

JAN 19 2024

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# A BILL FOR AN ACT

RELATING TO GENDER AFFIRMING CARE.

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

1           SECTION 1. The legislature finds that the ability to  
2 access and make decisions about the full range of sexual and  
3 reproductive health care is essential to the health, well-being,  
4 and autonomy of Hawaii's people. In some instances, transgender  
5 and gender diverse persons have faced challenges with  
6 accessibility to gender affirming treatment, such as social  
7 support, mental health care, puberty blockers, gender affirming  
8 hormones and medications, and gender affirming procedures and  
9 surgeries. Ensuring that providers of sexual, reproductive, and  
10 gender affirming health care, including service providers who  
11 play a critical role in supporting individuals making important  
12 health care decisions, is essential to bodily autonomy of all  
13 people in the State.

14           The legislature also finds that transgender and gender  
15 diverse persons seeking gender affirming treatment with estrogen  
16 may access care through telehealth with any clinician licensed  
17 in the State, even if the provider is not physically present in



1 the State. However, transgender and gender diverse persons  
2 seeking testosterone treatments are required to be seen  
3 physically for an in-person evaluation and have their provider  
4 physically present in the State, drastically limiting the  
5 availability of providers. While there is no clinical evidence  
6 for in-person requirements before a patient can access  
7 telehealth services, the Federation of State Medical Boards  
8 states that the provider-patient relationship is clearly  
9 established when the provider agrees to undertake diagnosis and  
10 treatment of the patient, and the patient agrees to be treated,  
11 whether there has been an encounter in-person between the  
12 provider and the patient. As the State is experiencing a  
13 chronic shortage of health care providers, in-person evaluations  
14 increase barriers and worsen health inequities. Therefore,  
15 increasing access and availability to health care providers and  
16 services through telehealth may improve patient and community  
17 outcomes.

18 The legislature further finds that the State has a history  
19 of being a leader nationwide in supporting gender affirming  
20 treatments and health care and accessibility to health care  
21 services through telehealth. The State has denounced



1 discrimination, including transphobia and transphobic action,  
2 and recognized transphobia as a threat to public health.  
3 Additionally, the State has shown a commitment to expanding  
4 access to telehealth. Therefore, the State has an opportunity  
5 to continue ensuring that law and policy supports a provider's  
6 ability to provide quality services and an individual's ability  
7 to obtain the full range of care they need to affirm their  
8 gender identity.

9 Accordingly, the purpose of this Act is to:

- 10 (1) Provide that in-person consultation and examination  
11 requirements for the establishment of a provider-  
12 patient relationship shall not apply for the purposes  
13 of gender affirming treatment;
- 14 (2) Exempt certain in-person consultation requirements for  
15 providers to issue prescriptions for the purposes of  
16 gender affirming care;
- 17 (3) Prohibit certain boards from taking adverse action  
18 against individuals possessing or applying for a  
19 license to practice medicine and surgery or nursing  
20 for providing gender affirming treatments in the State  
21 in compliance with the laws of the State, or being



1           disciplined by another state for providing gender  
2           affirming treatment;

3           (4) Prohibit certain insurers from taking adverse actions  
4           against health care providers for providing gender  
5           affirming treatment;

6           (5) Prohibit court clerks from issuing subpoenas in  
7           connection with out-of-state subpoenas related to  
8           gender affirming treatments that are provided in  
9           compliance with the laws of the State;

10          (6) Require the department of health to establish a public  
11          outreach and education campaign to inform the public  
12          of the availability and accessibility to gender  
13          affirming treatment providers and services; and

14          (7) Appropriate funds.

15          SECTION 2. Chapter 671, Hawaii Revised Statutes, is  
16          amended by adding a new section to be appropriately designated  
17          and to read as follows:

18                "§671- Professional liability insurance; gender  
19          affirming treatment. (a) No insurer providing professional  
20          liability insurance for health care providers shall take any  
21          adverse action against a health care provider, including denying



1 or revoking coverage or imposing sanctions, fines, penalties, or  
2 rate increases; based on the health care provider providing,  
3 authorizing, recommending, aiding in, assisting in, referring  
4 for, or otherwise participating in gender affirming treatment,  
5 in violation of the laws of another state prohibiting the  
6 provision of gender affirming treatment either in that state or  
7 for a resident of that state, regardless of whether the  
8 violations have resulted in the revocation of, or any other  
9 adverse action taken against, the health care provider's license  
10 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 SECTION 3. Section 329-1, Hawaii Revised Statutes, is  
18 amended by amending the definition of "physician-patient-  
19 relationship" to read as follows:

20 ""Physician-patient relationship" means the collaborative  
21 relationship between physicians and their patients. To



1 establish this relationship, the treating physician or the  
2 physician's designated member of the health care team, at a  
3 minimum shall:

4 (1) Personally perform a face-to-face history and physical  
5 examination of the patient that is appropriate to the  
6 specialty training and experience of the physician or  
7 the designated member of the physician's health care  
8 team, make a diagnosis and formulate a therapeutic  
9 plan, or personally treat a specific injury or  
10 condition; provided that a face-to-face examination  
11 shall not be required for the purposes of gender  
12 affirming treatment;

13 (2) Discuss with the patient the diagnosis or treatment,  
14 including the benefits of other treatment options; and

15 (3) Ensure the availability of appropriate follow-up care.

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



1 SECTION 4. Section 329-41, Hawaii Revised Statutes, is  
2 amended to read as follows:

3 **"§329-41 Prohibited acts B--penalties.** (a) It is  
4 unlawful for any person:

5 (1) Who is subject to part III to distribute, administer,  
6 prescribe, or dispense a controlled substance in  
7 violation of section 329-38 or rules authorized under  
8 section 329-31; however, a licensed manufacturer or  
9 wholesaler may sell or dispense a controlled substance  
10 to a master of a transpacific ship or a person in  
11 charge of a transpacific aircraft upon which no  
12 physician is regularly employed, for the actual  
13 medical needs of persons on board [~~such~~] the ship or  
14 aircraft when not in port; provided schedule I or II  
15 controlled substances shall be sold to the master of  
16 [~~such~~] the ship or person in charge of [~~such~~] the  
17 aircraft only in accordance with the provisions set  
18 forth in 21 Code of Federal Regulations, sections  
19 1301, 1305, and 1307, adopted pursuant to Title 21,  
20 United States Code, section 821;



- 1           (2) Who is a registrant to manufacture a controlled  
2           substance not authorized by the registrant's  
3           registration or to distribute or dispense a controlled  
4           substance not authorized by the registrant's  
5           registration to another registrant or another  
6           authorized person;
- 7           (3) To refuse or fail to make available, keep, or furnish  
8           any record, notification, order form, prescription,  
9           statement, invoice, or information in patient charts  
10          relating to the administration, dispensing, or  
11          prescribing of controlled substances;
- 12          (4) To refuse any lawful entry into any premises for any  
13          inspection authorized by this chapter;
- 14          (5) Knowingly to keep or maintain any store, shop,  
15          warehouse, dwelling, building, vehicle, boat,  
16          aircraft, or other structure or place for the purpose  
17          of using these substances or which is used for keeping  
18          or selling them in violation of this chapter or  
19          chapter 712, part IV;
- 20          (6) Who is a practitioner or pharmacist to dispense a  
21          controlled substance to any individual not known to





1 the practitioner or pharmacist, except under the  
2 following circumstances:

3 (A) When dispensing a controlled substance directly  
4 to an individual, the practitioner or pharmacist  
5 shall first obtain and document, in a log book or  
6 an electronic database, the full name,  
7 identification number, identification type, and  
8 signature, whether by actual signature or by  
9 electronic signature capture device, of the  
10 individual obtaining the controlled substance.  
11 If the individual does not have any form of  
12 proper identification, the pharmacist shall  
13 verify the validity of the prescription and  
14 identity of the patient with the prescriber, or  
15 their authorized agent, before dispensing the  
16 controlled substance; and

17 (B) For mail order prescriptions, the practitioner or  
18 pharmacist shall not be subject to subparagraph  
19 (A); provided that all other requirements of  
20 chapter 329 shall apply and that the practitioner  
21 or pharmacist, as part of the initial



1 registration process of an individual in a mail  
2 order prescription drug plan and prior to the  
3 controlled substance being dispensed, shall  
4 obtain all identification information, including  
5 the full name, identification number,  
6 identification type, signature, and a photocopy  
7 of a form of proper identification of the  
8 individual obtaining the controlled substance.  
9 The practitioner or pharmacist shall also comply  
10 with other requirements set forth by rule.

11 For the purpose of this section, "proper  
12 identification" means government-issued identification  
13 containing the photograph, printed name,  
14 identification number, and signature of the individual  
15 obtaining the controlled substance;

16 (7) Who is a practitioner to predate or pre-sign  
17 prescriptions to facilitate the obtaining or attempted  
18 obtaining of controlled substances; or

19 (8) Who is a practitioner to facilitate the issuance or  
20 distribution of a written prescription or to issue an  
21 oral prescription for a controlled substance when not



1           physically in the State~~[,]~~; provided that this  
2           paragraph shall not apply to gender affirming  
3           treatment.

4           (b) It shall be unlawful for any person subject to part  
5           III of this chapter except a pharmacist, to administer,  
6           prescribe, or dispense any controlled substance without a bona  
7           fide physician-patient relationship~~[,]~~; provided that this  
8           subsection shall not apply for the purposes of gender affirming  
9           treatment."

10          (c) Any person who violates this section is guilty of a  
11          class C felony.

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

18          SECTION 5. Section 329-126, Hawaii Revised Statutes, is  
19          amended by amending subsection (b) to read as follows:

20          "(b) For purposes of this section~~[, a bona fide physician-~~  
21          ~~patient relationship may be]~~ :



1       "Bona fide physician-patient relationship" means a  
2 relationship established via telehealth, as defined in section  
3 453-1.3(j), and a bona fide advanced practice registered nurse-  
4 patient relationship may be established via telehealth, as  
5 defined in section 457-2; provided that treatment  
6 recommendations that include certifying a patient for the  
7 medical use of cannabis via telehealth shall be allowed only  
8 after an initial in-person consultation between the certifying  
9 physician or advanced practice registered nurse and the  
10 patient[-]; provided that in-person consultation requirements  
11 shall not be required for the provision of gender affirming  
12 treatment.

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

18       SECTION 6. Section 453-1.3, Hawaii Revised Statutes, is  
19 amended by amending subsection (c) to read as follows:

20       "(c) Treatment recommendations made via telehealth,  
21 including issuing a prescription via electronic means, shall be



1 held to the same standards of appropriate practice as those in  
2 traditional physician-patient settings that do not include [a]  
3 an in-person visit but in which prescribing is appropriate,  
4 including on-call telephone encounters and encounters for which  
5 a follow-up visit is arranged. Issuing a prescription based  
6 solely on an online questionnaire is not treatment for the  
7 purposes of this section and does not constitute an acceptable  
8 standard of care. For the purposes of prescribing opiates or  
9 certifying a patient for the medical use of cannabis, a  
10 physician-patient relationship shall only be established after  
11 an in-person consultation between the prescribing physician and  
12 the patient. This subsection shall not apply to the provision  
13 of gender affirming treatment.

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

20 SECTION 7. Section 453-8, Hawaii Revised Statutes, is  
21 amended to read as follows:



1           "§453-8 Revocation, limitation, suspension, or denial of  
2 licenses. (a) In addition to any other actions authorized by  
3 law, any license to practice medicine and surgery may be  
4 revoked, limited, or suspended by the board at any time in a  
5 proceeding before the board, or may be denied, for any cause  
6 authorized by law, including but not limited to the following:

7           (1) Procuring, or aiding or abetting in procuring, an  
8           abortion or gender affirming treatment unlawful under  
9           the laws of this State if performed within this State;

10          (2) Employing any person to solicit patients for one's  
11          self;

12          (3) Engaging in false, fraudulent, or deceptive  
13          advertising, including but not limited to:

14               (A) Making excessive claims of expertise in one or  
15               more medical specialty fields;

16               (B) Assuring a permanent cure for an incurable  
17               disease; or

18               (C) Making any untruthful and improbable statement in  
19               advertising one's medical or surgical practice or  
20               business;



- 1           (4) Being habituated to the excessive use of drugs or  
2           alcohol; or being addicted to, dependent on, or a  
3           habitual user of a narcotic, barbiturate, amphetamine,  
4           hallucinogen, or other drug having similar effects;
- 5           (5) Practicing medicine while the ability to practice is  
6           impaired by alcohol, drugs, physical disability, or  
7           mental instability;
- 8           (6) Procuring a license through fraud, misrepresentation,  
9           or deceit, or knowingly permitting an unlicensed  
10          person to perform activities requiring a license;
- 11          (7) Professional misconduct, hazardous negligence causing  
12          bodily injury to another, or manifest incapacity in  
13          the practice of medicine or surgery;
- 14          (8) Incompetence or multiple instances of negligence,  
15          including but not limited to the consistent use of  
16          medical service, which is inappropriate or  
17          unnecessary;
- 18          (9) Conduct or practice contrary to recognized standards  
19          of ethics of the medical profession as adopted by the  
20          Hawaii Medical Association, the American Medical  
21          Association, the Hawaii Association of Osteopathic



- 1           Physicians and Surgeons, or the American Osteopathic  
2           Association;
- 3       (10) Violation of the conditions or limitations upon which  
4           a limited or temporary license is issued;
- 5       (11) Revocation, suspension, or other disciplinary action  
6           by another state or federal agency of a license,  
7           certificate, or medical privilege, except when the  
8           revocation, suspension, or other disciplinary action  
9           was based on the provision or assistance in receipt or  
10          provision of medical, surgical, pharmaceutical,  
11          counseling, or referral services relating to the human  
12          reproductive system, including but not limited to  
13          services relating to pregnancy, contraception, or the  
14          termination of a pregnancy, or gender affirming  
15          treatment, so long as the provision or assistance in  
16          receipt or provision of the services was in accordance  
17          with the laws of this State or would have been in  
18          accordance with the laws of this State if it occurred  
19          within this State;
- 20       (12) Conviction, whether by nolo contendere or otherwise,  
21          of a penal offense substantially related to the





1 qualifications, functions, or duties of a physician or  
2 osteopathic physician, notwithstanding any statutory  
3 provision to the contrary, except when the conviction  
4 was based on the provision or assistance in receipt or  
5 provision of medical, surgical, pharmaceutical,  
6 counseling, or referral services relating to the human  
7 reproductive system, including but not limited to  
8 services relating to pregnancy, contraception, or the  
9 termination of a pregnancy, or gender affirming  
10 treatment, so long as the provision or assistance in  
11 receipt or provision of the services was in accordance  
12 with the laws of this State or would have been in  
13 accordance with the laws of this State if it occurred  
14 within this State;

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

18 (14) Failure to report to the board, in writing, any  
19 disciplinary decision issued against the licensee or  
20 the applicant in another jurisdiction within thirty  
21 days after the disciplinary decision is issued; or



1 (15) 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 or omission of fact.

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

11 (1) Physical and mental evaluation of the applicant by a  
12 licensed physician or osteopathic physician approved  
13 by the board;

14 (2) Probation, including conditions of probation as  
15 requiring observation of the licensee by an  
16 appropriate group or society of licensed physicians,  
17 osteopathic physicians, or surgeons;

18 (3) Limitation of the license by restricting the fields of  
19 practice in which the licensee may engage;

20 (4) Further education or training or proof of performance  
21 competency; and



1           (5) Limitation of the medical practice of the licensee in  
2           any reasonable manner to assure the safety and welfare  
3           of the consuming public; provided that the board shall  
4           not impose as a condition for licensure any of the  
5           requirements pursuant to this subsection if the  
6           disciplinary action related to the practice of  
7           medicine taken against the applicant 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, or gender affirming treatment, so long as  
14          the provision or assistance in receipt or provision of  
15          the services was in accordance with the laws of this  
16          State or would have been in accordance with the laws  
17          of this State if it occurred within this State.

18          (c) Notwithstanding any other law to the contrary, the  
19          board may deny a license to any applicant who has been  
20          disciplined by another state or federal agency, except on the  
21          basis of discipline for the provision or assistance in receipt



1 or provision of medical, surgical, pharmaceutical, counseling,  
2 or referral services relating to the human reproductive system,  
3 including but not limited to services relating to pregnancy,  
4 contraception, or the termination of a pregnancy, or gender  
5 affirming treatment, so long as the provision or assistance in  
6 receipt or provision of the services was in accordance with the  
7 laws of this State or would have been in accordance with the  
8 laws of this State if it occurred within this State. Any final  
9 order of discipline taken pursuant to this subsection shall be a  
10 matter of public record.

11 (d) Where the board has reasonable cause to believe that a  
12 licensee is or may be unable to practice medicine with  
13 reasonable skill and safety to protect patients, the board may  
14 order the licensee to submit to a mental or physical examination  
15 or any combination thereof, by a licensed practitioner approved  
16 by the board, at the licensee's expense. The examination may  
17 include biological fluid testing and other testing known to  
18 detect the presence of alcohol or other drugs. In addition:

19 (1) Any licensee shall be deemed to have consented to  
20 submit to a mental or physical examination when so  
21 directed by the board and to have waived all objection



1 to the use or referral of information by the board to  
2 determine whether the licensee is able to practice  
3 medicine with reasonable skill and safety to protect  
4 patients;

5 (2) The board may seek to enforce an order directing a  
6 licensee to submit to a mental or physical examination  
7 in the circuit court in the county in which the  
8 licensee resides;

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

12 (4) The board may take any action authorized under this  
13 chapter based on information obtained under this  
14 subsection.

15 (e) Any person licensed by the board, including a  
16 physician, surgeon, or physician assistant, who provides  
17 information to the board indicating that a board licensee may be  
18 guilty of unprofessional conduct or may be impaired because of  
19 drug or alcohol abuse or mental illness shall not be liable for  
20 any damages in any civil action based on the communication. The  
21 immunity afforded by this section shall be in addition to any



1 immunity afforded by section 663-1.7, if applicable, and shall  
2 not be construed to affect the availability of any absolute  
3 privilege under sections 663-1.7 and 671D-10.

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

7 (1) Solely on the licensee providing, authorizing,  
8 recommending, aiding in, assisting in, referring for,  
9 or otherwise participating in gender affirming  
10 treatment provided in accordance with the laws of this  
11 State, regardless of the patient's resident state; or

12 (2) On the licensee's license being revoked or suspended,  
13 or the licensee being otherwise disciplined by another  
14 state, if that revocation, suspension, or other form  
15 of discipline was based solely on the licensee  
16 providing gender affirming treatment, regardless of  
17 the patient's resident state, in accordance with the  
18 laws of this State and within the accepted standard of  
19 care;



1 provided that the board may discipline a licensee for care  
2 provided that would otherwise constitute an actionable offense  
3 under this section.

4 (g) Any applicant seeking licensure to practice medicine  
5 and surgery under this chapter who has been subject to  
6 disciplinary action by a duly authorized professional  
7 disciplinary agency of another jurisdiction solely on the  
8 licensee's license being revoked or suspended, or the licensee  
9 being otherwise disciplined by another state, if that  
10 revocation, suspension, or other form of discipline was based  
11 solely on the licensee providing any gender affirming treatment,  
12 regardless of the patient's resident state, in accordance with  
13 the laws of this State and within the accepted standard of care,  
14 shall not be denied licensure to practice medicine and surgery  
15 under this chapter unless the board determines that the basis  
16 for disciplinary action in that jurisdiction constitutes  
17 professional misconduct in this State; provided that nothing in  
18 this subsection shall be construed as prohibiting the board from  
19 evaluating the conduct of the applicant and determining whether  
20 to deny the application for licensure to practice medicine and  
21 surgery under this chapter.



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

7        SECTION 8. Section 457-12, Hawaii Revised Statutes, is  
8        amended to read as follows:

9        **"§457-12 Discipline; grounds; proceedings; hearings. (a)**

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

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

20       (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,~~] Except as otherwise provided in  
11                   subsection (e), revocation, suspension, limitation, or  
12                   other disciplinary action by another state of a  
13                   nursing license, except when the revocation,  
14                   suspension, limitation, or other disciplinary action  
15                   by another state was based on the provision or  
16                   assistance in receipt or provision of medical,  
17                   surgical, pharmaceutical, counseling, or referral  
18                   services relating to the human reproductive system,  
19                   including but not limited to services relating to  
20                   pregnancy, contraception, or the termination of a  
21                   pregnancy, so long as the provision or assistance in



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

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

20 (10) Failure to report to the board any disciplinary action  
21 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 discipline  
17          by another state for the provision or assistance in receipt or  
18          provision of medical, surgical, pharmaceutical, counseling, or  
19          referral services relating to the human reproductive system,  
20          including but not limited to services relating to pregnancy,  
21          contraception, or the termination of a pregnancy, so long as the



1 provision or assistance in receipt or provision of the services  
2 was in accordance with the laws of this State or would have been  
3 in accordance with the laws of this State if it occurred within  
4 this State; provided that any applicant seeking an advanced  
5 practice registered nurse license under section 457-8.5 who has  
6 been subject to disciplinary action by a duly authorized  
7 professional disciplinary agency of another state based solely  
8 on the licensee providing any gender affirming treatment,  
9 regardless of the patient's resident state, in accordance with  
10 the laws of this State and within the accepted standard of care  
11 shall not be denied an advanced practice registered nurse  
12 license under section 457-8.5 unless the board determines that  
13 the basis for disciplinary action in that jurisdiction  
14 constitutes professional misconduct in this State; provided  
15 further that nothing in this subsection shall be construed as  
16 prohibiting the board from evaluating the conduct of an  
17 applicant and determining whether to deny the application for an  
18 advanced practice registered nurse license under section 457-  
19 8.5. Any final order entered pursuant to this subsection shall  
20 be a matter of public record.



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

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

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

10 (1) Solely on the licensee providing, authorizing,  
11 recommending, aiding in, assisting in, referring for,  
12 or otherwise participating in gender affirming  
13 treatment provided in accordance with the laws of this  
14 State, regardless of the patient's state of residence;  
15 or

16 (2) On the licensee's license being revoked or suspended,  
17 or the licensee being otherwise disciplined by another  
18 state, if that revocation, suspension, or other form  
19 of discipline was based solely on the licensee  
20 providing gender affirming treatment, regardless of  
21 the patient's resident state, in accordance with the



1           laws of this State and within the accepted standard of  
2           care;  
3 provided that the board may discipline a licensee for care  
4 provided that would otherwise constitute an actionable offense  
5 under this section.

6           (f) As used in this section:

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

12           SECTION 9. Section 624D-3, Hawaii Revised Statutes, is  
13 amended by amending subsection (b) to read as follows:

14           "(b) When a party submits a foreign subpoena to a clerk of  
15 court in this State, the clerk, in accordance with that court's  
16 procedure, shall promptly issue a subpoena for service upon the  
17 person to which the foreign subpoena is directed[~~+~~]; provided  
18 that, notwithstanding any other law to contrary, no clerk of any  
19 court in this State shall issue a subpoena under this section in  
20 connection with a foreign subpoena for any proceedings relating



1 to any gender affirming treatment provided in accordance with  
2 the laws of this State.

3 As used in this subsection, "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 10. The department of health shall conduct a  
10 public outreach and education campaign to inform the public  
11 about the availability and importance of access to gender  
12 affirming treatment. The department of health may use a portion  
13 of the funds collected in a given year for the public outreach  
14 and education campaign; provided that the department shall use  
15 not more than           per cent per year or \$           per year,  
16 whichever is greater, for the public outreach and education  
17 campaign. Outreach information shall be available in English  
18 and other languages spoken within the State.

19 SECTION 11. In accordance with section 9 of article VII of  
20 the Hawaii State Constitution and sections 37-91 and 37-93,  
21 Hawaii Revised Statutes, the legislature has determined that the



1 appropriations contained in Act 164, Regular Session of 2023,  
2 and this Act will cause the state general fund expenditure  
3 ceiling for fiscal year 2024-2025 to be exceeded by  
4 \$                    or                    per cent. This current declaration takes  
5 into account general fund appropriations authorized for fiscal  
6 year 2024-2025 in Act 164, Regular Session of 2023, and this Act  
7 only. The reasons for exceeding the general fund expenditure  
8 ceiling are that:

- 9           (1) The appropriation made in this Act is necessary to  
10            serve the public interest; and  
11           (2) The appropriation made in this Act meets the needs  
12            addressed by this Act.

13           SECTION 12. There is appropriated out of the general  
14 revenues of the State of Hawaii the sum of \$                    or so  
15 much thereof as may be necessary for fiscal year 2024-2025 for a  
16 public outreach and education campaign to inform the public of  
17 the availability to and accessibility of gender affirming  
18 treatment services and providers.

19           The sum appropriated shall be expended by the department of  
20 health for the purposes of this Act.





1 SECTION 13. Statutory material to be repealed is bracketed  
2 and stricken. New statutory material is underscored.

3 SECTION 14. This Act shall take effect on July 1, 2024.

4

INTRODUCED BY: 



# S.B. NO. 2669

**Report Title:**

DOH; Gender Affirming Treatment; Telehealth; Provider-Patient Relationship; In-Person Requirements; Prescriptions; Licensure; Professional Liability Insurance; Foreign Subpoenas; Expenditure Ceiling; Appropriation

**Description:**

Excepts certain in-person consultation and examination requirements to establish a provider-patient relationship for the purposes of gender affirming treatment via telehealth. Excepts certain in-person consultation and examination requirements to establish a provider-patient relationship for issuing prescriptions for the purposes of gender affirming treatment. Prohibits certain boards from taking adverse action against individuals possessing or applying for a license to practice medicine and surgery or nursing for providing gender affirming treatments in the State in compliance with the laws of the State or being disciplined by another state for providing gender affirming treatments. Prohibits certain insurers from taking adverse actions against health care providers for providing gender affirming treatments. Prohibits court clerks from issuing subpoenas in connection with out-of-state subpoenas related to gender affirming treatments that are provided in compliance with the laws of the State. Requires the Department of Health to establish a public health campaign that educates the public on gender affirming treatment services statewide. Declares that the general fund expenditure ceiling is exceeded. Makes an appropriation.

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

