

JAN 25 2023

A BILL FOR AN ACT

RELATING TO HEALTH.

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

PART I

SECTION 1. Section 453-8, Hawaii Revised Statutes, is amended to read as follows:

"§453-8 Revocation, limitation, suspension, or denial of licenses. (a) In addition to any other actions authorized by law, any license to practice medicine and surgery may be revoked, limited, or suspended by the board at any time in a proceeding before the board, or may be denied, for any cause authorized by law, including but not limited to the following:

- (1) [~~Procuring,~~] Except as otherwise provided for in subsections (f) and (g), procuring, or aiding or abetting in procuring, a criminal abortion;
- (2) Employing any person to solicit patients for one's self;
- (3) Engaging in false, fraudulent, or deceptive advertising, including but not limited to:



- 1 (A) Making excessive claims of expertise in one or
- 2 more medical specialty fields;
- 3 (B) Assuring a permanent cure for an incurable
- 4 disease; or
- 5 (C) Making any untruthful and improbable statement in
- 6 advertising one's medical or surgical practice or
- 7 business;
- 8 (4) Being habituated to the excessive use of drugs or
- 9 alcohol; or being addicted to, dependent on, or a
- 10 habitual user of a narcotic, barbiturate, amphetamine,
- 11 hallucinogen, or other drug having similar effects;
- 12 (5) Practicing medicine while the ability to practice is
- 13 impaired by alcohol, drugs, physical disability, or
- 14 mental instability;
- 15 (6) Procuring a license through fraud, misrepresentation,
- 16 or deceit, or knowingly permitting an unlicensed
- 17 person to perform activities requiring a license;
- 18 (7) Professional misconduct, hazardous negligence causing
- 19 bodily injury to another, or manifest incapacity in
- 20 the practice of medicine or surgery;



- 1 (8) Incompetence or multiple instances of negligence,
2 including but not limited to the consistent use of
3 medical service, which is inappropriate or
4 unnecessary;
- 5 (9) Conduct or practice contrary to recognized standards
6 of ethics of the medical profession as adopted by the
7 Hawaii Medical Association, the American Medical
8 Association, the Hawaii Association of Osteopathic
9 Physicians and Surgeons, or the American Osteopathic
10 Association;
- 11 (10) Violation of the conditions or limitations upon which
12 a limited or temporary license is issued;
- 13 (11) Revocation, suspension, or other disciplinary action
14 by another state or federal agency of a license,
15 certificate, or medical privilege;
- 16 (12) Conviction, whether by nolo contendere or otherwise,
17 of a penal offense substantially related to the
18 qualifications, functions, or duties of a physician or
19 osteopathic physician, notwithstanding any statutory
20 provision to the contrary;



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

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

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

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

18 (1) Physical and mental evaluation of the applicant by a
19 licensed physician or osteopathic physician approved
20 by the board;



- 1 (2) Probation, including conditions of probation as
2 requiring observation of the licensee by an
3 appropriate group or society of licensed physicians,
4 osteopathic physicians, or surgeons;
- 5 (3) Limitation of the license by restricting the fields of
6 practice in which the licensee may engage;
- 7 (4) Further education or training or proof of performance
8 competency; and
- 9 (5) Limitation of the medical practice of the licensee in
10 any reasonable manner to assure the safety and welfare
11 of the consuming public.
- 12 (c) Notwithstanding any other law to the contrary, the
13 board may deny a license to any applicant who has been
14 disciplined by another state or federal agency. Any final order
15 of discipline taken pursuant to this subsection shall be a
16 matter of public record.
- 17 (d) Where the board has reasonable cause to believe that a
18 licensee is or may be unable to practice medicine with
19 reasonable skill and safety to protect patients, the board may
20 order the licensee to submit to a mental or physical examination
21 or any combination thereof, by a licensed practitioner approved



1 by the board, at the licensee's expense. The examination may
2 include biological fluid testing and other testing known to
3 detect the presence of alcohol or other drugs. In addition:

4 (1) Any licensee shall be deemed to have consented to
5 submit to a mental or physical examination when so
6 directed by the board and to have waived all objection
7 to the use or referral of information by the board to
8 determine whether the licensee is able to practice
9 medicine with reasonable skill and safety to protect
10 patients;

11 (2) The board may seek to enforce an order directing a
12 licensee to submit to a mental or physical examination
13 in the circuit court in the county in which the
14 licensee resides;

15 (3) Failure of a licensee to submit to an examination
16 ordered under this subsection shall constitute grounds
17 for summary suspension of the licensee's license; and

18 (4) The board may take any action authorized under this
19 chapter based on information obtained under this
20 subsection.



1 (e) Any person licensed by the board, including a
2 physician, surgeon, or physician assistant, who provides
3 information to the board indicating that a board licensee may be
4 guilty of unprofessional conduct or may be impaired because of
5 drug or alcohol abuse or mental illness shall not be liable for
6 any damages in any civil action based on the communication. The
7 immunity afforded by this section shall be in addition to any
8 immunity afforded by section 663-1.7, if applicable, and shall
9 not be construed to affect the availability of any absolute
10 privilege under sections 663-1.7 and 671D-10.

11 (f) The board shall not revoke, suspend, penalize, refuse
12 to issue or renew, or take any other adverse action against the
13 license issued pursuant to this section based:

14 (1) Solely on the licensee providing, authorizing,
15 recommending, aiding in, assisting in, referring for,
16 or otherwise participating in an abortion or any other
17 health care service provided for the purpose of an
18 abortion if the abortion was otherwise performed in
19 accordance with section 453-16, or gender affirming
20 treatment provided in accordance with the laws of this
21 State, regardless of the patient's resident state; or



1 (2) On the licensee's license being revoked or suspended,
2 or the licensee being otherwise disciplined by another
3 state, if that revocation, suspension, or other form
4 of discipline was based solely on the licensee
5 providing any reproductive health care services or
6 gender affirming treatment, regardless of the
7 patient's resident state, in accordance with the laws
8 of this State and within the accepted standard of
9 care;

10 provided that the board may discipline a licensee for care
11 provided that would otherwise constitute an actionable offense
12 under this section.

13 (g) Any applicant seeking licensure to practice medicine
14 and surgery under this chapter who has been subject to
15 disciplinary action by a duly authorized professional
16 disciplinary agency of another jurisdiction solely on the On the
17 licensee's license being revoked or suspended, or the licensee
18 being otherwise disciplined by another state, if that
19 revocation, suspension, or other form of discipline was based
20 solely on the licensee providing any reproductive health care
21 services or gender affirming treatment, regardless of the



1 patient's resident state, in accordance with the laws of this
2 State and within the accepted standard of care shall not be
3 denied licensure to practice medicine and surgery under this
4 chapter unless the board determines that the basis for
5 disciplinary action in that jurisdiction constitutes
6 professional misconduct in this State; provided that nothing in
7 this subsection shall be construed as prohibiting the board from
8 evaluating the conduct of the applicant and determining whether
9 to deny the application for licensure to practice medicine and
10 surgery under this chapter.

11 (h) As used in this section:

12 "Gender affirming treatment" means a service or product
13 that a health care provider prescribes to a two-spirit,
14 transgender, nonbinary, or other gender-diverse individual to
15 support and affirm the individual's gender identity. "Gender
16 affirming treatment" includes treatment for gender dysphoria.

17 "Reproductive health care services" includes all services,
18 care, or products of a medical, surgical, psychiatric,
19 therapeutic, mental health, behavioral health, diagnostic,
20 preventative, rehabilitative, supportive, counseling, referral,
21 prescribing, or dispensing nature relating to the human



1 reproductive systems and all services, care, and products
2 relating to pregnancy, assisted reproduction, contraception,
3 miscarriage management, self-termination of a pregnancy, or
4 other termination of a pregnancy."

5 SECTION 2. Section 457-12, Hawaii Revised Statutes, is
6 amended to read as follows:

7 "**§457-12 Discipline; grounds; proceedings; hearings.** (a)

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

- 15 (1) Fraud or deceit in procuring or attempting to procure
16 a license to practice nursing as a registered nurse or
17 as a licensed practical nurse;
- 18 (2) Gross immorality;
- 19 (3) Unfitness or incompetence by reason of negligence,
20 habits, or other causes;



- 1 (4) Habitual intemperance, addiction to, or dependency on
- 2 alcohol or other habit-forming substances;
- 3 (5) Mental incompetence;
- 4 (6) Unprofessional conduct as defined by the board in
- 5 accordance with its own rules;
- 6 (7) Wilful or repeated violation of any of the provisions
- 7 of this chapter or any rule adopted by the board;
- 8 (8) [~~Revocation,~~] Except as otherwise provided in
- 9 subsection (e), revocation, suspension, limitation, or
- 10 other disciplinary action by another state of a
- 11 nursing license;
- 12 (9) Conviction, whether by nolo contendere or otherwise,
- 13 of a penal offense substantially related to the
- 14 qualifications, functions, or duties of a nurse,
- 15 notwithstanding any statutory provision to the
- 16 contrary;
- 17 (10) 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 (11) Submitting to or filing with the board any notice,
2 statement, or other document required under this
3 chapter, which is false or untrue or contains any
4 material misstatement of fact, including a false
5 attestation of compliance with continuing competency
6 requirements; or

7 (12) Violation of the conditions or limitations upon which
8 any license is issued.

9 (b) Notwithstanding any other law to the contrary, the
10 board may deny a license to any applicant who has been
11 disciplined by another state[-]; provided that any applicant
12 seeking an advanced practice registered nurse license under
13 section 457-8.5 who has been subject to disciplinary action by a
14 duly authorized professional disciplinary agency of another
15 state based solely on the licensee providing any reproductive
16 health care services or gender affirming treatment, regardless
17 of the patient's resident state, in accordance with the laws of
18 this State and within the accepted standard of care shall not be
19 denied an advanced practice registered nurse license under
20 section 457-8.5 unless the board determines that the basis for
21 disciplinary action in that jurisdiction constitutes



1 professional misconduct in this State; provided further that
2 nothing in this subsection shall be construed as prohibiting the
3 board from evaluating the conduct of an applicant and
4 determining whether to deny the application for an advanced
5 practice registered nurse license under section 457-8.5. Any
6 final order entered pursuant to this subsection shall be a
7 matter of public record.

8 (c) Any fine imposed by the board after a hearing in
9 accordance with chapter 91 shall be no less than \$100 and no
10 more than \$1,000 for each violation.

11 (d) The remedies or penalties provided by this chapter are
12 cumulative to each other and to the remedies or penalties
13 available under all other laws of this State.

14 (e) The board shall not revoke, suspend, penalize, refuse
15 to issue or renew, or take any other adverse action against a
16 license issued pursuant to section 457-8.5 based:

17 (1) Solely on the licensee providing, authorizing,
18 recommending, aiding in, assisting in, referring for,
19 or otherwise participating in an abortion or any other
20 health care service provided for the purpose of an
21 abortion if the abortion was otherwise performed in



1 accordance with section 457-8.7, or gender affirming
2 treatment provided in in accordance with the laws of
3 this State, regardless of the patient's state of
4 residence; or

5 (2) On the licensee's license being revoked or suspended,
6 or the licensee being otherwise disciplined by another
7 state, if that revocation, suspension, or other form
8 of discipline was based solely on the licensee
9 providing any reproductive health care services or
10 gender affirming treatment, regardless of the
11 patient's resident state, in accordance with the laws
12 of this State and within the accepted standard of
13 care;

14 provided that the board may discipline a licensee for care
15 provided that would otherwise constitute an actionable offense
16 under this section.

17 (f) As used in this section:

18 "Gender affirming treatment" means a service or product
19 that a health care provider prescribes to a two-spirit,
20 transgender, nonbinary, or other gender-diverse individual to



1 support and affirm the individual's gender identity. "Gender
2 affirming treatment" includes treatment for gender dysphoria.

3 "Reproductive health care services" includes all services,
4 care, or products of a medical, surgical, psychiatric,
5 therapeutic, mental health, behavioral health, diagnostic,
6 preventative, rehabilitative, supportive, counseling, referral,
7 prescribing, or dispensing nature relating to the human
8 reproductive systems and all services, care, and products
9 relating to pregnancy, assisted reproduction, contraception,
10 miscarriage management, self-termination of a pregnancy, or
11 other termination of a pregnancy."

12 PART II

13 SECTION 3. Chapter 671, Hawaii Revised Statutes, is
14 amended by adding a new section to part I to be appropriately
15 designated and to read as follows:

16 **"§671- Professional liability insurance; reproductive**
17 **health care; gender affirming treatment.** (a) No insurer
18 providing professional liability insurance for health care
19 providers shall take any adverse action against a health care
20 provider, including denying or revoking coverage or imposing
21 sanctions, fines, penalties, or rate increases; based on the



1 health care provider providing, authorizing, recommending,
2 aiding in, assisting in, referring for, or otherwise
3 participating in an abortion, or any other health care services
4 provided for the purpose of an abortion, or a gender affirming
5 treatment, in violation of the laws of another state prohibiting
6 the provision of abortion and related services or gender
7 affirming treatment either in that state or for a resident of
8 that state, regardless of whether the violations have resulted
9 in the revocation of, or any other adverse action taken against,
10 the health care provider's license in that state.

11 (b) As used in this section:

12 "Gender affirming treatment" means a service or product
13 that a health care provider prescribes to a two-spirit,
14 transgender, nonbinary, or other gender-diverse individual to
15 support and affirm the individual's gender identity. "Gender
16 affirming treatment" includes treatment for gender dysphoria.

17 "Reproductive health care or services" includes all
18 services, care, or products of a medical, surgical, psychiatric,
19 therapeutic, mental health, behavioral health, diagnostic,
20 preventative, rehabilitative, supportive, counseling, referral,
21 prescribing, or dispensing nature relating to the human



1 reproductive systems and all services, care, and products
2 relating to pregnancy, assisted reproduction, contraception,
3 miscarriage management, self-termination of a pregnancy, or
4 other termination of a pregnancy."

5 PART III

6 SECTION 4. Section 624D-3, Hawaii Revised Statutes, is
7 amended by amending subsection (b) to read as follows:

8 "(b) When a party submits a foreign subpoena to a clerk of
9 court in this State, the clerk, in accordance with that court's
10 procedure, shall promptly issue a subpoena for service upon the
11 person to which the foreign subpoena is directed[-]; provided
12 that, notwithstanding any other law to contrary, no clerk of any
13 court in this State shall issue a subpoena under this section in
14 connection with a foreign subpoena for any proceedings relating
15 to any abortion services or other abortion-related procedures
16 that are performed in the State in accordance with sections
17 453-16 or 457-8.7 or any gender affirming treatment provided in
18 accordance with the laws of this State.

19 As used in this subsection, "gender affirming treatment"
20 means a service or product that a health care provider
21 prescribes to a two-spirit, transgender, nonbinary, or other



1 gender-diverse individual to support and affirm the individual's
2 gender identity. "Gender affirming treatment" includes
3 treatment for gender dysphoria."

4 PART IV

5 SECTION 5. Chapter 28, Hawaii Revised Statutes, is amended
6 by adding a new section to part I to be appropriately designated
7 and to read as follows:

8 **"§28- Reproductive health and gender affirming**
9 **treatment investigations; participation; reports.** (a) The
10 attorney general shall routinely submit to the governor and
11 legislature a report detailing each request for cooperation,
12 assistance, or information that is received by the department of
13 law enforcement pursuant to section 353C- or a county police
14 department pursuant to section 52D- .

15 (b) Each report submitted pursuant to this section shall
16 include information that identifies each requestor and the
17 frequency and nature of each request."

18 SECTION 6. Chapter 52D, Hawaii Revised Statutes, is
19 amended by adding a new section to be appropriately designated
20 and to read as follows:



1 "§52D- Participation in investigations; abortions;
2 reproductive health care or services; gender affirming
3 treatment. (a) Neither the chief of police nor any employee of
4 any county police department shall cooperate with, assist in, or
5 provide information relating to any investigations concerning
6 abortion-related conduct, gender affirming treatments, or other
7 reproductive health care or services that are lawful in the
8 State, including any subpoenas or search warrants issued by
9 another state.

10 (b) Each county police department shall coordinate with
11 the department of the attorney general to establish a process to
12 carefully scrutinize all requests for cooperation, assistance,
13 or information related to reproductive health care or services
14 or gender affirming treatments from any party in another state
15 having more restrictive abortion or gender affirming treatment
16 prohibitions than those contained in sections 453-16 and 457-8.7
17 or any other applicable statute; provided that, in establishing
18 this process, each county police department shall assume that
19 some requests for cooperation, assistance, or information
20 related to reproductive health care or services or gender
21 affirming treatments may not be clearly identified as a request



1 for cooperation, assistance, or information related to
2 reproductive health care or services or gender affirming
3 treatments.

4 (c) Each county police department shall require that any
5 request for cooperation, assistance, or information related to
6 reproductive health care or services or gender affirming
7 treatments made by another state shall include a detailed
8 description of the matter under investigation and the purpose of
9 the request for cooperation, assistance, or information.

10 (d) If the chief of police or any employee of any county
11 police department is unsure as to whether or not a request for
12 cooperation, assistance, or information relates to
13 abortion-related conduct, gender affirming treatments, or other
14 reproductive health care or services, the chief of police or
15 employee shall consult with the attorney general.

16 (e) As used in this section:

17 "Gender affirming treatment" means a service or product
18 that a health care provider prescribes to a two-spirit,
19 transgender, nonbinary, or other gender-diverse individual to
20 support and affirm the individual's gender identity. "Gender
21 affirming treatment" includes treatment for gender dysphoria.



1 "Reproductive health care or services" includes all
2 services, care, or products of a medical, surgical, psychiatric,
3 therapeutic, mental health, behavioral health, diagnostic,
4 preventative, rehabilitative, supportive, counseling, referral,
5 prescribing, or dispensing nature relating to the human
6 reproductive systems and all services, care, and products
7 relating to pregnancy, assisted reproduction, contraception,
8 miscarriage management, self-termination of a pregnancy, or
9 other termination of a pregnancy."

10 SECTION 7. Chapter 353C, Hawaii Revised Statutes, is
11 amended by adding a new section to be appropriately designated
12 and to read as follows:

13 "§353C- Participation in investigations; abortions;
14 gender affirming treatments; reproductive health care or
15 services. (a) Neither the director nor any employee of the
16 department shall cooperate with, assist in, or provide
17 information relating to any investigations concerning abortion-
18 related conduct, gender affirming treatments, or other
19 reproductive health care or services that are lawful in the
20 State, including any subpoenas or search warrants issued by
21 another state.



1 (b) The department shall coordinate with the department of
2 the attorney general to establish a process to carefully
3 scrutinize all requests for cooperation, assistance, or
4 information related to reproductive health care or services or
5 gender affirming treatments from any party in another state
6 having more restrictive abortion or gender affirming treatment
7 prohibitions than those contained in sections 453-16 and 457-8.7
8 or any other applicable statute; provided that, in establishing
9 this process, the department shall assume that some requests for
10 cooperation, assistance, or information related to reproductive
11 health care or services or gender affirming treatments may not
12 be clearly identified as a request for cooperation, assistance,
13 or information related to reproductive health care or services
14 or gender affirming treatments.

15 (c) The department shall require that any request for
16 cooperation, assistance, or information related to reproductive
17 health care or services or gender affirming treatments made by
18 another state shall include a detailed description of the matter
19 under investigation and the purpose of the request for
20 cooperation, assistance, or information.



1 (d) If the director or any employee of the department is
2 unsure as to whether or not a request for cooperation,
3 assistance, or information relates to abortion-related conduct,
4 gender affirming treatments, or other reproductive health care
5 or services, the director or employee shall consult with the
6 attorney general.

7 (e) As used in this section:

8 "Gender affirming treatment" means a service or product
9 that a health care provider prescribes to a two-spirit,
10 transgender, nonbinary, or other gender-diverse individual to
11 support and affirm the individual's gender identity. "Gender
12 affirming treatment" includes treatment for gender dysphoria.

13 "Reproductive health care or services" includes all
14 services, care, or products of a medical, surgical, psychiatric,
15 therapeutic, mental health, behavioral health, diagnostic,
16 preventative, rehabilitative, supportive, counseling, referral,
17 prescribing, or dispensing nature relating to the human
18 reproductive systems and all services, care, and products
19 relating to pregnancy, assisted reproduction, contraception,
20 miscarriage management, self-termination of a pregnancy, or
21 other termination of a pregnancy."



1 PART V

2 SECTION 8. Chapter 323B, Hawaii Revised Statutes, is
3 amended by adding a new part to be appropriately designated and
4 to read as follows:

5 "PART . REPRODUCTIVE HEALTH CARE AND SERVICES AND GENDER

6 AFFIRMING TREATMENTS

7 A. Protected Reproductive Health Care or Gender Affirming
8 Treatment Information

9 §323B-A Definitions. As used in this subpart:

10 "Affirmative written consent" means the voluntary, specific
11 agreement of the patient or, if the patient is unable to provide
12 consent, the patient's legal guardian or health care proxy.

13 "Confidential" means that data or information is not made
14 available or disclosed to unauthorized individuals or processes.

15 "Director" means the director of health.

16 "Gender affirming treatment" means a service or product
17 that a health care provider prescribes to a two-spirit,
18 transgender, nonbinary, or other gender-diverse individual to
19 support and affirm the individual's gender identity. "Gender
20 affirming treatment" includes treatment for gender dysphoria.



1 "Patient" means a natural individual, regardless of whether
2 the individual is still living, who received or sought to
3 receive services from a provider of reproductive health care or
4 gender affirming treatments and to whom records of diagnosis,
5 prognosis, counseling, or treatment pertain.

6 "Reproductive health care" means health care offered,
7 sought, arranged, or furnished for the purpose of becoming
8 pregnant, maintaining pregnancy, preventing pregnancy,
9 terminating pregnancy, managing pregnancy loss, or improving
10 maternal health and birth outcomes. "Reproductive health care"
11 includes all services, care, or products of a medical, surgical,
12 psychiatric, therapeutic, mental health, behavioral health,
13 diagnostic, preventative, rehabilitative, supportive,
14 counseling, referral, prescribing, or dispensing nature relating
15 to the human reproductive systems and all services, care, and
16 products relating to pregnancy, assisted reproduction,
17 contraception, miscarriage management, self-termination of a
18 pregnancy, or other termination of a pregnancy.

19 "Reproductive health care or gender affirming treatment
20 information" means any records containing an individual's
21 identity, diagnosis, prognosis, receipt of counseling, or



1 history of treatment relating to reproductive health care or
2 gender affirming treatments, or both.

3 **§323B-B Affirmative written consent; requirements.** No
4 consent to disclose information pursuant to this subpart may be
5 effectuated by an affirmative written consent of a patient
6 unless:

- 7 (1) The affirmative written consent is collected on a
8 standalone form;
- 9 (2) The patient is informed about how records may be used
10 and to whom the records may be disclosed; and
- 11 (3) The patient may refuse consent for specific
12 disclosures.

13 **§323B-C Confidentiality of reproductive health care or**
14 **gender affirming treatment information; permitted disclosure.**

15 Any reproductive health care or gender affirming treatment
16 information that is in the possession of any covered entity or
17 business associate of any patient shall be deemed to be
18 confidential and shall only be disclosed if:

- 19 (1) The record is disclosed in accordance with a prior
20 affirmative written consent of the patient; provided
21 that affirmative written consent shall only be sought



1 and secured for disclosures for treatment, payment,
2 and health care operations as permitted under the
3 Health Insurance Portability and Accountability Act of
4 1996, P.L. 104-191; provided further that the
5 affirmative written consent shall remain valid until
6 the patient revokes the affirmative written consent in
7 writing; and provided further that nothing in this
8 section shall be construed as authorizing a covered
9 entity or business associate to disclose records to:

10 (A) An insurer without the patient's affirmative
11 written consent to the disclosure; or

12 (B) A professional licensing board in connection with
13 an investigation relating to any abortion
14 services or procedures that were lawfully sought
15 or performed in the State, unless that
16 investigation is the result of a complaint made
17 by the patient whose records are at issue, or the
18 patient's legal representative;

19 (2) The disclosure is made to any:

20 (A) Medical personnel to the extent necessary to
21 address a bona fide medical emergency;



1 (B) Qualified personnel for the purpose of conducting
2 scientific research, management audits, financial
3 audits, or program evaluations; provided that the
4 qualified personnel shall not directly or
5 indirectly identify any individual patient in any
6 report generated based on the research,
7 management audit, financial audit, or evaluation,
8 or otherwise disclose patient identities or
9 individual records in any manner; provided
10 further that any information disclosed pursuant
11 to this subparagraph shall be limited to the
12 information reasonably necessary to conduct the
13 research, management audits, financial audits, or
14 program evaluations; or

15 (C) Department of the State as required under any
16 relevant state reporting laws; or

17 (3) The disclosure is authorized by an order of a court of
18 competent jurisdiction, as defined in title 18 United
19 States Code section 2711(3), and in compliance with
20 this paragraph; provided that:



1 (A) Notwithstanding any other law to the contrary, no
2 court in the State shall issue an order for the
3 disclosure of reproductive health care or gender
4 affirming treatment information sought in
5 connection with an out-of-state proceeding
6 relating to any reproductive health care or
7 gender affirming treatment that was lawfully
8 sought, received, or performed in this State,
9 unless the out-of-state proceeding:
10 (i) Is founded in tort or contract or is based
11 on statute;
12 (ii) Is actionable, in an equivalent or similar
13 manner, under the laws of this State; and
14 (iii) Was brought by the patient who received
15 reproductive health care or a gender
16 affirming treatment, or the patient's legal
17 representative;
18 (B) If subparagraph (A) does not apply, or if it is
19 unclear whether an out-of-state proceeding is
20 related to any reproductive health care or gender
21 affirming treatment that was lawfully sought,



1 received, or performed under the laws of the
2 State, then, notwithstanding any other provision
3 of law, no court in the State shall issue an
4 order for the disclosure of reproductive health
5 care or gender affirming treatment information,
6 except in accordance with the provisions of this
7 section; provided further that a court in the
8 State may grant an order for disclosure of
9 reproductive health care or gender affirming
10 treatment information after application showing a
11 compelling need, including the need to avert a
12 substantial risk of death or serious bodily harm
13 to the patient; and provided further that, in
14 determining whether the disclosure is based on a
15 compelling need, the court shall weigh the need
16 for disclosure against the harm to the patient,
17 the physician-patient relationship, and the
18 public interest that may be disserved by any
19 disclosure that deters access to care or that may
20 lead to discrimination;



1 (C) While granting an order under this paragraph and
2 determining the extent to which any disclosure of
3 all or any part of a record is necessary, the
4 court shall impose stringent safeguards against
5 unauthorized disclosure;

6 (D) Before granting an order under this paragraph,
7 the court shall provide to the individual whose
8 reproductive health care or gender affirming
9 treatment information is at issue notice and a
10 reasonable opportunity to participate in the
11 proceedings if the individual is not already a
12 party, unless this notice is otherwise prohibited
13 by federal law or the laws of the State; and

14 (E) Nothing in this section shall be construed as
15 prohibiting compliance with an out-of-state
16 proceeding that resulted in a valid, final
17 judgment enforceable in that state.

18 **§323B-D Use of records in criminal, civil, or**
19 **administrative contexts.** Except as otherwise authorized by a
20 court order under section 323B-C(3) or by the affirmative
21 written consent of the patient, a record referred to in



1 section 323B-C, or testimony relaying the information contained
2 therein, shall not be disclosed or otherwise used in any civil,
3 criminal, administrative, or legislative proceedings against a
4 patient or provider of reproductive health care or gender
5 affirming treatments, including:

- 6 (1) Being entered into evidence in any criminal
7 prosecution or civil action;
- 8 (2) Forming part of the record for decision or otherwise
9 being considered in any proceeding before a
10 governmental agency;
- 11 (3) Being used for any law enforcement purpose or to
12 conduct any law enforcement investigation; or
- 13 (4) Being used in any application for a warrant.

14 **§323B-E Enforcement and penalties.** (a) A patient may
15 bring in any court of competent jurisdiction a civil action for
16 actual damages, reasonable attorney's fees, injunctive relief,
17 and any other remedies as may be appropriate against any entity
18 that has negligently, knowingly, willfully, or recklessly
19 disclosed the patient's reproductive health care or gender
20 affirming treatment information in violation of this part.



1 (b) Any entity that knowingly, willfully, or recklessly
2 obtains, discloses, or uses reproductive health care or gender
3 affirming treatment information in violation of this part shall
4 be liable for statutory damages not to exceed \$25,000 per
5 violation.

6 (c) If the director determines that this section has been
7 violated, the director may assess a civil penalty, not to exceed
8 \$25,000, for each violation.

9 **§323B-F Rulemaking.** (a) The director may adopt rules
10 pursuant to chapter 91 to effectuate the purposes of this part.

11 (b) Any rules adopted pursuant to this section may contain
12 definitions and provide for, prevent circumvention or evasion
13 of, or facilitate compliance with any safeguards and procedures,
14 including procedures and criteria for the issuance and scope of
15 orders under section 323B-C(3), as the director deems necessary
16 or proper to effectuate the purposes of this part.

17 **§323B-G Patient access to records.** Nothing in this part
18 shall be construed as prohibiting a patient from accessing the
19 patient's own records, as required under title 45 Code of
20 Federal Regulations section 164.524.



1 B. Other Information

2 **§323B-H Definitions.** As used in this subpart:

3 "Collect" means the obtaining of personal reproductive
4 health or gender affirming treatment data by a regulated entity.

5 "Disclose" means the releasing of, transferring of, selling
6 of, provision of access to, licensing of, or divulging of
7 personal reproductive health or gender affirming treatment data
8 in any manner by a regulated entity to a third party or
9 government entity regardless of the exchange of monetary or
10 other valuable consideration.

11 "Express consent" means informed, opt-in, voluntary, and
12 specific written consent. "Express consent" does not include
13 any of the following:

- 14 (1) Consent secured without first providing to the
15 consenting individual a clear and conspicuous
16 disclosure of all information material to the
17 provision of consent that is presented separately from
18 any privacy policy, terms of service, terms of use,
19 general release, user agreement, or other similar
20 document;



- 1 (2) Consent in which the consenting individual bypasses
- 2 the consent process by closing, pausing, or minimizing
- 3 the consent process;
- 4 (3) An agreement obtained using a user interface designed
- 5 or manipulated with the substantial effect of
- 6 subverting or impairing the user's autonomy,
- 7 decision-making ability, or ability to make a choice;
- 8 (4) Consent sought without categorically distinguishing
- 9 between potential collection, retention, use, or
- 10 disclosure to which the individual is consenting; or
- 11 (5) Consent sought in a format that does not allow the
- 12 consumer to categorically and separately opt-in to
- 13 collection, retention, use, or disclosure of personal
- 14 reproductive health or gender affirming treatment
- 15 data.

16 "Gender affirming treatment" means a service or product
17 that a health care provider prescribes to a two-spirit,
18 transgender, nonbinary, or other gender-diverse individual to
19 support and affirm the individual's gender identity. "Gender
20 affirming treatment" includes treatment for gender dysphoria.



1 "Nonprofit organization" means a private, nonprofit,
2 tax-exempt entity that:

3 (1) Is recognized as a tax-exempt organization under the
4 Internal Revenue Code; and

5 (2) Is registered to do business in this State in
6 accordance with chapter 414D.

7 "Opt-in" means an affirmative action by an individual that
8 clearly indicates assent.

9 "Personal reproductive health or gender affirming treatment
10 data" means personally identifiable information relating to the
11 past, present, or future reproductive health of, or gender
12 affirming treatment received by, an individual. "Personal
13 reproductive health or gender affirming treatment data" includes
14 information relating to:

15 (1) Efforts to research or obtain reproductive or gender
16 affirming treatment information, services, or
17 supplies, including location information that clearly
18 indicates an attempt to acquire or receive
19 information, services, or supplies;

20 (2) Reproductive health or gender affirming
21 treatment-related conditions, status, diseases,



1 diagnostics, or diagnoses, including pregnancy,
2 menstruation, ovulation, ability to conceive a
3 pregnancy, whether the individual is sexually active,
4 and whether the individual is engaging in unprotected
5 sex;

6 (3) Reproductive health-related surgeries or procedures,
7 including surgeries and procedures to terminate a
8 pregnancy;

9 (4) Gender affirming treatment-related surgeries or
10 procedures;

11 (5) Use or purchase of contraceptives, birth control, or
12 medication for which use, or discontinuance of use,
13 clearly indicates pregnancy status or termination of
14 pregnancy;

15 (6) Use or purchase of medication for which use, or
16 discontinuance of use, clearly indicates gender
17 affirming treatment status;

18 (7) Bodily functions, vital signs, measurement, or
19 symptoms related to menstruation or pregnancy,
20 including basal temperature, vaginal discharge, or
21 ovulation or pregnancy-related hormone levels;



- 1 (8) Any information about diagnoses or diagnostic testing,
2 treatment, medications, or the use of any product or
3 service relating to the matters described in
4 paragraphs (1) through (7); and
- 5 (9) Any information described in paragraphs (1) through
6 (8) that is derived or extrapolated from non-health
7 information, including proxy, derivative, inferred,
8 emergent, or algorithmic data.

9 "Regulated entity":

- 10 (1) Means an entity that conducts business in the State or
11 produces or delivers commercial products or services
12 that are targeted to residents of the State and is:
- 13 (A) An individual, a partnership, or a corporation
14 subject to the jurisdiction of the office of
15 consumer protection under section 480-2 and
16 section 5(a)(2) of the Federal Trade Commission
17 Act, title 15 United States Code
18 section 45(a)(2);
- 19 (B) A common carrier subject to the Communications
20 Act of 1934, title 47 United States Code



1 section 151 et seq., and all acts amendatory
2 thereof and supplementary thereto; or

3 (C) A nonprofit organization.

4 (2) Does not include the following entities:

5 (A) Covered entities, to the extent that the entity
6 is acting as a covered entity under the Health
7 Insurance Portability and Accountability Act of
8 1996's privacy regulations and only for those
9 activities that are considered HIPAA privacy
10 regulations pursuant to title 42 United States
11 Code section 1320d-9(b)(3);

12 (B) Business associates, to the extent that the
13 entity is acting as a business associate under
14 the Health Insurance Portability and
15 Accountability Act of 1996's privacy regulations
16 and only for those activities that are considered
17 HIPAA privacy regulations pursuant to title 42
18 United States Code section 1320d-9(b)(3); or

19 (C) Entities that are subject to restrictions on
20 disclosure of records under section 543 of the
21 Public Health Service Act, title 42 United States



1 Code section 290dd-2, to the extent that the
2 entity is acting in a capacity subject to these
3 restrictions on disclosure of records.

4 "Reproductive health care" includes all services, care, or
5 products of a medical, surgical, psychiatric, therapeutic,
6 mental health, behavioral health, diagnostic, preventative,
7 rehabilitative, supportive, counseling, referral, prescribing,
8 or dispensing nature relating to the human reproductive systems
9 and all services, care, and products relating to pregnancy,
10 assisted reproduction, contraception, miscarriage management,
11 self-termination of a pregnancy, or other termination of a
12 pregnancy.

13 "Service provider" means an entity that collects, retains,
14 uses, or discloses personal reproductive health or gender
15 affirming treatment data for the sole purpose of, and only to
16 the extent that the entity is, conducting business activities on
17 behalf of, for the benefit of, under instruction of, and under
18 contractual agreement with a regulated entity.

19 "Third party" means any entity that discloses or collects
20 personal reproductive health or gender affirming treatment data
21 and is not:



- 1 (1) The regulated entity that is disclosing or collecting
- 2 the information;
- 3 (2) The individual to whom the information relates; or
- 4 (3) A service provider.

5 "Written consent" includes written consent provided by
6 electronic means.

7 **§323B-I Minimization.** (a) No regulated entity shall
8 collect, retain, use, or disclose personal reproductive health
9 or gender affirming treatment data except:

10 (1) With the express consent of the individual to whom the
11 personal reproductive health or gender affirming
12 treatment data relates for each collection, retention,
13 use, or disclosure; provided that the express consent
14 shall be valid until the individual revokes the
15 express consent in writing; or

16 (2) As is strictly necessary to provide a product or
17 service that the individual to whom the personal
18 reproductive health or gender affirming treatment data
19 relates has requested from the regulated entity;
20 provided that a request from an individual to a regulated entity
21 for a product or service, and an express consent from an



1 individual to a regulated entity, shall be treated as having
2 also been provided to the applicable service provider.

3 (b) Each regulated entity shall limit access to personal
4 reproductive health or gender affirming treatment data by the
5 employees or service providers of the regulated entity to those
6 employees or service providers for which access is reasonably
7 necessary to provide a product or service that the individual to
8 whom the personal reproductive health or gender affirming
9 treatment data relates has requested from the regulated entity;
10 provided that each service provider shall limit disclosure of
11 the personal reproductive health or gender affirming treatment
12 data to:

- 13 (1) The regulated entity; and
14 (2) Any contractor to the service provider that is bound
15 to information processing terms that are no less
16 restrictive than terms to which the service provider
17 is bound.

18 **§323B-J Right of deletion.** (a) Each regulated entity
19 shall make available a reasonable mechanism by which an
20 individual, upon a verified request, may request the deletion of
21 any personal information, including any information that the



1 regulated entity collected from a third party or inferred from
2 other information retained by the regulated entity; provided
3 that the mechanism shall:

4 (1) Be equivalent in availability and ease of use to that
5 of other mechanisms for communicating or interacting
6 with the regulated entity;

7 (2) Be clear, conspicuous, and easily understandable by a
8 reasonable consumer; and

9 (3) Include the option of an online means of exercising a
10 right under this section.

11 (b) Each regulated entity shall comply with a verified
12 request received under this section without undue delay but not
13 later than fifteen days after the date on which the regulated
14 entity receives the verified request.

15 (c) No regulated entity shall charge a fee to an
16 individual for a verified request made under this section.

17 (d) Nothing in this section shall be construed as
18 requiring a regulated entity to take any action that would
19 convert non-personal information into personal information.

20 (e) As used in this section, "verified request" means a
21 request that is made by an individual who the director of



1 health, or the director's designee, has verified is a resident
2 of the State.

3 **§323B-K Privacy policy.** (a) Each regulated entity shall
4 maintain a privacy policy relating to the practices of the
5 regulated entity regarding the collection, retention, use, and
6 disclosure of personal reproductive health or gender affirming
7 treatment data.

8 (b) If a regulated entity maintains:

9 (1) A website, the regulated entity shall prominently
10 publish on the website the privacy policy required by
11 subsection (a);

12 (2) A physical location where business is conducted or
13 services are performed, or both, the regulated entity
14 shall prominently publish and display in that location
15 the privacy policy required by subsection (a); and

16 (3) A mobile application, the regulated entity shall
17 prominently publish in the mobile application the
18 privacy policy required by subsection (a);

19 provided that the publication shall be clear, conspicuous, and
20 easily understandable by a reasonable consumer; provided further
21 that a visual disclosure, by its size, contrast, location, the



1 length of time it appears, and other characteristics, shall
2 stand out from any accompanying text or other visual elements so
3 that the disclosure is easily noticed, read, and understood; and
4 provided further that, in any communication using an interactive
5 electronic medium, including social media or the internet, the
6 disclosure shall be unavoidable.

7 (c) The privacy policy required by subsection (a) shall
8 contain, at a minimum, the following:

- 9 (1) A description of the practices of the regulated entity
10 regarding the collection, retention, use, and
11 disclosure of personal reproductive health or gender
12 affirming treatment data;
- 13 (2) A clear and concise statement of the categories of
14 personal reproductive health or gender affirming
15 treatment data collected, retained, used, or disclosed
16 by the regulated entity;
- 17 (3) A clear and concise statement of the regulated
18 entity's purpose for the collection, retention, use,
19 and disclosure of the personal reproductive health or
20 gender affirming treatment data;



- 1 (4) A list of the specific third parties to which the
2 regulated entity may disclose the personal
3 reproductive health or gender affirming treatment data
4 and a clear and concise statement of the purposes for
5 which the regulated entity may disclose the personal
6 reproductive health or gender affirming treatment
7 data, including how the information may be used by
8 each third party;
- 9 (5) A list of the specific third parties from which the
10 regulated entity has collected personal reproductive
11 health or gender affirming treatment data and a clear
12 and concise statement of the purposes for which the
13 regulated entity has collected the personal
14 reproductive health or gender affirming treatment
15 data; and
- 16 (6) A clear and concise statement describing the extent to
17 which an individual may exercise control over the
18 individual's personal reproductive health or gender
19 affirming treatment data, including through:
- 20 (A) The right to revoke consent to the collection,
21 retention, use, and disclosure of personal



1 reproductive health or gender affirming treatment
 2 data by the regulated entity, and the steps
 3 necessary for an individual to implement these
 4 controls;

5 (B) The right to deletion of personal reproductive
 6 health or gender affirming treatment data that is
 7 retained by the regulated entity, including any
 8 information that the regulated entity collected
 9 from a third party or inferred from other
 10 information retained by the regulated entity, and
 11 the steps necessary for an individual to
 12 implement these controls; and

13 (C) Enforcement of these rights through a private
 14 right of action, as established in section
 15 323B-L.

16 **§323B-L Enforcement.** (a) Any violation of this subpart
 17 or any rule adopted under this subpart, shall be treated as a
 18 violation of section 480-2.

19 (b) The office of consumer protection shall enforce this
 20 subpart and any rules adopted in accordance with this subpart in
 21 the same manner; by the same means; and with the same



1 jurisdiction, powers, and duties as provided for in chapter 487,
2 and any regulated entity that violates this subpart or any rule
3 adopted in accordance with this subpart shall be subject to the
4 penalties, and entitled to the privileges and immunities,
5 provided in title 26.

6 (c) The office of consumer protection may adopt rules
7 pursuant to chapter 91 to implement this subpart.

8 (d) Any individual alleging a violation of this subpart or
9 any rule adopted in accordance with this subpart may bring a
10 civil action in any court of competent jurisdiction.

11 (e) In any civil action brought under subsection (d) in
12 which the plaintiff prevails, the court may award to the
13 plaintiff:

14 (1) An amount not less than \$100 and not greater than
15 \$10,000 per violation per day, or actual damages,
16 whichever is greater;

17 (2) Punitive damages;

18 (3) Reasonable attorney's fees and litigation costs; and

19 (4) Any other relief, including equitable or declaratory
20 relief, that the court deems appropriate.



1 (f) Any violation of this subpart or any rule adopted in
2 accordance with this subpart involving personal reproductive
3 health or gender affirming treatment data shall constitute an
4 injury in fact to the individual to whom the personal
5 reproductive health or gender affirming treatment data relates.

6 (g) Notwithstanding any other law to the contrary, no
7 pre-dispute arbitration agreement or pre-dispute joint-action
8 waiver shall be valid or enforceable with respect to a dispute
9 arising under this subpart; provided that any determination as
10 to whether or how this subsection applies to any dispute shall
11 be made by a court, rather than an arbitrator, regardless of
12 whether the agreement purports to delegate this determination to
13 an arbitrator.

14 (h) As used in this section:

15 "Pre-dispute arbitration agreement" means any agreement to
16 arbitrate a dispute that has not arisen at the time of the
17 making of the agreement.

18 "Pre-dispute joint-action waiver" means an agreement that:

19 (1) Prohibits a party from participating in a joint,
20 class, or collective action in a judicial, arbitral,
21 administrative, or other forum; and



1 (2) Concerns a dispute that has not yet arisen at the time
2 of the making of the agreement.

3 **§323B-M Relationship to other laws and rules.** Nothing in
4 this subpart, or any rule adopted in accordance with this
5 subpart, shall be construed as displacing or supplanting any
6 state law that provides greater privacy protections for personal
7 reproductive health or gender affirming treatment data than the
8 privacy protections provided by any provision of this subpart or
9 any rules adopted in accordance with this subpart.

10 **§323B-N Exception for the publication of newsworthy**
11 **information.** Nothing in this subpart, or any rule adopted in
12 accordance with this subpart, shall apply to personal
13 reproductive health or gender affirming treatment data that is
14 collected, retained, used, or disclosed by a regulated entity
15 for the publication of newsworthy information of legitimate
16 public concern, if the regulated entity has reasonable
17 safeguards and processes in place to prevent the collection,
18 retention, use, or disclosure of personal reproductive health or
19 gender affirming treatment data for commercial purposes other
20 than the publication of newsworthy information of legitimate
21 public concern."



1 SECTION 9. Section 323B-3, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "[~~+~~§323B-3~~+~~] **Privacy of individually identifiable health**
4 **information.** (a) Notwithstanding any law to the contrary,
5 except part _____, any use or disclosure of individually
6 identifiable health information by any covered entity or
7 business associate that is permitted by 45 Code of Federal
8 Regulations part 164, subpart E, shall be deemed to comply with
9 all state laws relating to the use, disclosure, or
10 confidentiality of [~~such~~] the information.

11 (b) Notwithstanding any law to the contrary, except
12 part _____, an authorization for release of individually
13 identifiable health information that complies with 45 Code of
14 Federal Regulations section 164.508 shall be deemed to comply
15 with all state laws relating to individual authorization.

16 (c) Notwithstanding any law to the contrary, except
17 part _____, any notice of breach of unsecured protected health
18 information that complies with 45 Code of Federal Regulations
19 part 164, subpart D, shall be deemed to comply with all state
20 laws relating to notice of breach of protected health
21 information."



1 SECTION 10. Chapter 323B, Hawaii Revision of Statutes, is
2 amended by designating sections 323B-1 to 323B-5 as follows:

3 "PART I. GENERAL PROVISIONS"

4 PART VI

5 SECTION 11. Chapter 453, Hawaii Revised Statutes, is
6 amended by adding a new section to part I to be appropriately
7 designated and to read as follows:

8 "§453- Pregnancy outcomes; gender affirming treatments

9 received; penalties prohibited. (a) Except as otherwise
10 provided for by law, no individual shall be subject to criminal
11 prosecution, civil liability, or any other adverse action or
12 penalty based solely on:

13 (1) The individual's actual, potential, perceived, or
14 alleged pregnancy outcomes or gender affirming
15 treatments received; or

16 (2) The individual providing, authorizing, recommending,
17 aiding in, assisting in, referring for, or otherwise
18 participating in an abortion, gender affirming
19 treatment, or any other health care service provided
20 for the purpose of an abortion if the abortion or
21 gender affirming treatment was otherwise performed in



1 accordance with section 453-16 or any other applicable
2 statute, regardless of the patient's resident state.

3 (b) As used in this section, "gender affirming treatment"
4 means a service or product that a health care provider
5 prescribes to a two-spirit, transgender, nonbinary, or other
6 gender-diverse individual to support and affirm the individual's
7 gender identity. "Gender affirming treatment" includes
8 treatment for gender dysphoria."

9 SECTION 12. Section 457-8.7, Hawaii Revised Statutes, is
10 amended to read as follows:

11 "~~§~~457-8.7~~§~~ **Advanced practice registered nurses;**
12 **abortions by medication or aspiration; penalties; refusal to**
13 **perform.** (a) Notwithstanding section 453-16 or any other law
14 to the contrary, an advanced practice registered nurse may
15 provide medication or aspiration abortion care in the first
16 trimester of pregnancy, so long as the advanced practice
17 registered nurse:

- 18 (1) Has prescriptive authority;
- 19 (2) Practices within the advanced practice registered
20 nurse's practice specialty;



- 1 (3) Has a valid, unencumbered license obtained in
2 accordance with this chapter; and
- 3 (4) The aspiration abortion is performed in a hospital
4 licensed by the department of health or operated by
5 the federal government or an agency thereof, or in a
6 clinic or advance practice registered nurse's office.
- 7 (b) Abortion shall mean an intentional termination of the
8 pregnancy of a nonviable fetus. The termination of a pregnancy
9 of a viable fetus is not included in this section.
- 10 (c) The State shall not deny or interfere with a female's
11 right to choose or obtain an abortion of a nonviable fetus or an
12 abortion that is necessary to protect the life or health of the
13 female.
- 14 (d) Any person who knowingly violates subsection (a) shall
15 be fined no more than \$1,000 or imprisoned no more than five
16 years, or both.
- 17 (e) Nothing in this section shall require any hospital or
18 any person to participate in an abortion, nor shall any hospital
19 or any person be liable for a refusal.
- 20 (f) Except as otherwise provided for by law, no individual
21 shall be subject to criminal prosecution, civil liability, or



1 any other adverse action or penalty for aiding or assisting a
2 consenting individual in obtaining an abortion or a gender
3 affirming treatment under this section.

4 As used in this subsection, "gender affirming treatment"
5 means a service or product that a health care provider
6 prescribes to a two-spirit, transgender, nonbinary, or other
7 gender-diverse individual to support and affirm the individual's
8 gender identity. "Gender affirming treatment" includes
9 treatment for gender dysphoria."

10 PART VII

11 SECTION 13. If any provision of this Act, or the
12 application thereof to any person or circumstance, is held
13 invalid, the invalidity does not affect other provisions or
14 applications of the Act that can be given effect without the
15 invalid provision or application, and to this end the provisions
16 of this Act are severable.

17 SECTION 14. In codifying the new sections added by
18 section 7 of this Act, the revisor of statutes shall substitute
19 appropriate section numbers for the letters used in designating
20 the new sections in this Act.



1 SECTION 15. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

3 SECTION 16. This Act shall take effect upon its approval;
4 provided that the amendments made to section 457-12, Hawaii
5 Revised Statutes, by section 2 of this Act shall not be repealed
6 when that section is reenacted on June 30, 2023, pursuant to
7 section 6 of Act 66, Session Laws of Hawaii 2017.

8

INTRODUCED BY: 



S.B. NO. 1503

Report Title:

Reproductive Health Care; Abortions; Gender Affirming Treatments; Licenses; Professional Liability Insurance; AG; DLE; Foreign Subpoenas; Patient Health Information

Description:

Prohibits certain boards from taking adverse action against individuals possessing or applying for a license to practice medicine and surgery or nursing for providing abortion care services or gender affirming treatments in the State in compliance with the laws of the State, or being disciplined by another state for providing abortion care services or gender affirming treatments. Prohibits certain insurers from taking adverse actions against reproductive health care providers for providing abortion care services or gender affirming treatments. Prohibits court clerks from issuing subpoenas in connection with out-of-state subpoenas related to abortion care services or gender affirming treatments that are provided in compliance with the laws of the State. Prohibits the Department of Law Enforcement and the county police departments from participating in another state's investigations concerning abortion-related conduct, gender affirming treatments, or other reproductive health care or services that are lawful in the State. Requires the Attorney General to routinely submit to the Legislature and Governor reports of these requests for participation. Establishes additional protections for patient health information related to reproductive health services or gender affirming treatments. Establishes protections for certain information related to reproductive health services or gender affirming treatments that does not qualify as patient health information. Prohibits the State from penalizing individuals based on the individual's pregnancy outcomes or gender affirming treatments received or for aiding or assisting in a third party's abortion or gender affirming treatment.

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

