thus, unless the board is conducting a remote meeting, the **board may choose, but is not required** by the Sunshine Law, to hear testimony online or via telephone from members of the public who are not physically present at a meeting location.

Note, however, that a board may choose to establish additional locations to allow the public to testify remotely when holding an in-person meeting. See the discussion on additional locations in the earlier section for Multi-Site and Remote Meetings.

Is a board required to read aloud the written testimony during its meeting?

No. There is no requirement that a board read aloud each piece of written testimony during its meeting for the benefit of those attending the meeting. A board, however, must ensure that written testimony is distributed to each board member for that member's consideration before the board's action. Moreover, upon request, any member of the public is entitled to receive copies of the written testimony submitted to the board.

Is written communication received by only one board member regarding a matter on the board's meeting agenda considered written testimony?

Possibly. For instance, on occasion, the board chair or individual board members may receive email or other written correspondence regarding a matter on the board's agenda. If a written communication is received prior to the meeting and reasonably appears to be testimony relating to an agenda item (as opposed to correspondence directed only to the recipient), irrespective of whether the writing is specifically identified as "testimony," the board member receiving the communication must make reasonable efforts to cause the testimony to be distributed to the

other members of the board by the board's staff. The receiving board member should not directly distribute the testimony to other board members as it may be considered a serial communication or discussion outside of a meeting, which are prohibited by the Sunshine Law.

How can a board avoid the possible problem of only one board member receiving testimony intended for the entire board?

The Sunshine Law now requires that the posted notice for a meeting provide the board's electronic and postal contact information for submission of testimony before the meeting. This requirement avoids possible confusion as to whether an email or other written communication received by only one board member is intended to be "testimony" to the entire board, because the public will know the mailing address and email address written testimony should be directed to.

Providing the board's contact information does not completely relieve individual board members of their obligation to consider whether written communication that they individually receive was intended by the sender to be "testimony" for consideration by the entire board. Nonetheless, it reduces the likelihood of written testimony being sent to individual board members and may excuse a board member's reasonable failure to recognize that a written communication was intended to be "testimony."

How must a board distribute written testimony to its members?

As a general rule, a board is empowered to determine how to best and most efficiently distribute the testimony to its members, *e.g.*, whether to transmit it electronically or to circulate copies in paper format, and whether to distribute it in advance of the meeting or at the beginning of the meeting, so long as the testimony is distributed in a way that is reasonably calculated to be received by each board member. However, distribution of testimony to members prior to the meeting is subject to the board packet requirements discussed above, which means any testimony not sent out to board members and made available to the public at least 48 hours before the meeting as required for a board packet cannot be distributed to members until the beginning of the meeting. Additionally, any distribution of testimony before the meeting should be done by the board's staff, not members, to avoid improper discussion of board business outside a meeting.

May a board limit the length of each person's oral testimony offered at its meetings?

Yes. Boards are authorized to adopt rules regarding oral testimony, including, among other things, rules setting limits on the amount of time that a member of the public may testify. For instance, a council could adopt rules limiting each person's oral testimony to three minutes per item. Boards also are not required to accept oral testimony unrelated to items on the agenda for the meeting.

To what extent can a board decide when to take oral testimony during its meeting?

Within certain limits, a board can choose when to hear oral testimony on agenda items. However, a board cannot hear all the oral testimony only at the beginning of the meeting, and it must hear the testimony on a given agenda item prior to its consideration of that agenda item. Beyond those restrictions, a board can choose when to hear testimony. For instance, a board could allow a limited testimony period at the beginning of the meeting to accommodate members of the public who prefer not to wait, and then continue to hear testimony immediately before each agenda item from those who have not testified earlier on that item. A board could also choose to hear testimony on several agenda items together (in which case it should still allow people testifying on multiple items a full opportunity to testify on each of those items).

May a board set a deadline for the public to submit written testimony or register for oral testimony?

No. The Sunshine Law does not authorize boards to set deadlines or require registration as a condition of giving oral testimony, and doing so would be inconsistent with the requirement to allow all interested persons the opportunity to provide written and oral testimony. However, a board may still request that the public submit written testimony by a set time or sign up in advance for oral testimony, so long as it **makes clear that the request is not a requirement, accepts written testimony submitted at a later time, and offers all public attendees the chance to present oral testimony even without prior registration.**

RECESSING, CONTINUING, CANCELLING, OR RELOCATING MEETINGS

Can a board recess and later reconvene a meeting?

Yes, as a general rule, boards are authorized to recess both public and executive meetings, and to reconvene at another date and time to continue and/or complete public testimony, discussion, deliberation, and decision-making relating to the items listed on the agenda. Meeting continuances were extensively discussed by the Hawaii Supreme Court in Kanahele v. Maui County Council, 130 Haw. 228, 307 P.3d 1174 (Kanahele) (2013). The Court recognized that section 92-7(d), HRS, requires items of reasonably major importance, which are not decided at a scheduled meeting, to “be considered only at a meeting continued to a reasonable date and time.” The Court also found that a board is not limited by this statute to only one continuance of a meeting and is not required to post a new agenda or accept oral testimony at a continued meeting.

There are specific procedures that boards must follow if the ICT connection to a remote or multi-site meeting has been interrupted or lost. See the previous sections on In-Person, Multi-Site, and Remote Meetings.

What kind of notice should a board provide for a meeting that will be continued?

Although the Sunshine Law contains no specific requirements for a written public notice or oral announcement for continued meetings, the Hawaii Supreme Court stated in Kanahele, discussed above, that “the means chosen to notify the public of the continued meeting must be sufficient to ensure that meetings are conducted “as openly as possible; and in a manner that ‘protect[s] the people’s right to know.’” Id. at 1198. When a meeting is being recessed for longer than 24 hours, the board should provide, if practicable, both oral and written (including, if possible, electronic) notice of the date, time, and place of a continuance. The date, time, and location of the reconvened meeting generally should be orally announced at the time that the meeting is recessed.

Based on the Court’s guidance and examples in Kanahele, OIP has prepared a “Notice of Continuance of Meeting” form, which is available on the [Forms page at oip.hawaii.gov](#) and as an appendix to this Guide. This notice may be used to continue an ongoing meeting that had been originally posted as required under section 92-7, HRS. Consequently,

the continuance notice is not subject to the same requirements of the original notice under section 92-7, HRS. Rather than post a new agenda for a continued meeting, a board should attach the agenda of the meeting being continued to a “Notice of Continuance of Meeting,” on which the board should type, hand write, or otherwise note the agenda item(s) being continued.

Can the meeting be reconvened at a different location?

Yes. A board may reconvene a meeting at a location different from where the meeting was initially convened, as long as the board announces the location where the meeting is to be reconvened at the time when it recesses the meeting or otherwise notifies the public of the new location. The new location should be included in all announcements and other such publications, if any, regarding the reconvened meeting.

Must the continuance notice be posted?

Yes. A board should physically post in the board’s office and, if practicable, at the physical meeting site, a “Notice of Continuance of a Meeting,” with the agenda from the continued meeting attached thereto. Additionally, if possible and time permits, the Notice and agenda should be electronically posted on the board’s website or the State or county electronic calendar, as appropriate, and emailed to persons on the board’s email list.

Keep in mind that because the meeting notice requirements of section 92-7, HRS, do not apply to the notice of continuance, the failure to electronically post the continuance notice on the State or county electronic calendar or to give six days’ advance notice would not require the cancellation of the continued meeting. State boards are also able to post a notice of a meeting being continued within six days by contacting NIC Hawaii (not OIP) at Hawaiicalendar@ehawaii.gov from 7:45 a.m. to 4:30 p.m. on Mondays through Fridays (excluding state holidays).

Does a board have to re-hear testimony or accept new testimony at a continuation of a meeting?

No. A board does not need to re-hear or accept new testimony for completed agenda items at the continued meeting.

Must a notice be posted online when cancelling a meeting?

Boards are not required by the Sunshine Law to electronically file a notice when cancelling a meeting. A board's mere failure to be present at a noticed meeting automatically cancels the meeting. However, as a courtesy to the public, OIP recommends posting notification of a cancelled meeting at the board's office and at the meeting location, taking down the original meeting notice from the online calendar, and informing those people who have asked to receive notice by email.

What notice must be provided if a physical meeting location must be changed?

If a board must change the physical location of a meeting on the day of the meeting (for example, the room loses power or air conditioning), it may call the meeting to order at the noticed location and announce that it will be recessed and then reconvened shortly thereafter in the new location. A written notification of the new meeting location should be posted at the originally noticed physical location.

What happens if the link to a remote meeting provided in the meeting notice has changed or does not work?

The meeting notice for a remote meeting must include the remote meeting location, typically a link for an online meeting platform. If a board must change the online location of a meeting on the day of the meeting, perhaps because the original link is not working, it may do so if its meeting notice also provided the alternative online location in its meeting notice as a back-up link in case of connection problems with the first. If a board cannot use its noticed remote meeting location and it has not previously provided an alternative, it would be unable to convene the meeting in the first place, and thus would not have the option to convene it and announce its continuation at a different online location.

DISCUSSIONS BETWEEN BOARD MEMBERS OUTSIDE OF A MEETING

Can board members discuss board business outside of a meeting?

The Sunshine Law generally prohibits discussions about board business between board members outside of a properly noticed meeting, with certain statutory exceptions. While the Sunshine Law authorizes interactions between board members outside of a meeting in specified circumstances, the statute expressly cautions that such interactions cannot be used to circumvent the requirements or the spirit of the law to make a decision or to deliberate towards a decision upon a matter over which the board has supervision, control, jurisdiction, or advisory power.

In practical terms, this means that board members cannot “caucus” or meet privately before, during, or after a meeting to discuss business that is before the board or that is reasonably likely to come before the board in the foreseeable future.

The statute, however, does not prohibit discussion between board members outside of a properly noticed meeting about matters over which the board does not have supervision, control, jurisdiction, or advisory power. For instance, where the chair of a board has the sole discretion to set the agenda, the board has no “power” over that decision and, therefore, board members may request the addition of possible agenda items outside of a properly noticed meeting, so long as they do not discuss the substance of items. Similarly, logistical issues, such as when members are available to meet, are typically not “board business” and thus may be discussed in an email sent to all board members.

Does the Sunshine Law also prohibit board members from communicating between themselves about board business by telephone, memo, fax, or email outside of a meeting?

Yes. Board members cannot discuss board business between themselves outside of a properly noticed meeting by way of the telephone or by memoranda, fax, email, or social media, such as Facebook. As a general rule, if the statute prohibits board members from discussing board business face-to-face, board members cannot have that same discussion through other media.

Can board members discuss board business with non-board members outside of a meeting?

Generally, yes. The Sunshine Law only applies to boards and their discussions, deliberations, decisions, and actions. Because the Sunshine Law does not apply to **non**-board members, a board member may discuss board business with **non**-board members outside of a meeting.

Board members should not discuss with non-board members any matters discussed during a closed executive meeting, or the members could risk waiving the board's ability to keep the matters confidential.

SOCIAL EVENTS

What about social and ceremonial events attended by board members?

The Sunshine Law does not apply to social or ceremonial gatherings where board business is not discussed. Therefore, board members can attend functions such as Christmas parties, dinners, inaugurations, orientations, and ceremonial events without posting notice or allowing public participation, so long as they do not discuss official business that is pending or that is reasonably likely to come before the board in the foreseeable future.

If I am a board member, what should I do if another board member starts talking about board business at a social event?

The Sunshine Law is, for the most part, self-policing. It is heavily dependent upon board members understanding what they can and cannot do under the law. In the situation where a board member raises board business with other board members outside of a meeting, board members should remind each other that such discussion can only occur at a duly noticed meeting. If a board member persists in discussing the matter, the other board members should not participate in the discussion and should physically remove themselves from the discussion.

PERMITTED INTERACTIONS

What are “permitted interactions”?

Over the years, the Sunshine Law has been revised to recognize eight “permitted interactions,” which are designed to address instances when members of a board may discuss certain board matters outside of a meeting and without the procedural requirements, such as notice, that would otherwise be necessary. The statute specifically states that the “[c]ommunications, interactions, discussions, investigations, and presentations described in [the permitted interaction] section are not meetings for purposes of [the Sunshine Law].” These permitted interactions are summarized below.

What are the types of “permitted interactions” allowed by the Sunshine Law?

- ***Two Board Members.*** Two board members may discuss board business outside of a meeting as long as no commitment to vote is made or sought and the two members do not constitute a quorum of their board. Nevertheless, it would be a serial communication contrary to the Sunshine Law for a board member to discuss the same board business with more than one other board member through a series of one-on-one meetings.
- ***Investigations.*** A board can designate two or more board members, but less than the number of members that would constitute a quorum of the board, to investigate matters concerning board business. The board members designated by the board are required to report their resulting findings and recommendations to the entire board at a properly noticed meeting. This permitted interaction can be used by a board to allow some of its members (numbering less than a quorum) to participate in, for instance, a site inspection outside of a meeting or to gather information relevant to a matter before the board.
- ***Presentations/Negotiations/Discussion.*** The board can assign two or more of its members, but less than the number of members that would constitute a quorum of the board, to present, discuss, or negotiate any position that the board has adopted.

- ***Selection of Board Officers.*** Two or more board members, but less than the number of members that would constitute a quorum of the board, can discuss between themselves the selection of the board's officers.

- ***Acceptance of Testimony at Cancelled Meetings.*** If a board meeting must be cancelled due to lack of quorum or conference technology problems, the board members present may still receive testimony and presentations on agenda items from members of the public and may question them, so long as there is no deliberation or decision-making at the cancelled meeting. The members present must create a record of the oral testimony or presentations. At the next duly noticed meeting of the board, the members who were present at the cancelled meeting must provide the record and copies of the testimony or presentations received at the cancelled meeting. Deliberation and decision-making on any item, for which testimony or presentation were received at the cancelled meeting, can only occur at a subsequent duly noticed meeting of the board.

- ***Discussions with the Governor.*** Discussions between one or more board members and the Governor are authorized to be conducted in private, provided that the discussion does not cover a matter over which a board is exercising its adjudicatory function. This permitted interaction does not allow discussions with county mayors.

- ***Administrative Matters.*** Certain routine administrative matters, such as board budget or employment matters, can be discussed between two or more members of a board and the head of a department to which the board is administratively assigned.

- ***Attendance at Informational Meetings or Presentations.*** The Sunshine Law allows two or more members of a board, but less than a quorum, to attend an informational meeting. The board members may participate in discussions, even among themselves, so long as the discussions occur as part of the informational meeting or presentation and no commitment relating to a vote on the matter is made or sought. At the next duly noticed meeting of the board, the members who attended the informational meeting or presentation must report their attendance and the matters presented and discussed that related to official board business.

This informational meeting provision thus allows less than a quorum of board members to attend, for example, neighborhood board meetings, legislative hearings, and seminars, at which official board business is discussed, so long as no commitment to vote is made and the subsequent

reporting requirements are met. The law is intended to improve communication between the public and board members and to enable board members to gain a fuller understanding of the issues and various perspectives. As with the rest of the law, this permitted interaction will be interpreted to prevent circumvention of the spirit of the Sunshine Law and its open meeting requirements.

- ***Circulation of proposed testimony.*** A board that has previously adopted a position on a legislative measure may circulate its proposed testimony among board members for review and written comment to meet a tight legislative deadline, so long as all proposed testimony drafts and board member communications about the testimony are publicly posted online within 48 hours of the statement’s circulation to the board. This permitted interaction is best used for proposed testimony drafted by board staff or a single member, rather than by multiple board members using another permitted interaction to confer in order to avoid conflicts with other permitted interactions, as discussed in OIP’s Quick Review on Sunshine Law Options to Address State Legislative Issues and Measures, which is posted on the [Training page at oip.hawaii.gov](http://oip.hawaii.gov).

For a more detailed discussion, please see OIP’s three-part “Quick Review: Who Board Members Can Talk to and When,” which is posted on the [Training page at oip.hawaii.gov](http://oip.hawaii.gov).

BOARD DISCUSSION OF LEGISLATIVE ISSUES

How can a Sunshine Law board keep up with the fast-paced legislative calendar and submit timely testimony on legislative issues?

When dealing with legislative matters, one major hurdle that boards face is the Sunshine Law’s six-day notice requirement prior to conducting a meeting to discuss a legislative measure, even though legislative committees often give less than six days’ notice of their hearings. Since most boards typically meet on a monthly or less frequent basis, their meeting schedule together with the notice requirement leave them with limited options to timely notice a meeting and discuss the adoption of its legislative testimony or position prior to the legislative hearing.

The Sunshine Law, however, allows board members to discuss board business outside a meeting in limited circumstances, as set forth in the “permitted interactions” section of the law, as discussed above. The

permitted interactions that are most useful in developing or adopting positions on legislative measures are (1) the one allowing two members of a board to discuss board business between themselves so long as no commitment to vote is made or sought and the two members do not constitute a quorum of their board; (2) the one allowing a board to assign less than a quorum of its membership to present, discuss, or negotiate any board position that the board had previously adopted at a meeting; (3) the one allowing less than a quorum of board members to attend a legislative hearing (or other “informational meeting”) and report their attendance at the next board meeting; and (4) the one allowing a board to circulate draft testimony for members’ review and written comment.

Besides permitted interactions, other options for a board to address legislative matters are through emergency or limited meetings or delegation to staff.

The various options or practical approaches that a board could take to discuss and submit timely testimony on legislative issues or measures are discussed in more detail in OIP’s “Quick Review: Sunshine Law Options to Address State Legislative Issues and Measures,” which is posted on the [Training page at oip.hawaii.gov](https://oip.hawaii.gov/training/).

DISCUSSIONS BETWEEN MULTIPLE BOARDS

When members of multiple Sunshine Law boards hold a joint meeting, roundtable discussion or similar event, how can they do so without violating the Sunshine Law?

When planning an event that will bring together members of multiple Sunshine Law boards, every attendee who is a member of a Sunshine Law board must be able to justify his or her presence under the Sunshine Law with respect to his or her own board. The justification could be that no one else from that particular board was present, so there was no discussion of board business among that board's members; or it could be that one of the Sunshine Law's permitted interactions applied to the particular board's members who attended; or it could be that the event was noticed as a meeting of the members’ own board (or a joint meeting of multiple boards including theirs). The justification does not have to be the same for all the boards with members attending, but all members of each board should have a Sunshine Law justification before attending and participating in the discussion of their board’s business during the roundtable meeting.

For a more detailed discussion, please see OIP's "Quick Review: Roundtable Discussions with Multiple Boards Subject to the Sunshine Law," which is posted on OIP's [Training page at oip.hawaii.gov](http://oip.hawaii.gov).

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EXECUTIVE MEETINGS

What is an executive meeting?

An executive meeting (also called an executive session) is a meeting of the board that is closed to the public. Because an executive meeting is a narrowly construed exception to the Sunshine Law's presumption that all government board meetings will be open to the public, board members are advised to carefully weigh the interests at stake before voting to exercise their discretion to close a meeting. Because the "final action" taken by the board in an executive meeting may be voided by the courts if the board has violated the procedural requirements for going into such a closed meeting, boards must be careful to follow all requirements.

Must a board give notice that it intends to convene an executive meeting?

Yes, if the executive meeting is anticipated in advance.

What must the agenda contain when the board anticipates convening an executive meeting?

In addition to listing the topic the board will be considering (as is required for all items the board will consider whether in public or executive session), the agenda for the open meeting generally must indicate that an executive meeting is anticipated and should cite the statutory authority for convening the anticipated executive meeting. For an executive meeting, the listing of the topic should describe the subject of the executive meeting with as much detail as possible without compromising the closed meeting's purpose. For instance, if the board is to consider a proposed settlement of a lawsuit in an executive meeting, the agenda would note that the purpose of the executive session was consulting with the board's attorney on questions or issues regarding the board's powers, duties, privileges, immunities, and liabilities, and cite section 92-5(a)(4), HRS. The agenda in such a case should also describe the topic of the meeting as, at a minimum, the lawsuit identified by case name and civil number, and unless such description would compromise the purpose of closing the meeting from the public, that the board would consider a proposed settlement.

Can a board convene an executive meeting when it is not anticipated in advance?

With significant restrictions, the Sunshine Law allows the board to convene an executive meeting when the need for excluding the general public from the meeting was not anticipated in advance. If, for example, during the discussion of an open meeting agenda item, the board determines that there are legal issues that need to be addressed by its attorney, the board may announce and vote to immediately convene an executive meeting to discuss those matters pursuant to section 92-5(a)(4), HRS.

The board, however, cannot convene an executive meeting to discuss an item that is not already on its meeting agenda without first amending the agenda to add the item in accordance with the Sunshine Law's requirements. No item can be added to an agenda if it is of reasonably major importance and the board's action will affect a significant number of persons. At least two-thirds of the board's total members (present or absent) must vote in favor of amending the agenda.

How does a board convene an executive meeting?

To convene an executive meeting, a board must vote to do so in an open meeting and must publicly announce the purpose of the executive meeting. The minutes of the open meeting must reflect the vote of each board member on the question of closing the meeting to the public. Two-thirds of the board members present must vote in favor of holding the executive meeting, and the members voting in favor must also make up a majority of all board members, including members not present at the meeting and vacant membership position. Note that the 2/3 vote of all members present that is required to convene an executive meeting is different from the 2/3 vote of a board's total membership (including vacant positions) that is required to amend an agenda.

What are the eight purposes for which an executive meeting can be convened?

Section 92-5(a), HRS, gives the board the discretion to go into an executive meeting only for the following eight specific reasons:

(1) ***Licensee Information.*** A board is authorized to meet in an executive meeting to evaluate personal information of applicants for professional and vocational licenses.

(2) ***Personnel Decisions.*** A board may hold an executive meeting to “consider the hire, evaluation, dismissal or discipline of an officer or employee or of charges brought against the officer or employee, where consideration of matters affecting privacy will be involved.” However, if the person who is the subject of the board’s meeting requests that the board conduct its business about him or her in an open meeting, the request must be granted and an open meeting must be held.

(3) ***Labor Negotiations/Public Property Acquisition.*** A board is allowed to deliberate in an executive meeting concerning the authority of people designated by the board to conduct labor negotiations or to negotiate the acquisition of public property, or during the conduct of such negotiations.

(4) ***Consult with Board’s Attorney.*** A board is authorized to consult in an executive meeting with its attorneys concerning the board’s powers, duties, immunities, privileges, and liabilities.

(5) ***Investigate Criminal Misconduct.*** A board with the power to investigate criminal misconduct is authorized to do so in an executive meeting.

(6) ***Public Safety/Security.*** A board may hold an executive meeting to consider sensitive matters related to public safety or security.

(7) ***Private Donations.*** A board may consider matters relating to the solicitation and acceptance of private donations in executive meetings.

(8) ***State/Federal Law or Court Order.*** A board may hold an executive meeting to consider information that a State or federal law or a court order requires be kept confidential.

Does “embarrassing” or “highly personal” information allow a board to hold an executive meeting?

A board may not hold such discussions in an executive meeting unless the discussion falls within one of the eight circumstances listed in the statute for which an executive meeting is allowed.

Can confidential or proprietary information be considered in a closed-door meeting?

Again, unless there is an exception that permits the board to convene in

an executive meeting, no matter how sensitive the information may be, a board cannot consider such information in a closed meeting. In such a case, a board may be better off using an applicable permitted interaction in section 92-2.5, HRS, to allow less than a quorum of board members to take a close look at the sensitive information so that it can be discussed in more general terms at the board's meeting.

Does the Sunshine Law require a closed meeting when one of the eight purposes is applicable?

No. A board may, but is not required to, enter an executive meeting closed to the public when one of the eight purposes listed above is applicable.

Is a board subject to the Sunshine Law's criminal penalties for holding an open meeting, even if one of the eight purposes is applicable?

No. Although section 92-13, HRS, provides for the criminal prosecution of board members who willfully violate the Sunshine Law, the Hawaii Supreme Court has held that holding an open meeting does not violate the Sunshine Law. Consequently, board members are not subject to criminal prosecution under section 92-13, HRS, for holding an open meeting.

When personnel matters concerning an individual will be discussed, can an open meeting be held only upon the subject employee's request?

No. Section 92-5(a)(2), HRS, gives the subject employee the right to request an open meeting, but does not require the employee's consent to hold an open meeting. Because the Sunshine Law presumptively requires open meetings, the board may choose to discuss personnel matters in the open. Meetings related to personnel matters are not required to be closed to the public.

Must all personnel matters be discussed in a closed executive meeting?

No. Certain personnel matters must be discussed in an open meeting. Under the Uniform Information Practices Act (Modified), chapter 92F, HRS (UIPA), certain types of government employment information must be disclosed upon request, such as employee names, job titles, and salary information. HRS § 92F-12(a)(4). Consequently, government employees do not have a legitimate expectation of privacy

in such information, and the board cannot justify closing a meeting simply to discuss those types of personnel matters. Additionally, if the discussion is about personnel policies, and not about an individual, then there is no legitimate expectation of privacy at stake, so the meeting cannot be closed to discuss such policies. To the extent possible, policy-making must be conducted in public meetings.

The personnel matters that may be discussed in a closed meeting under section 92-5(a)(2), HRS, must relate to “the hire, evaluation, dismissal or discipline” of an individual officer or employee, or to “charges brought against” such an individual, and also requires a showing that “consideration of matters affecting privacy will be involved.” Just because a matter involves an employee’s personnel status does not necessarily mean that a legitimate privacy interest will be impacted. If no legitimate privacy interest will be involved in the board’s discussion, then the board cannot properly close the meeting to the public.

How do you determine if there is a legitimate privacy interest under the personnel exception allowing closed executive meetings?

Unlike the test balancing private interests against the public interest that is set forth in the UIPA at section 92F-14(a), HRS, to determine if disclosure of a record would constitute a clearly unwarranted invasion of personal privacy, the Sunshine Law requires a case-by-case analysis of the specific person and information at issue to see whether the person being discussed has a legitimate expectation of privacy. Only people, not companies or entities, can have an expectation of privacy. There is a legitimate expectation of privacy in “highly personal and intimate” information, which may include medical, financial, education, or employment records. Some circumstances, however, may reduce or entirely defeat the legitimacy of a person’s expectation of privacy, as in the case of government officials with high levels of discretionary and fiscal authority, like the University’s president or a head coach. Moreover, if the information must be disclosed by law, rule or regulation, or if it has already been disclosed, then there is no legitimate expectation of privacy that would warrant holding a closed executive meeting to discuss such information.

May a board vote in an executive meeting?

Generally, no. In most instances, the board must vote in an open meeting on the matters considered in an executive meeting. In rare instances, the Sunshine Law allows the board to vote in the executive meeting when the vote itself, if conducted in an open meeting, would

defeat the purpose of the executive meeting, such as by revealing the matter for which confidentiality may be needed.

Can non-board members participate in an executive meeting?

The board is entitled to invite into an executive meeting any non-board member whose presence is either necessary or helpful to the board in its discussion, deliberation, and decision-making regarding the topic of the executive meeting. Once the non-board member's presence is no longer needed, however, the non-board member must be excused from the executive meeting. Because the meeting is closed to the general public, the board should allow the non-board members to be present during the executive meeting only for the portions of the meeting for which their presence is necessary or helpful, such as when a board staff member, attorney, or applicant is there to address a particular issue. Non-board members who may be needed throughout an executive session may include those providing technical or production support, or who are taking the minutes of the meeting. All persons attending an executive meeting, however, would be required to maintain the confidentiality of what was discussed in the meeting.

There are additional requirements for an executive meeting held as part of a remote meeting, which are discussed next.

What are the requirements for an executive meeting when the meeting is held remotely?

During a remotely held meeting when board members go into an executive session closed to the public, they can participate via telephone or audio only, without being visible online as is generally required for the public portion of a remote meeting. Because participants may not be visible during an online executive session, and to preserve the executive nature of any portion of a meeting closed to the public, the presiding officer must **publicly state the names and titles of all authorized participants**. Upon convening the executive session, **all participants must confirm that no unauthorized person is present or able to hear them** at their remote locations or via another audio or audiovisual connection. Additionally, if the remote meeting platform allows doing so, **the person organizing the ICT must look at the listed participants and confirm that no unauthorized person has access to the executive session**.

These statutory requirements are intended to prevent the executive session from being breached by or remotely transmitted to unauthorized

persons during remote meetings. The “authorized participants” that the presiding officer must identify at the start of an executive session would generally be anyone properly included in the closed portion of the meeting, such as board members, staff members necessary to running the meeting (*e.g.*, technical or production staff), and in some cases, third parties whose presence is necessary to the closed meeting (*e.g.*, applicant, witness, or attorney).

For additional discussion of executive session issues, see OIP’s **Quick Review: Executive Meetings Closed to the Public.**

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OTHER TYPES OF MEETINGS

EMERGENCY MEETINGS

Where public health, safety, or welfare requires a board to take action on a matter, can a board convene a meeting with less than six days' notice?

A board may hold an emergency meeting with less notice than required by the statute or, in certain circumstances, no notice when there is "an imminent peril to the public health, safety, or welfare." When the board finds that an emergency meeting is appropriate, (1) the board must state its reasons in writing; (2) two-thirds of all members to which the board is entitled must agree that an emergency exists; (3) the board must electronically file an emergency agenda and the board's reasons in the same way it would file its regular notice and agenda, except for the usual six-days' advance notice deadline; and (4) persons requesting notification on a regular basis must be contacted by postal or electronic mail or telephone as soon as practicable.

UNANTICIPATED EVENTS

When an unanticipated event requires a board to take immediate action, can a board convene a meeting with less than six days' notice?

A board may convene a special meeting with less than six calendar days' notice because of an unanticipated event when a board must take action on a matter over which it has supervision, control, jurisdiction, or advisory power. The law defines an unanticipated event to mean (1) an event that the board did not have sufficient advance knowledge of or reasonably could not have known about; (2) a deadline beyond the board's control established by a legislative body, a court, or an agency; and (3) the consequence of an event for which the board could not have reasonably taken all necessary action.

The usual rule is that a State or county board may deliberate and decide whether and how to respond to the unanticipated event as long as (1) the board states, in writing, its reasons for finding that an unanticipated

event has occurred and that an emergency meeting is necessary; (2) the attorney general and two-thirds of all members to which the board is entitled concur with the board's finding; (3) the board's findings and the agenda for the emergency meeting are electronically filed in the same way it would file its regular notice and agenda, except for the usual six-days' advance notice deadline; and (4) persons requesting notification on a regular basis are contacted by postal or electronic mail or telephone as soon as practicable. At an emergency meeting, the board can only take those actions that need to be immediately taken.

LIMITED MEETINGS

If a board finds it necessary to inspect a location that is dangerous or impracticable for public attendance, may the board hold a meeting that is not open to the public?

Yes. A board may hold a "limited meeting" that is not open to the public when either (1) the meeting location is dangerous to health or safety, or (2) an on-site inspection of the meeting location is necessary and public attendance at that location is impracticable. Prior to the limited meeting, the board must publicly deliberate in a regular meeting on the need for the limited meeting, two-thirds of all members to which the board is entitled must vote to adopt the determination that it is necessary to hold a limited meeting for one of the reasons specified above, and the board must obtain the OIP Director's concurrence in its determination. Note that the board may be unable to meet the two-thirds voting requirement due to board vacancies or absences; for example, if a board should have five members but only four are appointed, then it would need all four members to vote to adopt the determination and would not be able to do so if one of the members is absent.

Public notice of a limited meeting must still be provided, and a videotape of the meeting must be made available at the next regular board meeting, unless the OIP Director waives the videotape requirement. No decision-making can occur during the limited meeting.

See the Sunshine Law forms section of OIP's website at <https://oip.hawaii.gov/forms/> for a fillable checklist to use when requesting the OIP Director's concurrence for a limited meeting or to request a waiver of the videotaping requirement.

Can county councils have limited meetings to

**attend other boards' or community groups'
meetings, such as candidate forums?**

Yes. County councils have a special limited meeting provision that allows an unlimited number of councilmembers to be the guests of a board or community group holding its own meeting, such as for candidate forums or neighborhood board meetings. To qualify for this “guest meeting,” the council must follow the requirements to hold a limited meeting, as described above. But unlike the regular limited meetings described above, the guest meeting must be open to the public. The council need not file an agenda. However, if the host organization itself is a board which must follow the Sunshine Law requirements, then that board must file an agenda. The council can have no more than one guest meeting per month for any one board or community group, and no guest meetings can be held outside of Hawaii.

See the appendices to this Guide for a checklist to use when requesting the OIP Director’s concurrence for a council to attend a meeting as guests of another board or community group meeting or to request a waiver of the videotaping requirement.

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PROCEDURAL REQUIREMENTS

NOTICE AND AGENDA

What are the Sunshine Law's requirements for giving notice of meetings?

With the exception of emergency meetings, **a board must give at least six calendar days' advance notice** of any regular, special, or rescheduled meeting or any anticipated executive meeting. Meetings held by interactive conference technology (section 92-3.5, HRS), and limited meetings (section 92-3.1, HRS) are subject to the following provisions on notice as well as other conditions set forth in the applicable sections of the Sunshine Law. Emergency meetings (section 92-8, HRS) must also be noticed, but notice may be filed within a shorter time period than the normal six days, and there are additional conditions.

Sunshine Law meeting notices must be posted on State and county electronic calendars as the official notice of the meeting.

If there is a dispute as to whether an agenda was electronically filed at least six calendar days prior to the meeting, a printout of the electronic time-stamped agenda is conclusive evidence of the posting date.

A board must also file the notice with the Lt. Governor's office or the county clerk's office, which must continue to post the notices in a central location in a public building in paper form or in electronic format, such as via a monitor linked to the electronic calendar. This enables the public to still inspect courtesy copies of the meeting notices posted outside of the Auditorium at the State Capitol or at county buildings. The board must also retain proof of filing the notice with the Lt. Governor's or county clerk's office. The electronic calendar, however, will provide the official notice required by the Sunshine Law. Therefore, the failure to file timely copies of notices with the Lt. Governor's office or county clerks does not require cancellation of the meeting. Moreover, the Lt. Governor or county clerks have the discretion to determine whether they want paper documents to be provided to them, or if

electronic copies can be faxed to them or emailed to an email address designated by them.

The notice must also be posted at the meeting site, whenever feasible. Newspaper publication is not required for Sunshine Law meeting notices.

In addition to the date, time, and place of the meeting, the meeting notice must **include an agenda**, which lists all of the items to be considered at the forthcoming meeting. (The “guest meeting” form of limited meeting, discussed above, is an exception to this requirement.) The agenda requirements are discussed later herein.

If an executive meeting is anticipated, the notice must also state the **purpose of the executive meeting**. The Sunshine Law also requires all meeting notices to include the **board’s electronic and postal contact information for submission of testimony** before the meeting, and provide instructions on **how to request an auxiliary aid or service or an accommodation due to a disability**, which may include a reasonable deadline. Sample language is provided on page 43 of this Guide.

Does a board have to notify individual members of the public of every meeting?

The Sunshine Law requires the board to maintain a list of names and addresses of those persons who have requested notification of meetings and to mail or email a copy of the notice to those persons at the time that the notice is filed. A meeting must be cancelled if the board fails to send notice at least six days in advance of the meeting via postal mail (as determined by postmark date) or email to people on its notification list.

What happens if a board files its notice less than six days before the date of the meeting?

The State electronic calendar will not allow a board to file a regular meeting notice with less than six days’ notice, unless authorization is received after contacting NIC Hawaii (not OIP) at hawaiicalendar@ehawaii.gov from 7:45 a.m. to 4:30 p.m. on Mondays through Fridays (excluding state holidays). Unless the short notice is specifically allowed (such as for an emergency meeting), if a board files its notice less than six calendar days before the meeting, the meeting is cancelled as a matter of law and no meeting can be held. The board chair or the director of the department within which the board is

established must ensure that a notice is posted at the meeting site to inform the public of the cancellation of the meeting.

Note that notices for emergency meetings may be posted on the State calendar with less than six days' notice, but only after special permission is obtained from the calendar's administrator (not OIP).

What happens if there is a joint meeting of two boards that are both subject to the Sunshine Law?

If there is a joint meeting with two or more boards, then each board is responsible for meeting the Sunshine Law's requirements, but they can coordinate to avoid duplicative actions. All boards must ensure that notices are timely mailed or emailed to persons on their own notification lists; but if a person is on more than one mailing list, then only one of the boards must send the notice to that person. If one board meets all Sunshine Law requirements, but the other board in a joint meeting fails to do so, then the first board can proceed with the meeting without the second board. The second board must cancel its meeting and cannot have a quorum or more of its members in attendance at what would have been a joint meeting with the first board.

Do you have any practice tips for boards to help them comply with the notice requirements?

- Be careful to keep accurate records of postal and email addresses of persons on the notification list, and any changes to those addresses, so that notices will be timely and properly sent to them, as the board's errors in an address that made a notice non-deliverable could potentially require the cancellation of a meeting.
- Reduce opportunities for clerical errors by board employees, particularly with email addresses. If possible, have requesters directly enter their own email or mailing addresses online to be added to the board's notification list, and keep a record of the addresses entered by the requesters so that any mistakes will be attributed to the correct source. Consider emailing an acknowledgement after requesters register for email notification, to ensure that the correct email address has been entered onto the board's email notification list.
- If mail is not deliverable, check the address to make sure that it was sent to the correct postal or email address. Keep a record of postal and email addresses that are returned as undeliverable and dates that they were sent to provide proof that the notification was timely sent to

the address provided by the requester.

- Consider filing agendas well before the six-day requirement, so that any potential errors in postal or email addresses can be corrected and timely notices can be sent to people on the notification list.
- Use technology to automate the notification process, reduce duplicative requests to the boards themselves, and eliminate potential clerical errors by the board in entering email addresses. Check to see whether the State or county electronic calendars will automatically notify those persons who subscribe to certain meeting notices.
- Keep a time-stamped copy of the agenda to provide conclusive evidence of the date when the notice was filed. The State electronic calendar shows the date and time that a meeting notice was posted or last updated. If a county calendar does not have this feature, then the board could print out and time-stamp a copy of the electronically filed meeting notice to keep in its files as evidence of the date that the meeting notice was posted.

What must the agenda contain?

The agenda must list all of the business to be considered by the board at the meeting. It must be sufficiently detailed so as to provide the public with adequate notice of the matters that the board will consider so that the public can choose whether to participate.

For anticipated executive meetings, as noted above, the agenda must be as descriptive as possible without compromising the purpose of closing the meeting to the public and must identify the statutory basis that allows the board to convene an executive meeting regarding the particular matter.

To meet the Sunshine Law's requirement to include instructions on how to request an auxiliary aid or accommodation, the Disability and Communication Access Board recommends that boards include the following language on its agendas: "If you need an auxiliary aid/service or other accommodation due to a disability, contact [Name] at [phone number and email address] as soon as possible, preferably by [reply date]. If a response is received after [reply date], we will try to obtain the auxiliary aid/service or accommodation, but we cannot guarantee that the request will be fulfilled. Upon request, this notice is available in alternate formats such as large print, Braille, or electronic copy."

For a more detailed discussion, please see OIP's "Agenda Guidance for Sunshine Law Boards," which is posted on the [Training page at oip.hawaii.gov](http://oip.hawaii.gov).

Are general descriptions such as "Unfinished Business" or "Old Business" allowed?

No. The practice of listing general descriptions on agendas such as "Unfinished Business" or "Old Business" without any further description is insufficient and does not satisfy the agenda requirements.

Can a board amend its meeting agenda once it has been filed?

Adding an item to the agenda is **not** permitted if (1) the item to be added is **of reasonably major importance** and (2) action on the item by the board **will affect a significant number of persons**. Determination of whether a specific matter may be added to an agenda must be done on a case-by-case basis.

If the requirements above are met, boards may amend an agenda during a meeting to add items for consideration, but only after the affirmative vote of two-thirds of **all** board members to which the board is entitled, which **includes members not present at the meeting and vacant membership positions**. For example, if a board is entitled to 9 members, but only 5 are appointed and present, then it does not have the 6 votes needed to meet the 2/3 requirement to amend an agenda during the meeting.

Note that the voting requirement for amending an agenda **is not the same** as, and is typically harder to obtain than, the vote of two-thirds of members present and a majority of the total membership that is needed to go into an executive meeting.

MINUTES

Is a board required to keep minutes of its meetings?

Yes. Boards must either keep written minutes, or recorded minutes with a written summary. If boards chose to keep written minutes, they must include the date, time, and place of the meeting; the members recorded as either present or absent; the substance of all matters proposed, discussed, or decided; a record by individual member of votes

taken; and any information that a board member specifically asks at the meeting to be included.

Boards are not required to create a transcript of the meeting or to electronically record the meeting. But they may choose to keep a recording of the entire meeting instead of doing written minutes. For this option, a board must keep its minutes in a digital or analog recording format (e.g., via a cell phone, video, or tape recorder) and provide a written summary, which is required to include:

- The date, time, and place of the meeting;
- The members of the board recorded as either present or absent, and the times when individual members entered or left the meeting;
- A record, by individual members, of motions and votes made by the board; and
- A time stamp or other reference indicating when in the recording the board began discussion of each agenda item and when motions and votes were made by the board.

The written summary requirements will allow the public to quickly find key information about a meeting and skip to the point in the recording where an item of interest was discussed, without having to listen to the entire recording which may be hours long. Although a board does have the choice to record its minutes in either digital (audio or video computer file) or analog (e.g., a magnetic tape recording) format, OIP recommends that boards record in a digital format to avoid having to convert an analog recording into digital format to be able to place the recording online.

The option to create recorded minutes does not impose any general requirement to record meetings for boards that prefer using written minutes. Moreover, if a board is recording a meeting solely to help it prepare written minutes and plans to delete or record over the recording once those minutes are prepared, the temporary recording need not be posted online and typically need not be retained once the board no longer needs it. However, for one specific type of meeting — a remote meeting held using ICT — boards are required to record the meeting “when practicable” and make the recording electronically available to the public as soon as practicable after the meeting and until the board’s actual minutes (whether written or recorded) are posted on the board’s website. This provision recognizes that it is usually easy to record an online meeting but still allows boards to skip doing so in those unusual

circumstances where recording an online meeting presents a more significant challenge.

For a more detailed discussion of what must be included in minutes, please see OIP's "Quick Review: Sunshine Law Requirements for Public Meeting Minutes," which is posted on the [Training page at oip.hawaii.gov](https://oip.hawaii.gov/training).

Must the minutes of a board's meeting be posted online?

Yes. The Sunshine Law requires all boards to post their written or recorded minutes online within 40 days after the meeting. If the board chooses to post a recording of its meeting, it still needs to also post a written summary within 40 days after its meeting, because the written summary is part of the recorded minutes.

A board that is preparing written minutes for an in-person meeting does not need to post a recording, even if it has one – for instance, temporary recordings intended to be used for note-taking to prepare written minutes do not need to be posted online, since the written minutes will be posted online instead. However, for a remote meeting held via ICT, a board is required to record the meeting "when practicable" and make that recording available to the public until its actual minutes are posted online.

Must draft minutes be posted online within 40 days after a meeting, even if they have not yet been approved by the board?

Yes. The Sunshine Law does not require boards to approve minutes. If a board does approve its minutes as a usual practice but has not had the opportunity to approve minutes for a meeting, minutes that satisfy the Sunshine Law's requirements must nevertheless be posted online within 40 days after the meeting, because there is no exception to the posting requirement when a board has not approved its minutes. The board can post its draft minutes online, marked as a "draft," and replace them with the board-approved minutes when those are ready, so long as it has minutes that satisfy the Sunshine Law's requirements posted within the required 40 days.

If the board does not have its own website, where must its minutes be posted?

A board that has its own website will most likely prefer to post its minutes there, but a board that does not have its own website may post its minutes on an appropriate State or county website instead, such as the website for the department to which the board is administratively attached.

To provide enough time for an IT office or website administrator to post minutes online after they have been prepared by the board, the deadline for posting is 40 days after a meeting.

Must executive meeting minutes be posted online?

No. Minutes of an executive meeting closed to the public need not be posted online if the disclosure would defeat the purpose of going into executive meeting.

Keep in mind, however, that the Sunshine Law is different from the UIPA. The Sunshine Law permits boards to delay publication of executive meeting minutes for so long as publication would defeat the lawful purpose of the executive meeting. At some point in the future, the minutes may have to be disclosed in response to a UIPA request, when disclosure would no longer compromise the purpose for going into the executive meeting. For example, minutes of an executive meeting to discuss a property's acquisition should be disclosed after the property has been acquired. Thus, boards must review the minutes to determine if the need for confidentiality has passed, and may be required to disclose all or part of the executive meeting minutes in response to a UIPA request for the minutes.

RECORDINGS BY THE PUBLIC

Must a board allow a member of the public to record the meeting?

The board must allow the public to record any portion or all of an open meeting, as long as the recording does not actively interfere with the meeting.

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SUIT TO VOID BOARD ACTION

Can a member of the public file a lawsuit for an alleged Sunshine Law violation?

Yes. When the open meetings and the notice provisions of the Sunshine Law are not complied with, any person may file a lawsuit to void the board's action within 90 days of the allegedly improper board action. An OIP determination of wrongdoing is not necessary for a lawsuit to be filed. Enforcement is in circuit court of the circuit in which the prohibited act occurred.

Under certain circumstances, the judge may grant an injunction, but the filing of a lawsuit challenging a board's action does not stay enforcement of the action. Attorneys' fees and costs may be awarded to the prevailing party.

What is the penalty for an intentional violation of the statute?

A willful violation of the Sunshine Law is a misdemeanor and, upon conviction, may result in the person being removed from the board. The Attorney General and the county prosecutor have the power to enforce any violations of the statute.

Can a board appeal an OIP decision regarding the Sunshine Law?

Yes. OIP issues decisions in response to complaints that a board violated the Sunshine Law, and also on the question of whether a particular body is a board subject to the Sunshine Law. A board may appeal an OIP decision to the courts in accordance with section 92F-43, HRS. For more information, see OIP's Guide to Appeals to the Office of Information Practices, available on the Training page at OIP's website at oip.hawaii.gov.

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OFFICE OF INFORMATION PRACTICES

If I have additional questions about the Sunshine Law, where can I go?

For general information on the Sunshine Law, please visit OIP's website at oip.hawaii.gov, call OIP at (808) 586-1400, or email oiip@hawaii.gov. The full text of the Sunshine Law, as well as OIP's opinions relating to various open meeting issues, are posted on the website.

Office of Information Practices
(September 2022)

Sunshine Law:
PUBLIC MEETING NOTICE CHECKLIST

1. Notice Includes:

- Date:** In addition to the date itself, if the notice also specifies the day of the week, make sure it matches the date.
- Time:** While the starting time must be provided, an ending time is not required.
- Location: All notices must list at least one physical location** for the meeting. For an in-person meeting, the notice must list all locations where board members will be physically present and must state that the public can attend the meeting at any of those locations.
- For a **remote meeting using interactive conference technology (ICT)**, the link(s) allowing the public to contemporaneously view and hear the meeting and provide remote oral testimony.
- If **additional locations** (formerly known as “courtesy” locations) are being provided for the public’s convenience, specify whether the meeting will continue without the additional location if the ICT connection between the additional location and the public meeting site(s) is lost, or will be automatically recessed to restore communication.
- Board’s **electronic and postal contact information** for submission of testimony before the meeting.
- Instructions** on how to request an auxiliary aid or service or an accommodation due to a **disability**. The Sunshine Law allows these instructions to include a reasonable response deadline; however, the requirements of other laws may differ on this point and current guidance from the State Disability and Communication Access Board (DCAB) advises against setting a firm response deadline. As explained in section 7 below, OIP does not have the authority to advise on reasonable accommodations and such questions should be directed to DCAB or a board’s own attorney.

- Agenda** describing with reasonable specificity all matters to be considered.
- If an **executive meeting** is anticipated, the agenda describes the purpose and statutory authority in section 92-5(a), HRS, or other laws applicable to your board that allow the executive meeting. Use as much detail as possible without compromising the executive meeting's purpose.
- Optional: For a meeting **using ICT**, information about what will happen in the event of a connection failure, such as where to find **reconnection information and any necessary visual aids** online or an alternative date, time, and place for **continuation** of the meeting if the ICT connection cannot be restored.

2. Filing Notice:

- 6 calendar days prior to meeting:

Electronically post on:

- State Calendar: <http://calendar.ehawaii.gov/calendar/html/event> (State only)
- County Calendar (counties only)
- Board's website (unlike the above, this is not a legal requirement)

Physically post for public inspection in:

- Board's Office
- Site of meeting (when feasible or if meeting is canceled)

File (and keep proof of filing) with:

- Lieutenant Governor's Office (State)
- County Clerk (counties)

Mail or email to persons who requested notification of meetings (MUST be postmarked/emailed no later than 6 calendar days before the meeting):

- Postal mailing list
- Email list

3. Meeting Canceled for Late Filing of Notice:

It is suggested but not required that the board post a notice canceling the meeting at:

- Meeting site
- State Calendar: <http://calendar.ehawaii.gov/calendar/html/event> (State only)

- County Calendar (counties only)
 - Anywhere else notice was previously posted, mailed, or filed such as county or board website (not a legal requirement)
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4. Special Instructions for Emergency Meetings

(held less than 6 calendar days prior to meeting):

- Board must first decide to hold emergency meeting by vote of two-thirds of members to which board is entitled (include authorized but vacant positions)
 - Must meet criteria in section 92-8, HRS, either:
 - when “imminent peril to the public health, safety, or welfare,” or
 - because of an “unanticipated event” and board must take action.
 - For an unanticipated event, the Attorney General must concur (even for county boards).
- File board’s findings justifying emergency meeting with emergency agenda as set forth in section 2 above (but without the 6-day notice requirement).
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5. Special Instructions for Limited Meetings

- Limited meetings not open to the public may be held when a board determines it necessary to inspect a location that is dangerous or that is impracticable for public attendance.
 - Must obtain concurrence from OIP’s Director.
See OIP’s Request for the Office of Information Practices’ Concurrence for a Limited Meeting form at www.oip.hawaii.gov/forms/.
 - For county councils only: *See OIP’s Checklist and County Council’s Request to Waive Videotaping of a Meeting as Guests of a Board or Community Group form at www.oip.hawaii.gov/forms/.*
 - Notice must be filed 6 days before limited meeting.
- File board’s limited meeting agenda as set forth in section 2 above.
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6. Special Instructions for In-Person Meetings Involving Board Members with a Disability

- Notwithstanding the general requirements for multi-site in-person meetings in section 1 above, a “board member with a disability that limits or impairs the member’s ability to physically attend the meeting” may attend an in-person meeting via a connection by **audio and video** means from a private location (*e.g.*, home or hospital room). The specific address of the private location need not be listed on the notice, but a board member with a disability attending from a private location must generally identify the location (*e.g.*, home; hospital) and all persons present with the member.
- See OIP’s *Quick Review: Sunshine Law Requirements for In-Person Meetings held at Multiple Sites* on OIP’s [Training Page at oip.hawaii.gov](#).

7. Other Considerations

There are matters outside of OIP’s jurisdiction that you may wish to consider when preparing a meeting notice, such as:

- Although the Sunshine Law requires a notice to include instructions for requesting a reasonable accommodation for disabled persons (for example, provision of sign language interpreters for individuals who are deaf or hard of hearing), OIP does not have authority to advise as to what constitutes a reasonable accommodation. If you have questions about what accommodations or auxiliary aids must be provided in response to a request, you may wish to contact your board’s attorney or DCAB: website <https://health.hawaii.gov/dcab/>, telephone (808) 586-8121 (Voice or TTY), or email dcab@doh.hawaii.gov for assistance.
- Applicable statutes or administrative rules related to your board.
- For county boards, your County’s applicable charter, ordinances, or other provisions.
- Your board’s own procedural rules or policies; or instructions for the public regarding, among other things, your board’s preferred method for submission of written testimony and opportunity to provide oral testimony at the meeting (but note that the Sunshine Law does not allow all testimony to be taken at the beginning of a meeting and does not authorize setting a deadline for

submission of testimony or requiring people to register for oral testimony: a board can **request, but not require**, pre-registration or submission by a specified date).

- Whether the public can find and get into the meeting site. For example, is the meeting site large enough that someone might have trouble finding the right room? Are there improper barriers to public access such as a security checkpoint requiring attendees to show identification?

BOARD:

ADDRESS:

WEBSITE:

E-MAIL:

TELEPHONE:

FAX:

NOTICE OF CONTINUANCE OF MEETING

ORIGINALLY CONVENED ON _____, 20__, AT _____ .M.
See attached agenda for original meeting

TO BE CONTINUED TO:

DATE: _____
TIME: _____ .M.
PLACE: _____

___ Public testimony will be allowed in the manner described and on the items shown on the attached agenda as being continued.

___ Public testimony has concluded and no further testimony will be allowed on the items described in the attached agenda. The board will discuss, deliberate, decide, and/or act upon the items described in the attached agenda.

This notice has been physically posted at the following location(s):

___ Board Office

___ Meeting Site

(Optional) This notice has been electronically posted at _____

(This notice is not subject to the filing requirements of HRS Sec. 92-7.)

Chapter 92, Hawaii Revised Statutes
PUBLIC AGENCY MEETINGS AND RECORDS

The following is an unofficial copy of Part I of chapter 92, Hawaii Revised Statutes, which is current through the 2022 legislative session, including new provisions enacted by Acts 264 and 177, SLH 2022.

PART I. MEETINGS

Section

- 92-1 Declaration of Policy and Intent**
- 92-1.5 Administration of This Part**
- 92-2 Definitions**
- 92-2.5 Permitted Interactions of Members**
- 92-3 Open Meetings**
- 92-3.1 Limited Meetings**
- 92-3.5 Meeting by Interactive Conference Technology;
Notice; Quorum**
- 92-3.7 Remote meeting by Interactive Conference
Technology; Notice; Quorum.**
- 92-4 Executive Meetings**
- 92-5 Exceptions**
- 92-6 Judicial Branch, Quasi-Judicial Boards and Investigatory
Functions; Applicability**
- 92-7 Notice**
- 92-7.5 Board Packet; Filing; Public Inspection; Notice**
- 92-8 Emergency Meetings**
- 92-9 Minutes**
- 92-10 Legislative Branch; Applicability**
- 92-11 Voidability**
- 92-12 Enforcements**
- 92-13 Penalties**

§92-1 Declaration of policy and intent. In a democracy, the people are vested with the ultimate decision-making power. Governmental agencies exist to aid the people in the formation and conduct of public policy. Opening up the governmental processes to public scrutiny and participation is the only viable and reasonable method of protecting the public's interest. Therefore, the legislature declares that it is the policy of this State that the formation and conduct of public policy - the discussions, deliberations, decisions, and action of governmental agencies - shall be conducted as openly as possible. To implement this policy the legislature declares that:

- (1) It is the intent of this part to protect the people's right to know;
- (2) The provisions requiring open meetings shall be liberally construed;
and
- (3) The provisions providing for exceptions to the open meeting requirements shall be strictly construed against closed meetings. [L 1975, c 166, pt of §1]

§92-1.5 Administration of this part. The director of the office of information practices shall administer this part. The director shall establish procedures for filing and responding to complaints filed by any person concerning the failure of any board to comply with this part. An agency may not appeal a decision by the office of information practices made under this chapter, except as provided in section 92F-43. The director of the office of information practices shall submit an annual report of these complaints along with final resolution of complaints, and other statistical data to the legislature, no later than twenty days prior to the convening of each regular session. [L 1998, c 137, §2; am L 2012, c 176, §2]

§92-2 Definitions. As used in this part:

“Board” means any agency, board, commission, authority, or committee of the State or its political subdivisions which is created by constitution, statute, rule, or executive order, to have supervision, control, jurisdiction, or advisory power over specific matters and which is required to conduct meetings and to take official actions.

"Board business" means specific matters over which a board has supervision, control, jurisdiction, or advisory power, that are actually pending before the board, or that can be reasonably anticipated to arise before the board in the foreseeable future.

"Informal gathering" means a social or informal assemblage of two or more board members at which matters relating to board business are not discussed.

“Interactive conference technology” means any form of audio and visual conference technology, or audio conference technology where permitted under this part, including teleconference, videoconference, and voice over internet protocol, that facilitates interaction between the public and board members.

“Meeting” means the convening of a board for which a quorum is required in order to make a decision or to deliberate toward a decision upon a matter over which the board has supervision, control, jurisdiction, or advisory power. [L 1975, c 166, pt of §1; am L 1976, c 212, §1; am L 2012, c 202, §1; am L 2021, c 220, §3; am L 2022, c 264, §2]

§92-2.5 Permitted interactions of members.

- (a) Two members of a board may discuss between themselves matters relating to board business to enable them to perform their duties faithfully, as long as no commitment to vote is made or sought and the two members do not constitute a quorum of their board.
- (b) Two or more members of a board, but less than the number of members that would constitute a quorum for the board, may be assigned to:
 - (1) Investigate a matter relating to board business; provided that:
 - (A) The scope of the investigation and the scope of each member’s authority are defined at a meeting of the board;
 - (B) All resulting findings and recommendations are presented to the board at a meeting of the board; and
 - (C) Deliberation and decisionmaking on the matter investigated, if any, occurs only at a duly noticed meeting of the board held subsequent to the meeting at which the findings and recommendations of the investigation were presented to the board; or

- (2) Present, discuss, or negotiate any position that the board has adopted at a meeting of the board; provided that the assignment is made and the scope of each member's authority is defined at a meeting of the board before the presentation, discussion, or negotiation.
- (c) Discussions between two or more members of a board, but less than the number of members that would constitute a quorum for the board, concerning the selection of the board's officers may be conducted in private without limitation or subsequent reporting.
- (d) Board members present at a meeting that must be canceled for lack of quorum or terminated pursuant to section 92-3.5(c) may nonetheless receive testimony and presentations on items on the agenda and question the testifiers or presenters; provided that:
 - (1) Deliberation or decisionmaking on any item, for which testimony or presentations are received, occurs only at a duly noticed meeting of the board held subsequent to the meeting at which the testimony and presentations were received;
 - (2) The members present shall create a record of the oral testimony or presentations in the same manner as would be required by section 92-9 for testimony or presentations heard during a meeting of the board; and
 - (3) Before its deliberation or decisionmaking at a subsequent meeting, the board shall:
 - (A) Provide copies of the testimony and presentations received at the canceled meeting to all members of the board; and
 - (B) Receive a report by the members who were present at the canceled or terminated meeting about the testimony and presentations received.
- (e) Two or more members of a board, but less than the number of members that would constitute a quorum for the board, may attend an informational meeting or presentation on matters relating to board business, including a meeting of another entity, legislative hearing, convention, seminar, or community meeting; provided that the meeting or presentation is not specifically and exclusively organized for or directed toward members of the board. The board members in attendance may participate in discussions, including discussions among themselves; provided that the discussions occur during and as part of the informational meeting or presentation; provided further that no commitment relating to a vote on the matter is made or sought.

At the next duly noticed meeting of the board, the board members shall report their attendance and the matters presented and discussed that related to board business at the informational meeting or presentation.
- (f) Discussions between the governor and one or more members of a board may be conducted in private without limitation or subsequent reporting; provided that the discussion does not relate to a matter over which a board is exercising its adjudicatory function.
- (g) Discussions between two or more members of a board and the head of a department to which the board is administratively assigned may be conducted in private without limitation; provided that the discussion is limited to matters specified in section 26-35.
- (h) Where notice of the deadline to submit testimony to the legislature is

less than the notice requirements in this section, a board may circulate for approval a statement regarding a position previously adopted by the board; provided that the position previously adopted by the board, the statement to be submitted as testimony, and communications among board members about the statement, including drafts, shall be in writing and accessible to the public, within forty-eight hours of the statement's circulation to the board, on the board's website, or, if the board does not have a website, on an appropriate state or county website.

- (i) Communications, interactions, discussions, investigations, and presentations described in this section are not meetings for purposes of this part. [L 1996, c 267, §2; am L 2005, c 84, §1; am L 2012, c 177, §1; am L 2022, c 264, §3]

§92-3 Open meetings. Every meeting of all boards shall be open to the public and all persons shall be permitted to attend any meeting unless otherwise provided in the state constitution or as closed pursuant to sections 92-4 and 92-5; provided that the removal of any person or persons who wilfully disrupts a meeting to prevent and compromise the conduct of the meeting shall not be prohibited. The boards shall afford all interested persons an opportunity to submit data, views, or arguments, in writing, on any agenda item. The boards shall also afford all interested persons an opportunity to present oral testimony on any agenda item; provided that the oral testimonies of interested persons shall not be limited to the beginning of a board's agenda or meeting. The boards may provide for reasonable administration of oral testimony by rule. [L 1975, c 166, pt of § 1; am L 1985, c 278, §1; am L 2022, c 264, §4]

§92-3.1 Limited meetings.

- (a) If a board determines that it is necessary to meet at a location that is dangerous to health or safety, or if a board determines that it is necessary to conduct an on-site inspection of a location that is related to the board's business at which public attendance is not practicable, and the director of the office of information practices concurs, the board may hold a limited meeting at that location that shall not be open to the public; provided that at a regular meeting of the board prior to the limited meeting:
 - (1) The board determines, after sufficient public deliberation, that it is necessary to hold the limited meeting and specifies that the location is dangerous to health or safety or that the on-site inspection is necessary and public attendance is impracticable;
 - (2) Two-thirds of all members to which the board is entitled vote to adopt the determinations required by paragraph (1); and
 - (3) Notice of the limited meeting is provided in accordance with section 92-7.
- (b) A county council may hold a limited meeting that is open to the public, as the guest of a board or community group holding its own meeting, and the council shall not be required to have a quorum of members in attendance or accept oral testimony; provided that:
 - (1) Notice of the limited meeting shall be provided in accordance with section 92-7, shall indicate the board or community group whose meeting the council is attending, and shall not be required to include an agenda;

- (2) If the board or community group whose meeting the council is attending is subject to part I, chapter 92, then that board or community group shall comply with the notice, agenda, testimony, minutes, and other requirements of part I, chapter 92;
 - (3) No more than one limited meeting per month shall be held by a county council for any one board or community group;
 - (4) No limited meetings shall be held outside the State; and
 - (5) Limited meetings shall not be used to circumvent the purpose of part I, chapter 92.
- (c) At all limited meetings, the board shall:
- (1) Videotape the meeting, unless the requirement is waived by the director of the office of information practices, and comply with all requirements of section 92-9;
 - (2) Make the videotape available at the next regular meeting; and
 - (3) Make no decisions at the meeting.
- (d) Each county council shall submit an annual report to the legislature no later than twenty days prior to the convening of each regular session on the effectiveness and application of limited meeting procedures provided in subsection (b), including any recommendations or proposed legislation. [L 1995, c 212, §1; am L 2008, c20, §1; am L 2014, c 221, §2; am L 2016, c 56, §1, 2]

§92-3.5 In-person meeting at multiple sites by interactive conference technology; notice; quorum.

- (a) A board may hold an in-person meeting at multiple meeting sites connected by interactive conference technology; provided that the interactive conference technology used by the board allows audio or audiovisual interaction among all members of the board participating in the meeting and all members of the public attending the meeting, and the notice required by section 92-7 identifies all of the locations where participating board members will be physically present and indicates that members of the public may join board members at any of the identified locations. The board may provide additional locations open for public participation but where no participating board members will be physically present. The notice required by section 92-7 shall list any additional locations open for public participation but where no participating board members will be physically present and specify, in the event one of those additional locations loses its audio connection to the meeting, whether the meeting will continue without that location or will be automatically recessed to restore communication as provided in subsection (c).
- (b) Any board member participating in a meeting by interactive conference technology under this section shall be considered present at the meeting for the purpose of determining compliance with the quorum and voting requirements of the board.
- (c) A meeting held by interactive conference technology under this section shall be automatically recessed for up to thirty minutes to restore communication when audio communication cannot be maintained with all locations where the meeting by interactive technology is being held, even if a quorum of the board is physically present in one location. The meeting may reconvene when either audio or audiovisual communication is restored. Within fifteen

minutes after audio-only communication is established, copies of nonconfidential visual aids that are required by or brought to the meeting by board members or as part of a scheduled presentation shall be made available either by posting on the Internet or by other means to all meeting participants, and those agenda items for which visual aids are not available for all participants at all meeting locations shall not be acted upon at the meeting. If it is not possible to reconvene the meeting as provided in this subsection within thirty minutes after an interruption to communication, and the board has not provided reasonable notice to the public as to how the meeting will be continued at an alternative date and time, then the meeting shall be automatically terminated.

- (d) Notwithstanding the other provisions of this section to the contrary, a board member with a disability that limits or impairs the member's ability to physically attend the meeting may participate in a board meeting from a location not accessible to the public; provided that the member with a disability is connected to other members of the board and the public by both visual and audio means, and the member identifies where the member is located and who, if anyone, is present at that location with the member. [L 1994, c 121, §1; am L 2000, c 284, §2; am L 2006, c 152, §1; am L 2012, c 202, §2; am L 2021, c 220, §4]

§92-3.7 Remote meeting by interactive conference technology; notice; quorum.

- (a) A board may hold a remote meeting by interactive conference technology; provided that the interactive conference technology used by the board allows audiovisual interaction among all members of the board participating in the meeting and all members of the public attending the meeting, except as otherwise provided under this section; provided further that there is at least one meeting location that is open to the public and has an audiovisual connection. A board holding a remote meeting pursuant to this section shall not be required to allow members of the public to join board members in person at nonpublic locations where board members are physically present or to identify those locations in the notice required by section 92-7; provided that at the meeting, each board member shall state the name of any person eighteen years of age or older who is present at the nonpublic location with the member; provided further that the name of a person under the age of eighteen years shall be stated if the person has a personal business, property, or financial interest on any issue before the board at the meeting. The notice required by section 92-7 shall:
- (1) List at least one meeting location that is open to the public that shall have an audiovisual connection; and
 - (2) Inform members of the public how to contemporaneously:
 - (A) Remotely view the video and audio of the meeting through internet streaming or other means; and
 - (B) Provide remote oral testimony in a manner that allows board members and other meeting participants to hear the testimony, whether through an internet link, a telephone conference, or other means.

The board may provide additional locations open for public participation. The notice required by section 92-7 shall list any additional locations open for public participation and specify, in the event an additional location loses

its audiovisual connection to the remote meeting, whether the meeting will continue without that location or will be automatically recessed to restore communication as provided in subsection (c).

- (b) For a remote meeting held by interactive conference technology pursuant to this section:
- (1) The interactive conference technology used by the board shall allow interaction among all members of the board participating in the meeting and all members of the public attending the meeting;
 - (2) Except as provided in subsections (c) and (d), a quorum of board members participating in the meeting shall be visible and audible to other members and the public during the meeting; provided that no other meeting participants shall be required to be visible during the meeting;
 - (3) Any board member participating in a meeting by interactive conference technology shall be considered present at the meeting for the purpose of determining compliance with the quorum and voting requirements of the board;
 - (4) At the start of the meeting the presiding officer shall announce the names of the participating members;
 - (5) All votes shall be conducted by roll call unless unanimous; and
 - (6) When practicable, boards shall record meetings open to the public and make the recording of any meeting electronically available to the public as soon as practicable after a meeting and until a time as the minutes required by section 92-9 are electronically posted on the board's website.
- (c) A meeting held by interactive conference technology shall be automatically recessed for up to thirty minutes to restore communication when audiovisual communication cannot be maintained with all members participating in the meeting or with the public location identified in the board's notice pursuant to subsection (a)(1) or with the remote public broadcast identified in the board's notice pursuant to subsection (a)(2)(A). This subsection shall not apply based on the inability of a member of the public to maintain an audiovisual connection to the remote public broadcast, unless the remote public broadcast itself is not transmitting an audiovisual link to the meeting. The meeting may reconvene when either audiovisual communication is restored, or audio-only communication is established after an unsuccessful attempt to restore audiovisual communication, but only if the board has provided reasonable notice to the public as to how to access the reconvened meeting after an interruption to communication. If audio-only communication is established, then each speaker shall be required to state their name before making their remarks. Within fifteen minutes after audio-only communication is established, copies of nonconfidential visual aids that are required by or brought to the meeting by board members or as part of a scheduled presentation shall be made available either by posting on the Internet or by other means to all meeting participants, including those participating remotely, and those agenda items for which visual aids are not available for all participants shall not be acted upon at the meeting. If it is not possible to reconvene the meeting as provided in this subsection within thirty minutes after an interruption to communication and the board has not provided reasonable notice to the public as to how the meeting will be continued at an alternative date and time, then the meeting shall be automatically terminated.

- (d) During executive meetings from which the public has been excluded, board members shall be audible to other authorized participants but shall not be required to be visible. To preserve the executive nature of any portion of a meeting closed to the public, the presiding officer shall publicly state the names and titles of all authorized participants, and, upon convening the executive session, all participants shall confirm to the presiding officer that no unauthorized person is present or able to hear them at their remote locations or via another audio or audiovisual connection. The person organizing the interactive conference technology shall confirm that no unauthorized person has access to the executive meeting as indicated on the control panels of the interactive conference technology being used for the meeting, if applicable. [L 2021, c 220, §2; am L 2022, c 177, § 2]

§92-4 Executive meetings. A board may hold an executive meeting closed to the public upon an affirmative vote, taken at an open meeting, of two-thirds of the members present; provided the affirmative vote constitutes a majority of the members to which the board is entitled. A meeting closed to the public shall be limited to matters exempted by section 92-5. The reason for holding such a meeting shall be publicly announced and the vote of each member on the question of holding a meeting closed to the public shall be recorded, and entered into the minutes of the meeting. [L 1975, c 166, pt of §1; am L 1985, c 278, §2]

§92-5 Exceptions.

- (a) A board may hold a meeting closed to the public pursuant to section 92-4 for one or more of the following purposes:
 - (1) To consider and evaluate personal information relating to individuals applying for professional or vocational licenses cited in section 26-9 or both;
 - (2) To consider the hire, evaluation, dismissal, or discipline of an officer or employee or of charges brought against the officer or employee, where consideration of matters affecting privacy will be involved; provided that if the individual concerned requests an open meeting, an open meeting shall be held;
 - (3) To deliberate concerning the authority of persons designated by the board to conduct labor negotiations or to negotiate the acquisition of public property, or during the conduct of such negotiations;
 - (4) To consult with the board's attorney on questions and issues pertaining to the board's powers, duties, privileges, immunities, and liabilities;
 - (5) To investigate proceedings regarding criminal misconduct;
 - (6) To consider sensitive matters related to public safety or security;
 - (7) To consider matters relating to the solicitation and acceptance of private donations; and
 - (8) To deliberate or make a decision upon a matter that requires the consideration of information that must be kept confidential pursuant to a state or federal law, or a court order.
- (b) In no instance shall the board make a decision or deliberate toward a decision in an executive meeting on matters not directly related to the purposes specified in subsection (a). No informal gathering, permitted interaction, or electronic communication shall be used to circumvent the spirit or

requirements of this part to make a decision or to deliberate toward a decision upon a matter over which the board has supervision, control, jurisdiction, or advisory power. [L 1975, c 166, pt of §1; am L 1985, c 278, §3; gen ch 1985; am L 1996, c 267, §3; am L 1998, c 48, §1; am L 1999, c 49, §1; am L 2022, c 264, §5]

§92-6 Judicial branch, quasi-judicial boards and investigatory functions; applicability.

- (a) This part shall not apply:
 - (1) To the judicial branch.
 - (2) To adjudicatory functions exercised by a board and governed by sections 91-8 and 91-9, or authorized by other sections of the Hawaii Revised Statutes. In the application of this subsection, boards exercising adjudicatory functions include, but are not limited to, the following:
 - (A) Hawaii labor relations board, chapters 89 and 377;
 - (B) Labor and industrial relations appeals board, chapter 371;
 - (C) Hawaii paroling authority, chapter 353;
 - (D) Civil service commission, chapter 26;
 - (E) Board of trustees, employees' retirement system of the State of Hawaii, chapter 88;
 - (F) Crime victim compensation commission, chapter 351; and
 - (G) State ethics commission, chapter 84.
- (b) Notwithstanding provisions in this section to the contrary, this part shall apply to require open deliberation of the adjudicatory functions of the land use commission. [L 1975, c 166, pt of §1; am L 1976, c 92, §8; am L 1985, c 251, §11; am L 1998, c 240, §6]

§92-7 Notice.

- (a) The board shall give written public notice of any regular, special, emergency, or rescheduled meeting, or any executive meeting when anticipated in advance. The notice shall include an agenda that lists all of the items to be considered at the forthcoming meeting; the date, time, and place of the meeting; the board's electronic and postal contact information for submission of testimony before the meeting; instructions on how to request an auxiliary aid or service or an accommodation due to a disability, including a response deadline, if one is provided, that is reasonable; and in the case of an executive meeting the purpose shall be stated. If an item to be considered is the proposed adoption, amendment, or repeal of administrative rules, an agenda meets the requirements for public notice pursuant to this section if it contains a statement on the topic of the proposed rules or a general description of the subjects involved, as described in section 91-3(a)(1)(A), and a statement of when and where the proposed rules may be viewed in person and on the Internet as provided in section 91-2.6. The means specified by this section shall be the only means required for giving notice under this part notwithstanding any law to the contrary.
- (b) No less than six calendar days prior to the meeting, the board shall post the notice on an electronic calendar on a website maintained by the State or the appropriate county and post a notice in the board's office for public inspection. The notice shall also be posted at the site of the meeting

whenever feasible. The board shall file a copy of the notice with the office of the lieutenant governor or the appropriate county clerk's office and retain a copy of proof of filing the notice, and the office of the lieutenant governor or the appropriate clerk's office shall timely post paper or electronic copies of all meeting notices in a central location in a public building; provided that a failure to do so by the board, the office of the lieutenant governor, or the appropriate county clerk's office shall not require cancellation of the meeting. The copy of the notice to be provided to the office of the lieutenant governor or the appropriate county clerk's office may be provided via electronic mail to an electronic mail address designated by the office of the lieutenant governor or the appropriate county clerk's office, as applicable.

- (c) If the written public notice is electronically posted on an electronic calendar less than six calendar days before the meeting, the meeting shall be canceled as a matter of law and shall not be held. The chairperson or the director shall ensure that a notice canceling the meeting is posted at the place of the meeting. If there is a dispute as to whether a notice was timely posted on an electronic calendar maintained by the State or appropriate county, a printout of the electronic time-stamped agenda shall be conclusive evidence of the electronic posting date. The board shall provide a copy of the time-stamped record upon request.
- (d) No board shall change the agenda, less than six calendar days prior to the meeting, by adding items thereto without a two-thirds recorded vote of all members to which the board is entitled; provided that no item shall be added to the agenda if it is of reasonably major importance and action thereon by the board will affect a significant number of persons. Items of reasonably major importance not decided at a scheduled meeting shall be considered only at a meeting continued to a reasonable day and time.
- (e) The board shall maintain a list of names and postal or electronic mail addresses of persons who request notification of meetings and shall mail or electronically mail a copy of the notice to the persons by the means chosen by the persons at their last recorded postal or electronic mail address no later than the time the agenda is required to be electronically posted under subsection (b). [L 1975, c 166, pt of §1; am L 1976, c 212, §2; am L 1984, c 271, §1; am L 1985, c 278, §4; am L 1995, c 13, §2; am L 2012, c 177, §2; am L 2014, c 68, §1; am L 2017, c 64, §2; am L 2018, c 63, §1; am L 2019, c 244, §2; am L 2021, c 220, §5]

§92-7.5 Board packet; filing; public inspection; notice. At the time the board packet is distributed to the board members, but no later than forty-eight hours before the meeting time, the board shall also make the board packet available for public inspection in the board's office; provided that nothing in this section shall require creation of a board packet. The board shall provide notice to persons requesting notification of meetings pursuant to section 92-7(e) that the board packet is available for inspection in the board's office and shall provide reasonably prompt access to the board packet to any person upon request. The board is not required to mail board packets. As soon as practicable, the board shall accommodate requests for electronic access to the board packet.

For purposes of this section, "board packet" means documents that are compiled by the board and distributed to board members before a meeting for use at that meeting, to the extent the documents are public under chapter 92F; provided that this section shall not require disclosure of executive session minutes, license

applications, or other records for which the board cannot reasonably complete its redaction of nonpublic information in the time available before the public inspection required by this section. [L 2017, c 64, §1; am L 2022, c 264, §6]

§92-8 Emergency meetings.

- (a) If a board finds that an imminent peril to the public health, safety, or welfare requires a meeting in less time than is provided for in section 92-7, the board may hold an emergency meeting provided that:
 - (1) The board states in writing the reasons for its findings;
 - (2) Two-thirds of all members to which the board is entitled agree that the findings are correct and an emergency exists;
 - (3) An emergency agenda and the findings are electronically posted pursuant to section 92-7(b), filed with the office of the lieutenant governor or the appropriate county clerk's office, and posted in the board's office; provided further that the six calendar day requirement for filing and electronic posting shall not apply; and
 - (4) Persons requesting notification on a regular basis are contacted by postal or electronic mail or telephone as soon as practicable.
- (b) If an unanticipated event requires a board to take action on a matter over which it has supervision, control, jurisdiction, or advisory power, with less time than is provided for in section 92-7 to notice and convene a meeting of the board, the board may hold an emergency meeting to deliberate and decide whether and how to act in response to the unanticipated event; provided that:
 - (1) The board states in writing the reasons for its finding that an unanticipated event has occurred and that an emergency meeting is necessary and the attorney general concurs that the conditions necessary for an emergency meeting under this subsection exist;
 - (2) Two-thirds of all members to which the board is entitled agree that the conditions necessary for an emergency meeting under this subsection exist;
 - (3) The finding that an unanticipated event has occurred and that an emergency meeting is necessary and the agenda for the emergency meeting under this subsection are electronically posted pursuant to section 92-7(b), filed with the office of the lieutenant governor or the appropriate county clerk's office, and posted in the board's office; provided further that the six calendar day requirement for filing and electronic posting shall not apply;
 - (4) Persons requesting notification on a regular basis are contacted by postal or electronic mail or telephone as soon as practicable; and
 - (5) The board limits its action to only that action which must be taken on or before the date that a meeting would have been held, had the board noticed the meeting pursuant to section 92-7.
- (c) For purposes of this part, an "unanticipated event" means:
 - (1) An event which members of the board did not have sufficient advance knowledge of or reasonably could not have known about from information published by the media or information generally available in the community;
 - (2) A deadline established by a legislative body, a court, or a federal, state, or county agency beyond the control of a board; or
 - (3) A consequence of an event for which reasonably informed and

knowledgeable board members could not have taken all necessary action. [L 1975, c 166, pt of §1; am L 1996, c 267, §4; am L 2017, c 64 §3; am L 2019, c 244 §3]

§92-9 Minutes.

- (a) The board shall keep written or recorded minutes of all meetings. Unless otherwise required by law, neither a full transcript nor a recording of the meeting is required, but the minutes shall give a true reflection of the matters discussed at the meeting and the views of the participants. Written minutes shall include, but need not be limited to:
- (1) The date, time and place of the meeting;
 - (2) The members of the board recorded as either present or absent;
 - (3) The substance of all matters proposed, discussed, or decided; and a record, by individual member, of any votes taken; and
 - (4) Any other information that any member of the board requests be included or reflected in the minutes.
- (b) The minutes shall be made available to the public by posting on the board's website or, if the board does not have a website, on an appropriate state or county website within forty days after the meeting except where such disclosure would be inconsistent with section 92-5; provided that minutes of executive meetings may be withheld so long as their publication would defeat the lawful purpose of the executive meeting, but no longer. A written summary shall accompany any minutes that are posted in a digital or analog recording format and shall include:
- (1) The date, time, and place of the meeting;
 - (2) The members of the board recorded as either present or absent, and the times when individual members entered or left the meeting;
 - (3) A record, by individual member, of motions and votes made by the board; and
 - (4) A time stamp or other reference indicating when in the recording the board began discussion of each agenda item and when motions and votes were made by the board.
- (c) All or any part of a meeting, of a board may be recorded by any person in attendance by any means of reproduction, except when a meeting is closed pursuant to section 92-4; provided the recording does not actively interfere with the conduct of the meeting. [L 1975, c 166, pt of §1; am L 2017, c 64, §4]

§92-10 Legislative branch; applicability. Notwithstanding any provisions contained in this chapter to the contrary, open meeting requirements, and provisions regarding enforcement, penalties and sanctions, as they are to relate to the state legislature or to any of its members shall be such as shall be from time to time prescribed by the respective rules and procedures of the senate and the house of representatives, which rules and procedures shall take precedence over this part. Similarly, provisions relating to notice, agenda and minutes of meetings, and such other requirements as may be necessary, shall also be governed by the respective rules and procedures of the senate and the house of representatives. [L 1975, c 166, pt of §1]

§92-11 Voidability. Any final action taken in violation of sections 92-3 and 92-7 may be voidable upon proof of violation. A suit to void any final action shall be

commenced within ninety days of the action. [L 1975, c 166, pt of §1; am L 2005, c 84, §2]

§92-12 Enforcement.

- (a) The attorney general and the prosecuting attorney shall enforce this part.
- (b) The circuit courts of the State shall have jurisdiction to enforce the provisions of this part by injunction or other appropriate remedy.
- (c) Any person may commence a suit in the circuit court of the circuit in which a prohibited act occurs for the purpose of requiring compliance with or preventing violations of this part or to determine the applicability of this part to discussions or decisions of the public body. The court may order payment of reasonable attorney's fees and costs to the prevailing party in a suit brought under this section.
- (d) Opinions and rulings of the office of information practices shall be admissible in an action brought under this part and shall be considered as precedent unless found to be palpably erroneous.
- (e) The proceedings for review shall not stay the enforcement of any agency decisions; but the reviewing court may order a stay if the following criteria have been met:
 - (1) There is likelihood that the party bringing the action will prevail on the merits;
 - (2) Irreparable damage will result if a stay is not ordered;
 - (3) No irreparable damage to the public will result from the stay order; and
 - (4) Public interest will be served by the stay order. [L 1975, c 166, pt of §1; am L 1985, c 278, §5; am L 2012, c 176, §3]

§92-13 Penalties. Any person who wilfully violates any provisions of this part shall be guilty of a misdemeanor, and upon conviction, may be summarily removed from the board unless otherwise provided by law. [L 1975, c 166, pt of §1]