

JAN 20 2023

A BILL FOR AN ACT

RELATING TO REPRODUCTIVE HEALTH CARE.

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

1 SECTION 1. The legislature finds that the people of Hawaii
2 have a long tradition of protecting an individual's right to
3 privacy and bodily autonomy independently of, and more broadly
4 than, the federal constitution. In 1970, the State became the
5 first state in the nation to decriminalize abortion with the
6 enactment of Act 1, Session Laws of Hawaii 1970. In 1978, the
7 1978 Hawaii State Constitutional Convention proposed, and the
8 electorate approved, an amendment to explicitly codify the right
9 to privacy in article I, section 6 of the Hawaii State
10 Constitution. In 2006, the legislature took one of its
11 constitutionally required affirmative steps to implement the
12 right to privacy by passing Act 35, Session Laws of Hawaii 2006,
13 which established that the State shall not deny or interfere
14 with a pregnant person's right to choose or obtain an abortion
15 of a nonviable fetus or an abortion that is necessary to protect
16 a pregnant person's life or health. Act 35 also removed the



1 outdated requirement that individuals who seek an abortion be a
2 Hawaii resident for at least ninety days.

3 However, the legislature further finds that existing
4 developments in the legal landscape threaten the State's policy
5 to protect an individual's right to privacy and personal
6 autonomy over their body within state boundaries. In June 2022,
7 the Supreme Court of the United States held in Dobbs v. Jackson
8 Women's Health Organization, 142 S.Ct. 2228 (2022), that the
9 United States Constitution does not confer a right to an
10 abortion. Dobbs overrules Roe v. Wade, 410 U.S. 113 (1973), and
11 Planned Parenthood of Southeastern Pennsylvania v. Casey, 505
12 U.S. 833 (1992), and the nearly fifty years of federal precedent
13 regarding reproductive rights. The impact of Dobbs has resulted
14 in many states either banning or severely restricting access to
15 abortion. Additionally, some states are pursuing laws or
16 policies purporting to impose civil or criminal liability or
17 professional discipline in connection with the provision or
18 receipt of, or assistance with, reproductive health care
19 services outside of these states' borders.

20 It is the policy of this State that the rights of equality,
21 liberty, and privacy guaranteed under article I, sections 3, 5,



1 and 6, of the Hawaii State Constitution are fundamental rights
2 and that include each individual's fundamental right to make
3 reproductive health care decisions about one's own body and the
4 right of each individual to decide whether to bear a child or
5 obtain an abortion. Due to the shifting legal landscape
6 regarding the right to privacy and an individual's bodily
7 autonomy, the legislature finds it is imperative to reiterate
8 and bolster the State's policy to affirm such protections and
9 freedoms within the state boundaries. The governor initiated
10 this process by issuing Executive Order 22-5 on October 11,
11 2022, which outlined the governor's policy to limit cooperation
12 with other states in investigations, proceedings, or warrants
13 involving the provision reproductive health care services in the
14 State, if such provision is legal in the State. This Act
15 codifies and expands on that policy.

16 The purpose of this Act is to bolster the State's policy to
17 protect an individual's right to privacy and bodily autonomy
18 within the state boundaries.

19 PART I



1 SECTION 2. The Hawaii Revised Statutes is amended by
2 adding a new chapter to be appropriately designated and to read
3 as follows:

4 "CHAPTER

5 REPRODUCTIVE HEALTH CARE SERVICES

6 § -1 **Definitions.** As used in this chapter, unless the
7 context otherwise requires:

8 "Person" includes an individual, a partnership, an
9 association, a limited liability company, or a corporation.

10 "Reproductive health care services" includes all medical,
11 surgical, pharmaceutical, counseling, or referral services
12 relating to the human reproductive system, including but not
13 limited to services relating to pregnancy, contraception, or the
14 termination of a pregnancy.

15 § -2 **Disclosures prohibited.** (a) Except as provided in
16 rules 504, 504.1, and 505.5 of the Hawaii rules of evidence and
17 subsection (b), in any civil action or any proceeding
18 preliminary thereto or in any probate, legislative, or
19 administrative proceeding, no covered entity, as defined in
20 title 45 Code of Federal Regulations section 160.103, shall
21 disclose:



1 (1) Any communication made to the covered entity, or any
2 information obtained by the covered entity from a
3 patient or the conservator, guardian, or other
4 authorized legal representative of a patient relating
5 to reproductive health care services that are
6 permitted under the laws of this State; or

7 (2) Any information obtained by personal examination of a
8 patient relating to reproductive health care services
9 that are permitted under the laws of this State,
10 unless the patient or that patient's conservator, guardian, or
11 other authorized legal representative explicitly consents to the
12 disclosure in writing in the form of a release of protected
13 health information compliant under the federal Health Insurance
14 Portability and Accountability Act of 1996, P.L. 104-191, as
15 amended. A covered entity shall inform the patient or the
16 patient's conservator, guardian, or other authorized legal
17 representative of the patient's right to withhold the written
18 consent.

19 (b) Written consent of the patient or the patient's
20 conservator, guardian, or other authorized legal representative



1 shall not be required for the disclosure of such communication
2 or information:

3 (1) If the records relate to a patient who is a plaintiff
4 in a complaint pending before a court of competent
5 jurisdiction alleging health care negligence and a
6 request for records has been served on a named
7 defendant in that litigation;

8 (2) If the records are requested by a licensing authority,
9 as defined in section 436B-2, and such request is made
10 in connection with an investigation of a complaint to
11 such licensing authority and such records are related
12 to the complaint, unless such complaint is made solely
13 on the basis that the licensee, acting within the
14 licensee's scope of practice, provided reproductive
15 health care services that are lawful in this State;

16 (3) To the director of health for records of a patient of
17 a covered entity in connection with an investigation
18 of a complaint, if such records are related to the
19 complaint; or

20 (4) If child abuse, abuse of an individual who is sixty
21 years of age or older, abuse of an individual who is



1 physically disabled or incompetent, or abuse of an
2 individual with intellectual disability is known or in
3 good faith suspected.

4 (c) Nothing in this section shall be construed to impede
5 the lawful sharing of medical records as permitted by state or
6 federal law or the rules of the court, except in the case of a
7 subpoena commanding the production, copying, or inspection of
8 medical records relating to reproductive health care services.

9 § -3 **Subpoenas; when allowed.** Notwithstanding sections
10 624-27 and 624D-3 or any other law to the contrary, a court or
11 clerk shall not order the issuance of a subpoena requested by an
12 officer, appointed according to the laws or usages of another
13 state or government, or by any court of the United States or of
14 another state or government, in connection with an out-of-state
15 proceeding relating to reproductive health care services legally
16 performed in this State.

17 § -4 **Agencies prohibited from providing information or**
18 **expending resources.** (a) No agency, as defined in section
19 92F-3, or employee, appointee, officer, official, or any other
20 person acting on behalf of an agency shall provide any
21 information or expend or use time, money, facilities, property,



1 equipment, personnel, or other resources in furtherance of any
2 interstate investigation or proceeding seeking to impose civil
3 or criminal liability upon a person or entity for:

4 (1) The provision, seeking, or receipt of or inquiring
5 about reproductive health care services that are legal
6 in this State; or

7 (2) Assisting any person or entity providing, seeking,
8 receiving, or responding to an inquiry about
9 reproductive health care services that are legal in
10 this State.

11 (b) This section shall not apply to any investigation or
12 proceeding where the conduct subject to potential liability
13 under the investigation or proceeding would be subject to
14 liability under the laws of this State if committed in this
15 State.

16 § -5 **Prohibition on state action.** The State shall not
17 penalize, prosecute, or otherwise take adverse action against an
18 individual based on their actual, potential, perceived, or
19 alleged pregnancy outcomes. The State shall not penalize,
20 prosecute, or otherwise take adverse action against a person for
21 aiding or assisting a pregnant individual accessing reproductive



1 health care services in accordance with the law and with the
2 pregnant individual's voluntary consent.

3 **§ -6 Denial of demands for surrender. (a)**

4 Notwithstanding any provision of chapter 832 to the contrary,
5 the governor shall deny any demand made by the executive
6 authority of any state for the surrender of any person charged
7 with a crime under the laws of that state when the alleged crime
8 involves the provision or receipt of, or assistance with,
9 reproductive health care services, unless the acts forming the
10 basis of the prosecution would also constitute a criminal
11 offense in this State.

12 (b) This section shall not apply if the person who is the
13 subject of the demand for surrender was physically present in
14 the requesting state at the time of the commission of the
15 alleged crime and thereafter fled from that state.

16 **§ -7 Laws contrary to the public policy of this State.**

17 (a) A law of another state authorizing a civil action or
18 criminal prosecution based on any of the following is declared
19 to be contrary to the public policy of this State:

- 20 (1) Receiving or seeking reproductive health care
21 services;



- 1 (2) Performing reproductive health care services;
- 2 (3) Engaging in conduct that assists or aids or abets the
- 3 performance of or receipt of reproductive health care
- 4 services; or
- 5 (4) Attempting or intending to engage in or providing
- 6 material support for (or any other theory of
- 7 vicarious, attempt, joint, several or conspiracy
- 8 liability derived therefrom) conduct described in
- 9 paragraphs (1) to (3).

10 (b) No law described in subsection (a) above shall be
11 applied to a case or controversy heard in the courts of this
12 State."

13 SECTION 3. Section 836-2, Hawaii Revised Statutes, is
14 amended to read as follows:

15 "**§836-2 Summoning witness in this State to testify in**
16 **another state.** If a judge of a court of record in any state
17 which by its laws has made provision for commanding persons
18 within that state to attend and testify in this State certifies
19 under the seal of such court that there is a criminal
20 prosecution pending in such court, or that a grand jury
21 investigation has commenced or is about to commence, that a



1 person being within this State is a material witness in such
2 prosecution, or grand jury investigation, and that the person's
3 presence will be required for a specified number of days, upon
4 presentation of such certificate to any judge of a court of
5 record in the judicial district in which such person is, such
6 judge shall fix a time and place for a hearing, and shall make
7 an order directing the witness to appear at a time and place
8 certain for the hearing.

9 If at a hearing the judge determines that the witness is
10 material and necessary, that it will not cause undue hardship to
11 the witness to be compelled to attend and testify in the
12 prosecution or a grand jury investigation in the other state,
13 and that the laws of the state in which the prosecution is
14 pending, or grand jury investigation has commenced or is about
15 to commence, and of any other state through which the witness
16 may be required to pass by ordinary course of travel, will give
17 to the witness protection from arrest and the service of civil
18 and criminal process, the judge shall issue a summons, with a
19 copy of the certificate attached, directing the witness to
20 attend and testify in the court where the prosecution is
21 pending, or where a grand jury investigation has commenced or is



1 about to commence at a time and place specified in the
2 summons[-], except that no judge shall issue a summons in a case
3 where prosecution is pending, or where a grand jury
4 investigation has commenced or is about to commence for a
5 criminal violation of a law of such other state involving the
6 provision or receipt of or assistance with reproductive health
7 care services, as defined in section -1, that are legal in
8 this State, unless the acts forming the basis of the prosecution
9 or investigation would also constitute an offense in this State.
10 In any such hearing the certificate shall be prima facie
11 evidence of all the facts stated therein.

12 If said certificate recommends that the witness be taken
13 into immediate custody and delivered to an officer of the
14 requesting state to assure the witness' attendance in the
15 requesting state, such judge may, in lieu of notification of the
16 hearing, direct that such witness be forthwith brought before
17 the judge for said hearing; and the judge at the hearing being
18 satisfied of the desirability of such custody and delivery, for
19 which determination the certificate shall be prima facie proof
20 of such desirability may, in lieu of issuing subpoena or



1 summons, order that said witness be forthwith taken into custody
2 and delivered to an officer of the requesting state.

3 If the witness, who is summoned as above provided, after
4 being paid or tendered by some properly authorized person a sum
5 equivalent to the cost of round-trip air fare to the place where
6 the prosecution is pending and \$30 for each day, that the
7 witness is required to travel and attend as a witness, fails
8 without good cause to attend and testify as directed in the
9 summons, the witness shall be punished in the manner provided
10 for the punishment of any witness who disobeys a summons issued
11 from a court of record in this State."

12 PART II

13 SECTION 4. Section 442-9, Hawaii Revised Statutes, is
14 amended by amending subsection (a) to read as follows:

15 "(a) In addition to any other actions authorized by law,
16 the board shall refuse to issue or may order any license issued
17 under this chapter to be revoked, suspended, limited,
18 restricted, or placed under probation at any time in a
19 proceeding before the board or fine a licensee for any cause
20 authorized by law, including but not limited to the following:



- 1 (1) Procuring or aiding or abetting in procuring [a
2 ~~criminal~~] an abortion[+] that is unlawful under the
3 laws of this State or that would be unlawful under the
4 laws of this State if performed within this State;
- 5 (2) Employing what is popularly known as a "capper" or
6 "steerer";
- 7 (3) Obtaining a fee on the assurance that a manifestly
8 incurable disease can be permanently cured;
- 9 (4) Wilfully betraying patient confidentiality;
- 10 (5) Making any untruthful statement in advertising one's
11 practice or business under this chapter;
- 12 (6) False, fraudulent, or deceptive advertising;
- 13 (7) Advertising directly or indirectly, or in substance
14 upon any card, sign, newspaper advertisement, or other
15 written or printed sign of advertisement that the
16 holder of a license or the licensee's employer or
17 employee will treat, cure, or attempt to treat or cure
18 any venereal disease, or will treat or cure, or
19 attempt to treat or cure, any person afflicted with
20 any sexual disease, lost manhood, sexual weakness, or
21 sexual disorder or any disease of the sexual organs;



- 1 (8) Being habitually intemperate;
- 2 (9) Habitually using any habit-forming drug, such as
- 3 opium, or any of its derivatives, morphine, heroin,
- 4 cocaine, or any other habit-forming drug;
- 5 (10) The advertising of any means whereby the monthly
- 6 periods of women can be regulated or the menses
- 7 reestablished if suppressed;
- 8 (11) Procuring a license through fraudulent
- 9 misrepresentation or deceit;
- 10 (12) Professional misconduct or gross carelessness or
- 11 manifest incapability in the practice of chiropractic;
- 12 (13) Violating section 453-2; and
- 13 (14) Knowingly recording, registering, or filing, or
- 14 offering for recordation, registration, or filing,
- 15 with the department of commerce and consumer affairs
- 16 any written statement which has been falsely made,
- 17 completed, or altered, or in which a false entry has
- 18 been made, or which contains a false statement or
- 19 false information."



1 SECTION 5. Section 453-8, Hawaii Revised Statutes, is
2 amended by amending subsections (a), (b), and (c) to read as
3 follows:

4 "(a) In addition to any other actions authorized by law,
5 any license to practice medicine and surgery may be revoked,
6 limited, or suspended by the board at any time in a proceeding
7 before the board, or may be denied, for any cause authorized by
8 law, including but not limited to the following:

- 9 (1) Procuring, or aiding or abetting in procuring, [~~a~~
10 ~~criminal~~] an abortion[+] that is unlawful under the
11 laws of this State or that would be unlawful under the
12 laws of this State if performed within this State;
- 13 (2) Employing any person to solicit patients for one's
14 self;
- 15 (3) Engaging in false, fraudulent, or deceptive
16 advertising, including but not limited to:
- 17 (A) Making excessive claims of expertise in one or
18 more medical specialty fields;
- 19 (B) Assuring a permanent cure for an incurable
20 disease; or



- 1 (C) Making any untruthful and improbable statement in
2 advertising one's medical or surgical practice or
3 business;
- 4 (4) Being habituated to the excessive use of drugs or
5 alcohol; or being addicted to, dependent on, or a
6 habitual user of a narcotic, barbiturate, amphetamine,
7 hallucinogen, or other drug having similar effects;
- 8 (5) Practicing medicine while the ability to practice is
9 impaired by alcohol, drugs, physical disability, or
10 mental instability;
- 11 (6) Procuring a license through fraud, misrepresentation,
12 or deceit, or knowingly permitting an unlicensed
13 person to perform activities requiring a license;
- 14 (7) Professional misconduct, hazardous negligence causing
15 bodily injury to another, or manifest incapacity in
16 the practice of medicine or surgery;
- 17 (8) Incompetence or multiple instances of negligence,
18 including but not limited to the consistent use of
19 medical service, which is inappropriate or
20 unnecessary;



- 1 (9) Conduct or practice contrary to recognized standards
2 of ethics of the medical profession as adopted by the
3 Hawaii Medical Association, the American Medical
4 Association, the Hawaii Association of Osteopathic
5 Physicians and Surgeons, or the American Osteopathic
6 Association;
- 7 (10) Violation of the conditions or limitations upon which
8 a limited or temporary license is issued;
- 9 (11) Revocation, suspension, or other disciplinary action
10 by another state or federal agency of a license,
11 certificate, or medical privilege[+], except if the
12 revocation, suspension, or other disciplinary action
13 was based on the provision or assistance in receipt or
14 provision of medical, surgical, pharmaceutical,
15 counseling, or referral services relating to the human
16 reproductive system, including but not limited to
17 services relating to pregnancy, contraception, or the
18 termination of a pregnancy so long as the provision or
19 assistance in receipt or provision of such services
20 was in accordance with the laws of this State or would



1 have been in accordance with the laws of this State if
2 it occurred within this State;

3 (12) Conviction, whether by nolo contendere or otherwise,
4 of a penal offense substantially related to the
5 qualifications, functions, or duties of a physician or
6 osteopathic physician, notwithstanding any statutory
7 provision to the contrary[+], except if the conviction
8 was based on the provision or assistance in receipt or
9 provision of medical, surgical, pharmaceutical,
10 counseling, or referral services relating to the human
11 reproductive system, including but not limited to
12 services relating to pregnancy, contraception, or the
13 termination of a pregnancy so long as the provision or
14 assistance in receipt or provision of such services
15 was in accordance with the laws of this State or would
16 have been in accordance with the laws of this State if
17 it occurred within this State;

18 (13) Violation of chapter 329, the uniform controlled
19 substances act, or any rule adopted thereunder except
20 as provided in section 329-122;



1 (14) Failure to report to the board, in writing, any
2 disciplinary decision issued against the licensee or
3 the applicant in another jurisdiction within thirty
4 days after the disciplinary decision is issued; or

5 (15) Submitting to or filing with the board any notice,
6 statement, or other document required under this
7 chapter, which is false or untrue or contains any
8 material misstatement or omission of fact.

9 (b) If disciplinary action related to the practice of
10 medicine has been taken against the applicant by another state
11 or federal agency, or if the applicant reveals a physical or
12 mental condition that would constitute a violation under this
13 section, then the board may impose one or more of the following
14 requirements as a condition for licensure:

15 (1) Physical and mental evaluation of the applicant by a
16 licensed physician or osteopathic physician approved
17 by the board;

18 (2) Probation, including conditions of probation as
19 requiring observation of the licensee by an
20 appropriate group or society of licensed physicians,
21 osteopathic physicians, or surgeons;



1 (3) Limitation of the license by restricting the fields of
2 practice in which the licensee may engage;
3 (4) Further education or training or proof of performance
4 competency; and
5 (5) Limitation of the medical practice of the licensee in
6 any reasonable manner to assure the safety and welfare
7 of the consuming public[-];
8 provided that the board shall not impose as a condition for
9 licensure any of the requirements pursuant to this subsection if
10 the disciplinary action related to the practice of medicine
11 taken against the applicant was based on the provision or
12 assistance in receipt or provision of medical, surgical,
13 pharmaceutical, counseling, or referral services relating to the
14 human reproductive system, including but not limited to services
15 relating to pregnancy, contraception, or the termination of a
16 pregnancy so long as the provision or assistance in receipt or
17 provision of such services was in accordance with the laws of
18 this State or would have been in accordance with the laws of
19 this State if it occurred within this State.
20 (c) Notwithstanding any other law to the contrary, the
21 board may deny a license to any applicant who has been



1 disciplined by another state or federal agency[-], except on the
2 basis of discipline for the provision or assistance in receipt
3 or provision of medical, surgical, pharmaceutical, counseling,
4 or referral services relating to the human reproductive system,
5 including but not limited to services relating to pregnancy,
6 contraception, or the termination of a pregnancy so long as the
7 provision or assistance in receipt or provision of such services
8 was in accordance with the laws of this State or would have been
9 in accordance with the laws of this State if it occurred within
10 this State. Any final order of discipline taken pursuant to
11 this subsection shall be a matter of public record."

12 SECTION 6. Section 455-11, Hawaii Revised Statutes, is
13 amended by amending subsection (a) to read as follows:

14 "(a) In addition to any other actions authorized by law,
15 the board shall have the power to deny, revoke, suspend, or
16 refuse to renew any license to practice naturopathic medicine
17 applied for or issued by the board in accordance with this
18 chapter, and to fine or otherwise discipline a licensee for any
19 cause authorized by law, including but not limited to the
20 following:



- 1 (1) Failing to meet or maintain the conditions and
2 requirements necessary to qualify for the issuance of
3 a license;
- 4 (2) Procuring, or aiding or abetting in procuring, [~~a~~
5 ~~criminal~~] an abortion[+] that is unlawful under the
6 laws of this State or that would be unlawful under the
7 laws of this State if performed within this State;
- 8 (3) Employing any person to solicit patients;
- 9 (4) Obtaining a fee on the assurance that a manifestly
10 incurable disease can be permanently cured;
- 11 (5) Betraying a patient's confidence;
- 12 (6) Making any untruthful and improbable statement in
13 advertising one's naturopathic practice or business;
- 14 (7) False, fraudulent, or deceptive advertising;
- 15 (8) Being habituated to the excessive use of drugs or
16 alcohol; or being addicted to, dependent on, or an
17 habitual user of a narcotic, barbiturate, amphetamine,
18 hallucinogen, or other drug having similar effects;
- 19 (9) Practicing naturopathic medicine while the ability to
20 practice is impaired by alcohol, drug, physical
21 disability, or mental instability;



- 1 (10) Procuring a license through fraud, misrepresentation,
2 or deceit or knowingly permitting an unlicensed person
3 to perform activities requiring a license;
- 4 (11) Professional misconduct or gross carelessness or
5 manifest incapacity in the practice of naturopathic
6 medicine;
- 7 (12) Conduct or practice contrary to recognized standard of
8 ethics of the naturopathic profession;
- 9 (13) Using medical service or treatment which is
10 inappropriate or unnecessary;
- 11 (14) Submitting to or filing with the board any notice,
12 statement, or other document required under this
13 chapter which is false or untrue or contains any
14 material misstatement of fact, including any false
15 certification of compliance with the continuing
16 education requirement specified under section 455-8;
- 17 (15) Failure to report to the board any disciplinary action
18 taken against the licensee in another jurisdiction
19 within thirty days after the disciplinary action
20 becomes final;



- 1 (16) Using the title "physician" without clearly
- 2 identifying oneself as being a naturopathic physician;
- 3 (17) Prescribing, administering, and dispensing
- 4 naturopathic formulary that are not included in the
- 5 formulary established by the board under section 455-
- 6 6; and
- 7 (18) Violation of any provision of this chapter or rules
- 8 adopted under this chapter."

9 SECTION 7. Section 457-12, Hawaii Revised Statutes, is
10 amended by amending subsections (a) and (b) to read as follows:

11 "(a) In addition to any other actions authorized by law,
12 the board shall have the power to deny, revoke, limit, or
13 suspend any license to practice nursing as a registered nurse or
14 as a licensed practical nurse applied for or issued by the board
15 in accordance with this chapter, and to fine or to otherwise
16 discipline a licensee for any cause authorized by law, including
17 but not limited to the following:

18 (1) Fraud or deceit in procuring or attempting to procure
19 a license to practice nursing as a registered nurse or
20 as a licensed practical nurse;

21 (2) Gross immorality;



- 1 (3) Unfitness or incompetence by reason of negligence,
- 2 habits, or other causes;
- 3 (4) Habitual intemperance, addiction to, or dependency on
- 4 alcohol or other habit-forming substances;
- 5 (5) Mental incompetence;
- 6 (6) Unprofessional conduct as defined by the board in
- 7 accordance with its own rules;
- 8 (7) Wilful or repeated violation of any of the provisions
- 9 of this chapter or any rule adopted by the board;
- 10 (8) Revocation, suspension, limitation, or other
- 11 disciplinary action by another state of a nursing
- 12 license[+], except if the revocation, suspension,
- 13 limitation, or other disciplinary action by another
- 14 state was based on the provision or assistance in
- 15 receipt or provision of medical, surgical,
- 16 pharmaceutical, counseling, or referral services
- 17 relating to the human reproductive system, including
- 18 but not limited to services relating to pregnancy,
- 19 contraception; or the termination of a pregnancy so
- 20 long as the provision or assistance in receipt or
- 21 provision of such services was in accordance with the



1 laws of this State or would have been in accordance
2 with the laws of this State if it occurred within this
3 State;

4 (9) Conviction, whether by nolo contendere or otherwise,
5 of a penal offense substantially related to the
6 qualifications, functions, or duties of a nurse,
7 notwithstanding any statutory provision to the
8 contrary[+], except if the conviction was based on the
9 provision or assistance in receipt or provision of
10 medical, surgical, pharmaceutical, counseling, or
11 referral services relating to the human reproductive
12 system, including but not limited to services relating
13 to pregnancy, contraception, or the termination of a
14 pregnancy so long as the provision or assistance in
15 receipt or provision of such services was in
16 accordance with the laws of this State or would have
17 been in accordance with the laws of this State if it
18 occurred within this State;

19 (10) Failure to report to the board any disciplinary action
20 taken against the licensee in another jurisdiction



1 within thirty days after the disciplinary action
2 becomes final;

3 (11) Submitting to or filing with the board any notice,
4 statement, or other document required under this
5 chapter, which is false or untrue or contains any
6 material misstatement of fact, including a false
7 attestation of compliance with continuing competency
8 requirements;

9 (12) Violation of the conditions or limitations upon which
10 any license is issued; or

11 (13) Violation of chapter 329, the uniform controlled
12 substances act, or any rule adopted thereunder except
13 as provided in section 329-122.

14 (b) Notwithstanding any other law to the contrary, the
15 board may deny a license to any applicant who has been
16 disciplined by another state~~[]~~, except on the basis of
17 discipline by another state for the provision or assistance in
18 receipt or provision of medical, surgical, pharmaceutical,
19 counseling, or referral services relating to the human
20 reproductive system, including but not limited to services
21 relating to pregnancy, contraception, or the termination of a



1 pregnancy so long as the provision or assistance in receipt or
2 provision of such services was in accordance with the laws of
3 this State or would have been in accordance with the laws of
4 this State if it occurred within this State. Any final order
5 entered pursuant to this subsection shall be a matter of public
6 record."

7 SECTION 8. Section 457-12.5, Hawaii Revised Statutes, is
8 amended as follows:

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

10 "(a) Upon receipt of evidence of revocation, suspension,
11 or other disciplinary action against a licensee in another
12 state, the board may issue an order imposing disciplinary action
13 upon the licensee on the following conditions:

14 (1) The board shall serve the licensee with a proposed
15 order imposing disciplinary action as required by
16 chapter 91;

17 (2) The licensee shall have the right to request a hearing
18 pursuant to chapter 91 to show cause why the action
19 described in the proposed order should not be imposed;



1 (3) Any request for a hearing shall be made in writing and
2 filed with the board within twenty days after mailing
3 of the proposed order to the licensee; and

4 (4) If the licensee does not submit a written request for
5 a hearing within twenty days after mailing of the
6 proposed order, the board shall issue a final order
7 imposing the disciplinary action described in the
8 proposed order[-];

9 provided that the board shall not issue an order imposing
10 disciplinary action upon the licensee if the revocation,
11 suspension, or other disciplinary action against a licensee in
12 another state was based on the provision or assistance in
13 receipt or provision of medical, surgical, pharmaceutical,
14 counseling, or referral services relating to the human
15 reproductive system, including but not limited to services
16 relating to pregnancy, contraception, or the termination of a
17 pregnancy so long as the provision or assistance in receipt or
18 provision of such services was in accordance with the laws of
19 this State or would have been in accordance with the laws of
20 this State if it occurred within this State."

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



1 "(c) A licensee against whom the board has issued a
2 proposed order under this section shall be prohibited from
3 practicing in this State until the board issues a final order
4 if:

5 (1) The licensee was the subject of disciplinary action in
6 another state[~~+~~], except where the disciplinary action
7 against a licensee in another state was based on the
8 provision or assistance in receipt or provision of
9 medical, surgical, pharmaceutical, counseling, or
10 referral services relating to the human reproductive
11 system, including but not limited to services relating
12 to pregnancy, contraception, or the termination of a
13 pregnancy so long as the provision or assistance in
14 receipt or provision of such services was in
15 accordance with the laws of this State or would have
16 been in accordance with the laws of this State if it
17 occurred within this State; and

18 (2) The disciplinary action in the other state prohibits
19 the licensee from practicing in that state."

20 SECTION 9. Section 461-21.5, Hawaii Revised Statutes, is
21 amended as follows:



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

2 "(a) Upon receipt of evidence of revocation, suspension,
3 or other disciplinary action against a licensee by another state
4 or federal agency, the board may issue an order imposing
5 disciplinary action upon the licensee on the following
6 conditions:

7 (1) The board shall serve the licensee with a proposed
8 order imposing disciplinary action as required by
9 chapter 91;

10 (2) The licensee shall have the right to request a hearing
11 pursuant to chapter 91 to show cause why the action
12 described in the proposed order should not be imposed;

13 (3) Any request for a hearing shall be made in writing and
14 filed with the board within twenty days after mailing
15 of the proposed order to the licensee; and

16 (4) If the licensee does not submit a written request for
17 a hearing within twenty days after mailing of the
18 proposed order, the board shall issue a final order
19 imposing the disciplinary action described in the
20 proposed order[+];



1 provided that the board shall not issue an order imposing
2 disciplinary action upon the licensee if the revocation,
3 suspension, or other disciplinary action against a licensee in
4 another state was based on the provision or assistance in
5 receipt or provision of medical, surgical, pharmaceutical,
6 counseling, or referral services relating to the human
7 reproductive system, including but not limited to services
8 relating to pregnancy, contraception, or the termination of a
9 pregnancy so long as the provision or assistance in receipt or
10 provision of such services was in accordance with the laws of
11 this State or would have been in accordance with the laws of
12 this State if it occurred within this State."

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

14 "(c) A licensee against whom the board has issued a
15 proposed order under this section shall be prohibited from
16 practicing in this State until the board issues a final order
17 if:

18 (1) The licensee was the subject of disciplinary action by
19 another state[+], except where the disciplinary action
20 against a licensee by another state was based on the
21 provision or assistance in receipt or provision of



1 provision of protected reproductive health care services shall
2 be enforced in this State.

3 (b) As used in this section:

4 "Foreign penal civil action" means an action authorized by
5 the law of a state, or of any municipality or other governmental
6 entity within a state, other than this State, the essential
7 character and effect of which is to punish an offense against
8 the public justice of that state, municipality, or other
9 governmental entity.

10 "Protected reproductive health care services" means
11 medical, surgical, pharmaceutical, counseling, or referral
12 services relating to the human reproductive system, including
13 but not limited to services relating to pregnancy,
14 contraception, or termination of a pregnancy, that are protected
15 under the Hawaii State Constitution or otherwise lawful under
16 the laws of this State or that would be constitutionally
17 protected or otherwise lawful if performed within this State."

18 PART IV

19 SECTION 11. If any provision of this Act, or the
20 application thereof to any person or circumstance, is held
21 invalid, the invalidity does not affect other provisions or



1 applications of the Act that can be given effect without the
2 invalid provision or application, and to this end the provisions
3 of this Act are severable.

4 SECTION 12. Statutory material to be repealed is bracketed
5 and stricken. New statutory material is underscored.

6 SECTION 13. This Act shall take effect upon its approval;
7 provided that the amendments made to section 457-12(a), Hawaii
8 Revised Statutes, by section 7 of this Act shall not be repealed
9 when that section is reenacted on June 30, 2023, pursuant to
10 section 6 of Act 66, Session Laws of Hawaii 2017.

11

INTRODUCED BY:

A large, stylized handwritten signature in black ink, written over a horizontal line. The signature is highly cursive and appears to be the name of the bill's sponsor.

S.B. NO. 896

Report Title:

Reproductive Health Care Services; Disclosures; Subpoenas;
Agencies; Licensing Authorities; Disciplinary Action;
Investigations; Proceedings

Description:

Prohibits a covered entity from disclosing communication or information relating to reproductive health care services. Prohibits the issuance of a subpoena in connection with an out-of-state proceeding relating to reproductive health care services legally performed in the State. Prohibits agencies from providing information or expending resources in the furtherance of interstate investigations or proceedings relating to reproductive health care services. Prohibits the State from penalizing, prosecuting, or otherwise taking adverse action based on pregnancy outcomes or aiding or assisting a pregnant individual with accessing reproductive health care services. Requires the governor to deny any demand for surrender of a person charged with a crime involving reproductive health care services unless the conduct constitutes a crime in the State. Enumerates laws contrary to public policy and prohibits their application as rules of decision in the courts. Prohibits the issuance of a summons for persons to testify in another state with regard to lawful reproductive health care services. Clarifies under various licensing statutes that the provision or assistance in receipt or provision of medical, surgical, pharmaceutical, counseling, or referral services related to the human reproductive system cannot form a basis for disciplinary action. Prohibits the enforcement of a judgment or order arising from a foreign penal civil action or other penal law with respect to reproductive health care services.

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

