



**WRITTEN TESTIMONY OF  
THE DEPARTMENT OF THE ATTORNEY GENERAL  
THIRTY-FIRST LEGISLATURE, 2021**

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**ON THE FOLLOWING MEASURE:**

H.B. NO. 303, RELATING TO ADVANCED PRACTICE REGISTERED NURSES.

**BEFORE THE:**

HOUSE COMMITTEE ON CONSUMER PROTECTION AND COMMERCE

**DATE:** Thursday, February 11, 2021 **TIME:** 2:00 p.m.

**LOCATION:** State Capitol, Room 329, Via Videoconference

**TESTIFIER(S):** **WRITTEN TESTIMONY ONLY.**  
(For more information, contact Kory Young,  
Deputy Attorney General, at 586-1160)

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Chair Johanson and Members of the Committee:

The Department of the Attorney General (Department) appreciates the intent of this bill but opposes its passage at this time.

The purpose of the bill is to allow certain advance practice registered nurses (APRNs) to serve as court appointed examiners of criminal defendants in fitness to proceed and penal responsibility examinations.

The Department recommends that this matter be deferred until the impact of the changes mandated by Act 26, Session Laws 2020 (Act 26), to sections 704-404, 704-406, 704-407.5, 704-411, and 704-414, Hawaii Revised Statutes (HRS), can be properly evaluated, and to allow the parties who would be substantially affected by the bill, including the Department of Health, the Judiciary, the county Prosecutor's Offices, the Office of the Public Defender, and the criminal defense bar, to fully examine the ramifications of the bill on legal proceedings.

Act 26 implemented changes to sections 704-404, 704-406, 704-407.5, 704-411, and 704-414, HRS, to streamline the handling of defendants who may be unfit, as well as defendants who may not be penally responsible for their criminal conduct. Act 26 also provided the Courts with greater flexibility when appointing panel examiners to address concerns regarding the availability and accessibility of examiners to defendants. Additionally, through its amendments to section 704-406, HRS, Act 26 created a process that would allow certain defendants to be committed to the custody of

the Director of Health for detention, assessment, care, and treatment, and diversion from the criminal justice system, thereby reducing the strain their cases place on the criminal courts.

The provisions of Act 26 have only been in effect since September of 2020, and due to the COVID-19 Pandemic, it has not been possible to gauge their impact on the courts or the mental health system under more normal circumstances. Until the effects of Act 26 can be properly evaluated, making additional changes to sections 704-404, 704-407.5, 704-411, and 704-414, HRS, is premature.

Even if it is determined, after evaluating the impacts of the significant changes of Act 26, that further changes to sections 704-404, 704-407.5, 704-411, and 704-414, HRS, are warranted, more discussion among the Department of Health, the Judiciary, the county Prosecutor's Offices, the Office of the Public Defender, and the criminal defense bar is necessary to determine if these statutes should be further expanded to allow APRNs to conduct forensic examinations on penal responsibility and fitness.

It should also be noted, the bill's proposed amendments to sections 704-404, 704-407.5, 704-411, and 704-414, HRS, in sections 3, 5, 8, and 10, of the bill, respectively, are made to wording that was superseded by Act 26.

As one example, the wording of section 704-404(2) in section 3 of the bill at page 3, line 4, through page 4, line 14, is substantially different from the statute's current wording.

The Department respectfully requests that this measure be deferred.

## **Testimony of the Board of Nursing**

**Before the  
House Committee on Consumer Protection & Commerce  
Thursday, February 11, 2021  
2:00 p.m.  
Via Videoconference**

**On the following measure:  
H.B. 303, RELATING TO ADVANCED PRACTICE REGISTERED NURSES**

Chair Johanson, and Members of the Committee:

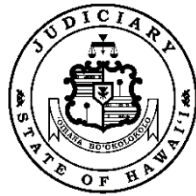
My name is Lee Ann Teshima, and I am the Executive Officer of the Board of Nursing (Board). The Board appreciates the intent of and offers comments on this bill.

The purpose of this bill is to amend provisions concerning fitness to proceed examinations in criminal proceedings to include qualified advanced practice registered nurses (APRNs) or APRNS with prescriptive authority who hold an accredited national certification in an APRN psychiatric specialization.

The Board appreciates the bill's intent to remove barriers for the practice of APRNs and to provide greater access to health care for Hawaii residents, especially those who reside in rural areas or on the neighbor islands.

For the Committee's information, APRNs are recognized as primary care providers who may practice independently based on their practice specialty, which includes psychiatric mental health. Under Hawaii Revised Statutes section 457-8.8, APRNS are "authorized to sign, certify, or endorse all documents relating to health care within their scope of practice provided for their patients[.]" In addition, an APRN's education and training include but are not limited to: (1) a graduate-level degree in nursing; (2) national certification that requires additional education and training; and (3) passage of a national board examination.

Thank you for the opportunity to testify on this bill.



*The Judiciary, State of Hawai'i*

**Testimony to the Thirty-First State Legislature, 2021 Session**

**House Committee on Consumer Protection & Commerce**

Representative Aaron Ling Johanson, Chair

Representative Lisa Kitagawa, Vice-Chair

Thursday, February 11, 2021, 2:00PM

VIA VIDEOCONFERENCE

By

Shirley M. Kawamura

Deputy Chief Judge, Criminal Administrative Judge, Circuit Court of the First Circuit

**WRITTEN TESTIMONY ONLY**

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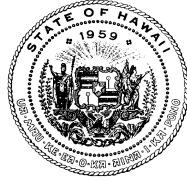
**Bill No. and Title:** House Bill No. 303, Relating to Advanced Practice Registered Nurses

**Purpose:** Amends provisions concerning fitness to proceed examinations in criminal proceedings to include qualified advanced practice registered nurses or advanced practice registered nurses with prescriptive authority who hold an accredited national certification in an advanced practice registered nurse psychiatric specialization.

**Judiciary's Position:**

The Judiciary defers to the Department of Health as to the efficacy of including advanced practice registered nurses as evaluators for the various evaluations required under Chapter 704. However, the Judiciary would like to note that the current legislation amends language contained in the 2016 versions of the sections 704-404, 406, 407.5, 411, 414, and not as they were amended in September of 2020.

Thank you for the opportunity to testify on this measure.



**STATE OF HAWAII**  
**DEPARTMENT OF HEALTH**  
P. O. Box 3378  
Honolulu, HI 96801-3378  
doh.testimony@doh.hawaii.gov

**Testimony in OPPOSITION to H.B. 303**  
**RELATING TO ADVANCED PRACTICE REGISTERED NURSES**

REPRESENTATIVE AARON LING JOHANSON, CHAIR  
HOUSE COMMITTEE ON CONSUMER PROTECTION & COMMERCE

Hearing Date: 2/11/2021

Hearing Time: 2:00 p.m.

1 **Department Position:** The Department of Health (“Department”) opposes this measure, offers  
2 comments, and asks that this measure be deferred.

3 **Department Testimony:** The subject matter of this measure intersects with the scope of the  
4 Department’s Behavioral Health Administration (BHA) whose statutory mandate is to assure a  
5 comprehensive statewide behavioral health care system by leveraging and coordinating public,  
6 private and community resources. Through the BHA, the Department is committed to carrying  
7 out this mandate by reducing silos, ensuring behavioral health care is readily accessible, and  
8 person-centered.

9 The Department agrees that Advance Practice Registered Nurses (APRNs) are an integral  
10 part of the continuum of care for behavioral health and are an important part of AMHD’s multi-  
11 disciplinary team approach with respect to the care and treatment of individuals diagnosed  
12 with a serious mental illness (SMI). We want to increase their role in areas where they may  
13 provide direct clinical care services including, for example, as rotating staff providing coverage  
14 as the hospital Medical Officer of the Day.

15 The BHA’s Adult Mental Health Division (AMHD) is tasked with maintaining a qualified  
16 group of professionals in both the public and private sectors whose responsibility is to provide

1 expert opinion to the courts with respect to Chapter 704 (forensic evaluations), Hawaii Revised  
2 Statutes (HRS).

3 The proposed language in this measure indicates the intent of the bill is to improve  
4 patient access to medical care by allowing nurses to complete forensic evaluations. The  
5 Department's acknowledges that while forensic evaluation may lead to clinical  
6 recommendations and treatment, the evaluation itself is not considered treatment or medical  
7 care. For example, the work of forensic assessment under Chapter 704, HRS is, by nature,  
8 independent and is not considered "care" or "treatment."

9 We appreciate and thank the legislature for its commitment to improving the  
10 coordination of behavioral health services statewide. In September 2020, Act 026 (H.B. 1620  
11 HD2 SD2) removed the requirement to include psychiatrists as a member of the three-panel  
12 examination process. The direct result of this law is that it eliminated issues with the list of  
13 available panelists and there are no existing capacity issues for the completion of forensic  
14 evaluations. As such, this measure is not necessary as it does not address an existing need for  
15 changes to the Chapter 704 panel process.

16 As previously stated, we do agree that APRNs belong as members of multi-  
17 interdisciplinary teams and should be allowed to practice within their scope of work. We ask  
18 that this measure be deferred to allow the legislature's work from last session through Act 026  
19 to continue to be monitored.

20 **Offered Amendments:** None.

21 Thank you for the opportunity to testify on this measure.

22 **Fiscal Implications:** Undetermined.



**Written Testimony Presented Before the  
COMMITTEE ON CONSUMER PROTECTION & COMMERCE**

**DATE: Thursday, February 11, 2021**

**TIME: 2:00 pm.**

**PLACE: VIA VIDEOCONFERENCE**

**By**

**Laura Reichhardt, APRN, AGPCNP-BC  
Director, Hawai'i State Center for Nursing  
University of Hawai'i at Mānoa**

**Testimony in Strong Support for HB303**

Chair Johanson, Vice Chair Kitagawa, and members of the House Committee on Consumer Protection & Commerce, thank you for the opportunity for the Hawai'i State Center for Nursing to provide testimony in strong support of this measure. This measure seeks to amend provisions concerning fitness to proceed examinations in criminal proceedings to include qualified advanced practice registered nurses or advanced practice registered nurses with prescriptive authority who hold an accredited national certification in an advanced practice registered nurse psychiatric specialization.

Hawai'i has adopted the national best practices for APRN scope of practice, the APRN Consensus Model, which states that licensure, accreditation, and certification combined provide guidance on an APRN's scope of practice. As such, in accordance with their license, accreditation, certification and education, Chapter 89 – Nurses of the Hawai'i Administrative Rules (HAR) states that APRNs may order, interpret, or perform diagnostic, screening, and therapeutic examinations, tests, and procedures (HAR 16-89-81 Practice Specialties). In addition, APRNs must adhere to professional conduct as defined in H.AR Chapter 89 – Nurses which prohibits nurses from performing nursing techniques or procedures without proper education and training (HAR 16-89-60 Types of Unprofessional Conduct) (6)(E). These provisions create a safe practice environment with clear standards to ensure high quality and safe care by requiring an APRN to complete all necessary education and training needed to ensure competence in performing skills, including those addressed in this measure. Engaging in education and training is consistent with the professional and regulatory expectation that nurses engage in lifelong learning to ensure that they are providing safe, quality, evidence-based care.

The Hawai'i State Center for Nursing APRN Policy and Practice Taskforce, a group of APRN leaders practicing across the islands, identified the laws included in this measure as true barriers to providing care to people of Hawai'i and supporting the severely mentally ill population of Hawai'i. Further, the State achieved significant improvements in expanding qualified behavioral health care providers; however, these efforts have yet to address Fitness to

*The mission of the Hawai'i State Center for Nursing is that through collaborative partnerships, the Center provides accurate nursing workforce data for planning, disseminates nursing knowledge to support excellence in practice and leadership development; promotes a diverse workforce and advocates for sound health policy to serve the changing health care needs of the people of Hawai'i.*

2528 McCarthy Mall, Webster 402 Honolulu, HI 96822  
T 808.956.5211 F 808.956.0547 [hscfn@hawaii.edu](mailto:hscfn@hawaii.edu) [hawaiicenterfornursing.org](http://hawaiicenterfornursing.org)

Proceed. This measure compliments the Acts passed through the legislature related to mental health access to care including: Act 046, SLH 2014 which added APRNs to the list of providers who could provide a “certificate of disability” among other changes; Act 27, SLH 2015 which clarifies the role of advanced practice registered nurses in HRS sections relating to emergency hospital admission and involuntary hospitalization; and Act 088, SLH 2017, which, in part, allows APRNs to offer care and mental health services to patients in assisted community treatment programs similar to care and services offered by physicians and other health care service providers.

Advanced Practice Registered Nurses have more than doubled in Hawai‘i between 2005 and 2017, with continued growth since that period. At this time, nearly 1,300 licensed APRNs reside in Hawai‘i. APRNs are noted in national research to be more likely to provide care to underserved people and communities including rural areas, urban areas, to women, and to Medicaid recipients or uninsured people (Buerhaus et al., 2014). Currently, APRNs practice in all regions of Hawai‘i with more than 25% of Hawai‘i’s APRNs working in rural areas. The majority of APRNs practicing in the Counties of Hawai‘i, Maui and Kaua‘i work in federally designated medically underserved areas. (Hawai‘i State Center for Nursing, 2017). Psychiatric Mental Health certified APRNs are in the top four APRN specialties for all Counties except for the City and County of Honolulu (Hawai‘i State Center for Nursing, 2019).

Hawai‘i’s laws for APRNs ensure public safety during patient care and authorized assessment, diagnosis, and prescriptive authority. APRNs have grown significantly in Hawai‘i with APRNs providing care in all regions in the state where people live. The intent of this measure is to continue to address and remove APRN barriers to providing care, particularly as it relates to access to care for severely mentally ill individuals and care in rural Hawai‘i and on neighbor islands.

The Hawai‘i State Center for Nursing urges you to pass this measure through your committee. Thank you for the dedication and care for healthcare workers and the people in Hawai‘i.

*The mission of the Hawai‘i State Center for Nursing is that through collaborative partnerships, the Center provides accurate nursing workforce data for planning, disseminates nursing knowledge to support excellence in practice and leadership development; promotes a diverse workforce and advocates for sound health policy to serve the changing health care needs of the people of Hawai‘i.*

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T 808.956.5211 F 808.956.0547 [hscfn@hawaii.edu](mailto:hscfn@hawaii.edu) [hawaiicenterfornursing.org](http://hawaiicenterfornursing.org)





# Hawai'i Psychological Association

*For a Healthy Hawai'i*

P.O. Box 833  
Honolulu, HI 96808

[www.hawaiipsychology.org](http://www.hawaiipsychology.org)

Phone: (808) 521 -8995

## COMMITTEE ON CONSUMER PROTECTION AND COMMERCE

Representative Aaron Ling Johanson, Chair

Representative Lisa Kitagawa, Vice Chair

Thursday, February 11, 2021 - 2:00pm - Conference Room 329 - videoconference

### **Opposition to HB303**

### **RELATING TO ADVANCED PRACTICE REGISTERED NURSES**

The Hawai'i Psychological Association (HPA) is opposed to HB303, which allows Advanced Practice Registered Nurses (APRNs) with prescriptive authority and a psychiatric specialization to be included as a provider, in addition to psychologists and psychiatrists, who may perform court-ordered evaluations of a criminal defendant's fitness to proceed for felonies and misdemeanors.

Foundationally, HPA would like to establish that the determination of whether a defendant is fit to proceed is not a medical issue – it is a legal-psychological issue.

Court orders for fitness to proceed also typically mandate opinions on a defendant's penal responsibility and dangerousness, which are more complex than evaluations of fitness to proceed. Although this bill defines APRNs as needing an accredited national certification in psychiatric specialization, this credential does not include training in fitness to proceed, penal responsibility or dangerousness assessments.

Presumably APRNs want to have the same authority and scope of practice that psychiatrists have in these proceedings; however, it is important to note it is no longer mandatory to have a psychiatrist as an examiner. Similarly, having a doctoral degree does not make one qualified to do this work – it is a specialty area that requires advanced training beyond the degree.

Moreover, there is no shortage of fitness examiners. In fact, there is a glut on Oahu and the Oahu examiners can do video evaluations on outer islands. The shortage of examiners at the Department of Health could be solved by simply hiring more examiners - a qualified pool of psychologists already exists.

While the State has been trying to implement certification requirements to increase quality; this bill is a step backward that could decrease quality. Psychologists typically have 720 hours of

practicum training, 2,000 hours of internship and 2,000 of post-doctoral internship. APRNs, in contrast, have about 500 hours of practicum training.

HPA has previously submitted testimony on HB302 and SB839, *supporting* the ability of APRNs to do disability determinations and counseling in death and dying, which is within their scope of practice. The subject matter of the statutes amended by this bill is outside their current scope of practice and training.

Additional APRN training is therefore needed to do this work, which should include: at least a nationally accredited one-year internship in forensic mental health; knowledge of forensic ethics, psychometrics and psychodiagnostics; training in evaluation of fitness, dangerousness, penal responsibility, malingering and inter-rater reliability; as well as a familiarity with Hawaii Revised Statutes Chapter 704.

Unlike the fields of psychology and psychiatry, APRNs do not typically develop subspecialties, like forensic mental health. The infrastructure for such specialization does not exist. Psychology has nationally established standards in forensics whereas nursing does not.

It's also important to note that nursing ethics are not necessarily compatible with legal proceedings where the client is the court - not the patient. Nurses typically work within a treatment team; forensic examiners practice independently.

The stakes are high. These proceedings relate to public safety, and involve assessments on *dangerousness*. Correct placement in a jail versus hospital is essential for justice.

Finally, if this bill is passed in its current form, APRNs would still not qualify as forensic examiners, due to lack of adequate training.

Thank you for the opportunity to provide input into this important bill.

Sincerely,

A handwritten signature in cursive script that reads "Alex Lichton, Ph.D.".

Alex Lichton, Ph.D.

Chair, HPA Legislative Action Committee



## THE QUEEN'S HEALTH SYSTEMS

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To: The Honorable Aaron Ling Johanson, Chair  
The Honorable Lisa Kitagawa, Vice Chair  
Members, House Committee on Consumer Protection & Commerce

From: Colette Masunaga, Director, Government Relations & External Affairs, The Queen's Health Systems

Date: February 11, 2021

Re: Support for HB303: Relating to Advanced Practice Registered Nurses

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The Queen's Health Systems (Queen's) is a nonprofit corporation that provides expanded health care capabilities to the people of Hawai'i and the Pacific Basin. Since the founding of the first Queen's hospital in 1859 by Queen Emma and King Kamehameha IV, it has been our mission to provide quality health care services in perpetuity for Native Hawaiians and all of the people of Hawai'i. Over the years, the organization has grown to four hospitals, and more than 1,500 affiliated physicians and providers statewide. As the preeminent health care system in Hawai'i, Queen's strives to provide superior patient care that is constantly advancing through education and research.

Queen's appreciates the opportunity to provide testimony in support of HB303, relating to advanced practice registered nurses. This bill would amend existing provisions concerning fitness to proceed examinations in criminal proceedings to include qualified advanced practice registered nurses or advanced practice registered nurses with prescriptive authority who hold an accredited national certification in an advanced practice registered nurse psychiatric specialization.

Queen's supports this measure because we believe it is important that all qualified providers, like APRNs, are able to exercise their full scope of practice and assist in these situations. There are currently about 120 APRNs working at Queen's and we expect this number to increase in order to meet the community need for services.

Thank you for allowing Queen's to testify in support of HB303.

*The mission of The Queen's Health Systems is to fulfill the intent of Queen Emma and King Kamehameha IV to provide in perpetuity quality health care services to improve the well-being of Native Hawaiians and all of the people of Hawai'i.*

**HB-303**

Submitted on: 2/9/2021 10:49:11 PM

Testimony for CPC on 2/11/2021 2:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Kathleen Yokouchi	Individual	Support	No

Comments:

In support.

**HB-303**

Submitted on: 2/9/2021 11:35:01 PM

Testimony for CPC on 2/11/2021 2:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Brendon Friedman	Individual	Support	No

Comments:

**I strongly support this measure -thank you!**

**Brendon Friedman, DNP, APRN-Rx, FNP-BC, PMHNP-BC, CME**

**Family & Psychiatric-Mental Health Nurse Practitioner, Assistant Professor,  
Private Practice Owner**

2838 E. Manoa Rd

Honolulu, HI 96838-1964

**HB-303**

Submitted on: 2/10/2021 12:00:36 AM

Testimony for CPC on 2/11/2021 2:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Susan Pcola_Davis	Individual	Oppose	No

Comments:

I strongly oppose this bill that expands the scope of practice for Advanced Practical Registered Nurses (APRNs). Hawaii is increasingly creating bills to expand the scope of practice for both APRNs and Physician Assistants.

Using APRNs during court proceedings to determine fitness or unfitness can lead to mistrial and appeals. Let's just stick to what works.

This needs to be stopped.

## Hawai'i Association of Professional Nurses (HAPN)



To: The Honorable Representative Aaron Johanson, Chair of  
the House Committee on Consumer Protection &  
Commerce

From: Hawaii Association of Professional Nurses (HAPN)

Subject: HB303 – Relating to Advanced Practice Registered Nurses

Hearing: February 11, 2021, 2p.m.

Aloha Representative Johanson, Chair; Representative Kitagawa, Vice Chair, and Committee Members,

Thank you for the opportunity to submit testimony regarding HB303. HAPN is in **Support** to include Advanced Practice Registered Nurses (APRN) with the ability to examine defendants with respect to physical or mental disease, disorder, or fitness to proceed under criminal proceedings. This measure seeks to amend provisions concerning fitness to proceed examinations in criminal proceedings to include qualified advanced practice registered nurses or advanced practice registered nurses with prescriptive authority who hold an accredited national certification in an advanced practice registered nurse psychiatric specialization. **The amendments requested are to update Section 3 as it relates to HRS 704-404 to reflect the improvements achieved in Act 26, SLH 2020. This requested amendment is enclosed at the end of this testimony.**

HAPN recognizes the need to be part of the solution when it comes to the mental health needs and evaluation of individuals a part of the judicial process. Many of our members have been able to be part of the general expansion of mental health support through certification as a Psychiatric Mental Health Advanced Practice Registered Nurse. This measure compliments the Acts passed through the legislature related to mental health access to care including: Act 046, SLH 2014 which added APRNs to the list of providers who could provide a “certificate of disability” among other changes; Act 27, SLH 2015 which clarifies the role of advanced practice registered nurses in HRS sections relating to emergency hospital admission and involuntary hospitalization; and Act 088, SLH 2017, which, in part, allows APRNs to offer care and mental health services to patients in assisted community treatment programs similar to care and services offered by physicians and other health care service providers.

HAPN’s mission, to be the voice of APRNs in Hawaii, has been the guiding force that propelled us to spearhead the advancement of patients access to healthcare as well as supporting the recognition of the scope of practice for APRNs in Hawaii which led us to full practice authority. We have worked to improve the physical and mental health of our communities.

Thank you for the opportunity to share the perspective of HAPN with your committee. Thank you for your enduring support of the nursing profession in the Aloha State.

Respectfully,  
Dr. Jeremy Creekmore, APRN  
HAPN President

Dr. Bradley Kuo, APRN  
HAPN Legislative Committee, Chair  
HAPN Past President

**§704-404 Examination of defendant with respect to physical or mental disease, disorder, or defect excluding fitness to proceed.**

(1) Whenever there is reason to doubt the defendant's fitness to proceed, the court may immediately suspend all further proceedings in the prosecution; provided that for any defendant not subject to an order of commitment to the director of health for the purpose of the examination, neither the right to bail nor proceedings pursuant to chapter 804 shall be suspended. If a trial jury has been empaneled, it shall be discharged or retained at the discretion of the court. The discharge of the trial jury shall not be a bar to further prosecution.

(2) Upon suspension of further proceedings in the prosecution:

(a) In cases where the defendant is charged with a petty misdemeanor not involving violence or attempted violence, if a court-based certified examiner is available, the court shall appoint the court-based certified examiner to examine and provide an expedited report solely upon the issue of the defendant's capacity to understand the proceedings against the defendant and defendant's ability to assist in the defendant's own defense. The court-based certified examiner shall file the examiner's report with the court within two days of the appointment of the examiner, or as soon thereafter is practicable. A hearing shall be held to determine if the defendant is fit to proceed within two days of the filing of the report, or as soon thereafter as is practicable;

(b) In all other nonfelony cases, and where a court-based certified examiner is not available in cases under paragraph (a), the court shall appoint one qualified examiner to examine and report upon the defendant's fitness to proceed. The court may appoint as the examiner either a psychiatrist, ~~or~~ a licensed psychologist, or advanced practice registered nurse, designated by the director of health from within the department of health; and

(c) In felony cases, the court shall appoint three qualified examiners to examine and report upon the



defendant's fitness to proceed. The court shall appoint as examiners psychiatrists, licensed psychologists, advanced practice registered nurse, [Ø] qualified physician[-], or qualified advanced practice registered nurse; provided that one of the three examiners shall be a psychiatrist, [Ø] licensed psychologist, or advanced practice registered nurse designated by the director of health from within the department of health.

All examiners shall be appointed from a list of certified examiners as determined by the department of health. The court, in appropriate circumstances, may appoint an additional examiner or examiners. The examination may be conducted while the defendant is in custody or on release or, in the court's discretion, when necessary the court may order the defendant to be committed to a hospital or other suitable facility for the purpose of the examination for a period not exceeding thirty days, or a longer period as the court determines to be necessary for the purpose. The court may direct that one or more qualified physicians, qualified advanced practice registered nurses, or psychologists retained by the defendant be permitted to witness the examination. [~~As used in this section, the term "licensed psychologist" includes psychologists exempted from licensure by section 465-3(a)(3) and "qualified physician" means a physician qualified by the court for the specific evaluation ordered.~~]

To: The Honorable Representative Aaron Johanson, Chair of the House Committee on Consumer Protection & Commerce

From: Allen Novak, APRN-Rx, Hilo Hawaii

Subject: HB303 – Relating to Advanced Practice Registered Nurses

Hearing: February 11, 2021, 2p.m.

Aloha Representative Johanson, Chair; Representative Kitagawa, Vice Chair, and Committee Members,

Thank you for the opportunity to submit testimony regarding HB303. I am in Support of including Advanced Practice Registered Nurses (APRN) with the ability to examine defendants with respect to physical or mental disease, disorder, or fitness to proceed under criminal proceedings.

I am a psychiatric Advanced Practice Registered Nurse with a practice in Hilo for the past 25 years. In the past, I have been asked to testify in my professional capacity. However, currently, I can only be considered to be an ordinary witness by the court and not recognized for my expertise.

Thank you for the opportunity to share my position with your committee. Thank you for your enduring support of the nursing profession in the Aloha State.

**HB-303**

Submitted on: 2/10/2021 1:53:19 PM

Testimony for CPC on 2/11/2021 2:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Allison Garrett	Individual	Oppose	No

Comments:

I adamantly oppose this bill as this is far outside the scope of practice for an APRN. APRN's receive drastically less training than psychiatrists and psychologists. Psychiatric residency training includes forensic education and rotations so that every graduating psychiatrist, regardless of what program they attend, has been exposed to and educated on forensic cases. To be considered a forensic psychiatrist, however, requires an extra year of forensic fellowship beyond the standard four year psychiatric residency. So even though every psychiatrist has had some forensic exposure, even they would not routinely consider themselves forensic psychiatrists and would not routinely perform these kinds of complicated evaluations, despite graduating with a bare minimum of 8,000 hours of psychiatric training and many thousands of hours of general medical training in addition to this.

This level of training and expertise is not found in psychiatric mental health nurse practitioner programs. Therefor a psychiatric nurse practitioner may never have even seen a forensic patient nor have they had any education on the ethics, complications, and diagnoses likely to be found in the forensic population. APRN programs are not nationally standardized, unlike psychiatric training, thus there is no consistent oversight on the quality of training or education. You can become a psychiatric nurse practitioner with only 500 clinical hours or about three months of clinical exposure. This is a drastic difference in clinical experience and education. Additionally, forensic psychiatry involves the intersection of law and psychiatry. As such, those submitting forensic examinations should be considered experts in their field. A psychiatric nurse practitioner cannot be considered an expert in psychiatry given these large discrepancies in minimum training and experience.

The most important issue, however, is that forensic examinations include a determination of dangerousness. A forensic exam must be completed before a patient who has been found not guilty by reason of insanity is released to the community. This includes evaluating patients that may have committed extreme acts of violence, including rape, arson, and even murder. Lowering the standard for performing these evaluations places our entire community at risk. It also places the patients being evaluated at risk as there is a delicate balance between their civil liberties and the safety of society. This complicated intersection of law and psychiatry, of safety and society, demands a thorough and thoughtful evaluation guided by experience, education, and training. That level of training and experience is simply not provided by APRN training programs and thus these evaluations remain outside their scope of practice.



**HB-303**

Submitted on: 2/10/2021 7:37:53 PM

Testimony for CPC on 2/11/2021 2:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Wailua Brandman	Individual	Support	No

Comments:

I am a psychiatric aprn and I support this bill

Marva Lawson, M.D.  
 3504 Kumu St.  
 Honolulu, Hawaii 96822

February 10, 2021

Re: HB303: RELATING TO ADVANCED PRACTICE REGISTERED NURSES  
 Fitness to Proceed, Examinations

Hearing – Thursday February 11, 2021; 2:00 pm

Distinguished Members:

I OPPOSE HB303

The purpose of this Bill, as written, is to *"improve patient access to medical care and services by clarifying the circumstances under which advanced practice registered nurses may practice to the fullest extent of their training and education to authorize advanced practice registered nurses to participate in the fitness to proceed process."*

Unfortunately, in this instance, advanced practice registered nurse/nurse practitioners seek to practice to the full extent of an MD/DO degree's education and training, despite a significant discrepancy as outlined in the table below.

DNP	Psychiatric (M.D./D.O.)	APRN-Rx	
Prerequisite education	4-year BA/BS degree	4-year BSN ~800 clinical hours	BSN MSN
Graduate education (clinical hours)	4-year M.D./D.O ~6,000 clinical hours (medical school)	3-years ~500 clinical hours + 30hrs pharmacology for Rx privileges NO forensic education or training	BSN 71-73 <i>credit hrs</i> MSN 38-40 <i>credit hrs</i>  NO forensic education or training
Residency (clinical hours)	4 years ~10,000 (includes forensic education & training)	None	None
Accreditation	ACGME	Multiple agencies	Multiple agencies
Total clinical hours	~16,000	~1,300	~1,000
Forensic Psychiatry Fellowship (subspecialty – the intersection of psychiatry and the legal system)	1 year	None	None
Total education years	12-13years	7	Varies by program
Certifying exam	American Board of Psychiatry & Neurology	7+ organizations offer certifying exam	Optional

While APRNs can "specialize" in Psychiatric Mental Health (PMHNP), this cannot compare to physician specialization. Areas of APRN specialization are considered subspecialties for physicians. Unlike their APRN colleagues, physicians must complete additional fellowship training beyond their formal medical residency training to achieve proficiency in a subspecialty. For example, Forensic Psychiatry Fellowship requirements include education and training in aspects of psychiatry as it intersects with the legal system. More importantly, didactics in ethics and civil rights and clinical competencies in evaluating dangerousness, violence, risk assessment, competency to stand trial and sanity, are requirements for graduation/completion of a Forensic Psychiatry Fellowship. According to Hawaii Rule 702, "an expert witness must possess the requisite knowledge, skill, experience, training or education to offer an opinion on a subject requiring scientific, technical or other specialized knowledge." Thus, based on their education and training, APRNs do not qualify as an expert witness.

Finally, this Bill seeks to not only authorize APRNs to complete panel examinations for fitness to proceed but also evaluate dangerousness for a person(s) found not guilty by reason of insanity for serious and violent crimes including rape, arson, and even attempted murder, before discharge to the community on Conditional Release. This

bill would expand the scope of practice for advanced practice registered nurses beyond their "education and training" and place the community at significant risk.

**HB-303**

Submitted on: 2/11/2021 6:59:53 AM

Testimony for CPC on 2/11/2021 2:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Yvonne Geesey	Individual	Support	No

Comments:

pls note there is a glitch in support or oppose only options--requires added comments or uploaded file to submit. Mahalo!