



STATE OF HAWAII
KA MOKU'ĀINA O HAWAII
DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS
KA 'OIHANA PONO LIMAHANA

March 21, 2024

To: The Honorable Scot Z. Matayoshi, Chair,
The Honorable Andrew Takuya Garrett, Vice Chair, and
Members of the House Committee on Labor & Government Operations

Date: Thursday, March 21, 2024
Time: 10:00 a.m.
Place: Conference Room 309, State Capitol

From: Jade T. Butay, Director
Department of Labor and Industrial Relations (DLIR)

Re: H.C.R. 81 / H.R. 66 REQUESTING THE DIRECTOR OF LABOR AND INDUSTRIAL RELATIONS TO AMEND TITLE 12, CHAPTER 15, HAWAII ADMINISTRATIVE RULES, TO CLARIFY THAT COMPENSATION FOR ADVANCED PRACTICE REGISTERED NURSES UNDER THE STATE'S WORKERS' COMPENSATION LAW IS DISTINCT FROM COMPENSATION FOR REGISTERED NURSES AND SHALL BE ONE HUNDRED PERCENT OF THE FEES AUTHORIZED UNDER THE MEDICARE FEE SCHEDULE

I. OVERVIEW OF PROPOSED LEGISLATION

The **DLIR provides comments** on this measure. HCR81 / HR 66 requests the Director of Labor and industrial Relations to amend the Workers' Compensation Medical Fee Schedule (Title 12, Chapter 15, Hawaii Administrative Rules (HAR)) to clarify that compensation for advanced practice registered nurses (APRN) under the State's Workers' Compensation Law is distinct from compensation for registered nurses and shall be one hundred percent of the fees authorized under the Medicare Fee Schedule.

II. CURRENT LAW

Act 183 (SLH, 2016) amended the definition of "Health care provider" in §386-1 to include an APRN: means a person qualified by the director to render health care and service and who has a license for the practice of: Medicine, Dentistry, Chiropractic, Naturopathic, Optometry, Podiatry, Psychology, and Advanced practice registered nurse (APRN).

Act 153 (SLH, 2017) amended the definition of "Physician" in §386-1 to include an APRN: "Physician" includes a doctor of medicine, a dentist, a chiropractor, an

osteopath, a naturopathic physician, a psychologist, an optometrist, an advanced practice registered nurse, and a podiatrist.

§12-15-36 Assistants to providers of service (HAR) provides that fees for services provided by registered nurses (RN) as recognized pursuant to Chapter 457 HRS, shall be eighty-five percent of the fee authorized in §12-15-90 Workers' Compensation Medical Fee Schedule.

§12-15-90 Workers' Compensation Medical Fee Schedule also states in part that charges for medical services shall not exceed one hundred ten percent of participating fees prescribed in the Medicare Resource Based Relative Value Scale System fee schedule (Medicare Fee Schedule) applicable to Hawaii or listed in Exhibit A.

III. COMMENTS ON THE HOUSE CONCURRENT RESOLUTION

The DLIR appreciates the intent of this resolution suggesting amending the Workers' Compensation Medical Fee Schedule to ensure APRN's are properly compensated. However, §386-1 makes very clear that APRN's are considered a Health Care Provider qualified by the director to render health care and service and who has a license to practice. APRN's are also listed in the statute as a "Physician" and thus entitled to the fees from the medical fee schedule pursuant to §12-15-90.

When an APRN serves as the "health care provider" or "physician" in the workers' compensation system then the allowable fee cannot exceed one hundred ten percent of participating fees prescribed in the Medicare Resource Based Relative Value Scale System fee schedule applicable to Hawaii or the fee listed in Exhibit A of the Medical Fee Schedule pursuant to 12-15-90. When an APRN serves as a registered nurse in the workers' compensation system the allowable fee is eighty-five percent of the fee authorized in §12-15-90.



**Written Testimony Presented Before the
House Committee on Labor & Government Operations
Thursday, March 21, 2024, at 10:00 A.M.
Conference Room 309 and via Videoconference
by
Laura Reichhardt, APRN, AGPCNP-BC, FAAN
Director, Hawai'i State Center for Nursing
University of Hawai'i at Mānoa**

Comments on HCR 81 / HR 66

Chair Matayoshi, Vice Chair Garrett, and members of the Committee, thank you for the opportunity to testify on HCR 81 and HR 66. Hawai'i State Center for Nursing (HSCN) provides comments.

This resolution requests that the Director of the Department of Labor and Industrial Relations clarify that APRNs are distinct from RNs. Recognizing this, the resolution further requests that Director of Labor and Industrial Relations is requested to amend title 12, chapter 15, Hawai'i Administrative Rules, to clarify that compensation for advanced practice registered nurses under the State's Workers' Compensation Law is distinct from compensation for registered nurses and shall be one hundred percent of the fees authorized under the Medicare Fee Schedule.

HSCN recognizes the longstanding and supportive relationship between DLIR and APRNs, including collaborative efforts to amend state law to improve access to care for worker's compensation provided by APRNs. These efforts include:

- 2009 Hawai'i Act 169, SLH 2009 –Recognize APRNs with Global signature authority. This recognition authorized APRNs to sign documents pertaining to worker's compensation, department of education and human services verification and assessment forms, and all relevant documentation within APRN scope of practice.
- 2016 Hawai'i Act 183, SLH 2016 – Amends and updates HRS statutes to clarify the role of APRNs with regards to their authority and participation in the health care system, including HRS 386-1, definition of "health care provider" in workers' compensation law to include APRNs.
- 2017 Hawai'i Act 153, SLH 2017 – Amends the HRS 386-1 definition of "physician" in workers' compensation law to include APRNs.

The mission of the Hawai'i State Center for Nursing is to engage in nursing workforce research, promote best practices and disseminate knowledge, cultivate a diverse and well-prepared workforce, support healthy work environments, champion lifelong learning, and strategically plan for sound nursing workforce policy.

HSCN also recognizes that APRNs are historically reimbursed at a lower rate than physicians based on Medicare policies¹. These lower reimbursement rates have posed a challenge to maintaining open and accessible healthcare, particularly in this high cost of living state. While HSCN does not have specific data relative to the reimbursement rates for APRNs as compared to RNs, we recognize and welcome dialogue pertaining to equitable and appropriate reimbursement for services as a means to ensuring access to health care.

Thank you for the opportunity to testify on this resolution. Your advocacy on behalf of nurses' and patient access to healthcare is greatly appreciated.

¹ <https://www.cms.gov/medicare/payment/fee-schedules/physician-fee-schedule/advanced-practice-nonphysician-practitioners/advanced-practice-registered-nurses-aprns>