

JAN 28 2009

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# A BILL FOR AN ACT

RELATING TO MEDICAL ORDERS.

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

1           SECTION 1. The legislature finds that both physician  
2 assistants and registered nurses provide valuable medical care  
3 to patients under the orders of licensed physicians.

4           Physician assistants are licensed under section 453-5.3,  
5 Hawaii Revised Statutes, and practice under the supervision of a  
6 physician or osteopathic physician. The Hawaii medical board  
7 implemented administrative rules to delineate the scope of  
8 practice of a physician assistant and the complementary  
9 responsibilities of the physician assistant and the supervising  
10 physician.

11           Specifically, under section 16-85-44.5, Hawaii  
12 Administrative Rules, "a physician assistant may perform those  
13 duties and responsibilities delegated by the physician  
14 assistant's supervising physician." In turn, a supervising  
15 physician is defined to mean "a physician or group of physicians  
16 or an osteopathic physician and surgeon licensed to practice  
17 medicine and surgery in this State who accepts the



1 responsibility for the supervision of services rendered by  
2 physician assistants. The supervising physician shall direct  
3 and exercise supervision at all times." Supervision means  
4 "overseeing the activities of, and accepting responsibility for,  
5 the medical services rendered by a physician assistant.  
6 Supervision shall be continuous but shall not be construed as  
7 necessarily requiring the physical presence of the supervising  
8 physician at the time and place the services are rendered." In  
9 providing this supervision, the supervising physician is  
10 required under section 16-85-49(a)(4), Hawaii Administrative  
11 Rules, to provide "adequate means for direct communication  
12 between the physician assistant and the supervising physician;  
13 provided that where the physical presence of the supervising  
14 physician is not required, the direct communication may occur  
15 through the use of technology which may include but is not  
16 limited to, two way radio, telephone, fax machine, modem, or  
17 other telecommunication device." In addition, a supervising  
18 physician is required to "personally review the records of each  
19 patient seen by the physician assistant within seven working  
20 days."

21 Furthermore, under section 16-85-46(a)(10), Hawaii  
22 Administrative Rules, a physician assistant is required to



1 provide a "statement signed by the licensed physician or group  
2 of physicians, as the case may be, stating that the physician or  
3 group of physicians will direct and supervise the physician  
4 assistant and that the physician assistant will be considered  
5 the agent of the physician or group of physicians."

6 The legislature also finds that registered nurses are  
7 licensed under chapter 457, Hawaii Revised Statutes, and are  
8 regulated by the board of nursing. Among other actions, in  
9 performing the practice of nursing as a registered nurse, a  
10 registered nurse uses reasonable judgment in carrying out  
11 prescribed medical orders of a licensed dentist, medical doctor,  
12 osteopath, or podiatrist, or the orders of an advanced practice  
13 registered nurse.

14 Because the historical process of licensing and regulating  
15 the scopes of practice of physician assistants and of registered  
16 nurses has developed independently for the two health care  
17 disciplines, the relevant regulatory language pertaining to  
18 their respective responsibilities with respect to following  
19 physician orders is neither compatible nor clear. This  
20 situation has led to conflict between the two groups when  
21 registered nurses decline to accept orders from physician  
22 assistants.



1           The legislature finds that clarifying the relevant  
2 statutory language is necessary to resolve the situation to  
3 clearly state that, under certain conditions, orders from a  
4 physician assistant do not originate from the physician  
5 assistant but from the supervising physician for whom the  
6 physician assistant acts as an agent.

7           SECTION 2. Chapter 453, Hawaii Revised Statutes, is  
8 amended by adding a new section to be appropriately designated  
9 and to read as follows:

10           "§453-    Order given by physician assistant; agent. (a)  
11 Any medical order issued by a licensed physician assistant, who  
12 is properly performing within the physician assistant's scope of  
13 practice under this chapter, shall not be deemed a medical order  
14 of the physician assistant but shall be deemed a medical order  
15 of the physician assistant's supervising physician; provided  
16 that:

17           (1) The physician assistant is acting under the required  
18 supervision of a supervising physician; and

19           (2) The supervising physician:

20           (A) Affirmatively authorizes the physician assistant  
21 to issue a medical order;



- 1           (B) Accepts full responsibility for the issuing of
- 2           the medical order by the physician assistant;
- 3           (C) Provides adequate means for direct communication
- 4           between the physician assistant and the
- 5           supervising physician; provided that where the
- 6           physical presence of the supervising physician is
- 7           not required, the direct communication may occur
- 8           through the use of technology that may include
- 9           but is not limited to two-way radio, telephone,
- 10           fax machine, modem, or other telecommunication
- 11           device; and
- 12           (D) Within seven working days of the issuance of the
- 13           order, personally reviews the records of the
- 14           patient for whom a physician assistant has issued
- 15           a medical order and who has been seen by the
- 16           physician assistant.
  
- 17           (b) In issuing any medical order under subsection (a), a
- 18           physician assistant shall be deemed an agent of the supervising
- 19           physician.
  
- 20           (c) Nothing in this section shall be construed to relieve
- 21           any physician assistant from an obligation to exercise due care



1 in the performance of the physician assistant's scope of  
2 practice."

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

6 "§457- Order given by physician assistant; agent. (a)

7 Any medical order issued by a physician assistant properly  
8 licensed under section 453-5.3 and who is properly performing  
9 within the physician assistant's scope of practice shall not be  
10 deemed a medical order of the physician assistant but shall be  
11 deemed a medical order of the physician assistant's supervising  
12 physician; provided that:

13 (1) The physician assistant is acting under the required  
14 supervision of a supervising physician; and

15 (2) The supervising physician:

16 (A) Affirmatively authorizes the physician assistant  
17 to issue a medical order;

18 (B) Accepts full responsibility for the issuing of  
19 the medical order by the physician assistant;

20 (C) Provides adequate means for direct communication  
21 between the physician assistant and the  
22 supervising physician; provided that where the



1           physical presence of the supervising physician is  
2           not required, the direct communication may occur  
3           through the use of technology that which may  
4           include but is not limited to two-way radio,  
5           telephone, fax machine, modem, or other  
6           telecommunication device; and

7           (D) Within seven working days of the issuance of the  
8           order, personally reviews the records of the  
9           patient for whom a physician assistant has issued  
10           a medical order and who has been seen by the  
11           physician assistant.

12           (b) In following any medical order issued by a physician  
13           assistant under subsection (a) and section 453- , a registered  
14           nurse shall be deemed to be following a medical order issued by  
15           the supervising physician of the physician assistant, who shall  
16           be deemed as acting as an agent of the supervising physician.

17           (c) Nothing in this section shall be construed to relieve  
18           any registered nurse from an obligation to exercise due care in  
19           the performance of the registered nurse's scope of practice."

20           SECTION 4. New statutory material is underscored.



# S.B. NO. 1610

1 SECTION 5. This Act shall take effect upon its approval.

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INTRODUCED BY:         *Paul H. Baker*        





**Report Title:**

Physician Assistant; Registered Nurse; Medical Orders

**Description:**

Clarifies that, under certain conditions, a physician assistant acts as agent of the supervising physician when issuing a medical order and the order is deemed to be issued by the supervising physician. Clarifies that, under certain conditions, when following a medical order issued by a physician assistant, a registered nurse follows a medical order issued by the supervising physician for whom the physician assistant acts as agent. Does not relieve physician assistants or registered nurses from exercising due care in performing within their respective scope of practice.

