
A BILL FOR AN ACT

RELATING TO 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1 outdated requirement that individuals who seek an abortion be a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 those rights include an individual's right to make
3 reproductive health care decisions about one's own body and to
4 decide whether to bear a child or obtain an abortion. Due to
5 the shifting legal landscape regarding the right to privacy and
6 an individual's bodily autonomy, the legislature finds it is
7 imperative to reiterate and bolster the State's policy to affirm
8 protection of these rights and freedoms within the state
9 boundaries. The previous governor initiated this process by
10 issuing Executive Order 22-5 on October 11, 2022, which outlined
11 the governor's policy to limit cooperation with other states in
12 investigations, proceedings, or warrants involving the provision
13 of reproductive health care services in the State, provided that
14 the provision of the reproductive health care service is legal
15 in the State. This Act 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 boundaries of the State, including minors, and
19 clarify that the provision of certain services related to the
20 human reproductive system cannot form a basis for disciplinary



1 action against certain licensed professionals in certain
2 circumstances.

3 PART I

4 SECTION 2. Section 453-16, Hawaii Revised Statutes, is
5 amended to read as follows:

6 "§453-16 Intentional termination of pregnancy; penalties;
7 refusal to perform. [~~(a) No abortion shall be performed in~~
8 ~~this State unless:~~

9 ~~(1) The abortion is performed by a]~~ (a) A licensed
10 physician or surgeon[~~]~~ or [~~by a~~] licensed osteopathic
11 physician and surgeon [~~]~~ and

12 ~~(2) The abortion is performed in a hospital licensed by~~
13 ~~the department of health or operated by the federal~~
14 ~~government or an agency thereof, or in a clinic or~~
15 ~~physician's or osteopathic physician's office.~~

16 ~~(b) Abortion shall mean an operation to intentionally~~
17 ~~terminate the pregnancy of a nonviable fetus. The termination~~
18 ~~of a pregnancy of a viable fetus is not included in this~~
19 ~~section.~~

20 ~~(e)]~~ may provide abortion care.



1 (b) Notwithstanding any law to the contrary, a patient has
2 the right to choose to obtain an abortion, or to terminate a
3 pregnancy if the termination is necessary to protect the life or
4 health of the patient. The State shall not deny or interfere
5 with ~~[a female's right to choose or obtain an abortion of a~~
6 ~~nonviable fetus or an abortion that is necessary to protect the~~
7 ~~life or health of the female.~~

8 ~~(d) Any person who knowingly violates subsection (a) shall~~
9 ~~be fined not more than \$1,000 or imprisoned not more than five~~
10 ~~years, or both.~~

11 ~~(e)]~~ these rights.

12 (c) Nothing in this section shall require any hospital or
13 any person to participate in an abortion nor shall any hospital
14 or any person be liable for a refusal.

15 (d) For purposes of this section:

16 "Abortion" means an intentional termination of the
17 pregnancy of a nonviable fetus.

18 "Nonviable fetus" means a fetus that does not have a
19 reasonable likelihood of sustained survival outside of the
20 uterus."



1 SECTION 3. Section 457-8.7, Hawaii Revised Statutes, is
2 amended to read as follows:

3 " ~~{}~~ §457-8.7 ~~{}~~ **Advanced practice registered nurses;**
4 **abortions by medication or aspiration; penalties; refusal to**
5 **perform.** (a) Notwithstanding section 453-16 or any other law
6 to the contrary, an advanced practice registered nurse may
7 provide medication or aspiration abortion care in the first
8 trimester of pregnancy, so long as the advanced practice
9 registered nurse:

- 10 (1) Has prescriptive authority;
- 11 (2) Practices within the advanced practice registered
- 12 nurse's practice specialty;
- 13 (3) Has a valid, unencumbered license obtained in
- 14 accordance with this chapter ~~{, and~~
- 15 ~~(4) The aspiration abortion is performed in a hospital~~
- 16 ~~licensed by the department of health or operated by~~
- 17 ~~the federal government or an agency thereof, or in a~~
- 18 ~~clinic or advance practice registered nurse's office.~~
- 19 ~~(b) Abortion shall mean an intentional termination of the~~
- 20 ~~pregnancy of a nonviable fetus. The termination of a pregnancy~~
- 21 ~~of a viable fetus is not included in this section].~~



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"CHAPTER

REPRODUCTIVE HEALTH CARE SERVICES

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

"Person" includes an individual, partnership, joint venture, corporation, association, business, trust, or any organized group of persons or legal entity, or any combination thereof.

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

§ -2 **Disclosures prohibited.** (a) Except as provided in rules 504, 504.1, and 505.5 of the Hawaii rules of evidence and subsection (b), in any civil action or any proceeding preliminary thereto or in any probate, legislative, or administrative proceeding, no covered entity, as defined in title 45 Code of Federal Regulations section 160.103, shall 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 the 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 the 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 with 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 the communication or
2 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 the request is made
10 in connection with an investigation of a complaint to
11 the licensing authority and the records are related to
12 the complaint, unless the complaint is made solely on
13 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 the 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, no court or
11 clerk of a court shall order the issuance of a subpoena
12 requested by an officer, appointed according to the laws or
13 usages of another state or government, or by any court of the
14 United States or of another state or government, in connection
15 with an out-of-state proceeding relating to reproductive health
16 care services legally performed in the 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 the 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 the 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 the individual's actual, potential,
19 perceived, or alleged pregnancy outcomes. The State shall not
20 penalize, prosecute, or otherwise take adverse action against a
21 person for aiding or assisting a pregnant individual accessing



1 reproductive health care services in accordance with the laws of
2 the State and with the 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) Providing reproductive health care services;
- 2 (3) Engaging in conduct that assists or aids or abets the
- 3 provision 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) shall be applied to
11 a case or controversy heard in the courts of this State."

12 SECTION 5. Section 836-2, Hawaii Revised Statutes, is
13 amended to read as follows:

14 "§836-2 **Summoning witness in this State to testify in**
15 **another state.** If a judge of a court of record in any state
16 which by its laws has made provision for commanding persons
17 within that state to attend and testify in this State certifies
18 under the seal of [~~such~~] that court that there is a criminal
19 prosecution pending in [~~such~~] that court, or that a grand jury
20 investigation has commenced or is about to commence, that a
21 person [~~being within~~] in this State is a material witness in



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

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



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

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



- 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 including opium, or any of its derivatives, morphine,
- 4 heroin, 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~~] that has been falsely
- 17 made, completed, or altered, or in which a false entry
- 18 has been made, or [~~which~~] that contains a false
- 19 statement or false information."



1 SECTION 7. 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 ~~eriminal~~] 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 when 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
19 or assistance in receipt or provision of the 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 when the
8 conviction was based on the provision or assistance in
9 receipt or provision of medical, surgical,
10 pharmaceutical, counseling, or referral services
11 relating to the human reproductive system, including
12 but not limited to services relating to pregnancy,
13 contraception, or the termination of a pregnancy, so
14 long as the provision or assistance in receipt or
15 provision of the services was in accordance with the
16 laws of this State or would have been in accordance
17 with the laws of this State if it occurred within this
18 State;

19 (13) Violation of chapter 329, the uniform controlled
20 substances act, or any rule adopted thereunder except
21 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 the 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 the 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 8. Section 453-8.6, Hawaii Revised Statutes, is
13 amended as follows:

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

15 "(a) Upon receipt of evidence of revocation, suspension,
16 or other disciplinary action against a licensee by another state
17 or federal agency, the board may issue an order imposing
18 disciplinary action upon the licensee on the following
19 conditions:



- 1 (1) The board shall serve the licensee with a proposed
2 order imposing disciplinary action as required by
3 chapter 91;
- 4 (2) The licensee shall have the right to request a hearing
5 pursuant to chapter 91 to show cause why the action
6 described in the proposed order should not be imposed;
- 7 (3) Any request for a hearing shall be made in writing and
8 filed with the board within twenty days after mailing
9 of the proposed order to the licensee; and
- 10 (4) If the licensee does not submit a written request for
11 a hearing within twenty days after mailing of the
12 proposed order, the board may issue a final order
13 imposing the disciplinary action described in the
14 proposed order[-];
- 15 provided that the board shall not issue an order imposing
16 disciplinary action upon the licensee if the revocation,
17 suspension, or other disciplinary action against a licensee in
18 another state was based on the provision or assistance in
19 receipt or provision of medical, surgical, pharmaceutical,
20 counseling, or referral services relating to the human
21 reproductive system, including but not limited to services



1 relating to pregnancy, contraception, or the termination of a
 2 pregnancy, so long as the provision or assistance in receipt or
 3 provision of the services was in accordance with the laws of
 4 this State or would have been in accordance with the laws of
 5 this State if it occurred within this State."

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

7 "(c) A licensee against whom the board has issued a
 8 proposed order under this section shall be prohibited from
 9 practicing in this State until the board issues a final order
 10 if:

- 11 (1) The licensee was the subject of disciplinary action by
- 12 another state^[7], except where the disciplinary action
- 13 against the licensee in another state was based on the
- 14 provision or assistance in receipt or provision of
- 15 medical, surgical, pharmaceutical, counseling, or
- 16 referral services relating to the human reproductive
- 17 system, including but not limited to services relating
- 18 to pregnancy, contraception, or the termination of a
- 19 pregnancy, so long as the provision or assistance in
- 20 receipt or provision of the services was in accordance
- 21 with the laws of this State or would have been in



1 accordance with the laws of this State if it occurred
2 within this State; and

3 (2) The disciplinary action by another state prohibits the
4 licensee from practicing in that state."

5 SECTION 9. Section 455-11, Hawaii Revised Statutes, is
6 amended by amending subsection (a) to read as follows:

7 "(a) In addition to any other actions authorized by law,
8 the board shall have the power to deny, revoke, suspend, or
9 refuse to renew any license to practice naturopathic medicine
10 applied for or issued by the board in accordance with this
11 chapter, and to fine or otherwise discipline a licensee for any
12 cause authorized by law, including but not limited to the
13 following:

14 (1) Failing to meet or maintain the conditions and
15 requirements necessary to qualify for the issuance of
16 a license;

17 (2) Procuring, or aiding or abetting in procuring, [~~a~~
18 ~~criminal~~] an abortion[+] that is unlawful under the
19 laws of this State or that would be unlawful under the
20 laws of this State if performed within this State;

21 (3) Employing any person to solicit patients;



- 1 (4) Obtaining a fee on the assurance that a manifestly
2 incurable disease can be permanently cured;
- 3 (5) Betraying a patient's confidence;
- 4 (6) Making any untruthful and improbable statement in
5 advertising one's naturopathic practice or business;
- 6 (7) False, fraudulent, or deceptive advertising;
- 7 (8) Being habituated to the excessive use of drugs or
8 alcohol; or being addicted to, dependent on, or an
9 habitual user of a narcotic, barbiturate, amphetamine,
10 hallucinogen, or other drug having similar effects;
- 11 (9) Practicing naturopathic medicine while the ability to
12 practice is impaired by alcohol, drug, physical
13 disability, or mental instability;
- 14 (10) Procuring a license through fraud, misrepresentation,
15 or deceit or knowingly permitting an unlicensed person
16 to perform activities requiring a license;
- 17 (11) Professional misconduct or gross carelessness or
18 manifest incapacity in the practice of naturopathic
19 medicine;
- 20 (12) Conduct or practice contrary to recognized standard of
21 ethics of the naturopathic profession;



- 1 (13) Using medical service or treatment [~~which~~] that is
2 inappropriate or unnecessary;
- 3 (14) Submitting to or filing with the board any notice,
4 statement, or other document required under this
5 chapter [~~which~~] that is false or untrue or contains
6 any material misstatement of fact, including any false
7 certification of compliance with the continuing
8 education requirement specified under section 455-8;
- 9 (15) Failure to report to the board any disciplinary action
10 taken against the licensee in another jurisdiction
11 within thirty days after the disciplinary action
12 becomes final;
- 13 (16) Using the title "physician" without clearly
14 identifying oneself as being a naturopathic physician;
- 15 (17) Prescribing, administering, and dispensing
16 naturopathic formulary that are not included in the
17 formulary established by the board under section 455-
18 6; and
- 19 (18) Violation of any provision of this chapter or rules
20 adopted under this chapter."



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

3 "(a) In addition to any other actions authorized by law,
4 the board shall have the power to deny, revoke, limit, or
5 suspend any license to practice nursing as a registered nurse or
6 as a licensed practical nurse applied for or issued by the board
7 in accordance with this chapter, and to fine or to otherwise
8 discipline a licensee for any cause authorized by law, including
9 but not limited to the following:

- 10 (1) Fraud or deceit in procuring or attempting to procure
11 a license to practice nursing as a registered nurse or
12 as a licensed practical nurse;
- 13 (2) Gross immorality;
- 14 (3) Unfitness or incompetence by reason of negligence,
15 habits, or other causes;
- 16 (4) Habitual intemperance, addiction to, or dependency on
17 alcohol or other habit-forming substances;
- 18 (5) Mental incompetence;
- 19 (6) Unprofessional conduct as defined by the board in
20 accordance with its own rules;



- 1 (7) Wilful or repeated violation of any of the provisions
- 2 of this chapter or any rule adopted by the board;
- 3 (8) Revocation, suspension, limitation, or other
- 4 disciplinary action by another state of a nursing
- 5 license[+], except when the revocation, suspension,
- 6 limitation, or other disciplinary action by another
- 7 state was based on the provision or assistance in
- 8 receipt or provision of medical, surgical,
- 9 pharmaceutical, counseling, or referral services
- 10 relating to the human reproductive system, including
- 11 but not limited to services relating to pregnancy,
- 12 contraception, or the termination of a pregnancy, so
- 13 long as the provision or assistance in receipt or
- 14 provision of the services was in accordance with the
- 15 laws of this State or would have been in accordance
- 16 with the laws of this State if it occurred within this
- 17 State;
- 18 (9) Conviction, whether by nolo contendere or otherwise,
- 19 of a penal offense substantially related to the
- 20 qualifications, functions, or duties of a nurse,
- 21 notwithstanding any statutory provision to the



1 contrary[+], except when the conviction was based on
2 the provision or assistance in receipt or provision of
3 medical, surgical, pharmaceutical, counseling, or
4 referral services relating to the human reproductive
5 system, including but not limited to services relating
6 to pregnancy, contraception, or the termination of a
7 pregnancy, so long as the provision or assistance in
8 receipt or provision of the services was in accordance
9 with the laws of this State or would have been in
10 accordance with the laws of this State if it occurred
11 within this State;

12 (10) Failure to report to the board any disciplinary action
13 taken against the licensee in another jurisdiction
14 within thirty days after the disciplinary action
15 becomes final;

16 (11) Submitting to or filing with the board any notice,
17 statement, or other document required under this
18 chapter, which is false or untrue or contains any
19 material misstatement of fact, including a false
20 attestation of compliance with continuing competency
21 requirements;



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

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

6 (b) Notwithstanding any other law to the contrary, the
7 board may deny a license to any applicant who has been
8 disciplined by another state[-], except on the basis of
9 discipline by another state for the provision or assistance in
10 receipt or provision of medical, surgical, pharmaceutical,
11 counseling, or referral services relating to the human
12 reproductive system, including but not limited to services
13 relating to pregnancy, contraception, or the termination of a
14 pregnancy, so long as the provision or assistance in receipt or
15 provision of the services was in accordance with the laws of
16 this State or would have been in accordance with the laws of
17 this State if it occurred within this State. Any final order
18 entered pursuant to this subsection shall be a matter of public
19 record."

20 SECTION 11. Section 457-12.5, 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 in another
4 state, the board may issue an order imposing disciplinary action
5 upon the licensee on the following conditions:

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

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

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

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

20 provided that the board shall not issue an order imposing
21 disciplinary action upon the licensee if the revocation,



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

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

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

- 16 (1) The licensee was the subject of disciplinary action in
- 17 another state[+], except where the disciplinary action
- 18 against the licensee in another state was based on the
- 19 provision or assistance in receipt or provision of
- 20 medical, surgical, pharmaceutical, counseling, or
- 21 referral services relating to the human reproductive



1 system, including but not limited to services relating
2 to pregnancy, contraception, or the termination of a
3 pregnancy, so long as the provision or assistance in
4 receipt or provision of the services was in accordance
5 with the laws of this State or would have been in
6 accordance with the laws of this State if it occurred
7 within this State; and

- 8 (2) The disciplinary action in the other state prohibits
9 the licensee from practicing in that state."

10 SECTION 12. Section 461-21.5, Hawaii Revised Statutes, is
11 amended as follows:

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

13 "(a) Upon receipt of evidence of revocation, suspension,
14 or other disciplinary action against a licensee by another state
15 or federal agency, the board may issue an order imposing
16 disciplinary action upon the licensee on the following
17 conditions:

- 18 (1) The board shall serve the licensee with a proposed
19 order imposing disciplinary action as required by
20 chapter 91;



- 1 (2) The licensee shall have the right to request a hearing
2 pursuant to chapter 91 to show cause why the action
3 described in the proposed order should not be imposed;
- 4 (3) Any request for a hearing shall be made in writing and
5 filed with the board within twenty days after mailing
6 of the proposed order to the licensee; and
- 7 (4) If the licensee does not submit a written request for
8 a hearing within twenty days after mailing of the
9 proposed order, the board shall issue a final order
10 imposing the disciplinary action described in the
11 proposed order[-];
- 12 provided that the board shall not issue an order imposing
13 disciplinary action upon the licensee if the revocation,
14 suspension, or other disciplinary action against a licensee in
15 another state was based on the provision or assistance in
16 receipt or provision of medical, surgical, pharmaceutical,
17 counseling, or referral services relating to the human
18 reproductive system, including but not limited to services
19 relating to pregnancy, contraception, or the termination of a
20 pregnancy, so long as the provision or assistance in receipt or
21 provision of the services was in accordance with the laws of



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

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

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

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



1 (2) The disciplinary action by another state prohibits the
2 licensee from practicing in that state."

3 PART IV

4 SECTION 13. Chapter 636C, Hawaii Revised Statutes, is
5 amended by adding a new section to be appropriately designated
6 and to read as follows:

7 "§636C- Enforcement of foreign penal civil actions
8 relating to protected reproductive health care services. (a)
9 No judgment or other order arising from a foreign penal civil
10 action or other penal law banning, restricting, burdening,
11 punishing, penalizing, or otherwise interfering with the
12 provision of protected reproductive health care services shall
13 be enforced in this State.

14 (b) As used in this section:

15 "Foreign penal civil action" means an action authorized by
16 the law of a state, or of any municipality or other governmental
17 entity within a state, other than this State, the essential
18 character and effect of which is to punish an offense against
19 the public justice of that state, municipality, or other
20 governmental entity.



1 "Protected reproductive health care services" means
2 medical, surgical, pharmaceutical, counseling, or referral
3 services relating to the human reproductive system, including
4 but not limited to services relating to pregnancy,
5 contraception, or termination of a pregnancy, that are protected
6 under the Hawaii State Constitution or otherwise lawful under
7 the laws of this State or that would be constitutionally
8 protected or otherwise lawful if performed within this State."

9 PART V

10 SECTION 14. Section 577A-1, Hawaii Revised Statutes, is
11 amended by amending the definition of "medical care and
12 services" to read as follows:

13 "Medical care and services" means the diagnosis,
14 examination, and administration of medication in the treatment
15 of venereal diseases, pregnancy, and family planning services.
16 ~~[It shall not include surgery or any treatment to induce~~
17 ~~abortion.] "~~

18 PART VI

19 SECTION 15. 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 16. Statutory material to be repealed is bracketed
5 and stricken. New statutory material is underscored.

6 SECTION 17. 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 10 of this Act shall not be
9 repealed when that section is reenacted on June 30, 2023,
10 pursuant to section 6 of Act 66, Session Laws of Hawaii 2017.



Report Title:

Abortion; Physician Assistants; Consent by Minors; Reproductive Health Care Services; Disclosures; Subpoenas; Agencies; Licensing Authorities; Disciplinary Action; Investigations; Proceedings

Description:

PART I - Allows licensed physician assistants to perform abortions. Repeals the requirement that abortions, including aspiration abortions performed by advance practice registered nurses, be performed at certain locations. Clarifies that a patient has the right to choose to obtain an abortion, or to terminate a pregnancy if the termination is necessary to protect the life or health of the patient, and the State shall not deny or interfere with the se rights. Defines "abortion" and "nonviable fetus". Part II - 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. Part III - 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. Part IV - 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. Part V -



S.B. NO. ¹ S.D. 1

Amends the definition of "medical care and services" that a minor may consent to receive without any other person's consent to include surgery and any treatment to induce abortion. (SD1)

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

