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# 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1 outdated requirement that individuals who seek an abortion be a  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:

"CHAPTER

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



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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 so long as the provision or assistance in  
receipt or provision of such services was in  
accordance with the laws of this State or would have  
been in accordance with the laws of this State if it  
occurred within this State; and

### PART III

**13** SECTION 10. Chapter 636C, Hawaii Revised Statutes, is  
**14** amended by adding a new section to be appropriately designated  
**15** and to read as follows:

16        "S636C-        Enforcement of foreign penal civil actions  
17        relating to protected reproductive health care services.        (a)  
18        No judgment or other order arising from a foreign penal civil  
19        action or other penal law banning, restricting, burdening,  
20        punishing, penalizing, or otherwise interfering with the



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."

## 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:

Lindelchinge  
JAN 25 2023



# H.B. NO. 1427

**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.*

