
A BILL FOR AN ACT

RELATING TO HEALTH CARE.

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

PART I

SECTION 1. The legislature finds that the Hawaii state center for nursing's healthcare provider barriers to practice law review task group, comprised of interprofessional health care providers, agreed to form in 2022 to review health care-related provisions of the Hawaii Revised Statutes as compared to each profession's scope of practice established in state law. The task group met between 2022 and 2024 and found widespread inconsistencies in statutory terminology related to health care providers. The task group also identified numerous areas of statute with restrictive language that prevent licensed health care providers from engaging in services they are qualified and trained to provide as defined in the practice acts of each respective profession.

The legislature further finds that the task group recommended the adoption of a standard definition of "qualified health care provider" that broadly encompasses all present and



1 future health care providers with licenses or certifications
2 under titles 19 (health) and 25 (professions and vocations),
3 Hawaii Revised Statutes. The benefits of having a standard
4 definition with broad applicability include:

- 5 (1) Ensuring all newly established license categories are
6 automatically included within the definition of a
7 "qualified health care provider", which would avoid
8 the laborious process of determining whether a new
9 license category is inadvertently restricted from
10 certain practices and having to return to the
11 legislature each time with a request to amend statute;
- 12 (2) Enabling non-licensing departments like the department
13 of education to focus on its purviews, such as school-
14 based health, without concern of inadvertently
15 omitting professions or committing undue resources to
16 their own statute review; and
- 17 (3) Establishing a state commitment to enforce scope of
18 practice, as established in each profession's practice
19 act, across the State's full landscape of laws.

20 Accordingly, the purpose of this Act is to remove existing
21 scope of practice barriers within professional practice acts and



support expanded access to care throughout the State, while also maintaining patient safety, by:

(1) Establishing a broad definition of "qualified health care provider" in numerous areas of existing law;

(2) In areas of existing law where a broad definition is not appropriate, clarifying and standardizing references to specific health care providers, while updating outdated language to reflect correct terminology;

(3) Amending numerous statutory sections to support these changes, including but not limited to chapters related to health, education, insurance, professions and vocations, the pain patient's bill of rights, the Uniform Probate Code, minors, the Child Protective Act, and the Penal Code; and

(4) Repealing the obsolete Hawaii health corps.

PART II

SECTION 2. Chapter 325, Hawaii Revised Statutes, is amended by adding a new section to part I be appropriately designated and to read as follows:



"§325- Definitions. For purposes of this chapter,
unless the context otherwise requires, "qualified health care
provider" means any person with a current, active license or
certification issued under title 19 or title 25 whose scope of
practice, as defined by any applicable law and rules adopted
thereunder, authorizes the person to provide the health care
services described in this chapter."

PART III

SECTION 3. Chapter 88, Hawaii Revised Statutes, is amended by adding a new section to part I to be appropriately designated and to read as follows:

"§88- Definitions. For purposes of this chapter,
"qualified health care provider" has the same meaning as in
section 325- ."

SECTION 4. Chapter 321, Hawaii Revised Statutes, is amended by adding a new section to part I to be appropriately designated and to read as follows:

"321- Definitions. For purposes of this chapter,
"qualified health care provider" has the same meaning as in
section 325- ."



SECTION 5. Chapter 324, Hawaii Revised Statutes, is amended by adding a new section to part III to be appropriately designated and to read as follows:

"324- Definitions. For purposes of this part, "qualified health care provider" has the same meaning as in section 325- ."

PART IV

SECTION 6. Section 11-117, Hawaii Revised Statutes, is amended to read as follows:

"§11-117 Withdrawal of candidates; disqualification; death; notice. (a) Any candidate may withdraw in writing not later than 4:30 p.m. on the day immediately following the close of filing for any reason and may withdraw after the close of filing up to 4:30 p.m. on the fiftieth day prior to an election for reasons of ill health. When a candidate withdraws for ill health, the candidate shall give notice in writing to the chief election officer if the candidate was seeking a congressional or state office, or the candidate shall give notice in writing to the county clerk if the candidate was seeking a county office. The notice shall be accompanied by a statement from a ~~[licensed physician or physician assistant]~~ qualified health care provider



1 indicating that such ill health may endanger the candidate's
2 life.

3 A candidate who withdraws the candidate's own nomination
4 papers prior to the close of filing shall not be considered to
5 have caused a vacancy that may be filled by a party under
6 section 11-118.

7 (b) On receipt of the notice of death, withdrawal, or upon
8 determination of disqualification, the chief election officer or
9 the clerk shall inform the chairperson of the political party of
10 which the person deceased, withdrawing, or disqualified was a
11 candidate. When a candidate dies, withdraws, or is disqualified
12 after the close of filing and the ballots have been printed, the
13 chief election officer or the clerk may order the candidate's
14 name stricken from the ballot or order that a notice of the
15 death, withdrawal, or disqualification be prominently posted at
16 the appropriate voter service centers on election day.

17 (c) In no case shall the filing fee be refunded after
18 filing.

19 (d) For purposes of this section, "qualified health care
20 provider" has the same meaning as in section 325- ."



SECTION 7. Section 88-4, Hawaii Revised Statutes, is amended to read as follows:

"§88-4 Medical aid, etc., when free. Every recipient of any retirement allowance or pension payable by the State or by any county or by any other governmental body or agency created by or under the laws of the State who is actually and solely dependent upon the recipient's retirement allowance or pension for the recipient's maintenance and support or whose total income in whatever form or from whatever source received, including but not limited to, the recipient's retirement allowance or pension and any income of the recipient's spouse or reciprocal beneficiary is less than \$2,400 a year shall, for the recipient and the recipient's spouse or reciprocal beneficiary, be entitled to free medical treatment from any ~~government physician~~ qualified health care provider employed by the State or any county and to free hospitalization at any state hospital or at a hospital where county patients are treated at county expense in the county wherein the recipient resides.

Whenever a retirant or pensioner having a spouse or reciprocal beneficiary dies, then the spouse or reciprocal beneficiary, as long as the spouse or reciprocal beneficiary



1 remains unmarried and does not enter into a reciprocal
2 beneficiary relationship, shall be eligible for benefits under
3 this section."

4 SECTION 8. Section 88-5, Hawaii Revised Statutes, is
5 amended to read as follows:

6 "**§88-5 List of pensioners, who shall provide.** The proper
7 department of each county shall determine who is entitled to
8 benefits under section 88-4 and shall provide to any [~~government~~
9 ~~physician~~] qualified health care provider employed by the State
10 or any county, and any county hospital or a hospital where
11 county patients are treated at county expense in the county
12 wherein the pensioner or beneficiary resides, a current list of
13 pensioners and their [+]spouses[+] or reciprocal beneficiaries
14 who are entitled to benefits under section 88-4. Upon request,
15 the state retirement system shall provide to the proper
16 departments of each county such information as may be required
17 to administer section 88-4."

18 SECTION 9. Section 132D-21, Hawaii Revised Statutes, is
19 amended by amending subsection (b) to read as follows:

20 "(b) As used in this section[, "~~health care facilities~~"]:



1 "Health care facilities" includes any outpatient clinic,
2 emergency room, or ~~[physician's]~~ qualified health care
3 provider's office, private or public, whether organized for
4 profit or not, used, operated, or designed to provide medical
5 diagnosis, treatment, nursing, rehabilitative, or preventive
6 care to any person or persons. "Health care facilities"
7 includes but is not limited to health care facilities that are
8 commonly referred to as hospitals, extended care and
9 rehabilitation centers, nursing homes, skilled nursing
10 facilities, intermediate care facilities, hospices for the
11 terminally ill that require licensure or certification by the
12 department of health, kidney disease treatment centers,
13 including freestanding hemodialysis units, outpatient clinics,
14 organized ambulatory health care facilities, emergency care
15 facilities and centers, home health agencies, health maintenance
16 organizations, and others providing similarly organized services
17 regardless of nomenclature.

18 "Qualified health care provider" has the same meaning as in
19 section 325- ."

20 SECTION 10. Section 134-18, Hawaii Revised Statutes, is
21 amended to read as follows:



1 "§134-18 Qualified immunity for [~~physicians,~~
2 ~~psychologists, psychiatrists, physician assistants, or advanced~~
3 ~~practice registered nurses]~~ qualified health care providers who
4 provide information on permit or license applicants. (a) There
5 shall be no civil liability for any [~~physician, psychologist,~~
6 ~~psychiatrist, physician assistant, or advanced practice~~
7 ~~registered nurse]~~ qualified health care provider who provides
8 information or renders an opinion in response to an inquiry made
9 for purposes of issuing a firearm permit under section 134-2,
10 issuing or renewing a license under section 134-9, or
11 investigating the continuing mental health of the holder of a
12 valid firearm permit or license; provided that the [~~physician,~~
13 ~~psychologist, psychiatrist, physician assistant, or advanced~~
14 ~~practice registered nurse]~~ qualified health care provider acted
15 without malice.

16 (b) For purposes of this section, "qualified health care
17 provider" has the same meaning as in section 325- ."

18 SECTION 11. Section 209E-2, Hawaii Revised Statutes, is
19 amended as follows:

20 1. By adding a new definition to be appropriately inserted
21 and to read:



1 ""Qualified health care provider" has the same meaning as
 2 in section 325- ."

3 2. By amending the definition of "disease management
 4 services" to read:

5 ""Disease management services" means patient self-
 6 management education services, which may include primary
 7 prevention, behavioral modification, compliance/surveillance,
 8 and routine reporting and feedback including communication with
 9 patients, [~~physicians,~~] qualified health care providers, health
 10 plans, or ancillary providers."

11 SECTION 12. Section 235-1, Hawaii Revised Statutes, is
 12 amended as follows:

13 1. By adding a new definition to be appropriately inserted
 14 and to read:

15 ""Qualified health care provider" has the same meaning as
 16 in section 325- ."

17 2. By amending the definition of "person totally disabled"
 18 to read:

19 ""Person totally disabled" means a person who is totally
 20 and permanently disabled, either physically or mentally, which



1 results in the person's inability to engage in any substantial
2 gainful business or occupation.

3 The disability shall be certified to by a:

4 (1) [~~Physician or osteopathic physician licensed under~~
5 ~~chapter 453,~~] Qualified health care provider;

6 (2) [~~Qualified out-of-state physician~~] Out-of-state
7 qualified health care provider who is currently
8 licensed to practice in the state in which the
9 [~~physician~~] out-of-state qualified health care
10 provider resides; or

11 (3) Commissioned medical officer in the United States
12 Army, Navy, Marine Corps, or Public Health Service,
13 engaged in the discharge of the officer's official
14 duty.

15 Certification shall be on forms prescribed by the department of
16 taxation."

17 SECTION 13. Section 291E-1, Hawaii Revised Statutes, is
18 amended by adding a new definition to be appropriately inserted
19 and to read as follows:

20 "Qualified health care provider" has the same meaning as
21 in section 325- ."



SECTION 14. Section 291E-12, Hawaii Revised Statutes, is amended to read as follows:

"§291E-12 Persons qualified to take blood specimen. No person, other than a ~~[physician, physician assistant, registered nurse,~~] qualified health care provider or phlebotomist deemed qualified by the director of a clinical laboratory that is licensed by the State, or person licensed in a clinical laboratory occupation under section 321-13, may withdraw blood for the purpose of determining the alcohol concentration or drug content therein. This limitation shall not apply to the taking of a breath or urine specimen."

SECTION 15. Section 291E-13, Hawaii Revised Statutes, is amended to read as follows:

"§291E-13 Additional tests. The person tested may choose any ~~[physician, physician assistant, registered nurse,~~] qualified health care provider or person licensed in a clinical laboratory occupation under section 321-13 to withdraw blood and also may choose any qualified person to administer a test or tests in addition to any administered at the direction of a law enforcement officer. The result of the test or tests may be used as provided in section 291E-3. The failure or inability to



1 obtain an additional test by a person shall not preclude the
2 admission of the test or tests administered at the direction of
3 a law enforcement officer. Upon the request of the person who
4 is tested, full information concerning the test or tests
5 administered shall be made available to that person."

6 SECTION 16. Section 291C-14, Hawaii Revised Statutes, is
7 amended to read as follows:

8 **"§291C-14 Duty to give information and render aid. (a)**

9 The driver of any vehicle involved in a collision resulting in
10 injury to or death of any person or damage to any vehicle or
11 other property that is driven or attended by any person shall
12 give the driver's name, address, and the registration number of
13 the vehicle the driver is driving, and shall upon request and if
14 available exhibit the driver's license or permit to drive to any
15 person injured in the collision or to the driver or occupant of
16 or person attending any vehicle or other property damaged in the
17 collision and shall give the information and upon request
18 exhibit the license or permit to any police officer at the scene
19 of the collision or who is investigating the collision and shall
20 render to any person injured in the collision reasonable
21 assistance, including the carrying, or the making of



1 arrangements for the carrying, of the person to a physician,
2 surgeon, qualified health care provider, or hospital for medical
3 or surgical treatment if it is apparent that treatment is
4 necessary, or if the carrying is requested by the injured
5 person; provided that if the vehicle involved in the collision
6 is a bicycle, the driver of the bicycle need not exhibit a
7 license or permit to drive.

8 (b) In the event that none of the persons specified is in
9 condition to receive the information to which they otherwise
10 would be entitled under subsection (a), and no police officer is
11 present, the driver of any vehicle involved in the collision
12 after fulfilling all other requirements of section 291C-12,
13 291C-12.5, or 291C-12.6, and subsection (a), insofar as possible
14 on the driver's part to be performed, shall forthwith report the
15 collision to the nearest police officer and submit thereto the
16 information specified in subsection (a).

17 (c) For any violation under this section, a surcharge of
18 up to \$100 may be imposed, in addition to other penalties, which
19 shall be deposited into the trauma system special fund.

20 (d) For purposes of this section, "qualified health care
21 provider" has the same meaning as in section 325- ."



SECTION 17. Section 302A-101, Hawaii Revised Statutes, is amended as follows:

1. By adding a new definition to be appropriately inserted and to read:

"Qualified health care provider" has the same meaning as in section 325- ."

2. By amending the definition of "exceptional children" to read:

"Exceptional children" includes:

(1) Persons under twenty-two years of age who deviate from the so-called normal person in physical, mental, social, or emotional characteristics or abilities to such an extent that specialized training, techniques, and equipment are required to enable these persons to attain the maximum of their abilities or capacities; provided that "exceptional children" shall not include "gifted and talented children";

(2) Persons under twenty-two years of age who by reason of physical defects cannot attend the regular public school classes with normal children; and



1 (3) Persons under twenty-two years of age who are
2 certified by a [~~licensed physician eligible for~~
3 ~~membership in the state medical society~~] qualified
4 health care provider as being emotionally maladjusted
5 or intellectually incapable of profiting from ordinary
6 instructional methods."

7 SECTION 18. Section 302A-1132, Hawaii Revised Statutes, is
8 amended by amending subsection (a) to read as follows:

9 "(a) Unless excluded from school or excepted from
10 attendance, all children who will have arrived at the age of at
11 least five years on or before July 31 of the school year, and
12 who will not have arrived at the age of eighteen years, by
13 January 1 of any school year, shall attend either a public or
14 private school for, and during, the school year, and any parent,
15 guardian, or other person having the responsibility for, or care
16 of, a child whose attendance at school is obligatory shall send
17 the child to either a public or private school. Attendance at a
18 public or private school shall not be compulsory in the
19 following cases:

20 (1) Where the child is physically or mentally unable to
21 attend school (deafness and blindness excepted), of



1 which fact the certificate of a [~~duly-licensed~~
2 ~~physician~~] qualified health care provider shall be
3 sufficient evidence;

4 (2) Where the child, who has reached the fifteenth
5 anniversary of birth, is suitably employed and has
6 been excused from school attendance by the
7 superintendent or the superintendent's authorized
8 representative, or by a family court judge;

9 (3) Where, upon investigation by the family court, it has
10 been shown that for any other reason the child may
11 properly remain away from school;

12 (4) Where the child has graduated from high school;

13 (5) Where the child is enrolled in an appropriate
14 alternative educational program as approved by the
15 superintendent or the superintendent's authorized
16 representative in accordance with the plans and
17 policies of the department, or notification of intent
18 to home school has been submitted to the principal of
19 the public school that the child would otherwise be
20 required to attend in accordance with department rules
21 adopted to achieve this result; or



(6) Where:

(A) The child has attained the age of sixteen years;

(B) The principal has determined that:

(i) The child has engaged in behavior which is disruptive to other students, teachers, or staff; or

(ii) The child's non-attendance is chronic and has become a significant factor that hinders the child's learning; and

(C) The principal of the child's school, and the child's teacher or counselor, in consultation with the child and the child's parent, guardian, or other adult having legal responsibility for or care of the child, develops an alternative educational plan for the child. The alternative educational plan shall include a process that shall permit the child to resume school.

The principal of the child's school shall file the plan made pursuant to subparagraph (C) with the child's school record. If the adult having legal responsibility for or care of the child disagrees with



1 the plan, then the adult shall be responsible for
2 obtaining appropriate educational services for the
3 child."

4 SECTION 19. Section 302A-1155, Hawaii Revised Statutes, is
5 amended by amending subsection (a) to read as follows:

6 "(a) A child may attend school provisionally upon
7 submitting written documentation from a [~~licensed physician,~~
8 ~~physician assistant, advanced practice registered nurse,~~]
9 qualified health care provider or an authorized representative
10 of the department of health stating that the child is in the
11 process of receiving the required immunizations. Further
12 documentation showing that the required immunizations have been
13 completed shall be submitted to the appropriate school official
14 no later than three months after the child first attends the
15 school. If all of the required immunizations cannot be
16 completed within three months due to the length of the minimum
17 intervals between doses of a particular vaccine required by the
18 department of health, provisional attendance may be extended so
19 long as the child's parent or guardian provides documentation
20 that appointments for required immunizations have been made and



1 that progress toward completing the immunizations continues in
2 accordance with the requirements of the department of health."

3 SECTION 20. Section 302A-1158, Hawaii Revised Statutes, is
4 amended to read as follows:

5 **"§302A-1158 Immunization of indigent children.** The
6 department of health shall provide all immunizations and
7 tuberculin tests to comply with sections 302A-1154 to 302A-1163,
8 as far as public funds will permit, to each child whose parents,
9 guardians, or custodians cannot afford to have the child
10 immunized or tested for tuberculosis, and who have not been
11 exempted under section 302A-1156. Nothing in this section shall
12 preclude the department of health from distributing
13 immunizations and vaccines to [~~physicians, advanced practice~~
14 ~~registered nurses,~~] qualified health care providers or other
15 authorized persons as required by law or by the rules of the
16 department of health."

17 SECTION 21. Section 302A-1160, Hawaii Revised Statutes, is
18 amended to read as follows:

19 **"§302A-1160 Student's health record.** The department of
20 education shall provide student health record forms for
21 immunization and physical examination to the schools, [~~private~~



1 ~~physicians, advanced practice registered nurses,~~ qualified
2 health care providers, and authorized personnel of the
3 department of health."

4 SECTION 22. Section 321-1.5, Hawaii Revised Statutes, is
5 amended to read as follows:

6 "[+]§321-1.5[+] **Primary health care incentive program;**
7 **establishment.** There is established within the department of
8 health a primary health care incentive program. The program
9 shall:

10 (1) Utilize existing personnel and resources to focus on
11 primary health care;

12 (2) Study the adequacy, accessibility, and availability of
13 primary health care with regard to medically
14 underserved persons in the State of Hawaii;

15 (3) Convene and provide staff support for a volunteer
16 primary health care roundtable composed of
17 knowledgeable health care ~~[professionals,~~ providers,
18 consumers, and other interested persons whose advisory
19 purpose shall be to:

20 (A) Investigate and analyze the extent, location, and
21 characteristics of medically underserved areas,



1 and the numbers, location, and characteristics of
2 medically underserved persons in Hawaii, with
3 particular attention given to shortages of health
4 care [~~professionals~~] providers available to
5 provide care to these areas and persons;

6 (B) Assess the feasibility of family practice
7 clerkships, preceptor programs, residency
8 programs, and placement programs for medical
9 school students and graduates as a means of
10 increasing the number of family practitioners
11 available to serve medically underserved areas
12 and populations;

13 (C) Investigate and make recommendations regarding
14 incentives, such as tuition exemptions, to
15 increase the pool of primary health care
16 [~~practitioners,~~] providers, including family
17 [~~practitioners,~~] health care providers, other
18 physicians in related specialties, [~~nurse~~
19 ~~practitioners, nurse midwives, and~~] advanced
20 practice registered nurses, physician assistants,
21 and other qualified health care providers, [~~that~~]



1 who are available to serve medically underserved
2 areas and populations;

3 (D) Develop a strategy for meeting the health needs
4 of medically underserved areas and populations
5 based upon the findings that result from its
6 investigations; and

7 (E) Maintain an ongoing forum for the discussion of
8 data collection regarding primary health care
9 gaps, incentives to promote primary health care,
10 and the development of cooperative
11 interdisciplinary efforts among primary health
12 care [~~professionals;~~] providers;

13 (4) Develop a strategy to provide appropriate and adequate
14 access to primary health care in underserved areas;

15 (5) Promote and develop community and consumer involvement
16 in maintaining, rebuilding, and diversifying primary
17 health care services in medically underserved areas;

18 (6) Produce and distribute minutes of volunteer primary
19 health care roundtable's discussions, and submit
20 annual reports to the legislature on recommended
21 incentives and strategies, as well as a plan for



1 implementation, with the first report to be submitted
2 to the legislature no later than twenty days prior to
3 the convening of the 1993 regular session; and

4 (7) Facilitate communication and coordination among
5 providers, health care educators, communities,
6 cultural groups, and consumers of primary health
7 care."

8 SECTION 23. Section 321-12.2, Hawaii Revised Statutes, is
9 amended by amending subsection (d) to read as follows:

10 "(d) This section shall not apply to any [~~physician duly~~
11 ~~licensed to practice medicine~~] qualified health care provider
12 who uses, in the practice of medicine, medical diagnostic and
13 therapeutic equipment that emits ultraviolet radiation or to any
14 person who owns tanning equipment exclusively for personal,
15 noncommercial use."

16 SECTION 24. Section 321-32, Hawaii Revised Statutes, is
17 amended to read as follows:

18 "**§321-32 Epidemiological specialists.** Notwithstanding any
19 other law to the contrary, epidemiological specialists may
20 perform blood collection by venipuncture or capillary puncture
21 and other methods of specimen collection, excluding



1 catheterization, when employed by or acting as an agent of the
2 department and when done under the direct or indirect
3 supervision of a [~~physician or osteopathic physician licensed~~
4 ~~pursuant to chapter 453.~~] qualified health care provider."

5 SECTION 25. Section 321-42, Hawaii Revised Statutes, is
6 amended to read as follows:

7 "**§321-42 Tumor clinics.** (a) The department of health may
8 assist in the operation of tumor clinics which are now
9 established or may be established in the State. This assistance
10 may consist of furnishing statistical information on the
11 incidence or prevalence of tumors of various kinds in the State.
12 Other assistance, such as clerical or stenographic help, may be
13 furnished as needed. In all activities under this section, the
14 department may consult and cooperate with the Hawaii State
15 Medical Association and the Hawaii Cancer Society.

16 (b) Insofar as is needed the department may assist tumor
17 clinics or [~~private physicians~~] qualified health care providers
18 in the follow-up of tumor cases for the purpose of determining
19 the progress of the disease or for further treatment. This part
20 of the program shall be limited to those cases on which follow-
21 up is requested by the attending [~~physicians,~~] qualified health



1 care providers, and it shall also be limited by the funds which
2 are provided for this purpose."

3 SECTION 26. Section 321-46, Hawaii Revised Statutes, is
4 amended by amending subsection (a) to read as follows:

5 "(a) Beginning January 1, 2014, every health care facility
6 in which a mammography examination is performed shall provide a
7 mammography report and notification to each patient who is
8 categorized by the facility as having dense breast tissue. The
9 notification shall include in the summary of the mammography
10 report sent to the patient, the following information, pursuant
11 to the federal Mammography Quality Standards Act:

12
13 "Your mammogram shows that your breast tissue is dense.
14 Dense breast tissue is very common and is not abnormal.
15 However, dense breast tissue can make it harder to find
16 cancer on a mammogram and may also be associated with an
17 increased risk of breast cancer. This information about
18 the result of your mammogram is given to you to raise your
19 awareness. Use this information to talk to your
20 ~~[physician]~~ qualified health care provider as to whether,
21 based on your risk, more screening tests might be useful.



1 A report of your results was sent to your [~~physician.~~]
2 qualified health care provider."

3 SECTION 27. Section 321-374, Hawaii Revised Statutes, is
4 amended by amending subsection (b) to read as follows:

5 "(b) [~~Physicians or osteopathic physicians~~] Qualified
6 health care providers holding a valid unrevoked license under
7 [~~chapter 453~~] title 25 are exempt from the requirements of this
8 part."

9 SECTION 28. Section 322-6, Hawaii Revised Statutes, is
10 amended to read as follows:

11 "**§322-6 Who to report nuisances.** (a) The sheriff, all
12 police officers [~~of police~~], and [~~physicians~~] qualified health
13 care providers shall report to the department of health, or its
14 nearest authorized agent, the existence of any nuisance
15 injurious to the public health, of which any of them may be
16 cognizant, as soon as possible after it comes to their
17 knowledge. Any individual may report to the department of
18 health, or its nearest authorized agent, the existence of any
19 nuisance injurious to the public health as soon as possible
20 after the individual learns of the existence of the nuisance.



1 (b) For the purposes of this section, "qualified health
2 care provider" has the same meaning as in section 325- ."

3 SECTION 29. Section 324-22, Hawaii Revised Statutes, is
4 amended by amending subsection (a) to read as follows:

5 "(a) The material collected under this part shall be used
6 or published only for the purpose of advancing medical research,
7 medical education, or education of the public in the interest of
8 reducing morbidity or mortality; provided that the Hawaii Tumor
9 Registry may reveal all relevant information to a patient's
10 ~~[attending physician.]~~ qualified health care provider."

11 SECTION 30. Section 324-43, Hawaii Revised Statutes, is
12 amended to read as follows:

13 **"§324-43 Use of collected information.** (a) The
14 information collected under this part shall be used by the
15 department of health or researchers only for the purpose of
16 advancing medical and public health research, medical education,
17 or education of the public and health care providers in the
18 interest of reducing morbidity or mortality or increasing
19 ~~[physicians']~~ qualified health care providers' knowledge of
20 resources available for families of persons with birth defects,



1 and only as approved or exempted by an institutional review
2 board.

3 (b) The identity of, or any information [~~which~~] that alone
4 or in combination with other reasonably available information
5 that may be used to identify, any person whose condition or
6 treatment has been studied under this part shall be
7 confidential.

8 (c) If the birth defects program or researchers intend to
9 collect additional information directly from a patient or
10 patient's relative for research studies approved by an
11 institutional review board, the researcher shall first obtain
12 approval for the request from the patient's primary care
13 qualified health care provider. If the patient's current
14 [~~physician~~] qualified health care provider is not known, the
15 patient may be contacted directly using a method approved by an
16 institutional review board. The use of the additional
17 information obtained by researchers shall be governed by
18 subsection (a).

19 (d) For purposes of this part, "qualified health care
20 provider" has the same meaning as in section 325- ."



SECTION 31. Section 325-5, Hawaii Revised Statutes, is amended to read as follows:

"§325-5 Antitoxins, antiserums, vaccines, biologics, and drugs. The department of health shall purchase from time to time out of moneys which may be available to it therefor, and keep on hand and available for administration under this section in the several counties to persons unable to pay for them, antitoxins, antiserums, vaccines, and other biologics and drugs of types and in a supply sufficient for the public health, welfare, and safety.

The antitoxins, antiserums, vaccines, biologics, and drugs shall by any ~~[physician of]~~ qualified health care provider with prescriptive authority employed by the department or of any such county be administered free of charge to any person who is in need of them and is unable to pay for them or shall be furnished free of charge to the attending ~~[physician]~~ qualified health care provider with prescriptive authority of the person for use in the treatment of the person; provided that the person so benefited, or the person's estate, or personal representatives, if subsequently able to do so, may be required by the department to pay for any such antitoxin, antiserum, vaccine, biologic, or



1 drug furnished free of charge to or for the person under this
2 chapter."

3 SECTION 32. Section 325-16, Hawaii Revised Statutes, is
4 amended as follows:

5 1. By amending subsection (c) to read:

6 "(c) Consent to testing is not required for any of the
7 following:

8 (1) A health care provider or organ donor center that
9 procures, processes, distributes, or uses human body
10 parts donated for scientific purposes, without
11 obtaining consent, may test for the presence of human
12 immunodeficiency virus to assure medical acceptability
13 of the gift for the purpose intended;

14 (2) The department of health, laboratories and research
15 facilities, health care providers, blood banks, plasma
16 centers, and educational institutions may subject any
17 body fluids or tissue to be used in research to a test
18 for human immunodeficiency virus infection if the test
19 is performed in a manner by which the identity of the
20 test subject is not known and may not be retrieved by
21 the researcher;



- 1 (3) Anonymous testing carried out at human
2 immunodeficiency virus test sites established by the
3 department of health; provided that informed oral
4 consent is obtained;
- 5 (4) Testing of body fluids or tissue ordered by a third
6 party, so long as that third party, including an
7 insurance company, employer, or school, obtains the
8 informed written consent of the person to be tested
9 authorizing the release of the test results to the
10 third party, and transmits a signed copy of the
11 written informed consent to the health care provider
12 prior to any release of the requested test results to
13 the third party. The health care provider shall
14 provide all positive and indeterminate human
15 immunodeficiency virus test results and offer post-
16 test counseling to those individuals with positive and
17 indeterminate human immunodeficiency virus test
18 results;
- 19 (5) Informed consent is not required where the patient is
20 unable to give consent and it is determined by the
21 patient's treating ~~[physician]~~ qualified health care



1 provider that the patient's human immunodeficiency
2 virus status is necessary to make a diagnosis or
3 determine an appropriate course of treatment for the
4 patient. The patient shall be informed in a timely
5 manner that a test for the presence of human
6 immunodeficiency virus has been performed pursuant to
7 this paragraph, and the qualified health care provider
8 shall provide all positive and indeterminate human
9 immunodeficiency virus test results and offer
10 appropriate post-test counseling to those individuals
11 with positive and indeterminate human immunodeficiency
12 virus test results;

- 13 (6) A treating [~~physician~~] qualified health care provider
14 may order a human immunodeficiency virus test without
15 the patient's informed consent if the [~~physician~~]
16 qualified health care provider has determined that the
17 patient is incapable of giving consent prior to the
18 rendering of treatment and when there is reason to
19 believe that the safety of a health care worker may be
20 affected due to exposure to the blood or bodily fluids
21 of a patient suspected of possible human



1 immunodeficiency virus infection. The availability
2 and quality of health care services shall not be
3 compromised based on the findings and testing
4 performed pursuant to this paragraph. The costs of
5 any testing performed shall be borne by the health
6 care provider and may not be claimed against the
7 patient or the patient's health care insurer. The
8 patient and the health care worker shall be informed
9 in a timely manner that a test for the presence of
10 human immunodeficiency virus has been performed
11 pursuant to the provisions of this paragraph. The
12 health care provider shall provide all positive and
13 indeterminate human immunodeficiency virus test
14 results and offer appropriate post-test counseling to
15 the individual being tested and afford the health care
16 worker the opportunity to obtain the test results and
17 appropriate post-test counseling;

18 (7) A person who has been charged, or a juvenile who has
19 been charged, pursuant to section 707-730, 707-731,
20 707-732(1)(a), 707-733.6, or 707-741 shall be tested
21 to determine the person's human immunodeficiency virus



1 status upon court order issued pursuant to section
2 325-16.5. The test shall be performed according to
3 the protocols set forth in section 325-17; and

4 (8) A person who has been convicted, or a juvenile who has
5 been adjudicated, pursuant to section 707-730, 707-
6 731, 707-732(1)(a), 707-733.6, or 707-741 shall be
7 tested to determine the person's human
8 immunodeficiency virus status upon court order issued
9 pursuant to section 325-16.5. The test shall be
10 performed according to the protocols set forth in
11 section 325-17."

12 2. By amending subsection (h) to read:

13 "(h) As used in this section, "health care provider" means
14 a ~~[physician or surgeon licensed under chapter 453, a podiatrist~~
15 ~~licensed under chapter 463E,]~~ qualified health care provider, a
16 health care facility as defined in section 323D-2, and their
17 employees. "Health care provider" shall not mean any nursing
18 institution or nursing service conducted by and for those who
19 rely upon treatment by spiritual means through prayer alone, or
20 employees of such an institution or service."



SECTION 33. Section 330-8, Hawaii Revised Statutes, is amended to read as follows:

"§330-8 Use of certain chemical substances as inhalants unlawful. (a) It shall be unlawful for any person to use as an inhalant any substance, not a "food" as defined in section 328-1, which substance includes in its composition volatile organic solvents including amylacetate, trichloroethylene, and acetone or any other chemical substance, capable of producing upon inhalation any degree of intoxication; provided that this section shall not apply to any person using as an inhalant any such chemical substance pursuant to the direction of a ~~[physician.]~~ qualified health care provider with prescriptive authority."

(b) For the purposes of this section, "qualified health care provider" has the same meaning as in section 325- ."

SECTION 34. Section 346-59.9, Hawaii Revised Statutes, is amended by amending subsections (h) and (i) to read as follows:

"(h) All psychotropic medications covered by this section shall be prescribed by a ~~[psychiatrist, a physician, or an advanced practice registered nurse with prescriptive authority]~~



1 ~~under chapter 457 and duly licensed in the State.]~~ qualified
2 health care provider with prescriptive authority.

3 (i) As used in this section:

4 "Anti-anxiety medication" means those medications included
5 in the United States Pharmacopeia's anxiolytic therapeutic
6 category.

7 "Antidepressant medication" means those medications
8 included in the United States Pharmacopeia's antidepressant
9 therapeutic category.

10 "Antipsychotic medication" means those medications included
11 in the United States Pharmacopeia's antipsychotic therapeutic
12 category.

13 "Psychotropic medication" means only antipsychotic,
14 antidepressant, or anti-anxiety medications approved by the
15 United States Food and Drug Administration for the treatment of
16 mental or emotional disorders.

17 "Qualified health care provider" has the same meaning as in
18 section 325- ."

19 SECTION 35. Section 346C-1, Hawaii Revised Statutes, is
20 amended by adding a new definition to be appropriately inserted
21 and to read as follows:



1 "Qualified health care provider" has the same meaning as
2 in section 325- ."

3 SECTION 36. Section 346C-8, Hawaii Revised Statutes, is
4 amended by amending subsection (b) to read as follows:

5 "(b) An individual qualifying for long-term care services
6 under the program shall have written certification from a
7 ~~[physician or osteopathic physician licensed under chapter 453~~
8 ~~or an advanced practice registered nurse licensed under section~~
9 ~~457-8.5,]~~ qualified health care provider assigned by the board
10 of trustees certifying that the individual requires one or more
11 long-term care services for the period of time during which the
12 individual receives the benefits under the program. The written
13 certification shall specify that the individual:

- 14 (1) Is unable to perform, without substantial assistance
15 from another individual, at least two of six
16 activities of daily living for a period of at least
17 ninety days due to a loss of functional capacity; or
18 (2) Requires substantial supervision to protect the
19 individual from threats to health and safety to self
20 or others due to severe cognitive impairment."



1 SECTION 37. Section 348-2, Hawaii Revised Statutes, is
2 amended by adding a new definition to be appropriately inserted
3 and to read as follows:

4 "Qualified health care provider" has the same meaning as
5 in section 325- ____."

6 SECTION 38. Section 348-7, Hawaii Revised Statutes, is
7 amended to read as follows:

8 **"§348-7 Cooperative arrangements, etc.** Pursuant to the
9 general policies of the department of human services, the
10 department is authorized:

- 11 (1) To cooperate with and utilize the services of the
12 state agency administering the public assistance
13 program, the Social Security Administration, and other
14 federal, state, city and county, and local public
15 agencies providing services relating to vocational
16 rehabilitation, and with the state system of public
17 employment offices in the State, and shall make
18 maximum feasible utilization of the job placement and
19 employment counseling services and other services and
20 facilities of the offices;



1 (2) To cooperate with political subdivisions and other
2 public and nonprofit organizations and agencies, in
3 their establishment of workshops and rehabilitation
4 facilities and, to the extent feasible in providing
5 vocational rehabilitation services, shall utilize all
6 the facilities meeting the standards established by
7 the department;

8 (3) To enter into contractual arrangements with the Social
9 Security Administration, with respect to
10 certifications of disability and performance of other
11 services, and with other authorized public agencies
12 for performance of services related to vocational
13 rehabilitation, for the agencies; and

14 (4) To contract with schools, hospitals, and other
15 agencies, and with doctors, nurses, technicians,
16 qualified health care providers, and other persons,
17 for training, physical restoration, transportation,
18 and other vocational rehabilitation services."

19 SECTION 39. Section 350-1, Hawaii Revised Statutes, is
20 amended by adding a new definition to be appropriately inserted
21 and to read as follows:



1 "Qualified health care provider" has the same meaning as
2 in section 325- ."

3 SECTION 40. Section 350-1.5, Hawaii Revised Statutes, is
4 amended by amending subsection (a) to read as follows:

5 "(a) Any qualified health [~~professional~~] care provider or
6 paraprofessional, physician licensed or authorized to practice
7 medicine in this State, registered nurse or licensed practical
8 nurse, hospital or similar institution's personnel engaged in
9 the admission, examination, care, or treatment of patients, and
10 any medical examiner, coroner, social worker, or police officer,
11 who has before the person a child the person reasonably believes
12 has been harmed, shall make every good faith effort to take or
13 cause to be taken color photographs of the areas of trauma
14 visible on the child. If medically indicated, such person may
15 take or cause to be taken x-rays of the child or cause a
16 radiological or other diagnostic examination to be performed on
17 the child."

18 SECTION 41. Section 351-2, Hawaii Revised Statutes, is
19 amended by adding a new definition to be appropriately inserted
20 and to read as follows:



1 "Qualified health care provider" has the same meaning as
2 in section 325- ."

3 SECTION 42. Section 351-15, Hawaii Revised Statutes, is
4 amended to read as follows:

5 **"§351-15 Medical examination.** The commission may appoint
6 an impartial [~~licensed physician or licensed psychologist~~]
7 qualified health care provider to examine any person making
8 application under this chapter, and the fees for the examination
9 shall be paid from funds appropriated for expenses of
10 administration."

11 SECTION 43. Section 353-121, Hawaii Revised Statutes, is
12 amended as follows:

13 1. By adding a new definition to be appropriately inserted
14 and to read:

15 "Qualified health care provider" has the same meaning as
16 in section 325- ."

17 2. By amending the definition of "postpartum recovery" to
18 read:

19 "'Postpartum recovery" means:

20 (1) The entire period a female is in a hospital, birthing
21 center, or clinic after giving birth; and



1 (2) An additional time period, if any, a treating
2 ~~[physician]~~ qualified health care provider determines
3 is necessary for healing after the female leaves the
4 hospital, birthing center, or clinic."

5 SECTION 44. Section 353-122, Hawaii Revised Statutes, is
6 amended by amending subsection (e) to read as follows:

7 "(e) If the ~~[doctor, nurse, or other health professional]~~
8 qualified health care provider treating the pregnant female
9 requests that restraints not be used, the corrections officer
10 accompanying the pregnant female shall immediately remove all
11 restraints."

12 SECTION 45. Section 353-123, Hawaii Revised Statutes, is
13 amended by amending subsection (b) to read as follows:

14 "(b) The director shall provide notice of the requirements
15 of this part to any female offender who is pregnant or in
16 postpartum recovery at the time that the department assumes
17 custody of the female offender. Additional notice shall be
18 posted in conspicuous locations in any appropriate correctional
19 facility, including the locations in which medical care is
20 provided within the facility. Any treating ~~[physician, midwife,~~
21 ~~or nurse]~~ qualified health care provider of a female offender



1 who is pregnant or in postpartum recovery shall be informed of
2 the requirements of this part."

3 SECTION 46. Section 378-32, Hawaii Revised Statutes, is
4 amended by amending subsection (b) to read as follows:

5 "(b) It shall be unlawful for an employer or a labor
6 organization to bar or discharge from employment, withhold pay
7 from, or demote an employee because the employee uses accrued
8 and available sick leave; provided that:

9 (1) After an employee uses three or more consecutive days
10 of sick leave, an employer or labor organization may
11 require the employee to provide written verification
12 from a ~~[physician]~~ qualified health care provider
13 indicating that the employee was ill when the sick
14 leave was used; provided that for purposes of this
15 paragraph, "qualified health care provider" has the
16 same meaning as in section 325- ;

17 (2) This subsection shall apply only to employers who:
18 (A) Have a collective bargaining agreement with their
19 employees; and
20 (B) Employ one hundred or more employees; and



(3) Nothing in this subsection shall be construed to supersede any provision of any collective bargaining agreement or employment benefits program or plan that provides greater employee benefits or rights."

SECTION 47. Section 396-7, Hawaii Revised Statutes, is amended to read as follows:

"~~[§]~~**§396-7**~~[§]~~ **Toxic materials.** (a) The department shall issue regulations requiring employers to maintain accurate records of employee exposures to potentially toxic materials or harmful physical agents which are required to be monitored or measured as prescribed under the rules and regulations.

(b) All employers shall prominently post information regarding hazards in the employer's workplace including information about suitable precautions, relevant symptoms, and emergency treatment in case of exposure, and where appropriate, medical examination at no cost to employees with the results of such medical examinations being furnished only to appropriate state officials, and if the employee so requests, to the employee's own ~~[physician.]~~ qualified health care provider. Where possible, said information shall additionally be posted or labeled on or near said hazard. Where suitable protective



1 equipment is available, all employers shall provide information
2 concerning their availability and use to the affected employees
3 including control or technological procedures with respect to
4 such hazards including monitoring or measuring exposure.

5 (c) No employee shall be permitted regular exposure to any
6 substance which may materially impair the employee's health or
7 functional capacity.

8 (d) All employers shall provide prompt information to
9 employees when they have been or are being exposed to toxic
10 materials and harmful physical agents in concentrations or at
11 levels in excess of those prescribed in the applicable safety
12 and health standards. This information may be fulfilled by:

13 (1) Observation by employees of the monitoring or
14 measuring of such materials or agents;

15 (2) Employee access to the records of such monitoring or
16 measuring after notice of exposure, and explanation of
17 said monitoring or measuring procedures where
18 necessary;

19 (3) In addition to the above, information shall be
20 provided to the employees of corrective action being
21 taken.



1 (e) For purposes of this section, "qualified health care
2 provider" has the same meaning as in section 325- ."

3 SECTION 48. Section 436H-7, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "[+]§436H-7[+] Duties of treating physician[-] or
6 qualified health care provider. (a) A treating physician or
7 qualified health care provider shall provide direction to an
8 athletic trainer by verbal order when in the presence of the
9 athletic trainer or by written order or written athletic
10 training service plans or protocols when a treating physician or
11 qualified health care provider is not present with the athletic
12 trainer.

13 (b) For purposes of this section, "qualified health care
14 provider" has the same meaning as in section 325- ."

15 SECTION 49. Section 440-1, Hawaii Revised Statutes, is
16 amended by adding a new definition to be appropriately inserted
17 and to read as follows:

18 "Qualified health care provider" has the same meaning as
19 in section 325- ."



1 SECTION 50. Section 440E-1, Hawaii Revised Statutes, is
2 amended by adding a new definition to be appropriately inserted
3 and to read as follows:

4 "Qualified health care provider" has the same meaning as
5 in section 325- ."

6 SECTION 51. Section 440E-5, Hawaii Revised Statutes, is
7 amended by amending subsection (b) to read as follows:

8 "(b) No mixed martial arts event shall take place unless
9 the director has granted a permit for the proposed event. In
10 addition, the director shall not allow any mixed martial arts
11 contest unless:

12 (1) The contest consists of not more than five rounds of a
13 duration of not more than five minutes each with an
14 interval of at least one minute between each round and
15 the succeeding round;

16 (2) Each contestant is not disqualified from competing in
17 a similar mixed martial arts contest in another
18 jurisdiction at the time of the contest and does not
19 use stimulants or banned substances before or during
20 the contest;



1 (3) Each mixed martial arts contestant is examined within
2 six hours of the contest by at least one [~~physician or~~
3 ~~osteopathic physician licensed under chapter 453~~]
4 qualified health care provider who shall certify in
5 writing to the referee of the contest that the
6 contestant is physically fit to engage [~~therein;~~] in
7 the contest;

8 (4) Each contestant furnishes to the director:

9 (A) A medical report of a medical examination
10 completed not less than six months before the
11 contest, including the results of HIV and
12 hepatitis testing; and

13 (B) Previous fight records that establish the
14 contestant's fitness to compete in the contest;

15 (5) The contest is under the control of a licensed referee
16 in the ring who has at least one year of experience in
17 refereeing a match or exhibition involving mixed
18 martial arts and who has passed a physical examination
19 by a [~~physician or osteopathic physician licensed~~
20 ~~under chapter 453,~~] qualified health care provider,



1 including an eye examination, within two years prior
2 to the contest;

3 (6) The promoter has complied with sections 440E-6 and
4 440E-7; and

5 (7) All licensees have complied with the requirements of
6 this chapter and rules adopted in accordance with
7 chapter 91, including any rules or requirements that
8 protect the safety of the contestants to the extent
9 feasible."

10 SECTION 52. Section 440E-16, Hawaii Revised Statutes, is
11 amended to read as follows:

12 "§440E-16 ~~[Physician or osteopathic physician;]~~ Qualified
13 health care provider; duties. Every promoter holding a license
14 to conduct, hold, or give mixed martial arts contests shall have
15 in attendance at every contest at least two ~~[physicians licensed~~
16 ~~to practice medicine or osteopathic medicine in the State under~~
17 ~~chapter 453]~~ qualified health care providers who shall observe
18 the physical condition of the mixed martial arts contestants and
19 advise the referee with regard thereto and, one hour before each
20 contestant enters the ring, certify in writing as to the
21 physical condition of the contestant to engage in the contest.



1 A report of the medical examination shall be filed with the
2 director not later than forty-eight hours after the conclusion
3 of the contest. If a contestant is knocked down or severely
4 injured during a contest, or for any other reason as provided in
5 rules adopted by the director pursuant to chapter 91, at least
6 one ~~[physician]~~ qualified health care provider shall immediately
7 examine the contestant and file a written medical opinion with
8 the director within forty-eight hours of the contest."

9 SECTION 53. Section 448-1, Hawaii Revised Statutes, is
10 amended to read as follows:

11 **"§448-1 Dentistry defined; exempted practices. (a)** A
12 person practices dentistry, within the meaning of this chapter,
13 who represents oneself as being able to diagnose, treat, operate
14 or prescribe for any disease, pain, injury, deficiency,
15 deformity, or physical condition of the human teeth, alveolar
16 process, gums, or jaw, or who offers or undertakes by any means
17 or methods to diagnose, treat, operate or prescribe for any
18 disease, pain, injury, deficiency, deformity, or physical
19 condition of the same, or to take impressions of the teeth or
20 jaws; or who owns, maintains, or operates an office for the
21 practice of dentistry; or who engages in any of the practices



1 included in the curricula of recognized and approved dental
2 schools or colleges. Dentistry includes that part of health
3 care concerned with the diagnosis, prevention, and treatment of
4 diseases of the teeth, oral cavity, and associated structures
5 including the restoration of defective or missing teeth. The
6 fact that a person uses any dental degree, or designation, or
7 any card, device, directory, poster, sign, or other media
8 whereby one represents oneself to be a dentist, shall be prima
9 facie evidence that the person is engaged in the practice of
10 dentistry.

11 (b) The following practices, acts, and operations[~~7~~
12 ~~however,~~] are exempt from the operation of this chapter:

- 13 (1) The rendering of dental relief in emergency cases in
14 the practice of one's profession by a physician or
15 surgeon, licensed as such and registered under the
16 laws of this State, or other qualified health care
17 provider, unless one undertakes to reproduce or
18 reproduces lost parts of the human teeth in the mouth
19 or to restore or replace in the human mouth lost or
20 missing teeth;



1 (2) The practice of dentistry in the discharge of their
2 official duties by dentists in the United States Army,
3 the United States Navy, the United States Air Force,
4 the United States Public Health Service, or the United
5 States Department of Veterans Affairs;

6 (3) The practice of dentistry by licensed dentists of
7 other states or countries at meetings of the Hawaii
8 Dental Association or component parts thereof, alumni
9 meetings of dental colleges, or any other like dental
10 organizations, while appearing as clinicians;

11 (4) The use of roentgen and other rays for making
12 radiograms or similar records of dental or oral
13 tissues;

14 (5) The making of artificial restorations, substitutes,
15 appliances, or materials for the correction of
16 disease, loss, deformity, malposition, dislocation,
17 fracture, injury to the jaws, teeth, lips, gums,
18 cheeks, palate, or associated tissues, or parts, upon
19 orders, prescription, casts, models, or from
20 impressions furnished by a Hawaii licensed dentist;
21 and



(6) The ownership and management of a dental practice by the executor or administrator of a dentist's estate or the legal guardian or authorized representative of a dentist, where the licensed dentist has died or is incapacitated, for the purpose of winding down, transferring, or selling the practice, for a period not to exceed one year from the time of death or from the date the dentist is declared incapacitated; provided that all other aspects of the practice of dentistry are performed by one or more licensed dentists.

(c) For purposes of this section, "qualified health care provider" has the same meaning as in section 325- ."

SECTION 54. Section 451A-1, Hawaii Revised Statutes, is amended as follows:

1. By adding a new definition to be appropriately inserted and to read:

"Qualified health care provider" has the same meaning as in section 325- ."

2. By amending the definition of "practice of dealing and fitting of hearing aids" to read:



1 ""Practice of dealing and fitting of hearing aids" means
2 the measurement of human hearing by an audiometer or by any
3 other means solely for the purpose of making selections,
4 adaptations, or sales of hearing aids or the manufacture of
5 impressions for earmolds, and, at the request of a [physician]
6 qualified health care provider or a member of a profession
7 related to the practice of medicine and surgery, the
8 administration of audiograms for use in consultation with the
9 hard-of-hearing."

10 SECTION 55. Section 451A-18, Hawaii Revised Statutes, is
11 amended to read as follows:

12 **"§451A-18 Persons and practices not affected.** This
13 chapter is not intended to:

14 (1) Prohibit any person from engaging in the practice of
15 measuring human hearing for the purpose of selection
16 of hearing aids; provided that the person or the
17 organization employing the person does not sell
18 hearing aids or accessories;

19 (2) Prohibit a person in maintaining an established
20 business address from engaging in the business of
21 selling or offering for sale hearing aids at retail



1 without a license; provided that it employs persons
2 licensed under this chapter responsible for the
3 fitting and direct sale of such products;

4 (3) Apply to a person who is a [~~physician licensed to~~
5 ~~practice in Hawaii; or~~] qualified health care
6 provider; provided that the person shall not use any
7 designation that would imply that the person is
8 licensed under this chapter to engage in the sale or
9 practice of dealing and fitting of hearing aids; or

10 (4) Apply to a person who is licensed as an audiologist
11 pursuant to chapter 468E."

12 SECTION 56. Section 456-19, Hawaii Revised Statutes, is
13 amended to read as follows:

14 **"§456-19 Notary public signing for disabled person. (a)**

15 A notary public may sign the name of a person physically unable
16 to sign or to make a mark on a document presented for
17 notarization; provided that the notary public is satisfied that
18 the person has voluntarily given consent for the notary public
19 to sign on the person's behalf, if the notary public writes, in
20 the presence of the person: "Signature affixed by notary public
21 pursuant to section 456-19, Hawaii Revised Statutes." beneath



1 the signature, and if a ~~[doctor's]~~ qualified health care
2 provider's written certificate is provided to the notary public
3 certifying that the person is unable to physically sign or make
4 a mark because of the disability, and that the person is capable
5 of communicating the person's intentions. The certificate shall
6 be attached to the document.

7 (b) For purposes of this section, "qualified health care
8 provider" has the same meaning as in section 325- ."

9 SECTION 57. Section 457-9.2, Hawaii Revised Statutes, is
10 amended to read as follows:

11 "[+]§457-9.2[+] **Continuing competency requirements;**
12 **exemptions; extensions; records retention; audit.** (a)

13 Beginning July 1, 2017, with the renewal of the licensing
14 biennium, and every biennial renewal thereafter, each registered
15 nurse and practical nurse licensee shall have completed one of
16 the learning activity options recognized by the board within the
17 two-year period preceding the renewal date, in addition to the
18 requirements of section 457-9.

19 (b) The following nurses shall be exempt from the
20 continuing competency requirements:



(1) Registered nurses licensed in this State who also maintain active advanced practice registered nurse licenses in accordance with this chapter and have a current national certification approved by the board;

(2) Registered nurses and practical nurses licensed in this State who also maintain current national certification, approved by the board, in their practice role; or

(3) A licensee who graduated or completed pre-licensure requirements from an accredited nursing program recognized by the board within twelve months prior to the renewal date of the licensee's first license renewal period.

If a licensee graduated or completed pre-licensure requirements from an accredited nursing program more than twelve months but less than two years prior to the renewal date, the registered nurse or practical nurse licensee shall be required to obtain fifteen contact hours of continuing education, one semester credit of post-licensure academic education related to nursing practice from an accredited nursing program, completion of a board-recognized nurse residency program, or other learning



1 activity options from an approved provider recognized by the
2 board prior to the first renewal period.

3 (c) The board may extend the deadline for compliance with
4 the continuing competency requirements and shall consider each
5 case on an individual basis. Prior to the expiration of the
6 license, a nurse licensee may submit a written request for an
7 extension and any documentation requested by the board to
8 substantiate the reason for the extension of the deadline for
9 compliance with the continuing competency requirements of this
10 section, based on the following circumstances:

11 (1) Illness, as certified by a [~~physician or osteopathic~~
12 ~~physician licensed under chapter 453 or advanced~~
13 ~~practice registered nurse licensed under chapter 457]~~
14 qualified health care provider licensed in the State
15 or in the jurisdiction in which the licensee was
16 treated; or

17 (2) Military service under extended active duty with the
18 armed forces of the United States.

19 (d) Each licensee shall maintain copies of the licensee's
20 continuing competency records for the past four years or two
21 previous bienniums.



1 (e) Upon application for license renewal, restoration, or
2 reinstatement, each licensee shall have complied with and attest
3 to completion of one of the learning activity options recognized
4 by the board pursuant to subsection (a) during the two years
5 preceding the application for license renewal, restoration, or
6 reinstatement and shall be prepared to submit evidence of
7 completion if requested by the board.

8 (f) The board may conduct an audit to determine compliance
9 with the continuing competency requirement. The board shall
10 provide written notice of an audit to all licensees selected for
11 audit. Within sixty days of notification, the licensee shall
12 provide the board with documentation verifying compliance with
13 continuing competency requirements.

14 (g) For purposes of this section, "qualified health care
15 provider" has the same meaning as in section 325- ."

16 SECTION 58. Section 457B-3.2, Hawaii Revised Statutes, is
17 amended to read as follows:

18 **"§457B-3.2 Grounds for refusal to renew, reinstate, or**
19 **restore, and for revocation, suspension, denial, or condition of**
20 **licenses. (a) The director may refuse to renew, reinstate, or**
21 **restore, or may revoke, suspend, deny, or condition in any**



1 manner, any license for any one or more of the following acts or
2 conditions on the part of the licensee or the applicant:

3 (1) Altering in any way the [~~physician's~~] qualified health
4 care provider's order for any patient's or resident's
5 medical or therapeutic care unless the orders are
6 clearly hazardous to the patient or resident, in which
7 case the [~~physician~~] qualified health care provider
8 shall be immediately notified;

9 (2) Defrauding any federal, state, county, or social
10 agency, business, or individual in the operation of a
11 nursing home;

12 (3) Engaging in false, fraudulent, or deceptive
13 advertising, or making false or improbable statements
14 regarding the services of the nursing home; and

15 (4) Submitting or filing with the board any notice,
16 statement, or other document required under this
17 chapter which is false or which contains any material
18 misstatement of fact.

19 (b) For purposes of this section, "qualified health care
20 provider" has the same meaning as in section 325- ."



SECTION 59. Section 459-1, Hawaii Revised Statutes, is amended by amending subsections (b) and (c) to read as follows:

"(b) Any person who engages in the prescribing of visual training, with or without the use of scientific instruments to train the visual system or other abnormal condition of the eyes, or claims to be able to do so, shall be deemed to be engaged in the practice of optometry and shall first secure and hold an unrevoked and unsuspended license as provided in this chapter; provided that an orthoptist may give visual training, including exercises, under the supervision of a ~~[physician]~~ qualified health care provider or optometrist. The use and prescription of pharmaceutical agents and the removal of superficial foreign bodies from the human eye and eyelid shall be granted to an optometrist licensed under this chapter who has met the requirements under sections 459-7 and 459-7.4.

(c) If while examining or treating a patient, a licensed optometrist finds, by history or examination, any ocular abnormality or any evidence of systemic disease requiring further diagnosis and possible treatment beyond the scope of practice as defined in this section, the optometrist shall refer



1 that patient to an appropriate [~~licensed physician.~~] qualified
2 health care provider."

3 SECTION 60. Section 459-1.5, Hawaii Revised Statutes, is
4 amended by adding a new definition to be appropriately inserted
5 and to read as follows:

6 "Qualified health care provider" has the same meaning as
7 in section 325- ."

8 SECTION 61. Section 459-9, Hawaii Revised Statutes, is
9 amended to read as follows:

10 **"§459-9 Refusal to permit examination or issue license;**
11 **revocation and suspension of license; grounds for.** In addition
12 to any other actions authorized by law, the Hawaii board of
13 optometry may refuse to admit persons to its examinations or to
14 issue a license or may revoke or suspend, for the period of time
15 as may be determined by the board, a license previously issued,
16 or may impose a penalty as shall be established by the board,
17 for any cause authorized by law, including but not limited to
18 the following:

19 (1) Presentation to the board of any certificate or
20 testimony or information [~~which~~] that was untrue in
21 any material respect or illegally or fraudulently



1 obtained, or when fraud or deceit has been practiced
2 in obtaining any license under this chapter or in
3 passing an examination;

4 (2) Conduct of a character likely to deceive or defraud
5 the public, or habits of intemperance or drug
6 addiction calculated to destroy the accuracy of the
7 work of an optometrist, or professional misconduct, or
8 gross carelessness or negligence, or manifest
9 incapacity in the practice of optometry;

10 (3) Advertising by means of false and deceptive statements
11 or by statements [~~which~~] that tend to deceive or
12 defraud;

13 (4) Directly or indirectly accepting or offering
14 employment to practice optometry from, or to any
15 person not having a valid, unrevoked and unsuspended
16 license or from any company or corporation;

17 (5) Soliciting or receiving, directly or indirectly, any
18 price differential, rebate, refund, discount,
19 commission, credit, kickback, or other allowance,
20 whether in the form of money or otherwise, from a
21 dispensing optician for or on account of referring or



1 sending to the dispensing optician of any intended or
2 prospective wearer or user of any article or appliance
3 prepared or furnished by a dispensing optician, or for
4 or on account of any service or article furnished by
5 the dispensing optician to any intended or prospective
6 wearer or user;

7 (6) Using any name in connection with the licensee's
8 practice other than the name under which the licensee
9 is licensed to practice, or using any advertising
10 [~~which~~] that fails to clearly identify the individual
11 licensee or [~~which~~] that is ambiguous or misleading as
12 to the licensee's identity;

13 (7) Employing or utilizing any unlicensed individual to
14 perform optometric services in connection with
15 refraction or visual training without directly and
16 personally supervising the individuals in the
17 performances of the services;

18 (8) Violating this chapter or the rules adopted by the
19 board;

20 (9) Utilizing pharmaceutical agents for purposes other
21 than those specified in section 459-1; or



1 (10) Failure to refer a patient to an appropriate [~~licensed~~
2 ~~physician~~] qualified health care provider upon
3 discovery, by history or examination, that the patient
4 evidences an ocular abnormality or symptoms of
5 systemic disease requiring further diagnosis and
6 possible treatment by a [~~licensed physician~~.]
7 qualified health care provider."

8 SECTION 62. Section 461-1, Hawaii Revised Statutes, is
9 amended by adding a new definition to be appropriately inserted
10 and to read as follows:

11 "Qualified health care provider" has the same meaning as
12 in section 325- ."

13 SECTION 63. Section 461-8, Hawaii Revised Statutes, is
14 amended by amending subsection (d) to read as follows:

15 "(d) Beginning with the renewal for the licensing biennium
16 commencing on January 1, 2008, and every biennial renewal
17 thereafter, each licensee shall have completed thirty credit
18 hours in continuing education courses within the two-year period
19 preceding the renewal date, regardless of the licensee's initial
20 date of licensure; provided that a licensee who has graduated
21 from an accredited pharmacy school within one year of the



1 licensee's first license renewal period shall not be subject to
2 the continuing education requirement for the first license
3 renewal. The board may extend the deadline for compliance with
4 the continuing education requirement based on any of the
5 following:

- 6 (1) Illness, as certified by a [~~physician or osteopathic~~
7 ~~physician licensed under chapter 453~~] qualified health
8 care provider licensed in the State or licensed in the
9 jurisdiction in which the licensee was treated;
- 10 (2) Military service under extended active duty with the
11 armed forces of the United States;
- 12 (3) Lack of access to continuing education courses due to
13 the practice of pharmacy in geographically isolated
14 areas; and
- 15 (4) Inability to undertake continuing education due to
16 incapacity, undue hardship, or other extenuating
17 circumstances."

18 SECTION 64. Section 461-11.4, Hawaii Revised Statutes, is
19 amended by amending subsection (e) to read as follows:

20 "(e) For the purposes of this section, "medical home"
21 means the primary care physician or other qualified health care



1 provider providing primary care who, working in collaboration
2 with the family, oversees the acute, chronic, and preventive
3 health needs of the patient in a comprehensive, coordinated, and
4 continuous fashion."

5 SECTION 65. Section 461-15, Hawaii Revised Statutes, is
6 amended by amending subsection (a) to read as follows:

7 "(a) It shall be unlawful:

8 (1) For any person to sell or offer for sale at public
9 auction, or to sell or offer for sale at private sale
10 in a place where public auctions are conducted, any
11 prescription drugs without first obtaining a permit
12 from the board of pharmacy to do so;

13 (2) For any person to distribute or dispense samples of
14 any prescription drugs without first obtaining a
15 permit from the board to do so; provided that nothing
16 in this paragraph shall interfere with the furnishing
17 of samples or drugs directly to [~~physicians,~~
18 ~~druggists, dentists, veterinarians, and optometrists~~]
19 qualified health care providers with prescriptive
20 authority for use in their professional practice;



- 1 (3) For wholesalers to sell, distribute, or dispense any
2 prescription drug, except to a [~~pharmacist, physician,~~
3 ~~dentist, veterinarian, or optometrist~~] qualified
4 health care provider who is allowed to use
5 pharmaceutical agents under chapter 459 or to a
6 generally recognized industrial, agricultural,
7 manufacturing, or scientific user of drugs for
8 professional or business purposes; provided that it
9 shall be unlawful for wholesalers to sell, distribute,
10 or dispense any prescription pharmaceutical agent that
11 is not approved by the Hawaii board of optometry;
- 12 (4) For any wholesale prescription drug distributor to
13 sell or distribute medical oxygen except to a:
- 14 (A) Licensed practitioner with prescriptive
15 authority;
- 16 (B) Pharmacist;
- 17 (C) Medical oxygen distributor;
- 18 (D) Patient or a patient's agent pursuant to a
19 prescription; or



1 (E) Emergency medical services for administration by
2 trained personnel for oxygen deficiency and
3 resuscitation;

4 (5) For any medical oxygen distributor to supply medical
5 oxygen pursuant to a prescription order, to a patient
6 or a patient's agent, without first obtaining a permit
7 from the board to do so;

8 (6) For any person, as principal or agent, to conduct or
9 engage in the business of preparing, manufacturing,
10 compounding, packing, or repacking any drug without
11 first obtaining a permit from the board to do so; and

12 (7) For any out-of-state pharmacy or entity engaging in
13 the practice of pharmacy, in any manner to distribute,
14 ship, mail, or deliver prescription drugs or devices
15 into the State without first obtaining a permit from
16 the board; provided that the applicant shall:

17 (A) Provide the location, names, and titles of all
18 principal corporate officers;

19 (B) Attest that the applicant or any personnel of the
20 applicant has not been found in violation of any



1 state or federal drug laws, including the illegal
2 use of drugs or improper distribution of drugs;

3 (C) Submit verification of a valid unexpired license,
4 permit, or registration in good standing to
5 conduct the pharmacy in compliance with the laws
6 of the home state and agree to maintain in good
7 standing the license, permit, or registration;
8 and

9 (D) Have in its employ a registered pharmacist whose
10 registration is current and in good standing."

11 SECTION 66. Section 461J-1, Hawaii Revised Statutes, is
12 amended as follows:

13 1. By adding a new definition to be appropriately inserted
14 and to read:

15 "Qualified health care provider" has the same meaning as
16 in section 325- ."

17 2. By amending the definition of "physical therapy" or
18 "physical therapy services" to read as follows:

19 "Physical therapy" or "physical therapy services" means
20 the examination, treatment, and instruction of human beings to
21 detect, assess, prevent, correct, alleviate, and limit physical



1 disability, bodily malfunction, pain from injury, disease, and
2 any other physical or mental condition as performed by a
3 physical therapist appropriately licensed under this chapter.

4 [##] "Physical therapy" or "physical therapy services" includes
5 but is not limited to:

6 (1) Administration, evaluation, modification of treatment,
7 and instruction involving the use of physical
8 measures, activities, and devices, for preventive and
9 therapeutic purposes; provided that should the care or
10 treatment given by a physical therapist or physical
11 therapist assistant contravene treatment diagnosed or
12 prescribed by a ~~[medical doctor, osteopath,~~
13 physician, osteopathic physician, physician assistant,
14 or advanced practice registered nurse or as determined
15 by the board, the physical therapist shall confer with
16 the professional regarding the manner or course of
17 treatment in conflict and take appropriate action in
18 the best interest of the patient; and

19 (2) The provision of consultative, educational, and other
20 advisory services for the purpose of reducing the



1 incidence and severity of physical disability, bodily
2 malfunction, or pain."

3 SECTION 67. Section 461J-10.14, Hawaii Revised Statutes,
4 is amended by amending subsection (b) to read as follows:

5 "(b) The request for an exemption shall include the
6 following information:

7 (1) Evidence that, during the two-year period prior to the
8 expiration of the license, the licensee was residing
9 in another country for one year or longer, reasonably
10 preventing completion of the continuing competence
11 requirements;

12 (2) Evidence that, during the two-year period prior to the
13 expiration of the license, the licensee was ill or
14 disabled for one year or longer as documented by a
15 ~~[licensed physician, surgeon, or clinical~~
16 ~~psychologist,]~~ qualified health care provider,
17 preventing completion of the continuing competence
18 requirements; or

19 (3) Evidence that, during the two-year period prior to the
20 expiration of the license, a dependent family member
21 of the licensee was ill or disabled for one year or



1 longer as documented by a [~~licensed physician,~~
2 ~~surgeon, or clinical psychologist,~~] qualified health
3 care provider, preventing completion of the continuing
4 competence requirements."

5 SECTION 68. Section 463E-1, Hawaii Revised Statutes, is
6 amended by adding a new definition to be appropriately inserted
7 and to read as follows:

8 "Qualified health care provider" has the same meaning as
9 in section 325- ."

10 SECTION 69. Section 463E-15, Hawaii Revised Statutes, is
11 amended to read as follows:

12 **"[+]§463E-15[+] Use of podiatrist; public programs.**

13 Whenever medical or surgical services within the scope of
14 activities of a podiatrist licensed under this chapter are
15 included in any program financed by public funds or administered
16 by any public agency for aid to the indigent, the aged, the
17 legally blind, or any other group or class, the recipient of
18 such aid shall be entitled to choose whether the services are to
19 be performed by a [~~duly licensed physician or by a duly licensed~~
20 ~~podiatrist.~~] qualified health care provider."



SECTION 70. Section 464-1, Hawaii Revised Statutes, is amended by adding a new definition to be appropriately inserted and to read as follows:

"Qualified health care provider" has the same meaning as in section 325- ."

SECTION 71. Section 464-9, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

"(d) The board shall require continuing education to renew a license for architects effective as of the renewal date for a license expiring on April 30, 2008, and for every biennial renewal period thereafter. All continuing education courses shall be relevant to public protection subjects and shall be approved by the board as provided in the board's rules; provided that:

(1) Architects initially licensed in the first year of the biennium shall have completed eight continuing education credit hours;

(2) Architects initially licensed in the second year of the biennium shall not be required to complete any continuing education credit hours;



1 (3) All other architects shall have completed sixteen
2 continuing education credit hours;

3 (4) The board shall randomly audit an architect's
4 continuing education courses, and shall establish
5 guidelines for random audits in rules adopted in
6 accordance with chapter 91;

7 (5) An architect whose license is not renewed because of
8 failure to comply with the continuing education
9 requirement shall have two years from the expiration
10 date of the license to restore the license by
11 complying with all applicable continuing professional
12 education requirements and paying the appropriate
13 renewal and penalty fees. After the two-year
14 restoration period, the licensee shall be required to
15 apply as a new applicant, and meet the requirements in
16 effect at that time; and

17 (6) An architect licensee shall not be subject to the
18 continuing education requirement if the architect
19 otherwise meets all other renewal requirements and:

20 (A) Is a member of the armed forces, National Guard,
21 or a reserve component on active duty and



1 deployed during a state or national crisis as
2 "state or national crisis" is defined in chapter
3 436B;

4 (B) Is ill or disabled for a significant period of
5 time as documented by a [~~licensed physician,~~
6 qualified health care provider, and is unable to
7 meet the continuing education requirements of
8 this subsection;

9 (C) Can demonstrate undue hardship that prevented the
10 licensee from meeting the continuing education
11 requirements of this subsection; or

12 (D) Is retired from the practice of architecture and
13 is no longer performing or providing
14 architectural services;

15 provided that any exemption from the continuing education
16 requirements shall be subject to the board's approval."

17 SECTION 72. Section 466D-7, Hawaii Revised Statutes, is
18 amended to read as follows:

19 "~~§~~466D-7~~§~~ **Exemptions.** This chapter is not intended
20 to restrict the practice of other licensed or credentialed



healthcare practitioners practicing within their own recognized scopes of practice and shall not apply to:

(1) A person working within the scope of practice or duties of another licensed profession that overlaps with the practice of respiratory care; provided that the person does not purport to be a respiratory therapist;

(2) A person working as, or training to become, a sleep technologist or person who is enrolled in a Commission on Accreditation of Allied Health Education Programs, Accredited Sleep Technologist Education Program, or a program approved by the American Association of Sleep Technologists to become a sleep technologist; provided that[7] as used in this paragraph, [a] "sleep technologist" [~~is defined as~~] means a person trained in sleep technology and relevant aspects of sleep medicine, evaluation, and follow-up care of patients with sleep disorders;

(3) A person enrolled as a student in an accredited respiratory therapy program where the performance of



1 duties that are regulated by this chapter is an
2 integral part of the student's program of study;

3 (4) A person employed by a durable medical equipment
4 provider who engages in the delivery, assembly, setup,
5 testing, and demonstration of oxygen and aerosol
6 equipment upon the order of a ~~[physician]~~ qualified
7 health care provider; provided that no person
8 providing those services shall be authorized to assess
9 patients, develop care plans, instruct patients in
10 taking treatment, or discuss the hazards,
11 administration, or side effects of medication with
12 patients; provided further that for purposes of this
13 paragraph, "qualified health care provider" has the
14 same meaning as in section 325- ;

15 (5) A person rendering services in the case of an
16 emergency or in the domestic administration of family
17 remedies; or

18 (6) A person employed by a federal, state, or county
19 government agency in a respiratory therapist position,
20 but only in the course of carrying out the duties and
21 responsibilities of government employment."



SECTION 73. Section 486N-1, Hawaii Revised Statutes, is amended by adding a new definition to be appropriately inserted and to read as follows:

"Qualified health care provider" has the same meaning as in section 325- ."

SECTION 74. Section 486N-2, Hawaii Revised Statutes, is amended to read as follows:

"[+]§486N-2[+] Exemptions. This chapter shall not apply to:

- (1) Any nonprofit organization;
- (2) Any person operating a business primarily for the purpose of teaching a form of self-defense or dance as an art;
- (3) Any private club owned and operated by its members;
- (4) Any medically related service performed by a ~~[doctor]~~ qualified health care provider legally authorized to practice ~~[medicine or osteopathy]~~ in the State, in a private office, clinic, or hospital;
- (5) The State or any of its political subdivisions;



1 (6) Any health club [~~which~~] that began offering health
2 club contracts or any other contracts in the State
3 prior to December 31, 1969; or

4 (7) Any club whose function as a health club is only
5 incidental to its overall function and purpose, and
6 whose covered floor space devoted to the maintenance
7 or development of physical fitness or well-being
8 through physical exercise comprises less than thirty-
9 five per cent of the total covered floor space of the
10 club available to members."

11 SECTION 75. Section 486N-7, Hawaii Revised Statutes, is
12 amended by amending subsection (e) to read as follows:

13 "(e) "Disability", as used in this section, means a
14 condition [~~which~~] that has existed for more than thirty days,
15 which precludes the buyer from using the facilities or services
16 of the health club, and the condition is verified by a [~~doctor~~]
17 qualified health care provider legally authorized to practice
18 [~~medicine or osteopathy~~] in the State."

19 SECTION 76. Section 571-44, Hawaii Revised Statutes, is
20 amended to read as follows:



1 **"§571-44 Physical or mental examination and treatment.**

2 (a) The court may order that a child or minor for whom a
3 petition has been filed, be examined by a physician, surgeon,
4 psychiatrist, ~~[or]~~ psychologist, or other qualified health care
5 provider. The court may order treatment by a physician,
6 surgeon, psychiatrist, ~~[or]~~ psychologist, or other qualified
7 health care provider of a child or minor who has been
8 adjudicated by the court. For either the examination or
9 treatment, the court may place the child or minor in a hospital
10 or other suitable facility. After a hearing, the court may
11 order an examination by a physician, surgeon, psychiatrist, ~~[or]~~
12 psychologist, or other qualified health care provider of a
13 parent or guardian whose ability to care for a child before the
14 court is at issue.

15 (b) For purposes of this section, "qualified health care
16 provider" has the same meaning as in section 325- ."

17 SECTION 77. Section 587A-4, Hawaii Revised Statutes, is
18 amended by adding a new definition to be appropriately inserted
19 and to read as follows:

20 "Qualified health care provider" has the same meaning as
21 in section 325- ."



1 SECTION 78. Section 587A-9, Hawaii Revised Statutes, is
2 amended by amending subsection (c) to read as follows:

3 "(c) Upon the request of the department and without regard
4 to parental consent, any [~~physician~~] qualified health care
5 provider licensed [~~or authorized to practice medicine~~] in the
6 State shall perform an examination to determine the nature and
7 extent of harm or threatened harm to the child under the
8 department's temporary foster custody."

9 SECTION 79. Section 612-6, Hawaii Revised Statutes, is
10 amended to read as follows:

11 "**§612-6 Exempt when.** (a) A person may claim exemption
12 from service as a juror if the person is:

13 (1) An elected official while the legislature is in
14 session, or a judge of the United States, State, or
15 county;

16 (2) An actively practicing [~~physician or dentist;~~]
17 qualified health care provider;

18 (3) A member of the armed forces or militia when on active
19 service and deployed out-of-state;

20 (4) An active member of a police or fire department;



(5) A person who has served as a juror, either in a court of this State or the United States District Court for the District of Hawaii, within one year preceding the time of filling out the juror qualification form;

(6) An active member of an emergency medical services agency;

(7) A person living more than seventy miles from the court for which jury service is required;

(8) A person eighty years of age or older; or

(9) A woman who is breastfeeding a child or expressing breast milk for a period of two years from the birth of the child.

(b) For purposes of this section [~~,"emergency medical services agency"]:~~

"Emergency medical services agency" means any government agency, private agency, or company that provides ambulance services, emergency medical services, or disaster medical services.

"Qualified health care provider" has the same meaning as in section 325- ."



1 SECTION 80. Section 622-51, Hawaii Revised Statutes, is
2 amended by adding a new definition to be appropriately inserted
3 and to read as follows:

4 "Qualified health care provider" has the same meaning as
5 in section 325-_____."

6 SECTION 81. Section 703-309, Hawaii Revised Statutes, is
7 amended to read as follows:

8 **"§703-309 Use of force by persons with special**
9 **responsibility for care, discipline, or safety of others.** The
10 use of force upon or toward the person of another is justifiable
11 under the following circumstances:

12 (1) The actor is the parent, guardian, or other person
13 similarly responsible for the general care and
14 supervision of a minor, or a person acting at the
15 request of the parent, guardian, or other responsible
16 person, and:

17 (a) The force is employed with due regard for the age
18 and size of the minor and is reasonably related
19 to the purpose of safeguarding or promoting the
20 welfare of the minor, including the prevention or
21 punishment of the minor's misconduct; provided



1 that there shall be a rebuttable presumption that
2 the following types of force are not justifiable
3 for purposes of this [‡]paragraph[‡]: throwing,
4 kicking, burning, biting, cutting, striking with
5 a closed fist, shaking a minor under three years
6 of age, interfering with breathing, or
7 threatening with a deadly weapon; and

8 (b) The force used does not intentionally, knowingly,
9 recklessly, or negligently create a risk of
10 causing substantial bodily injury, disfigurement,
11 extreme pain or mental distress, or neurological
12 damage.

13 (2) The actor is a principal, the principal's agent, a
14 teacher, or a person otherwise entrusted with the care
15 or supervision for a special purpose of a minor, and:

16 (a) The actor believes that the force used is
17 necessary to further that special purpose,
18 including maintenance of reasonable discipline in
19 a school, class, other group, or at activities
20 supervised by the department of education held on



1 or off school property and that the use of force
2 is consistent with the welfare of the minor; and

3 (b) The degree of force, if it had been used by the
4 parent or guardian of the minor, would not be
5 unjustifiable under paragraph (1).

6 (3) The actor is the guardian or other person similarly
7 responsible for the general care and supervision of an
8 incompetent person, and:

9 (a) The force is employed with due regard for the age
10 and size of the incompetent person and is
11 reasonably related to the purpose of safeguarding
12 or promoting the welfare of the incompetent
13 person, including the prevention of the
14 incompetent person's misconduct, or, when such
15 incompetent person is in a hospital or other
16 institution for the incompetent person's care and
17 custody, for the maintenance of reasonable
18 discipline in the institution; and

19 (b) The force used is not designed to cause or known
20 to create a risk of causing substantial bodily



1 injury, disfigurement, extreme pain or mental
2 distress, or neurological damage.

3 (4) The actor is a [~~doctor or other therapist~~] qualified
4 health care provider or a person assisting the [~~doctor~~
5 ~~or therapist~~] qualified health care provider at the
6 [~~doctor's or therapist's~~] qualified health care
7 provider's direction, and:

8 (a) The force is used for the purpose of
9 administering a recognized form of treatment
10 which the actor believes to be adapted to
11 promoting the physical or mental health of the
12 patient; and

13 (b) The treatment is administered with the consent of
14 the patient, or, if the patient is a minor or an
15 incompetent person, with the consent of the
16 minor's or incompetent person's parent or
17 guardian or other person legally competent to
18 consent in the minor's or incompetent person's
19 behalf, or the treatment is administered in an
20 emergency when the actor believes that no one
21 competent to consent can be consulted and that a



1 reasonable person, wishing to safeguard the
2 welfare of the patient, would consent.

3 For purposes of this subsection, "qualified health
4 care provider" has the same meaning as in section
5 325-_____.

6 (5) The actor is a warden or other authorized official of
7 a correctional institution, and:

8 (a) The actor believes that the force used is
9 necessary for the purpose of enforcing the lawful
10 rules or procedures of the institution;

11 (b) The nature or degree of force used is not
12 forbidden by other provisions of the law
13 governing the conduct of correctional
14 institutions; and

15 (c) If deadly force is used, its use is otherwise
16 justifiable under this chapter.

17 (6) The actor is a person responsible for the safety of a
18 vessel or an aircraft or a person acting at the
19 direction of the person responsible for the safety of
20 a vessel or an aircraft, and:



(a) The actor believes that the force used is necessary to prevent interference with the operation of the vessel or aircraft or obstruction of the execution of a lawful order, unless the actor's belief in the lawfulness of the order is erroneous and the actor's error is due to ignorance or mistake as to the law defining authority; and

(b) If deadly force is used, its use is otherwise justifiable under this chapter.

(7) The actor is a person who is authorized or required by law to maintain order or decorum in a vehicle, train, or other carrier, or in a place where others are assembled, and:

(a) The actor believes that the force used is necessary for that purpose; and

(b) The force used is not designed to cause or known to create a substantial risk of causing death, bodily injury or extreme mental distress."

SECTION 82. Section 706-624, Hawaii Revised Statutes, is amended by amending subsection (2) to read as follows:



1 "(2) Discretionary conditions. The court may provide, as
2 further conditions of a sentence of probation, to the extent
3 that the conditions are reasonably related to the factors set
4 forth in section 706-606 and to the extent that the conditions
5 involve only deprivations of liberty or property as are
6 reasonably necessary for the purposes indicated in section 706-
7 606(2), that the defendant:

8 (a) Serve a term of imprisonment to be determined by the
9 court at sentencing in class A felony cases under
10 section 707-702, not exceeding two years in class A
11 felony cases under part IV of chapter 712, not
12 exceeding eighteen months in class B felony cases, not
13 exceeding one year in class C felony cases, not
14 exceeding six months in misdemeanor cases, and not
15 exceeding five days in petty misdemeanor cases;
16 provided that notwithstanding any other provision of
17 law, any order of imprisonment under this subsection
18 that provides for prison work release shall require
19 the defendant to pay thirty per cent of the
20 defendant's gross pay earned during the prison work
21 release period to satisfy any restitution order. The



1 payment shall be handled by the adult probation
2 division and shall be paid to the victim on a monthly
3 basis;

4 (b) Perform a specified number of hours of services to the
5 community as described in section 706-605(1) (d);

6 (c) Support the defendant's dependents and meet other
7 family responsibilities;

8 (d) Pay a fine imposed pursuant to section 706-605(1) (b);

9 (e) Work conscientiously at suitable employment or pursue
10 conscientiously a course of study or vocational
11 training that will equip the defendant for suitable
12 employment;

13 (f) Refrain from engaging in a specified occupation,
14 business, or profession bearing a reasonably direct
15 relationship to the conduct constituting the crime or
16 engage in the specified occupation, business, or
17 profession only to a stated degree or under stated
18 circumstances;

19 (g) Refrain from frequenting specified kinds of places or
20 from associating unnecessarily with specified persons,
21 including the victim of the crime, any witnesses,



1 regardless of whether they actually testified in the
2 prosecution, law enforcement officers, co-defendants,
3 or other individuals with whom contact may adversely
4 affect the rehabilitation or reformation of the person
5 convicted;

6 (h) Refrain from use of alcohol or any use of narcotic
7 drugs or controlled substances without a prescription;

8 (i) Refrain from possessing a firearm, ammunition,
9 destructive device, or other dangerous weapon;

10 (j) Undergo available medical or mental health assessment
11 and treatment, including assessment and treatment for
12 substance abuse dependency, and remain in a specified
13 facility if required for that purpose;

14 (k) Reside in a specified place or area or refrain from
15 residing in a specified place or area;

16 (l) Submit to periodic urinalysis or other similar testing
17 procedure;

18 (m) Refrain from entering specified geographical areas
19 without the court's permission;

20 (n) Refrain from leaving the person's dwelling place
21 except to go to and from the person's place of



1 employment, the office of the person's [~~physician or~~
2 ~~dentist,~~] qualified health care provider, the
3 probation office, or any other location as may be
4 approved by the person's probation officer pursuant to
5 court order. As used in this paragraph[, "~~dwelling~~
6 ~~place~~"]:

7 "Dwelling place" includes the person's yard or,
8 in the case of condominiums, the common elements;

9 "Qualified health care provider" has the same
10 meaning as in section 325- .

- 11 (o) Comply with a specified curfew;
- 12 (p) Submit to monitoring by an electronic monitoring
13 device;
- 14 (q) Submit to a search by any probation officer, with or
15 without a warrant, of the defendant's person,
16 residence, vehicle, or other sites or property under
17 the defendant's control, based upon the probation
18 officer's reasonable suspicion that illicit substances
19 or contraband may be found on the person or in the
20 place to be searched;



- 1 (r) Sign a waiver of extradition and pay extradition costs
2 as determined and ordered by the court;
- 3 (s) Comply with a service plan developed using current
4 assessment tools; and
- 5 (t) Satisfy other reasonable conditions as the court may
6 impose."

7 SECTION 83. Section 708-880, Hawaii Revised Statutes, is
8 amended by amending subsection (2) to read as follows:

9 "(2) In this section:

10 "Agent" means:

- 11 (a) An agent or employee of another;
- 12 (b) A trustee, guardian, or other fiduciary;
- 13 (c) A lawyer, ~~[physician]~~ qualified health care provider,
14 accountant, appraiser, or other professional adviser
15 or informant;
- 16 (d) An officer, director, partner, manager, or other
17 participant in the direction of the affairs of an
18 incorporated or unincorporated association; or
- 19 (e) An arbitrator or other purportedly disinterested
20 adjudicator or referee.



1 "Agent in charge of employment" does not include any person
2 conducting a private employment agency licensed and operating in
3 accordance with law.

4 "Appraiser" means a person who holds oneself out to the
5 public as being engaged in the business of making disinterested
6 selection, appraisal, or criticism of commodities or services.

7 "Qualified health care provider" has the same meaning as in
8 section 325- ."

9 SECTION 84. Section 709-903.5, Hawaii Revised Statutes, is
10 amended by amending subsection (1) to read as follows:

11 "(1) Except as provided in subsection (2), a person
12 commits the offense of endangering the welfare of a minor in the
13 first degree if, having care or custody of a minor, the person:

14 (a) Intentionally or knowingly allows another person to
15 inflict serious or substantial bodily injury on the
16 minor; or

17 (b) Intentionally or knowingly causes or permits the minor
18 to inject, ingest, inhale, or otherwise introduce into
19 the minor's body any controlled substance listed in
20 sections 329-14, 329-16, 329-18, and 329-20 that has
21 not been prescribed by a ~~[physician]~~ qualified health



1 care provider for the minor, except as permitted under
2 section 329-122. For purposes of this paragraph,
3 "qualified health care provider" has the same meaning
4 as in section 325- ."

5 SECTION 85. Section 709-904, Hawaii Revised Statutes, is
6 amended by amending subsection (1) to read as follows:

7 "(1) Except as provided in section 709-903.5(2), a person
8 commits the offense of endangering the welfare of a minor in the
9 second degree if, having care or custody of a minor, the person:

10 (a) Recklessly allows another person to inflict serious or
11 substantial bodily injury on the minor; or

12 (b) Recklessly causes or permits the minor to inject,
13 ingest, inhale, or otherwise introduce into the
14 minor's body any controlled substance listed in
15 sections 329-14, 329-16, 329-18, and 329-20 that has
16 not been prescribed by a [~~physician~~] qualified health
17 care provider for the minor, except as permitted under
18 section 329-122. This subsection shall not apply to
19 nursing mothers who may cause the ingestion or
20 introduction of detectable amounts of any controlled
21 substance listed in sections 329-14, 329-16, 329-18,



1 and 329-20 to their minor children through
2 breastfeeding. For purposes of this paragraph,
3 "qualified health care provider" has the same meaning
4 as in section 325- ."

5 SECTION 86. Section 712-1250.5, Hawaii Revised Statutes,
6 is amended by amending subsection (2) to read as follows:

7 "(2) It is a defense to a prosecution for promoting
8 intoxicating liquor to a person under the age of twenty-one
9 that:

10 (a) The intoxicating liquor provided to the person under
11 the age of twenty-one was an ingredient in a medicine
12 prescribed by a [~~licensed physician~~] qualified health
13 care provider for medical treatment of the person
14 under the age of twenty-one[+]. For purposes of this
15 paragraph, "qualified health care provider" has the
16 same meaning as in section 325- ;

17 (b) The intoxicating liquor was provided to the person
18 under the age of twenty-one as part of a ceremony of a
19 recognized religion;

20 (c) The defendant provided the intoxicating liquor to the
21 person under the age of twenty-one with the belief,



1 which was reasonable under the circumstances, that the
2 person under the age of twenty-one had attained the
3 age of twenty-one;

4 (d) The defendant provided the intoxicating liquor to the
5 person under the age of twenty-one with the express
6 consent of the parent or legal guardian and with the
7 belief, which was reasonable under the circumstances,
8 that the person under the age of twenty-one would not
9 consume any portion of the substance;

10 (e) The defendant provided the intoxicating liquor to the
11 person under the age of twenty-one with the express
12 consent of the parent or legal guardian and with the
13 belief, which was reasonable under the circumstances,
14 that the person under the age of twenty-one would
15 consume the substance only in the presence of the
16 parent or legal guardian; or

17 (f) The intoxicating liquor was possessed by the person
18 under the age of twenty-one to be sold or served as
19 allowed by law."

20 SECTION 87. Section 806-73, Hawaii Revised Statutes, is
21 amended to read as follows:



1 **"§806-73 Duties and powers of probation officers; adult**
2 **probation records.** (a) A probation officer shall investigate
3 any case referred to the probation officer for investigation by
4 the court in which the probation officer is serving and report
5 thereon to the court. The probation officer shall instruct each
6 defendant placed on probation under the probation officer's
7 supervision of the terms and conditions of the defendant's
8 probation. The probation officer shall keep informed concerning
9 the conduct and condition of the defendant and report thereon to
10 the court, and shall use all suitable methods to aid the
11 defendant and bring about an improvement in the defendant's
12 conduct and condition. The probation officer shall keep these
13 records and perform other duties as the court may direct. No
14 probation officer shall be subject to civil liability or
15 criminal culpability for any disclosure or nondisclosure, under
16 this section, if the probation officer acts in good faith and
17 upon reasonable belief.

18 (b) All adult probation records shall be confidential and
19 shall not be deemed to be public records. As used in this
20 section, ~~[the term]~~ "records" includes but is not limited to all
21 records made by any adult probation officer in the course of



1 performing the probation officer's official duties. The
2 records, or the content of the records, shall be divulged only
3 as follows:

4 (1) A copy of any adult probation case record or of a
5 portion of it, or the case record itself, upon
6 request, may be provided to:

7 (A) An adult probation officer, court officer, social
8 worker of a Hawaii state adult probation unit, or
9 a family court officer who is preparing a report
10 for the courts; or

11 (B) A state or federal criminal justice agency, or
12 state or federal court program that:

13 (i) Is providing supervision of a defendant or
14 offender convicted and sentenced by the
15 courts of Hawaii; or

16 (ii) Is responsible for the preparation of a
17 report for a court;

18 (2) The residence address, work address, home telephone
19 number, or work telephone number of a current or
20 former defendant shall be provided only to:



- 1 (A) A law enforcement officer as defined in section
2 710-1000 to locate the probationer for the
3 purpose of serving a summons or bench warrant in
4 a civil, criminal, or deportation hearing, or for
5 the purpose of a criminal investigation; or
- 6 (B) A collection agency or licensed attorney
7 contracted by the judiciary to collect any
8 delinquent court-ordered penalties, fines,
9 restitution, sanctions, and court costs pursuant
10 to section 601-17.5;
- 11 (3) A copy of a presentence report or investigative report
12 shall be provided only to:
- 13 (A) The persons or entities named in section 706-604;
14 (B) The Hawaii paroling authority;
15 (C) Any psychiatrist, psychologist, or other
16 treatment practitioner who is treating the
17 defendant pursuant to a court order or parole
18 order for that treatment;
- 19 (D) The intake service centers;
20 (E) In accordance with applicable law, persons or
21 entities doing research; and



- 1 (F) Any Hawaii state adult probation officer or adult
- 2 probation officer of another state or federal
- 3 jurisdiction who:
- 4 (i) Is engaged in the supervision of a defendant
- 5 or offender convicted and sentenced in the
- 6 courts of Hawaii; or
- 7 (ii) Is engaged in the preparation of a report
- 8 for a court regarding a defendant or
- 9 offender convicted and sentenced in the
- 10 courts of Hawaii;
- 11 (4) Access to adult probation records by a victim, as
- 12 defined in section 706-646 to enforce an order filed
- 13 pursuant to section 706-647, shall be limited to the:
- 14 (A) Name and contact information of the defendant's
- 15 adult probation officer;
- 16 (B) Compliance record of the defendant with court-
- 17 ordered payments;
- 18 (C) Amounts paid by the defendant;
- 19 (D) Dates of the payments made by the defendant;
- 20 (E) Payee of payments made by the defendant; and
- 21 (F) Remaining unpaid balance,



1 without the assessment of a filing fee or surcharge;

2 (5) Upon written request, the victim, or the parent or
3 guardian of a minor victim or incapacitated victim, of
4 a defendant who has been placed on probation for an
5 offense under section 580-10(d)(1), 586-4(e),
6 586-11(a), or 709-906 may be notified by the
7 defendant's probation officer when the probation
8 officer has any information relating to the safety and
9 welfare of the victim;

10 (6) Notwithstanding paragraph (3) and upon notice to the
11 defendant, records and information relating to the
12 defendant's risk assessment and need for treatment
13 services; information related to the defendant's past
14 treatment and assessments, with the prior written
15 consent of the defendant for information from a
16 treatment service provider; provided that for any
17 substance abuse records such release shall be subject
18 to title 42 Code of Federal Regulations part 2,
19 relating to the confidentiality of alcohol and drug
20 abuse patient records; and information that has



1 therapeutic or rehabilitative benefit, may be provided
2 to:

3 (A) A case management, assessment, or treatment
4 service provider assigned by adult probation to
5 service the defendant; provided that such
6 information shall be given only upon the
7 acceptance or admittance of the defendant into a
8 treatment program;

9 (B) Correctional case manager, correctional unit
10 manager, and parole officers involved with the
11 defendant's treatment or supervision; and

12 (C) In accordance with applicable law, persons or
13 entities doing research;

14 (7) Probation drug test results may be released with prior
15 written consent of a defendant to the defendant's
16 treating [~~physician~~] qualified health care provider
17 when test results indicate substance use [~~which~~] that
18 may be compromising the defendant's medical care or
19 treatment;

20 (8) Records obtained pursuant to section 704-404(9) may be
21 made available as provided in that section;



(9) Any person, agency, or entity receiving records, or contents of records, pursuant to this subsection shall be subject to the same restrictions on disclosure of the records as Hawaii state adult probation offices; and

(10) Any person who uses the information covered by this subsection for purposes inconsistent with the intent of this subsection or outside of the scope of the person's official duties shall be fined no more than \$500.

(c) Every probation officer, within the scope of the probation officer's duties, shall have the powers of a police officer.

(d) For purposes of this section, "qualified health care provider" has the same meaning as in section 325- ."

SECTION 88. Section 841-3, Hawaii Revised Statutes, is amended to read as follows:

"§841-3 Duties. [†] (a) [†] As soon as any coroner or deputy coroner has notice of the death of any person within the coroner's or deputy coroner's jurisdiction as the result of violence, [✗] as the result of any accident, [✗] by suicide,



1 ~~[or]~~ suddenly when in apparent health, ~~[or]~~ when unattended by a
2 ~~[physician,]~~ qualified health care provider, ~~[or]~~ in prison,
3 ~~[or]~~ in a suspicious or unusual manner, or within twenty-four
4 hours after admission to a hospital or institution, the coroner
5 or deputy coroner shall ~~[forthwith]~~ inquire into and make a
6 complete investigation of the cause of the death.

7 [+] (b) [+] Any person who becomes aware of the death of any
8 person under any of the circumstances set forth [~~above~~] in
9 subsection (a) shall immediately notify the coroner or deputy
10 coroner of the known facts concerning the time, place, manner,
11 and circumstances of the death.

12 [+] (c) [+] Any person who fails to report the death of a
13 person under circumstances covered [~~herein~~] in this section
14 shall be subject to a fine of not more than \$100.

15 (d) For purposes of this section, "qualified health care
16 provider" has the same meaning as in section 325- ."

17 PART V

18 SECTION 89. Section 134-61, Hawaii Revised Statutes, is
19 amended by amending the definition of "medical professional" to
20 read as follows:



1 ""Medical professional" means a licensed physician,
2 physician assistant, advanced practice registered nurse,
3 psychologist, or psychiatrist who has examined the respondent."

4 SECTION 90. Section 302A-493, Hawaii Revised Statutes, is
5 amended by amending subsection (a) to read as follows:

6 "(a) An educational representative may be appointed if a
7 student lacks decisional capacity to provide informed consent.
8 A determination that the adult student lacks capacity, or that
9 another condition exists that affects the adult student's
10 instruction shall be made by a qualified licensed professional,
11 such as the student's primary physician, psychologist,
12 psychiatrist, physician assistant, advanced practice registered
13 nurse, or the department of health developmental disabilities
14 division."

15 SECTION 91. Section 321-2.5, Hawaii Revised Statutes, is
16 amended by amending subsection (a) to read as follows:

17 "(a) This section shall apply to all volunteer medical
18 assistance personnel, including[÷] but not limited to:

- 19 (1) Physicians;
20 (2) Psychologists;
21 (3) Nurses;



1 (4) Emergency medical technicians;
2 (5) Social workers;
3 (6) Mobile intensive care technicians;
4 (7) Physician assistants; and
5 (8) Pharmacists,
6 licensed or certified in this State, or employed by a health
7 care facility, while providing volunteer medical assistance
8 services."

9 SECTION 92. Section 321-15.61, Hawaii Revised Statutes, is
10 amended by amending subsection (a) to read as follows:

11 "(a) Adult residential care homes may admit an individual
12 who has been living immediately prior to admission in the
13 individual's own home, a hospital, or other care setting, and
14 who has been either:

15 (1) Admitted to a medicaid waiver program and determined
16 by the department of human services to require nursing
17 facility level care to manage the individual's
18 physical, mental, and social functions; or

19 (2) A private-paying individual certified by a physician,
20 a physician assistant, or an advanced practice



1 registered nurse as needing a nursing facility level
2 of care."

3 SECTION 93. Section 321-15.62, Hawaii Revised Statutes, is
4 amended by amending subsection (b) to read as follows:

5 "(b) The director of health shall adopt rules regarding
6 expanded adult residential care homes in accordance with chapter
7 91 that shall implement a social model of health care designed
8 to:

9 (1) Protect the health, safety, civil rights, and rights
10 of choice of residents in a nursing facility or in
11 home- or community-based care;

12 (2) Provide for the licensing of expanded adult
13 residential care homes for persons who are certified
14 by the department of human services, a physician, a
15 physician assistant, an advanced practice registered
16 nurse, or a registered nurse case manager as requiring
17 skilled nursing facility level or intermediate care
18 facility level of care who have no financial
19 relationship with the home care operator or facility
20 staff; provided that the rules shall allow group
21 living in the following two categories of expanded



1 adult residential care homes as licensed by the
2 department of health:

3 (A) A type I home shall consist of five or fewer
4 residents with no more than two nursing facility
5 level residents; provided that more nursing
6 facility level residents may be allowed at the
7 discretion of the department; ~~and~~ provided
8 further that up to six residents may be allowed
9 at the discretion of the department to live in a
10 type I home; provided that the primary caregiver
11 or home operator is a certified nurse aide who
12 has completed a state-approved training program
13 and other training as required by the department;
14 and

15 (B) A type II home shall consist of six or more
16 residents, with no more than twenty per cent of
17 the home's licensed capacity as nursing facility
18 level residents; provided that more nursing
19 facility level residents may be allowed at the
20 discretion of the department;



provided further that the department shall exercise its discretion for a resident presently residing in a type I or type II home, to allow the resident to remain as an additional nursing facility level resident based upon the best interests of the resident. The best interests of the resident shall be determined by the department after consultation with the resident[7]; the resident's family[7]; primary physician, physician assistant, advanced practice registered nurse, or registered nurse; case manager[7]; primary caregiver[7]; and home operator;

(3) Comply with applicable federal laws and regulations of title XVI of the Social Security Act, as amended; and

(4) Provide penalties for the failure to comply with any rule."

SECTION 94. Section 321-23.3, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) All volunteer emergency medical disaster response personnel including[+] but not limited to:

(1) Physicians;

(2) Psychologists;



1 (3) Nurses;
2 (4) Emergency medical technicians;
3 (5) Social workers;
4 (6) Mobile intensive care technicians;
5 (7) Physician assistants; and
6 (8) Pharmacists,
7 licensed in the State, or employed by a health care facility,
8 while engaged in the emergency response to a mass casualty event
9 or disaster condition, including participation during periods of
10 mass casualty and disaster management training, shall be deemed
11 state employees or county employees, as the case may be, and
12 shall have the powers, duties, rights, and privileges of such in
13 the performance of their duties as prescribed by or under the
14 authority of the governor or a county."

15 SECTION 95. Section 321-23.6, Hawaii Revised Statutes, is
16 amended by amending subsection (a) to read as follows:

17 "(a) The department shall adopt rules for emergency
18 medical services that shall include:

- 19 (1) Uniform methods of rapidly identifying an adult person
20 who has certified, or for whom has been certified, in
21 a written "comfort care only" document that the person



1 or, consistent with chapter 327E, the person's
2 guardian, agent, or surrogate directs emergency
3 medical services personnel, first responder personnel,
4 and health care providers not to administer chest
5 compressions, rescue breathing, electric shocks, or
6 medication, or all of these, given to restart the
7 heart if the person's breathing or heart stops, and
8 directs that the person is to receive care for comfort
9 only, including oxygen, airway suctioning, splinting
10 of fractures, pain medicine, and other measures
11 required for comfort;

12 (2) The written document containing the certification
13 shall be signed by the patient or, consistent with
14 chapter 327E, the person's guardian, agent, or
15 surrogate and by any two other adult persons who
16 personally know the patient; and

17 (3) The original document containing the certification and
18 all three signatures shall be maintained by the
19 patient, the patient's:

20 (A) Physician[+], physician assistant, or advanced
21 practice registered nurse;



1 (B) Attorney;

2 (C) Guardian;

3 (D) Surrogate; or

4 (E) Any other person who may lawfully act on the
5 patient's behalf.

6 Two copies of the document shall be given to the
7 patient, or the patient's guardian, agent, or
8 surrogate.

9 (b) The rules shall provide for the following:

10 (1) The patient, or the patient's guardian, agent, or
11 surrogate, may verbally revoke the "comfort care only"
12 document at any time, including during the emergency
13 situation;

14 (2) An anonymous tracking system shall be developed to
15 assess the success or failure of the procedures and to
16 ensure that abuse is not occurring; and

17 (3) If an emergency medical services person, first
18 responder, or any other health care provider believes
19 in good faith that the provider's safety, the safety
20 of the family or immediate bystanders, or the
21 provider's own conscience requires the patient be



1 resuscitated despite the presence of a "comfort care
2 only" document, then that provider may attempt to
3 resuscitate that patient, and neither the provider,
4 the ambulance service, nor any other person or entity
5 shall be liable for attempting to resuscitate the
6 patient against the patient's will."

7 SECTION 96. Section 321-313, Hawaii Revised Statutes, is
8 amended to read as follows:

9 "**§321-313 Definition of health care professional.** [A
10 ~~health care professional means a physician or osteopathic~~
11 ~~physician as licensed under chapter 453.] For purposes of this~~
12 part, "health care professional" has the same meaning as in
13 section 451D-2."

14 SECTION 97. Section 321-331, Hawaii Revised Statutes, is
15 amended by amending subsection (b) to read as follows:

16 "(b) The department of health may:

17 (1) Provide educational resources to all women in the
18 State before and early in pregnancy about the
19 availability of prenatal tests, including non-
20 directive counseling and impartial information on the
21 benefits, risks, and limitations of prenatal tests;



- 1 (2) Make available prenatal screening and diagnosis tests
2 to all pregnant women in this State who choose to be
3 so screened;
- 4 (3) Specify the diseases which may be screened for;
- 5 (4) Determine screening and diagnostic test methodologies;
- 6 (5) Establish laboratory quality control standards for
7 performance of designated tests;
- 8 (6) Provide technical assistance to laboratories,
9 hospitals, physicians, physician assistants, advanced
10 practice registered nurses, and other health care
11 providers;
- 12 (7) Maintain a confidential registry and collect
13 appropriate statistical data for the purposes of
14 research and evaluation;
- 15 (8) Collect fees for program services; and
- 16 (9) Maintain confidentiality of records of women and their
17 families participating in the program."

18 SECTION 98. Section 323D-54, Hawaii Revised Statutes, is
19 amended to read as follows:



1 "§323D-54 Exemptions from certificate of need

2 **requirements.** Nothing in this part or rules with respect to the
3 requirement for certificates of need applies to:

4 (1) Offices of physicians, dentists, or other
5 ~~[practitioners of the healing arts]~~ health care
6 providers in private practice as distinguished from
7 organized ambulatory health care facilities, except in
8 any case of purchase or acquisition of equipment
9 attendant to the delivery of health care service and
10 the instruction or supervision for any private office
11 or clinic involving a total expenditure in excess of
12 the expenditure minimum;

13 (2) Laboratories, as defined in section 321-11(12), except
14 in any case of purchase or acquisition of equipment
15 attendant to the delivery of health care service and
16 the instruction or supervision for any laboratory
17 involving a total expenditure in excess of the
18 expenditure minimum;

19 (3) Dispensaries and first aid stations located within
20 business or industrial establishments and maintained
21 solely for the use of employees; provided such



1 facilities do not regularly provide inpatient or
2 resident beds for patients or employees on a daily
3 twenty-four-hour basis;

4 (4) Dispensaries or infirmaries in correctional or
5 educational facilities;

6 (5) Dwelling establishments, such as hotels, motels, and
7 rooming or boarding houses that do not regularly
8 provide health care facilities or health care
9 services;

10 (6) Any home or institution conducted only for those who,
11 pursuant to the teachings, faith, or belief of any
12 group, depend for healing upon prayer or other
13 spiritual means;

14 (7) Dental clinics;

15 (8) Nonpatient areas of care facilities such as parking
16 garages and administrative offices;

17 (9) Bed changes that involve ten per cent or ten beds of
18 existing licensed bed types, whichever is less, of a
19 facility's total existing licensed beds within a two-
20 year period;



1 (10) Projects that are wholly dedicated to meeting the
2 State's obligations under court orders, including
3 consent decrees, that have already determined that
4 need for the projects exists;

5 (11) Replacement of existing equipment with its modern-day
6 equivalent;

7 (12) Primary care clinics under the expenditure thresholds
8 referenced in section 323D-2;

9 (13) Equipment and services related to that equipment, that
10 are primarily invented and used for research purposes
11 as opposed to usual and customary diagnostic and
12 therapeutic care;

13 (14) Capital expenditures that are required:

14 (A) To eliminate or prevent imminent safety hazards
15 as defined by federal, state, or county fire,
16 building, or life safety codes or regulations;

17 (B) To comply with state licensure standards;

18 (C) To comply with accreditation standards,
19 compliance with which is required to receive
20 reimbursements under Title XVIII of the Social
21 Security Act or payments under a state plan for



1 medical assistance approved under Title XIX of
2 such Act;

3 (15) Extended care adult residential care homes and
4 assisted living facilities; or

5 (16) Other facilities or services that the agency through
6 the statewide council chooses to exempt, by rules
7 pursuant to section 323D-62."

8 SECTION 99. Section 325-54, Hawaii Revised Statutes, is
9 amended to read as follows:

10 "**\$325-54 Reports confidential; penalty.** Any information
11 secured from the tests or the reports in this part required to
12 be made by persons having access to such tests or reports shall
13 be used only in connection with their professional duties or
14 within the scope and course of their employment, but not
15 otherwise, and except to the extent required in connection with
16 enforcement of the laws and ordinances of the State, and its
17 political subdivisions, and valid rules and regulations adopted
18 thereunder, which are for the protection of the public health,
19 shall not be divulged to others than the [~~doctor~~] physician and
20 other person permitted by law to attend and attending a pregnant
21 woman, laboratory technicians, or the department of health and



1 its duly authorized representatives. Any person violating this
2 section shall be fined \$500, or imprisoned not more than ninety
3 days, or both."

4 SECTION 100. Section 325-101, Hawaii Revised Statutes, is
5 amended by amending subsection (a) to read as follows:

6 "(a) The records of any person that indicate that a person
7 has a human immunodeficiency virus (HIV) infection, AIDS related
8 complex (ARC), or acquired immune deficiency syndrome (AIDS),
9 which are held or maintained by any state agency, health care
10 provider or facility, physician, ~~[osteopathic physician,]~~
11 physician assistant, advanced practice registered nurse,
12 laboratory, clinic, blood bank, third party payor, or any other
13 agency, individual, or organization in the State shall be
14 strictly confidential. For the purposes of this part, ~~[the~~
15 ~~term]~~ "records" shall be broadly construed to include all
16 communication that identifies any individual who has HIV
17 infection, ARC, or AIDS. This information shall not be released
18 or made public upon subpoena or any other method of discovery.
19 Notwithstanding any other provision to the contrary, release of
20 the records protected under this part shall be permitted under
21 the following circumstances:



- 1 (1) Release is made to the department of health in order
2 that it may comply with federal reporting requirements
3 imposed on the State. The department shall ensure
4 that personal identifying information from these
5 records is protected from public disclosure;
- 6 (2) Release is made of the records, or of specific medical
7 or epidemiological information contained [~~therein,~~] in
8 the records, with the prior written consent of the
9 person or persons to whom the records pertain;
- 10 (3) Release is made to medical personnel in a medical
11 emergency only to the extent necessary to protect the
12 health, life, or well-being of the named party;
- 13 (4) Release is made from a physician [~~or osteopathic~~
14 ~~physician~~] licensed pursuant to chapter 453, a
15 physician assistant licensed pursuant to chapter 453,
16 or an advanced practice registered nurse licensed
17 pursuant to chapter 457 to the department of health to
18 inform the sexual or needle sharing contact of an HIV
19 seropositive patient where:
- 20 (A) There is reason for the physician [~~or osteopathic~~
21 ~~physician~~], physician assistant, or advanced



1 practice registered nurse to believe that the
2 contact is or has been at risk of HIV
3 transmission as a result of the index patient
4 having engaged in conduct [~~which~~] that is likely
5 to transmit HIV; and

6 (B) The index patient has first been counseled by the
7 physician [~~or osteopathic physician~~], physician
8 assistant, or advanced practice registered nurse
9 of the need for disclosure and the patient is
10 unwilling to inform the contact directly or is
11 unwilling to consent to the disclosure of the
12 index patient's HIV status by the physician, [~~the~~
13 ~~osteopathic physician,~~] physician assistant,
14 advanced practice registered nurse, or [~~the~~]
15 department of health; provided that the identity
16 of the index patient is not disclosed; [~~and~~]
17 provided further that there is no obligation to
18 identify or locate any contact. Any
19 determination by a physician [~~or osteopathic~~
20 ~~physician~~], physician assistant, or advanced
21 practice registered nurse to disclose or withhold



1 disclosure of an index patient's sexual contacts
2 to the department of health pursuant to this
3 subsection [~~which~~] that is made in good faith
4 shall not be subject to penalties under this part
5 or otherwise subject to civil or criminal
6 liability for damages under the laws of the
7 State;

8 (5) Release is made by the department of health of medical
9 or epidemiological information from the records to
10 medical personnel, appropriate county and state
11 agencies, blood banks, plasma centers, organ and
12 tissue banks, schools, preschools, day care centers,
13 or county or district courts to enforce this part and
14 to enforce rules adopted by the department concerning
15 the control and treatment of HIV infection, ARC, and
16 AIDS, or to the sexual or needle sharing contacts of
17 an HIV seropositive index patient for purposes of
18 contact notification as provided in paragraph (4);
19 provided that the identity of the index patient, if
20 known, shall not be disclosed; provided further that
21 release of information under this paragraph shall only



1 be made by confidential communication to a designated
2 individual charged with compliance with this part;

3 (6) Release of a child's records is made to the department
4 of human services for the purpose of enforcing
5 chapters 350 and 587A;

6 (7) Release of a child's records is made within the
7 department of human services and to child protective
8 services team consultants under contract to the
9 department of human services for the purpose of
10 enforcing and administering chapters 350 and 587A on a
11 [~~need-to-know~~] need-to-know basis pursuant to a
12 written protocol to be established and implemented, in
13 consultation with the director of health, by the
14 director of human services;

15 (8) Release of a child's records is made by employees of
16 the department of human services authorized to do so
17 by the protocol established in paragraph (7) to a
18 natural parent of a child who is the subject of the
19 case when the natural parent is a client in the case,
20 the guardian ad litem of the child, the court, each
21 party to the court proceedings, and also to an



1 adoptive or a prospective adoptive parent, an
2 individual or an agency with whom the child is placed
3 for twenty-four hour residential care, and medical
4 personnel responsible for the care or treatment of the
5 child. When a release is made to a natural parent of
6 the child, it shall be with appropriate counseling as
7 required by section 325-16. In no event shall
8 proceedings be initiated against a child's natural
9 parents for claims of child abuse under chapter 350 or
10 harm to a child or to affect parental rights under
11 chapter 587A solely on the basis of the HIV
12 seropositivity of a child or the child's natural
13 parents;

- 14 (9) Release is made to the patient's health care insurer
15 to obtain reimbursement for services rendered to the
16 patient; provided that release shall not be made if,
17 after being informed that a claim will be made to an
18 insurer, the patient is afforded the opportunity to
19 make the reimbursement directly and actually makes the
20 reimbursement;



- 1 (10) Release is made by the patient's health care provider
2 to another health care provider for the purpose of
3 continued care or treatment of the patient;
- 4 (11) Release is made pursuant to a court order, after an in
5 camera review of the records, upon a showing of good
6 cause by the party seeking release of the records;
- 7 (12) Disclosure by a physician [~~or osteopathic physician,~~],
8 a physician assistant, or an advanced practice
9 registered nurse, on a confidential basis, of the
10 identity of a person who is HIV seropositive and who
11 also shows evidence of tuberculosis infection, to a
12 person within the department of health as designated
13 by the director of health for purposes of evaluating
14 the need for or the monitoring of tuberculosis
15 chemotherapy for the person and the person's contacts
16 who are at risk of developing tuberculosis; or
- 17 (13) Release is made for the purpose of complying with
18 sections 325-16.5 and 801D-4(b). Nothing in this
19 section shall be construed to prohibit a victim to
20 whom information is released pursuant to section 325-
21 16.5 from requesting the release of information by a



1 physician, [~~osteopathic physician,~~] a physician
2 assistant, an advanced practice registered nurse, or
3 an HIV counselor to a person with whom the victim
4 shares a privileged relationship recognized by chapter
5 626; provided that prior to such release, the person
6 to whom the information is to be released shall be
7 required to sign a notice of HIV status disclosure
8 advising them of the confidentiality provisions
9 regarding HIV test results and the penalties for
10 unlawful disclosure to any person other than a
11 designated physician, [~~osteopathic physician,~~]
12 physician assistant, advanced practice registered
13 nurse, or HIV counselor.

14 As used in this [~~part,~~] subsection, unless the context
15 requires otherwise:

16 "Medical emergency" means any disease-related situation
17 that threatens life or limb.

18 "Medical personnel" means any health care provider in the
19 State, as provided in section 323D-2, who deals directly or
20 indirectly with the identified patient or the patient's
21 contacts, and includes hospital emergency room personnel, the



1 staff of the communicable disease division of the department of
2 health, and any other department personnel as designated by the
3 director."

4 SECTION 101. Section 327C-1, Hawaii Revised Statutes, is
5 amended to read as follows:

6 "**§327C-1 Determination of death.** (a) Except as provided
7 in subsection (b), a person shall be considered dead if, in the
8 announced opinion of a physician [~~or osteopathic physician~~]
9 licensed under part I of chapter 453, physician [~~or osteopathic~~
10 ~~physician~~] excepted from licensure by section 453-2(b)(3),
11 physician assistant licensed under chapter 453, advanced
12 practice registered nurse licensed under chapter 457, or
13 registered nurse licensed under chapter 457, based on ordinary
14 standards of current medical practice, the person has
15 experienced irreversible cessation of spontaneous respiratory
16 and circulatory functions. Death will have occurred at the time
17 when the irreversible cessation of the functions first
18 coincided.

19 (b) In the event that artificial means of support preclude
20 a determination that respiratory and circulatory functions have
21 ceased, a person shall be considered dead if, in the opinion of



1 ~~[an attending physician or osteopathic physician licensed under~~
2 ~~part I of chapter 453, or attending physician or osteopathic~~
3 ~~physician excepted from licensure by section 453-2(b)(3),]~~ a
4 health care provider, and of a consulting ~~[physician or~~
5 ~~osteopathic physician licensed under part I of chapter 453, or~~
6 ~~consulting physician or osteopathic physician excepted from~~
7 ~~licensure by section 453-2(b)(3),]~~ health care provider, based
8 on ordinary standards of current medical practice, the person
9 has experienced irreversible cessation of all functions of the
10 entire brain, including the brain stem. The opinions of the
11 ~~[physicians or osteopathic physicians]~~ health care providers
12 shall be evidenced by signed statements. Death will have
13 occurred at the time when the irreversible cessation of all
14 functions of the entire brain, including the brain stem, first
15 occurred. Death shall be pronounced before artificial means of
16 support are withdrawn and before any vital organ is removed for
17 purposes of transplantation.

18 (c) When a part of a donor is used for direct organ
19 transplantation under chapter 327, and the donor's death is
20 established by determining that the donor experienced
21 irreversible cessation of all functions of the entire brain,



1 including the brain stem, the determination shall only be made
2 under subsection (b). The determination of death in all other
3 cases shall be made under subsection (a). The [~~physicians or~~
4 ~~osteopathic physicians~~] health care providers making the
5 determination of death shall not participate in the procedures
6 for removing or transplanting a part, or in the care of any
7 recipient.

8 (d) All death determinations in the State shall be made
9 pursuant to this section and shall apply to all purposes,
10 including but not limited to civil and criminal actions, any
11 laws to the contrary notwithstanding; provided that presumptive
12 deaths under the Uniform Probate Code shall not be affected by
13 this section.

14 (e) The director of health may convene in every odd-
15 numbered year, a committee [~~which~~] that shall be composed of
16 representatives of appropriate general and specialized medical
17 professional organizations, licensed attorneys, and members of
18 the public. The committee shall review medical practice, legal
19 developments, and other appropriate matters to determine the
20 continuing viability of this section, and shall submit a report
21 of its findings and recommendations to the legislature, prior to



1 the convening of the regular session held in each even-numbered
2 year.

3 (f) For purposes of this section, "health care provider"
4 means a physician or osteopathic physician licensed under
5 chapter 453, a physician or osteopathic physician excepted from
6 licensure by section 453-2(b) (3), a physician assistant licensed
7 under chapter 453, or an advanced practice registered nurse
8 licensed under chapter 457."

9 SECTION 102. Section 328-1, Hawaii Revised Statutes, is
10 amended by amending the definition of "out-of-state
11 practitioner" to read as follows:

12 ""Out-of-state practitioner" means a physician, surgeon,
13 osteopathic physician [~~and~~] or surgeon, physician assistant,
14 advanced practice registered nurse, pharmacist, dentist,
15 podiatrist, or veterinarian authorized to prescribe drugs to
16 patients under the applicable laws of any state of the United
17 States except the State of Hawaii, or a physician, surgeon,
18 osteopathic physician [~~and~~] or surgeon, physician assistant,
19 advanced practice registered nurse, pharmacist, dentist,
20 podiatrist, or veterinarian authorized to prescribe drugs under



1 the applicable laws of Hawaii, but practicing in a state other
2 than Hawaii."

3 SECTION 103. Section 328-112, Hawaii Revised Statutes, is
4 amended by amending the definition of "wholesale distributor" to
5 read as follows:

6 ""Wholesale distributor" means any person or entity engaged
7 in wholesale distribution of prescription drugs, including[7]
8 but not limited to[7] manufacturers; repackers; own-label
9 distributors; jobbers; private label distributors; brokers;
10 warehouses, including manufacturers' and distributors'
11 warehouses, chain drug warehouses, and wholesale drug
12 warehouses; independent wholesale drug traders; prescription
13 drug repackagers; physicians; dentists; veterinarians; other
14 practitioners; birth control and other clinics; individuals;
15 hospitals; nursing homes and their providers; health maintenance
16 organizations and other health care providers; and retail and
17 hospital pharmacies that conduct wholesale distributions. [The
18 ~~term "wholesale distributor" shall~~] "Wholesale distributor" does
19 not include any carrier for hire or person or entity hired
20 solely to transport prescription drugs."



SECTION 104. Section 328-97, Hawaii Revised Statutes, is amended to read as follows:

"§328-97 Posting requirements. Every pharmacy shall prominently display, in clear and unobstructed public view, a sign in block letters that shall read:

"HAWAII LAW REQUIRES THAT LESS EXPENSIVE GENERICALLY EQUIVALENT DRUG PRODUCTS AND INTERCHANGEABLE BIOLOGICAL PRODUCTS BE OFFERED TO THE CONSUMER. CONSULT YOUR [PHYSICIAN] HEALTH CARE PROVIDER AND PHARMACIST CONCERNING THE AVAILABILITY OF THE LEAST EXPENSIVE DRUG PRODUCT FOR YOUR USE."

The letters must be at least one inch in height."

SECTION 105. Section 329-125.5, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) For the purposes of medical care, including organ transplants, a registered qualifying patient's use of cannabis in compliance with this part shall be considered the equivalent of the use of any other medication under the direction of a physician, advanced practice registered nurse, or other authorized health care provider and shall not constitute the use



1 of an illicit substance or otherwise disqualify a registered
2 qualifying patient from medical care."

3 SECTION 106. Section 334B-2, Hawaii Revised Statutes, is
4 amended as follows:

5 1. By adding three new definitions to be appropriately
6 inserted and to read:

7 "Advanced practice registered nurse" means a person
8 licensed pursuant to section 457-8.5.

9 "Pharmacist" means a person licensed pursuant to chapter
10 461.

11 "Physician assistant" means a person licensed pursuant to
12 section 453-5.3."

13 2. By amending the definition of "health care provider" to
14 read:

15 "Health care provider" means any person, corporation,
16 facility, or institution licensed by this State to provide
17 health care services, including but not limited to a physician,
18 physician assistant, hospital or other health care facility,
19 advanced practice registered nurse, psychologist, pharmacist, or
20 substance abuse counselor, and officer, employee, or agent of



1 such provider acting in the course and scope of employment or
2 agency related to health care services."

3 SECTION 107. Section 338-10, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "§338-10 Late determination of the cause of death. If the
6 cause of death cannot be determined within three days, the
7 certification of its cause may be filed after the prescribed
8 period, but the attending physician, physician assistant,
9 advanced practice registered nurse, or coroner's physician shall
10 notify in writing the local agent of the department of health of
11 the district in which the death occurred of the reason for late
12 filing, in order that a permit for the disposition of the body
13 may be issued.

14 As used in this section, "late" means more than three days
15 after the date of death."

16 SECTION 108. Section 338-17.7, Hawaii Revised Statutes, is
17 amended by amending subsection (a) to read as follows:

18 "(a) The department of health shall establish, in the
19 following circumstances, a new certificate of birth for a person
20 born in this State who already has a birth certificate filed



1 with the department and who is referred to below as the "birth
2 registrant":

- 3 (1) Upon receipt of an affidavit of paternity, a court
4 order establishing paternity, or a certificate of
5 marriage establishing the marriage of the natural
6 parents to each other, together with a request from
7 the birth registrant, or the birth registrant's parent
8 or other person having legal custody of the birth
9 registrant, that a new birth certificate be prepared
10 because previously recorded information has been
11 altered pursuant to law;
- 12 (2) Upon receipt of a certified copy of a final order,
13 judgment, or decree of a court of competent
14 jurisdiction that determined the nonexistence of a
15 parent and child relationship between a person
16 identified as a parent on the birth certificate on
17 file and the birth registrant;
- 18 (3) Upon receipt of a certified copy of a final adoption
19 decree, or of an abstract of the decree, pursuant to
20 sections 338-20 and 578-14;



1 (4) Upon receipt of an affidavit from a United States
2 licensed physician ~~[or]~~, physician assistant, or
3 advanced practice registered nurse attesting that:

4 (A) The physician ~~[or]~~, physician assistant, or
5 advanced practice registered nurse has a bona
6 fide provider-patient relationship with the birth
7 registrant;

8 (B) The physician ~~[or]~~, physician assistant, or
9 advanced practice registered nurse has treated
10 and evaluated the birth registrant and has
11 reviewed and evaluated the birth registrant's
12 medical history;

13 (C) The birth registrant has had appropriate clinical
14 treatment for gender transition to the new gender
15 and has completed the transition to the new
16 gender; and

17 (D) The new gender does not align with the sex
18 designation on the birth registrant's birth
19 certificate; or

20 (5) Upon request of a law enforcement agency certifying
21 that a new birth certificate showing different



1 information would provide for the safety of the birth
2 registrant; provided that the new birth certificate
3 shall contain information requested by the law
4 enforcement agency, shall be assigned a new number and
5 filed accordingly, and shall not substitute for the
6 birth registrant's original birth certificate, which
7 shall remain in place."

8 SECTION 109. Section 342D-21, Hawaii Revised Statutes, is
9 amended as follows:

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

11 "(a) Beginning January 1, 2021, it shall be unlawful to
12 sell, offer for sale, or distribute for sale in the State any
13 sunscreen that contains oxybenzone or octinoxate, or both,
14 without a prescription issued by a licensed [~~healthcare~~] health
15 care provider."

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

17 "(c) For purposes of this section:

18 [~~"Licensed healthcare provider"~~] "Licensed health care
19 provider" means a physician or an osteopathic physician licensed
20 pursuant to chapter 453, a physician assistant licensed pursuant



1 to chapter 453, or an advanced practice registered nurse
2 licensed pursuant to chapter 457.

3 "Octinoxate" refers to the chemical (RS)-2-Ethylhexyl (2E)-
4 3-(4-methoxyphenyl)prop-2-enoate under the International Union
5 of Pure and Applied Chemistry chemical nomenclature registry;
6 that has a chemical abstract service registry number 5466-77-3;
7 the synonyms of which include but are not limited to ethylhexyl
8 methoxycinnamate, octyl methoxycinnamate, Eusolex 2292, Neo
9 Heliopan AV, NSC 26466, Parsol MOX, Parsol MCX, and Uvinul MC80;
10 and is intended to be used as protection against ultraviolet
11 light radiation with a spectrum wavelength from 370 nanometers
12 to 220 nanometers in a sunscreen.

13 "Oxybenzone" refers to the chemical (2-Hydroxy-4-
14 methoxyphenyl)-phenylmethanone under the International Union of
15 Pure and Applied Chemistry chemical nomenclature registry; that
16 has a chemical abstract service registry number 131-57-7; the
17 synonyms of which include but are not limited to benzophenone-3,
18 Escalol 567, Eusolex 4360, KAHSCREEN BZ-3, Uvasorb MET/C,
19 Syntase 62, UV 9, Uvinul 9, Uvinul M-40, Uvistat 24, USAF Cy-9,
20 Uniphenone-3U, 4-methoxy-2-hydroxybenzophenone and Milestab 9;
21 and is intended to be used as protection against ultraviolet



1 light radiation with a spectrum wavelength from 370 nanometers
2 to 220 nanometers in a sunscreen.

3 "Prescription" means an order for medication, that is
4 dispensed to or for an ultimate user. "Prescription" shall not
5 include an order for medication that is dispensed for immediate
6 administration to the ultimate user, such as a chart order to
7 dispense a drug to a bed patient for immediate administration in
8 a hospital. "Prescription" includes an order for a sunscreen.

9 "Sunscreen" means a product marketed or intended for
10 topical use to prevent sunburn. Sunscreen does not include
11 products marketed or intended for use as a cosmetic, as defined
12 in section 328-1, for the face."

13 SECTION 110. Section 346-1, Hawaii Revised Statutes, is
14 amended by amending the definition of "other work eligible
15 household" to read as follows:

16 "'Other work eligible household" means a household in which
17 there is no work eligible individual and at least one adult
18 member is an adult receiving assistance under the temporary
19 assistance for needy families program, or a non-recipient
20 parent, who is:



1 (1) Unable to engage in full-time employment as defined by
2 the work participation requirements of the Social
3 Security Act, title 42 United States Code section 607,
4 at a job for which the non-recipient parent is
5 equipped by education, training, or experience, for a
6 period of more than thirty days from the onset of an
7 illness, incapacity, or disability due to a physical
8 or mental impairment or substance abuse, as determined
9 by a licensed physician, physician assistant, advanced
10 practice registered nurse, or psychologist;

11 (2) A domestic violence victim or any other adult in the
12 assistance unit who meets the criteria established by
13 the department; or

14 (3) An adult sixty-five years of age or older."

15 SECTION 111. Section 346-53.64, Hawaii Revised Statutes,
16 is amended by amending subsection (a) to read as follows:

17 "(a) Services eligible for prospective payment system
18 reimbursement are those services that are furnished by a
19 federally qualified health center or rural health clinic that
20 are:



- 1 (1) Within the legal authority of a federally qualified
2 health center to deliver, as defined in section 1905
3 of the Social Security Act;
- 4 (2) Actually provided by the federally qualified health
5 center, either directly or under arrangements;
- 6 (3) Covered benefits under the medicaid program, as
7 defined in section 4231 of the State Medicaid Manual
8 and the Hawaii medicaid state plan;
- 9 (4) Provided to a recipient eligible for medicaid
10 benefits;
- 11 (5) Delivered exclusively by health care professionals,
12 including physicians, ~~[physician's]~~ physician
13 ~~assistants, [nurse practitioners, nurse midwives,]~~
14 advanced practice registered nurses, clinical social
15 workers, clinical psychologists, pharmacists, and
16 other persons acting within the lawful scope of their
17 license or certificate to provide services;
- 18 (6) Provided at the federally qualified health center's
19 practice site, a hospital emergency room, in an
20 inpatient setting, at the patient's place of



1 residence, including [~~long-term~~] long-term care
2 facilities, or at another medical facility; and

3 (7) Within the scope of services provided by the State
4 under its fee-for-service medicaid program and its
5 medicaid managed care program, on and after August
6 1994, and as amended from time to time."

7 SECTION 112. Section 346-59, Hawaii Revised Statutes, is
8 amended by amending subsection (b) to read as follows:

9 (b) Rates of payment to providers of medical care who are
10 individual practitioners, including [~~doctors of medicine,~~]
11 physicians or osteopathic physicians, dentists, podiatrists,
12 psychologists, [~~osteopaths,~~] optometrists, pharmacists, advanced
13 practice registered nurses, physician assistants, and other
14 individuals providing services, shall be based upon the Hawaii
15 medicaid fee schedule. The amounts paid shall not exceed the
16 maximum permitted to be paid individual practitioners or other
17 individuals under federal law and regulation, the medicare fee
18 schedule for the current year, the state limits as provided in
19 the appropriation act, or the provider's billed amount.

20 The appropriation act shall indicate the percentage of the
21 medicare fee schedule for the year 2000 to be used as the basis



1 for establishing the Hawaii medicaid fee schedule. For any
2 subsequent adjustments to the fee schedule, the legislature
3 shall specify the extent of the adjustment in the appropriation
4 act."

5 SECTION 113. Section 346-59.1, Hawaii Revised Statutes, is
6 amended by amending subsection (g) to read as follows:

7 "(g) For the purposes of this section:

8 "Distant site" means the location of the health care
9 provider delivering services through telehealth at the time the
10 services are provided.

11 "Health care provider" means a provider of services, as
12 defined in title 42 United States Code section 1395x(u), a
13 provider of medical and other health services, as defined in
14 title 42 United States Code section 1395x(s), other
15 practitioners licensed by the State and working within their
16 scope of practice, and any other person or organization who
17 furnishes, bills, or is paid for health care in the normal
18 course of business, including but not limited to primary care
19 providers, mental health providers, oral health providers,
20 physicians and osteopathic physicians licensed under chapter
21 453, physician assistants licensed under chapter 453, advanced



1 practice registered nurses licensed under chapter 457,
2 psychologists licensed under chapter 465, and dentists licensed
3 under chapter 448.

4 "Interactive telecommunications system" has the same
5 meaning as the term is defined in title 42 Code of Federal
6 Regulations section 410.78(a).

7 "Originating site" means the location where the patient is
8 located, whether accompanied or not by a health care provider,
9 at the time services are provided by a health care provider
10 through telehealth, including but not limited to a health care
11 provider's office, hospital, critical access hospital, rural
12 health clinic, federally qualified health center, a patient's
13 home, and other nonmedical environments such as school-based
14 health centers, university-based health centers, or the work
15 location of a patient.

16 "Telehealth" means the use of telecommunications services,
17 as defined in section 269-1, to encompass four modalities:
18 store and forward technologies, remote monitoring, live
19 consultation, and mobile health; and which shall include but not
20 be limited to real-time video conferencing-based communication,
21 secure interactive and non-interactive web-based communication,



1 and secure asynchronous information exchange, to transmit
2 patient medical information, including diagnostic-quality
3 digital images and laboratory results for medical interpretation
4 and diagnosis, for the purpose of delivering enhanced health
5 care services and information while a patient is at an
6 originating site and the health care provider is at a distant
7 site. Except as provided through an interactive
8 telecommunications system, standard telephone contacts,
9 facsimile transmissions, or e-mail text, in combination or
10 alone, do not constitute telehealth services."

11 SECTION 114. Section 346-71, Hawaii Revised Statutes, is
12 amended by amending subsection (b) to read as follows:

13 "(b) A person between eighteen and sixty-five years of age
14 with a disability shall be eligible for general assistance to
15 households without minor dependents if the person:

16 (1) Is determined to be needy in accordance with standards
17 established by this chapter and the rules adopted
18 under subsection (e);

19 (2) Is unable to meet the disability requirements
20 established by the federal supplemental security
21 income program or its successor agency; and



(3) Is unable to engage in any substantial gainful employment because of a determined and certified physical, mental, or combination of physical and mental disability. Upon application, the department shall ask the person whether the person has a physical or mental disability, or both. If the person claims to have both a physical and mental disability, the department shall ask the person to choose whether the person's primary disability is physical or mental.

Determination and certification of the disability shall be as follows:

(A) A determination and certification of physical disability shall be made by a board of licensed physicians, physician assistants, advanced practice registered nurses, or other licensed health care providers designated and paid by the department. Meetings of this board shall not be subject to part I of chapter 92;

(B) A determination and certification of mental disability shall be made by a board of licensed psychologists ~~[et]~~, licensed physicians,



1 physician assistants, advanced practice
2 registered nurses, or other licensed health care
3 providers whose specialty is in psychiatry. This
4 board shall be designated and paid by the
5 department. Meetings of this board shall not be
6 subject to part I of chapter 92;

7 (C) If a determination and certification is made that
8 the applicant does not have a physical, mental,
9 or combination of a physical and mental
10 disability, prior to a denial of any claim, the
11 department shall provide the applicant with an
12 initial denial notice that gives the applicant at
13 least ten calendar days to provide additional
14 medical evidence. The notice shall refer the
15 applicant to free legal services for assistance
16 and permit the applicant to request extensions of
17 time, if necessary;

18 (D) If a determination of physical, mental, or
19 combination of a physical and mental disability
20 is made, the person shall accept and pursue
21 appropriate medical treatment from a provider of



1 the person's choice. The department shall
2 promptly provide the person with a complete and
3 legible copy of the recommended appropriate
4 treatment;

5 (E) Any person, to continue to be certified as
6 mentally disabled, physically disabled, or both
7 mentally and physically disabled, shall be
8 reevaluated annually, as provided by this
9 section, and more frequently, as required by the
10 department; and

11 (F) Failure to pursue appropriate medical treatment
12 shall result in a loss of eligibility, unless the
13 failure is due to good cause. Good cause shall
14 include but not be limited to:

15 (i) Treatment is unavailable;

16 (ii) Personal emergencies; and

17 (iii) Circumstances that threaten the safety of
18 the patient.

19 The department shall adopt rules in accordance with chapter 91
20 to define "good cause", as used in subparagraph (F), in order to
21 determine when treatment is unavailable, what constitutes a



1 personal emergency, what circumstances may threaten the safety
2 of a patient, and other factors that may constitute good cause.

3 As used in this subsection:

4 "Substantial gainful employment" means at least thirty
5 hours of work per week.

6 "With a disability" or "having a disability" means a
7 disability that extends for a period of over sixty days.

8 Any person determined to be eligible under this subsection
9 may be referred to any appropriate state agency for vocational
10 rehabilitation services and shall be required to accept the
11 services as a further condition of eligibility for the receipt
12 of general assistance to households without minor dependents
13 under this section. An assistance unit shall be determined
14 ineligible for general assistance to households without minor
15 dependents if any adult member of the assistance unit fails to
16 cooperate with any appropriate state agency for vocational
17 rehabilitation services after being referred for services. Any
18 person found eligible under this subsection may also be required
19 to seek employment and participate in public work projects, as
20 described in section 346-31, and in public employment projects,
21 as described in section 346-102."



1 SECTION 115. Section 346-240, Hawaii Revised Statutes, is
2 amended by amending subsection (c) to read as follows:

3 "(c) If facts sufficient to sustain the petition are
4 established in court, or are stipulated to by all parties, the
5 court shall enter an order finding that the vulnerable adult has
6 incurred abuse or is in danger of abuse if immediate action is
7 not taken and shall state the grounds for the finding. The
8 court shall also make a finding concerning the capacity of the
9 vulnerable adult to effectively make decisions concerning
10 personal needs or property. If the capacity of the vulnerable
11 adult is at issue, the court shall require that the vulnerable
12 adult be examined by a psychiatrist or other physician,
13 physician assistant, advanced practice registered nurse, or
14 psychologist who is skilled in evaluating the particular area in
15 which the vulnerable adult is alleged to lack capacity before
16 making any finding that the vulnerable adult lacks capacity. If
17 there is no finding that the vulnerable adult lacks capacity to
18 make decisions regarding personal needs or property and if the
19 vulnerable adult does not give consent, the court shall not have
20 authority to proceed further and the court shall dismiss the
21 case."



SECTION 116. Section 353-10, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) There shall be within the department of corrections and rehabilitation, an intake service center for adults in each of the counties to screen, evaluate, and classify the admission of persons to community correctional centers. Each center shall be directed and managed by a manager and shall be staffed by a team of psychiatrists, social workers, advanced practice registered nurses with a nationally accredited board certification in psychiatric mental health, physician assistants, pharmacists, psychologists, technicians, and other personnel as may be necessary. The director of corrections and rehabilitation may appoint full-time or part-time professional and clerical staff or contract for professional services."

SECTION 117. Section 353-13.5, Hawaii Revised Statutes, is amended to read as follows:

"[+]§353-13.5[+] Election of private medical or psychological care by prisoners. The director shall permit prisoners to retain any private licensed ~~[medical doctor]~~ physician or osteopathic physician, physician assistant, advanced practice registered nurse, or psychologist for their



1 own medical or psychological care at the correctional facility
2 in addition to [~~such~~] care [~~as~~] that may be provided by the
3 department; provided that any fees or other costs charged by a
4 private [~~medical doctor~~] physician or osteopathic physician,
5 physician assistant, advanced practice registered nurse, or
6 psychologist for [~~such~~] the care shall be the sole
7 responsibility of the prisoner [~~and that such care~~]; shall not
8 put the correctional facility to any hazard; and [~~that such~~
9 ~~care~~] shall conform to the department's rules and established
10 practices, including any requirements concerning advance notice
11 of visits with the prisoner. [~~Medical doctors~~] Physicians or
12 osteopathic physicians, physician assistants, advanced practice
13 registered nurses, or psychologists who provide [~~such~~] care
14 shall provide timely reports to the department as to the
15 physical or psychological progress of the prisoner. If the
16 private care is discontinued, the department shall be notified
17 immediately by the private [~~medical doctor~~] physician or
18 osteopathic physician, physician assistant, advanced practice
19 registered nurse, or psychologist. In no event shall the
20 department or the State incur any civil liability whatsoever as



1 a result of any private medical or psychological care
2 administered under this section."

3 SECTION 118. Section 353-13.7, Hawaii Revised Statutes, is
4 amended to read as follows:

5 **"§353-13.7 Initiation of proceeding for involuntary**
6 **medical treatment.** (a) The director, or the director's
7 designee, may file a petition for involuntary medical treatment
8 alleging that a person in the custody of the department meets
9 the criteria for involuntary medical treatment under section
10 353-13.6. The petition shall be executed subject to the
11 penalties of perjury but need not be sworn to before a notary
12 public and shall be filed in the circuit court of the circuit
13 wherein the person who is the subject of the petition is in
14 custody. The attorney general, the attorney general's deputy,
15 special deputy, or appointee designated to present the case
16 shall assist the petitioner to state the substance of the
17 petition in plain and simple language. The petition may be
18 accompanied by an affidavit or declaration of the licensed
19 ~~[physician or psychologist]~~ health care provider who has
20 examined the person within five days prior to submission of the
21 petition, unless the person whose treatment is sought has



1 refused to submit to a medical or psychological examination, in
2 which case the fact of refusal shall be alleged in the petition.
3 The affidavit or declaration shall set forth the signs and
4 symptoms relied upon by the ~~[physician or psychologist]~~ health
5 care provider to determine whether the person is in need of
6 treatment, whether the person is capable of realizing and making
7 a rational decision with respect to the person's need for
8 treatment, and the recommended treatment. If the petitioner
9 believes that further evaluation is necessary before treatment,
10 the petitioner may request such further evaluation.

11 (b) If the person has been given an examination,
12 evaluation, or treatment in a psychiatric facility or by the
13 department within five days before the filing of the petition,
14 and treatment is recommended by the staff of the facility or the
15 department, the petition may be accompanied by an affidavit or
16 declaration of the department's medical director or the mental
17 health administrator in lieu of a ~~[physician's or~~
18 ~~psychologist's]~~ health care provider's affidavit or declaration.

19 (c) For purposes of this section, "health care provider"
20 means a physician or an osteopathic physician licensed pursuant
21 to chapter 453, a physician assistant licensed pursuant to



1 chapter 453, an advanced practice registered nurse licensed
2 pursuant to chapter 457, or a psychologist licensed pursuant to
3 chapter 465."

4 SECTION 119. Section 353-13.9, Hawaii Revised Statutes, is
5 amended by amending subsection (g) to read as follows:

6 "(g) No person who is the subject of the petition shall be
7 found to require care or treatment unless at least one
8 ~~[physician or psychologist]~~ health care provider who has
9 personally examined or attempted to examine the person testifies
10 in person at the hearing. This testimony may be waived by the
11 person. If the subject has refused to be examined by a licensed
12 ~~[physician or psychologist,]~~ health care provider, the person
13 may be examined by a court-appointed licensed ~~[physician or~~
14 ~~psychologist.]~~ health care provider. If the person refuses and
15 there is sufficient evidence to believe that the allegations of
16 the petition are true, the person's refusal shall be treated as
17 a denial that the person is in need of involuntary medical
18 treatment. Nothing in this section shall limit the person's
19 privilege against self-incrimination.

20 For purposes of this section, "health care provider" means
21 a physician or an osteopathic physician licensed pursuant to



1 chapter 453, a physician assistant licensed pursuant to chapter
2 453, an advanced practice registered nurse licensed pursuant to
3 chapter 457, or a psychologist licensed pursuant to chapter
4 465."

5 SECTION 120. Section 451D-5, Hawaii Revised Statutes, is
6 amended to read as follows:

7 "[+]§451D-5[+] **Filing of electronic mail address.** Every
8 individual applying for or renewing a license as a physician
9 under chapter 453, osteopathic physician under chapter 453,
10 physician assistant under chapter 453, advanced practice
11 registered nurse under chapter 457, [~~oe~~] naturopathic physician
12 under chapter 455, pharmacist under chapter 461, or psychologist
13 under chapter 465 shall, at the time of applying for licensure
14 or renewal, provide the licensing authority with a current
15 electronic mail address in the form and manner prescribed by the
16 licensing authority; provided that an applicant or a licensee
17 has an established electronic mail address. It shall be the
18 licensee's duty to provide notice to the licensing authority of
19 any change of current electronic mail address within thirty days
20 of the change. The electronic mail addresses may be shared by
21 the licensing authority only with other state or federal



1 agencies, upon request, for purposes of public health and safety
2 and may be used by the licensing authority for any purpose
3 related to the license. Nothing [~~herein~~] in this section shall
4 be construed to modify the method by which the licensing
5 authority provides notice of any matter required by law to be
6 provided to the applicant or licensee."

7 SECTION 121. Section 451K-5, Hawaii Revised Statutes, is
8 amended by amending subsection (c) to read as follows:

9 "(c) Nothing in this chapter shall be construed to prevent
10 a physician or physician assistant licensed to practice medicine
11 in this State or an intern, fellow, or resident from performing
12 genetic counseling within the person's scope of practice as long
13 as the person is not in any manner held out to the public as a
14 "genetic counselor" or "licensed genetic counselor"."

15 SECTION 122. Section 453J-1, Hawaii Revised Statutes, is
16 amended by amending subsection (c) to read as follows:

17 "(c) For purposes of this section:

18 "Advertise" means a communication made by or on behalf of a
19 person who is licensed to provide professional counseling, made
20 for the purpose of inducing or promoting a professional
21 counseling relationship in which conversion therapy will be



1 undertaken on a person under the age of eighteen. "Advertise"
2 includes oral, written, graphic, or pictorial statements or
3 representations, including those made through any electronic or
4 print medium.

5 "Conversion therapy" means any practices or treatments that
6 seek to change an individual's sexual orientation or gender
7 identity, including efforts to change behaviors or gender
8 expressions or to eliminate or reduce sexual or romantic
9 attractions or feelings toward individuals of the same gender.

10 "Conversion therapy" shall not include counseling that
11 provides assistance to a person undergoing gender transition, or
12 counseling that provides acceptance, support, and understanding
13 of a person or facilitates a person's coping, social support,
14 and identity exploration and development, including sexual
15 orientation-neutral interventions to prevent or address unlawful
16 conduct or unsafe sexual practices, as long as such counseling
17 does not seek to change an individual's sexual orientation or
18 gender identity.

19 "Person who is licensed to provide professional counseling"
20 means a person who performs counseling as part of the person's
21 professional training, including a physician, especially one



1 practicing psychiatry, licensed pursuant to chapter 453;
2 physician assistant licensed pursuant to chapter 453;
3 psychologist licensed pursuant to chapter 465; nurse licensed
4 pursuant to chapter 457; social worker licensed pursuant to
5 chapter 467E; licensed mental health counselor licensed pursuant
6 to chapter 453D; or licensed marriage and family therapist
7 licensed pursuant to chapter 451J."

8 SECTION 123. Section 481B-11, Hawaii Revised Statutes, is
9 amended to read as follows:

10 "**\$481B-11 Sensitivity-awareness group seminars.** (a) Any
11 person who deposits any money to attend a sensitivity-awareness
12 group seminar and before the first day of the seminar, requests
13 to cancel [~~his or her~~] the person's right to attend and requests
14 a refund of moneys deposited or paid, shall be refunded in full,
15 less identifiable nonrecoverable costs not to exceed the lesser
16 of \$50 or twenty per cent of the price of the course, by the
17 sensitivity-awareness group. Any person, who while attending or
18 after completing a sensitivity-awareness seminar, deposits any
19 money to attend subsequent seminars of a sensitivity-awareness
20 group and within five days of making the deposit or before the
21 first day of the subsequent seminar, whichever occurs later,



1 requests to cancel [~~his or her~~] the person's right to attend and
2 requests a refund of moneys deposited or paid, shall be refunded
3 in full, less identifiable nonrecoverable costs not to exceed
4 the lesser of \$50 or twenty per cent of the price of the course,
5 by the sensitivity-awareness group. Any offering of a
6 sensitivity-awareness group seminar by a representative of the
7 sensitivity-awareness group sponsoring the sensitivity-awareness
8 group seminar shall disclose to the offeree these rights of
9 refund.

10 (b) For purposes of this section[, ~~"sensitivity-awareness~~
11 ~~groups"~~]:

12 "Sensitivity-awareness groups" includes any individual,
13 associated group of persons, or organizations [~~which~~] that
14 advertise or assert that attendance by persons at seminars,
15 meetings, training sessions, therapy sessions, or the like
16 sponsored by the individual, group, or organization, will help
17 the persons attending have greater self-awareness or awareness
18 of others, greater self-understanding or understanding of
19 others, or greater capacity for life adjustment or success in
20 life; provided that psychological or psychotherapeutic
21 techniques are used as part of the individual's, group's, or



1 organization's methodology at the seminars, meetings, training
2 sessions, therapy sessions, or the like. [~~The term~~
3 ~~"sensitivity-awareness groups"~~] "Sensitivity-awareness groups"
4 does not include licensed psychologists, or psychologists with a
5 temporary permit, in accordance with chapter 465[~~7-01~~]; a
6 psychiatrist licensed in accordance with chapter 453[~~7~~]; or any
7 other health care providers with a certification in psychiatric
8 mental health who are licensed pursuant to the relevant chapter
9 under title 25, who teach, direct, administer, conduct, preside
10 over, or are similarly involved in seminars, meetings, training
11 sessions, therapy sessions, or the like.

12 "Sensitivity-awareness group seminars" means any seminar,
13 meeting, training session, therapy session, or the like
14 sponsored by a sensitivity-awareness group for which monetary
15 compensation is required from persons to attend."

16 SECTION 124. Section 571-6, Hawaii Revised Statutes, is
17 amended by amending subsection (b) to read as follows:

18 "(b) For each family court the judge or senior judge where
19 there is more than one shall appoint necessary probation
20 officers, social workers, and marital counselors and may
21 appoint, or make arrangements for the services of physicians,



1 psychologists, psychiatrists, physician assistants, advanced
2 practice registered nurses, and other professionally competent
3 persons, to carry on the work of the court."

4 SECTION 125. Section 571-46.4, Hawaii Revised Statutes, is
5 amended by amending subsection (a) to read as follows:

6 "(a) Subject to subsection (c), a person may be appointed
7 as a child custody evaluator for purposes of section 571-46 if
8 the person is actively licensed as a:

9 (1) Marriage and family therapist under chapter 451J;

10 (2) Physician under chapter 453 and is a board certified
11 psychiatrist or has completed a residency in
12 psychiatry;

13 (3) Physician assistant under chapter 453 who practices
14 under the supervision of a physician who meets the
15 requirements of paragraph (2);

16 (4) Advanced practice registered nurse under chapter 457
17 with a nationally accredited board certification in
18 psychiatric mental health;

19 [~~3~~] (5) Psychologist under chapter 465; or

20 [~~4~~] (6) Clinical social worker under section 467E-

21 7(a)(3)."



1 SECTION 126. Section 577-28, Hawaii Revised Statutes, is
2 amended by amending subsection (a) to read as follows:

3 "(a) Except for children placed under the custody of the
4 department of human services, pursuant to proceedings under
5 chapter 587A, a caregiver who possesses and presents a notarized
6 affidavit of caregiver consent for a minor's health care under
7 subsection (b) may consent on behalf of a minor to primary and
8 preventive medical and dental care and diagnostic testing, and
9 other medically necessary health care and treatment.

10 Examination and treatment shall be prescribed by or under the
11 supervision of a physician, physician assistant, advanced
12 practice registered nurse, dentist, or mental health
13 professional licensed to practice in the State."

14 SECTION 127. Section 577-29, Hawaii Revised Statutes, is
15 amended by amending subsection (h) to read as follows:

16 "(h) For the purposes of this section:

17 "Covered entity" has the same meaning as in title 45 Code
18 of Federal Regulations section 160.103.

19 "Licensed mental health professional" means a person who
20 provides counseling as part of the following professions:



1 (1) A licensed mental health counselor licensed pursuant
2 to chapter 453D;

3 (2) A licensed marriage and family therapist licensed
4 pursuant to chapter 451J;

5 (3) A licensed clinical social worker licensed pursuant to
6 chapter 467E;

7 (4) A licensed psychologist licensed pursuant to chapter
8 465;

9 (5) A physician licensed pursuant to chapter 453, who is
10 board certified, or board eligible, in psychiatry;
11 ~~[or]~~

12 (6) A physician assistant licensed pursuant to chapter 453
13 who practices under the supervision of a physician who
14 meets the requirements of paragraph (5); or

15 ~~[(6)]~~ (7) An advanced practice registered nurse licensed
16 pursuant to chapter 457 who holds ~~[an]~~ a nationally
17 accredited ~~[national]~~ board certification in an
18 ~~[advanced practice registered nurse]~~ psychiatric
19 ~~[specialization.]~~ mental health.



1 "Mental health professional" means a person who is working
2 under the supervision of a licensed mental health professional
3 and:

4 (1) Is enrolled in an accredited training program; or

5 (2) Has completed all licensing requirements except the
6 hours of supervised post-degree experience or
7 examination required for state licensure as a licensed
8 mental health counselor pursuant to chapter 453D;
9 licensed marriage and family therapist pursuant to
10 chapter 451J; licensed clinical social worker pursuant
11 to chapter 467E; licensed psychologist pursuant to
12 chapter 465; licensed physician assistant pursuant to
13 chapter 453; or advanced practice registered nurse
14 licensed pursuant to chapter 457.

15 "Mental health treatment or counseling services" means the
16 provision of outpatient mental health treatment or counseling by
17 a licensed mental health professional or mental health
18 professional."

19 SECTION 128. Section 577A-1, Hawaii Revised Statutes, is
20 amended by amending the definition of "licensed health care
21 provider" to read as follows:



1 ""Licensed health care provider" means a physician or an
2 osteopathic physician licensed under chapter 453, a physician
3 assistant licensed under chapter 453, [~~or~~] an advanced practice
4 registered nurse licensed under chapter 457[~~-~~], or a pharmacist
5 licensed under chapter 461."

6 SECTION 129. Section 577D-1, Hawaii Revised Statutes, is
7 amended by amending the definition of "licensed health care
8 practitioner" to read as follows:

9 ""Licensed health care practitioner" includes dentists
10 licensed under chapter 448, physicians licensed under chapter
11 453, physician assistants licensed under chapter 453, [~~and~~]
12 advanced practice registered nurses licensed under chapter
13 457[~~-~~], and pharmacists licensed under chapter 461."

14 SECTION 130. Section 577D-2, Hawaii Revised Statutes, is
15 amended by amending subsection (a) to read as follows:

16 "(a) A licensed health care practitioner may provide
17 primary medical care and services to a minor who consents to the
18 primary medical care and services if the [~~physician~~] licensed
19 health care practitioner reasonably believes that:



(1) The minor understands the significant benefits and risks of the proposed primary medical care and services and can communicate an informed consent;

(2) The primary medical care and services are for the minor's benefit; and

(3) The minor is a "minor without support", as defined in section 577D-1."

SECTION 131. Section 587A-15, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) If an authorized agency has foster custody, it has the following duties and rights:

(1) Determining where and with whom the child shall be placed in foster care; provided that the child shall not be placed in foster care outside the State without prior order of the court;

(2) Permitting the child to return to the family from which the child was removed, unless otherwise ordered by the court. The child's return may occur only if no party objects to such placement and prior written notice is given to the court and to all parties stating that there is no objection of any party to the



1 child's return. Upon the child's return to the
2 family, temporary foster custody or foster custody
3 shall be automatically revoked, and the child and the
4 child's family members who are parties shall be placed
5 under temporary family supervision or the family
6 supervision of the authorized agency;

7 (3) Ensuring that the child is provided with adequate
8 food, clothing, shelter, psychological care, physical
9 care, medical care, supervision, and other necessities
10 in a timely manner;

11 (4) Monitoring whether the child is being provided with an
12 appropriate education;

13 (5) Providing required consents for the child's physical
14 or psychological health or welfare, including ordinary
15 medical, dental, psychiatric, psychological,
16 educational, employment, recreational, or social
17 needs;

18 (6) Providing consents for any other medical or
19 psychological care or treatment, including surgery, if
20 the persons who are otherwise authorized to provide
21 consent are unable or unwilling to consent. Before



1 being provided to the child, this care or treatment
2 shall be deemed necessary for the child's physical or
3 psychological health or welfare by any combination of
4 two of the following: physicians, physician
5 assistants, or advanced practice registered nurses or
6 two psychologists, as appropriate, who are licensed or
7 authorized to practice in the State;

8 (7) Providing consent for the child's application for a
9 driver's instructional permit, provisional driver's
10 license, or driver's license;

11 (8) Providing consent to the recording of a statement
12 pursuant to section 587A-21; and

13 (9) Providing the court with information concerning the
14 child.

15 The court, in its discretion, may vest foster custody of a
16 child in any authorized agency or subsequently authorized
17 agencies, if the court finds that it is in the child's best
18 interests to do so. The rights and duties that are so assumed
19 by an authorized agency shall supersede the rights and duties of
20 any legal or permanent custodian of the child."



1 SECTION 132. Section 587A-28, Hawaii Revised Statutes, is
2 amended by amending subsection (e) to read as follows:

3 "(e) If the court finds that the child's physical or
4 psychological health or welfare has been harmed or is subject to
5 threatened harm by the acts or omissions of the child's family,
6 the court:

7 (1) Shall enter a finding that the court has jurisdiction
8 pursuant to section 587A-5;

9 (2) Shall enter a finding regarding whether, before the
10 child was placed in foster care, the department made
11 reasonable efforts to prevent or eliminate the need to
12 remove the child from the child's family home;

13 (3) Shall enter orders:

14 (A) That the child be placed in foster custody if the
15 court finds that the child's remaining in the
16 family home is contrary to the welfare of the
17 child and the child's parents are not willing and
18 able to provide a safe family home for the child,
19 even with the assistance of a service plan; or

20 (B) That the child be placed in family supervision if
21 the court finds that the child's parents are



1 willing and able to provide the child with a safe
2 family home with the assistance of a service
3 plan;

4 (4) Shall determine whether aggravated circumstances are
5 present.

6 (A) If aggravated circumstances are present, the
7 court shall:

8 (i) Conduct a permanency hearing within thirty
9 days, and the department shall not be
10 required to provide the child's parents with
11 an interim service plan or interim
12 visitation; and

13 (ii) Order the department to file, within sixty
14 days after the court's finding that
15 aggravated circumstances are present, a
16 motion to terminate parental rights unless
17 the department has documented in the safe
18 family home factors or other written report
19 submitted to the court a compelling reason
20 why it is not in the best interest of the
21 child to file a motion.



1 (B) If aggravated circumstances are not present or
2 there is a compelling reason why it is not in the
3 best interest of the child to file a motion to
4 terminate parental rights, the court shall order
5 that the department make reasonable efforts to
6 reunify the child with the child's parents and
7 order an appropriate service plan;

8 (5) Shall order reasonable supervised or unsupervised
9 visits for the child and the child's family, including
10 with the child's siblings, unless such visits are
11 determined to be unsafe or detrimental to, and not in
12 the best interests of, the child;

13 (6) Shall order each of the child's birth parents to
14 complete the medical information forms and release the
15 medical information required under section 578-14.5,
16 to the department. If the child's birth parents
17 refuse to complete the forms or to release the
18 information, the court may order the release of the
19 information over the parents' objections;

20 (7) Shall determine whether each party understands that
21 unless the family is willing and able to provide the



1 child with a safe family home, even with the
2 assistance of a service plan, within the reasonable
3 period of time specified in the service plan, their
4 respective parental and custodial duties and rights
5 shall be subject to termination;

6 (8) Shall determine the child's date of entry into foster
7 care as defined in this chapter;

8 (9) Shall set a periodic review hearing to be conducted no
9 later than six months after the date of entry into
10 foster care and a permanency hearing to be held no
11 later than twelve months after the date of entry into
12 foster care;

13 (10) Shall set a status conference, as the court deems
14 appropriate, to be conducted no later than ninety days
15 after the return hearing; and

16 (11) May order that:

17 (A) Any party participate in, complete, be liable
18 for, and make every good faith effort to arrange
19 payment for such services or treatment as are
20 authorized by law and that are determined to be
21 in the child's best interests;



(B) The child be examined by a physician, surgeon, psychiatrist, ~~[or]~~ psychologist~~[+]~~, physician assistant, or advanced practice registered nurse;

and

(C) The child receive treatment, including hospitalization or placement in other suitable facilities, as is determined to be in the child's best interests."

SECTION 133. Section 587A-43, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) The department shall establish a child protective review panel to review each case of child abuse or neglect that leads to near fatality or death as a result of acts or omissions of the child's legal caretaker. Based upon its review, the panel shall submit a report of its findings and recommendations to the director of the department. The department shall appoint members of the child protective review panel, who may include:

(1) Any physician, surgeon, psychiatrist, psychologist, physician assistant, or advanced practice registered nurse treating the child for abuse;



- 1 (2) Any child protective services worker assigned to the
2 case and the worker's supervisor;
- 3 (3) The guardian ad litem for the child, appointed under
4 section 587A-16, if applicable;
- 5 (4) The members of the child's multidisciplinary team or a
6 child protective services consultant; and
- 7 (5) Other child protective services workers and
8 supervisors."

9 SECTION 134. Section 612-4, Hawaii Revised Statutes, is
10 amended by amending subsection (b) to read as follows:

11 "(b) A prospective juror shall be disqualified to serve as
12 a juror if the prospective juror:

- 13 (1) Is incapable, by reason of the prospective juror's
14 disability, of rendering satisfactory jury service;
15 provided that a prospective juror claiming this
16 disqualification may be required to submit a
17 physician's, physician assistant's, ~~[or]~~ advanced
18 practice registered nurse's, or psychologist's
19 certificate as to the disability, and the certifying
20 physician, physician assistant, ~~[or]~~ advanced practice



1 registered nurse, or psychologist is subject to
2 inquiry by the court at its discretion;

3 (2) Has been convicted of a felony in a state or federal
4 court and not finally discharged or pardoned; or

5 (3) Fails to meet the qualifications in subsection (a)."

6 SECTION 135. Section 626-1, Hawaii Revised Statutes, is
7 amended by amending rule 505.5, subsection (a) to read as
8 follows:

9 "(a) Definitions. As used in this rule:

10 (1) A communication is "confidential" if not intended to
11 be disclosed to third persons other than those to whom
12 disclosure would be in furtherance of the provision of
13 counseling or treatment services to the victim or
14 those reasonably necessary for the transmission of the
15 communication.

16 (2) "Domestic violence victims' program" means any refuge,
17 shelter, office, safe home, institution, or center
18 established for the purpose of offering assistance to
19 victims of abuse through crisis intervention, medical,
20 legal, or support counseling.



1 (3) "Sexual assault crisis center" means any office,
2 institution, or center offering assistance to victims
3 of sexual assault and the families of such victims
4 through crisis intervention, medical, legal, or
5 support counseling.

6 (4) "Social worker" means a person who has received a
7 master's degree in social work from a school of social
8 work accredited by the Council on Social Work
9 Education.

10 (5) A "victim" is a person who consults a victim counselor
11 for assistance in overcoming any adverse emotional or
12 psychological effect of sexual assault, domestic
13 violence, dating violence, stalking, sexual
14 harassment, or child abuse.

15 (6) A "victim counseling program" is any activity of a
16 domestic violence victims' program or a sexual assault
17 crisis center that has, as its primary function, the
18 counseling and treatment of sexual assault, domestic
19 violence, or child abuse victims and their families,
20 and that operates independently of any law enforcement



1 agency, prosecutor's office, or the department of
2 human services.

3 (7) A "victim counselor" is a sexual assault counselor,
4 domestic violence victims' counselor, or confidential
5 advocate. A sexual assault counselor is a person who
6 is employed by or is a volunteer in a sexual assault
7 crisis center, has undergone a minimum of thirty-five
8 hours of training and who is, or who reports to and is
9 under the direct control and supervision of, a social
10 worker, nurse, psychiatrist, psychologist, physician
11 assistant, or psychotherapist, and whose primary
12 function is the rendering of advice, counseling, or
13 assistance to victims of sexual assault. A domestic
14 violence victims' counselor is a person who is
15 employed by or is a volunteer in a domestic violence
16 victims' program, has undergone a minimum of thirty-
17 five hours of training and who is, or who reports to
18 and is under the direct control and supervision of, a
19 direct service supervisor of a domestic violence
20 victims' program, and whose primary function is the
21 rendering of advice, counseling, or assistance to



1 victims of abuse. A confidential advocate is a person
2 who is designated by the University of Hawaii pursuant
3 to section 304A-120 to confidentially discuss sexual
4 assault, domestic violence, dating violence, stalking,
5 sexual harassment, and related issues with victims,
6 has undergone a minimum of thirty-five hours of
7 training, and whose primary function is the rendering
8 of advice, counseling, or assistance to victims."

9 SECTION 136. Section 657-7.3, Hawaii Revised Statutes, is
10 amended by amending subsection (a) to read as follows:

11 "[+] (a) [+] No action for injury or death against a
12 chiropractor, clinical laboratory technologist or technician,
13 dentist, naturopathic physician, nurse, advanced practice
14 registered nurse, nursing home administrator, dispensing
15 optician, optometrist, [~~osteopath,~~] osteopathic physician,
16 physician or surgeon, physician assistant, physical therapist,
17 podiatrist, psychologist, or veterinarian duly licensed or
18 registered under the laws of the State, or a licensed hospital
19 as the employer of any such person, based upon such person's
20 alleged professional negligence, or for rendering professional
21 services without consent, or for error or omission in such



1 person's practice, shall be brought more than two years after
2 the plaintiff discovers, or through the use of reasonable
3 diligence should have discovered, the injury, but in any event
4 not more than six years after the date of the alleged act or
5 omission causing the injury or death. This six-year time
6 limitation shall be tolled for any period during which the
7 person has failed to disclose any act, error, or omission upon
8 which the action is based and which is known to the person."

9 SECTION 137. Section 707-711, Hawaii Revised Statutes, is
10 amended by amending subsection (1) to read as follows:

11 "(1) A person commits the offense of assault in the second
12 degree if the person:

13 (a) Intentionally, knowingly, or recklessly causes
14 substantial bodily injury to another;

15 (b) Recklessly causes serious bodily injury to another;

16 (c) Intentionally or knowingly causes bodily injury to a
17 correctional worker, as defined in section 710-
18 1031(2), who is engaged in the performance of duty or
19 who is within a correctional facility;

20 (d) Intentionally or knowingly causes bodily injury to
21 another with a dangerous instrument;



1 (e) Intentionally or knowingly causes bodily injury to an
2 educational worker who is engaged in the performance
3 of duty or who is within an educational facility. For
4 the purposes of this paragraph, "educational worker"
5 means any administrator, specialist, counselor,
6 teacher, or employee of the department of education or
7 an employee of a charter school; a person who is a
8 volunteer, as defined in section 90-1, in a school
9 program, activity, or function that is established,
10 sanctioned, or approved by the department of
11 education; or a person hired by the department of
12 education on a contractual basis and engaged in
13 carrying out an educational function;

14 (f) Intentionally or knowingly causes bodily injury to any
15 emergency medical services provider who is engaged in
16 the performance of duty. For the purposes of this
17 paragraph, "emergency medical services provider" means
18 emergency medical services personnel, as defined in
19 section 321-222, and physicians, ~~[physician's]~~
20 physician assistants, nurses, ~~[nurse practitioners~~
21 ~~certified registered nurse anesthetists,]~~ advanced



1 practice registered nurses, respiratory therapists,
2 laboratory technicians, radiology technicians, and
3 social workers, providing services in the emergency
4 room of a hospital;

5 (g) Intentionally or knowingly causes bodily injury to a
6 person employed at a state-operated or -contracted
7 mental health facility. For the purposes of this
8 paragraph, "a person employed at a state-operated or -
9 contracted mental health facility" includes health
10 care professionals as defined in section 451D-2,
11 administrators, orderlies, security personnel,
12 volunteers, and any other person who is engaged in the
13 performance of a duty at a state-operated or -
14 contracted mental health facility;

15 (h) Intentionally or knowingly causes bodily injury to a
16 person who:

17 (i) The defendant has been restrained from, by order
18 of any court, including an ex parte order,
19 contacting, threatening, or physically abusing
20 pursuant to chapter 586; or



1 (ii) Is being protected by a police officer ordering
2 the defendant to leave the premises of that
3 protected person pursuant to section 709-906(4),
4 during the effective period of that order;

5 (i) Intentionally or knowingly causes bodily injury to any
6 firefighter or water safety officer who is engaged in
7 the performance of duty. For the purposes of this
8 paragraph, "firefighter" has the same meaning as in
9 section 710-1012 and "water safety officer" means any
10 public servant employed by the United States, the
11 State, or any county as a lifeguard or person
12 authorized to conduct water rescue or ocean safety
13 functions;

14 (j) Intentionally or knowingly causes bodily injury to a
15 person who is engaged in the performance of duty at a
16 health care facility as defined in section 323D-2.
17 For purposes of this paragraph, "a person who is
18 engaged in the performance of duty at a health care
19 facility" includes health care professionals as
20 defined in section 451D-2, physician assistants,
21 surgical assistants, advanced practice registered



1 nurses, nurse aides, respiratory therapists,
2 laboratory technicians, and radiology technicians;

3 (k) Intentionally or knowingly causes bodily injury to a
4 person who is engaged in providing home health care
5 services, as defined in section 431:10H-201;

6 (l) Intentionally or knowingly causes bodily injury to a
7 person, employed or contracted to work by a mutual
8 benefit society, as defined in section 432:1-104, to
9 provide case management services to an individual in a
10 hospital, health care provider's office, or home,
11 while that person is engaged in the performance of
12 those services;

13 (m) Intentionally or knowingly causes bodily injury to a
14 person who is sixty years of age or older and the age
15 of the injured person is known or reasonably should be
16 known to the person causing the injury; or

17 (n) Intentionally or knowingly causes bodily injury to a
18 sports official who is engaged in the lawful discharge
19 of the sports official's duties. For the purposes of
20 this paragraph, "sports official" and "lawful



1 discharge of the sports official's duties" have the
2 same meaning as in section 706-605.6."

3 SECTION 138. Section 707-716, Hawaii Revised Statutes, is
4 amended by amending subsection (1) to read as follows:

5 "(1) A person commits the offense of terroristic
6 threatening in the first degree if the person commits
7 terroristic threatening:

8 (a) By threatening another person on more than one
9 occasion for the same or a similar purpose;

10 (b) By threats made in a common scheme against different
11 persons;

12 (c) Against a public servant arising out of the
13 performance of the public servant's official duties.
14 For the purposes of this paragraph, "public servant"
15 includes but is not limited to an educational worker.
16 "Educational worker" has the same meaning as defined
17 in section 707-711;

18 (d) Against any emergency medical services provider who is
19 engaged in the performance of duty. For purposes of
20 this paragraph, "emergency medical services provider"
21 means emergency medical services personnel, as defined



1 in section 321-222, and physicians, [~~physician's~~
2 physician assistants, nurses, [~~nurse practitioners,~~
3 ~~certified registered nurse anesthetists,~~] advanced
4 practice registered nurses, respiratory therapists,
5 laboratory technicians, radiology technicians, and
6 social workers, providing services in the emergency
7 room of a hospital;

8 (e) With the use of a dangerous instrument or a simulated
9 firearm. For purposes of this section, "simulated
10 firearm" means any object that:

- 11 (i) Substantially resembles a firearm;
12 (ii) Can reasonably be perceived to be a firearm; or
13 (iii) Is used or brandished as a firearm; or

14 (f) By threatening a person who:

- 15 (i) The defendant has been restrained from, by order
16 of any court, including an ex parte order,
17 contacting, threatening, or physically abusing
18 pursuant to chapter 586; or
19 (ii) Is being protected by a police officer ordering
20 the defendant to leave the premises of that



protected person pursuant to section 709-906(4),
during the effective period of that order."

PART VI

SECTION 139. The purpose of this part is to amend the pain
patient's bill of rights.

SECTION 140. Chapter 327H, Hawaii Revised Statutes, is
amended by adding a new section to be appropriately designated
and to read as follows:

"327H- Definitions. As used in this chapter,
"prescriber" means a physician or an osteopathic physician
licensed under chapter 453, a physician assistant licensed under
chapter 453, an advanced practice registered nurse licensed
under chapter 457, or a pharmacist licensed under chapter 461."

SECTION 141. Section 327H-1, Hawaii Revised Statutes, is
amended to read as follows:

"[+]§327H-1[+] Pain patient's bill of rights; findings.

The legislature finds that:

- (1) Inadequate treatment of severe acute pain and severe
chronic pain originating from cancer or noncancerous
conditions is a significant health problem;



- 1 (2) For some patients, pain management is the single most
2 important treatment a [~~physician~~] prescriber can
3 provide;
- 4 (3) A patient who suffers from severe acute pain or severe
5 chronic pain should have access to proper treatment of
6 pain;
- 7 (4) Due to the complexity of their problems, many patients
8 who suffer from severe acute pain or severe chronic
9 pain may require referral to a [~~physician~~] prescriber
10 with expertise in the treatment of severe acute pain
11 and severe chronic pain. In some cases, severe acute
12 pain and severe chronic pain is best treated by a team
13 of clinicians to address the associated physical,
14 psychological, social, and vocational issues;
- 15 (5) In the hands of knowledgeable, ethical, and
16 experienced pain management practitioners, opiates
17 administered for severe acute pain or severe chronic
18 pain can be safe; and
- 19 (6) Opiates may be part of an overall treatment plan for a
20 patient in severe acute pain or severe chronic pain



1 who has not obtained relief from any other means of
2 treatment."

3 SECTION 142. Section 327H-2, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "**§327H-2 Bill of rights.** (a) The pain patient's bill of
6 rights includes the following:

7 (1) A patient who suffers from severe acute pain or severe
8 chronic pain has the option to request or reject the
9 use of any or all modalities to relieve the pain;

10 (2) A patient who suffers from severe acute pain or severe
11 chronic pain has the option to choose from appropriate
12 pharmacologic treatment options to relieve severe
13 acute pain or severe chronic pain, including opiate
14 medications, without first having to submit to an
15 invasive medical procedure.

16 For purposes of this paragraph, "invasive medical
17 procedure" means surgery, destruction of a nerve or
18 other body tissue by manipulation, or the implantation
19 of a drug delivery system or device;

20 (3) A patient's [~~physician~~] prescriber may refuse to
21 prescribe opiate medication for a patient who requests



1 a treatment for severe acute pain or severe chronic
2 pain. However, that [~~physician~~] prescriber may inform
3 the patient of [~~physicians~~] prescribers who are
4 qualified to treat severe acute pain and severe
5 chronic pain employing methods that include the use of
6 opiates;

7 (4) A [~~physician~~] prescriber who uses opiate therapy to
8 relieve severe acute pain or severe chronic pain may
9 prescribe a dosage deemed medically necessary to
10 relieve the pain;

11 (5) A patient may voluntarily request that the patient's
12 [~~physician~~] prescriber provide an identifying notice
13 of the prescription for purposes of emergency
14 treatment or law enforcement identification; and

15 (6) With regard to pain patients, the application of this
16 section shall be guided by the medical principle that
17 physical tolerance and dependence are normal
18 consequences of sustained use of opiate medication,
19 distinguishable from psychological dependency or
20 addiction that bears no relationship to pain
21 experienced by a patient. For the purposes of this



1 section, psychological dependency shall be
2 characterized by a patient's compulsion to take a drug
3 notwithstanding the fact that the patient knows the
4 harmful and destructive effect of the drug on the
5 patient. The distinction is one of treatment of pain
6 as opposed to feeding a psychological need. A patient
7 who suffers severe acute pain or severe chronic pain
8 secondary to a diagnosis in any form of disease and
9 chronic conditions may be entitled to receive a
10 prescription of opiate medication for the treatment of
11 the pain, if requested by that patient; provided that:

12 (A) The particular opiate is appropriate to the
13 treatment of that pain; and

14 (B) The patient is not addicted to the opiate. For
15 the purposes of this subparagraph, the term
16 "addicted" refers to a psychological dependence,
17 rather than a progressive physical tolerance for
18 the opiate to relieve the pain; provided that the
19 term does not include a narcotic-dependent person
20 as defined in section 329-40.

21 (b) Nothing in this section shall be construed to:



- 1 (1) Expand the authorized scope of practice of any
2 ~~[licensed physician]~~ prescriber;
- 3 (2) Limit any reporting or disciplinary provisions
4 applicable to ~~[licensed physicians and surgeons]~~
5 prescribers who violate prescribing practices; and
- 6 (3) Prohibit the discipline or prosecution of a ~~[licensed~~
7 ~~physician]~~ prescriber for:
- 8 (A) Failing to maintain complete, accurate, and
9 current records that document the physical
10 examination and medical history of a patient, the
11 basis for the clinical diagnosis of a patient,
12 and the treatment plan for a patient;
- 13 (B) Writing false or fictitious prescriptions for
14 controlled substances scheduled in the Federal
15 Comprehensive Drug Abuse Prevention and Control
16 Act of 1970, 21 United States Code 801 et seq. or
17 in chapter 329;
- 18 (C) Prescribing, administering, or dispensing
19 pharmaceuticals in violation of the provisions of
20 the Federal Comprehensive Drug Abuse Prevention



1 and Control Act of 1970, 21 United States Code
2 801 et seq. or of chapter 329;

3 (D) Diverting medications prescribed for a patient to
4 the [~~licensed physician's~~] prescriber's own
5 personal use; and

6 (E) Causing, or assisting in causing, the suicide,
7 euthanasia, or mercy killing of any individual;
8 provided that:

9 (i) It is not "causing, or assisting in causing,
10 the suicide, euthanasia, or mercy killing of
11 any individual" to prescribe, dispense, or
12 administer medical treatment for the purpose
13 of treating severe acute pain or severe
14 chronic pain, even if the medical treatment
15 may increase the risk of death, so long as
16 the medical treatment is not also furnished
17 for the purpose of causing, or the purpose
18 of assisting in causing, death for any
19 reason; and

20 (ii) This subparagraph shall not apply to actions
21 taken under chapter 327L."



PART VII

SECTION 143. The purpose of this part is to amend various sections in title 24, Hawaii Revised Statutes, relating to insurance.

SECTION 144. Section 431:10A-115.5, Hawaii Revised Statutes, is amended by amending subsection (e) to read as follows:

"(e) For the purposes of this section[, ~~"child health supervision services"~~]:

"Child health supervision services" means [~~physician-~~
~~delivered, physician-supervised, physician assistant-delivered,~~
~~or nurse-delivered services as defined by section 457-2~~
~~("registered nurse")~~] services supervised or delivered by a
physician, a physician assistant, an advanced practice
registered nurse, a registered nurse, or a qualified health care
provider, which shall include as the minimum benefit coverage for services delivered at intervals and scope stated in this section.

"Qualified health care provider" has the same meaning as in
section 325- ."



1 SECTION 145. Section 431:10A-116, Hawaii Revised Statutes,
2 is amended to read as follows:

3 **"§431:10A-116 Coverage for specific services.** Every
4 person insured under a policy of accident and health or sickness
5 insurance delivered or issued for delivery in this State shall
6 be entitled to the reimbursements and coverages specified below:

7 (1) Notwithstanding any provision to the contrary,
8 whenever a policy, contract, plan, or agreement
9 provides for reimbursement for any visual or
10 optometric service that is within the lawful scope of
11 practice of a duly licensed optometrist, the person
12 entitled to benefits or the person performing the
13 services shall be entitled to reimbursement whether
14 the service is performed by a licensed physician or by
15 a licensed optometrist. Visual or optometric services
16 shall include eye or visual examination, or both, or a
17 correction of any visual or muscular anomaly, and the
18 supplying of ophthalmic materials, lenses, contact
19 lenses, spectacles, eyeglasses, and appurtenances
20 thereto;



1 (2) Notwithstanding any provision to the contrary, for all
2 policies, contracts, plans, or agreements issued on or
3 after May 30, 1974, whenever provision is made for
4 reimbursement or indemnity for any service related to
5 surgical or emergency procedures that is within the
6 lawful scope of practice of any [~~practitioner~~]
7 qualified health care provider licensed to practice
8 [~~medicine~~] in this State, reimbursement or
9 indemnification under the policy, contract, plan, or
10 agreement shall not be denied when the services are
11 performed by a dentist acting within the lawful scope
12 of the dentist's license;

13 (3) Notwithstanding any provision to the contrary,
14 whenever the policy provides reimbursement or payment
15 for any service that is within the lawful scope of
16 practice of a psychologist licensed in this State, the
17 person entitled to benefits or performing the service
18 shall be entitled to reimbursement or payment, whether
19 the service is performed by a licensed physician [~~or~~],
20 licensed psychologist[~~+~~], licensed physician



1 assistant, or licensed advanced practice registered
2 nurse;

3 (4) Notwithstanding any provision to the contrary, each
4 policy, contract, plan, or agreement issued on or
5 after February 1, 1991, except for policies that only
6 provide coverage for specified diseases or other
7 limited benefit coverage, but including policies
8 issued by companies subject to chapter 431, article
9 10A, part II, and chapter 432, article 1, shall
10 provide coverage for screening by low-dose mammography
11 for occult breast cancer as follows:

12 (A) For women forty years of age and older, an annual
13 mammogram; and

14 (B) For a woman of any age with a history of breast
15 cancer or whose mother or sister has had a
16 history of breast cancer, a mammogram upon the
17 recommendation of the woman's physician[+] or
18 other qualified health care provider.

19 The services provided in this paragraph are
20 subject to any coinsurance provisions that may be in
21 force in these policies, contracts, plans, or



1 agreements; provided that the insured's dollar limits,
2 deductibles, and copayments for services shall be on
3 terms at least as favorable to the insured as those
4 applicable to other radiological examinations.

5 For the purpose of this paragraph, the term "low-
6 dose mammography" means the x-ray examination of the
7 breast using equipment dedicated specifically for
8 mammography, including but not limited to the x-ray
9 tube, filter, compression device, screens, films, and
10 cassettes, with an average radiation exposure delivery
11 of less than one rad mid-breast, with two views for
12 each breast. An insurer may provide the services
13 required by this paragraph through contracts with
14 providers; provided that the contract is determined to
15 be a cost-effective means of delivering the services
16 without sacrifice of quality and meets the approval of
17 the director of health; and

18 (5) (A) (i) Notwithstanding any provision to the
19 contrary, whenever a policy, contract, plan,
20 or agreement provides coverage for the
21 children of the insured, that coverage shall



1 also extend to the date of birth of any
2 newborn child to be adopted by the insured;
3 provided that the insured gives written
4 notice to the insurer of the insured's
5 intent to adopt the child prior to the
6 child's date of birth or within thirty days
7 after the child's birth or within the time
8 period required for enrollment of a natural
9 born child under the policy, contract, plan,
10 or agreement of the insured, whichever
11 period is longer; provided further that if
12 the adoption proceedings are not successful,
13 the insured shall reimburse the insurer for
14 any expenses paid for the child; and

15 (ii) Where notification has not been received by
16 the insurer prior to the child's birth or
17 within the specified period following the
18 child's birth, insurance coverage shall be
19 effective from the first day following the
20 insurer's receipt of legal notification of
21 the insured's ability to consent for



1 treatment of the infant for whom coverage is
2 sought; and

3 (B) When the insured is a member of a health
4 maintenance organization, coverage of an adopted
5 newborn is effective:

6 (i) From the date of birth of the adopted
7 newborn when the newborn is treated from
8 birth pursuant to a provider contract with
9 the health maintenance organization, and
10 written notice of enrollment in accord with
11 the health maintenance organization's usual
12 enrollment process is provided within thirty
13 days of the date the insured notifies the
14 health maintenance organization of the
15 insured's intent to adopt the infant for
16 whom coverage is sought; or

17 (ii) From the first day following receipt by the
18 health maintenance organization of written
19 notice of the insured's ability to consent
20 for treatment of the infant for whom
21 coverage is sought and enrollment of the



1 adopted newborn in accord with the health
2 maintenance organization's usual enrollment
3 process if the newborn has been treated from
4 birth by a provider not contracting or
5 affiliated with the health maintenance
6 organization.

7 For purposes of this section, "qualified health care provider"
8 has the same meaning as in section 325- ."

9 SECTION 146. Section 431:10A-116.2, Hawaii Revised
10 Statutes, is amended to read as follows:

11 "~~[+]§431:10A-116.2[+]~~ **Mammograms; referral not required.**

12 (a) For purposes of the annual screening mammogram coverage
13 required under section 431:10A-116, no insurer shall require an
14 insured person forty years of age and older to obtain a referral
15 from a primary care provider or other ~~[physician]~~ qualified
16 health care provider for an annual screening mammogram.

17 (b) If the screening mammogram indicates that follow up
18 services are advisable, a referral shall be made to the
19 patient's primary care ~~[physician]~~ provider or other
20 ~~[physician]~~ qualified health care provider, as designated by
21 the patient.



1 (c) As used in this section, "qualified health care
2 provider" has the same meaning as in section 325- ."

3 SECTION 147. Section 431:10A-116.3, Hawaii Revised
4 Statutes, is amended by amending subsection (g) to read as
5 follows:

6 "(g) For the purposes of this section:

7 "Distant site" means the location of the health care
8 provider delivering services through telehealth at the time the
9 services are provided.

10 "Health care provider" means a provider of services, as
11 defined in title 42 United States Code section 1395x(u), a
12 provider of medical and other health services, as defined in
13 title 42 United States Code section 1395x(s), other
14 practitioners licensed by the State and working within their
15 scope of practice, and any other person or organization who
16 furnishes, bills, or is paid for health care in the normal
17 course of business, including but not limited to primary care
18 providers, mental health providers, oral health providers,
19 physicians and osteopathic physicians licensed under chapter
20 453, advanced practice registered nurses licensed under chapter
21 457, psychologists licensed under chapter 465, [and] dentists



1 licensed under chapter 448[-], and qualified health care
2 providers.

3 "Interactive telecommunications system" has the same
4 meaning as the term is defined in title 42 Code of Federal
5 Regulations section 410.78(a).

6 "Originating site" means the location where the patient is
7 located, whether accompanied or not by a health care provider,
8 at the time services are provided by a health care provider
9 through telehealth, including but not limited to a health care
10 provider's office, hospital, health care facility, a patient's
11 home, and other nonmedical environments such as school-based
12 health centers, university-based health centers, or the work
13 location of a patient.

14 "Qualified health care provider" has the same meaning as in
15 section 325- .

16 "Telehealth" means the use of telecommunications services,
17 as defined in section 269-1, to encompass four modalities:
18 store and forward technologies, remote monitoring, live
19 consultation, and mobile health; and which shall include but not
20 be limited to real-time video conferencing-based communication,
21 secure interactive and non-interactive web-based communication,



1 and secure asynchronous information exchange, to transmit
2 patient medical information, including diagnostic-quality
3 digital images and laboratory results for medical interpretation
4 and diagnosis, for the purpose of delivering enhanced health
5 care services and information while a patient is at an
6 originating site and the health care provider is at a distant
7 site. Except as provided through an interactive
8 telecommunications system, standard telephone contacts,
9 facsimile transmissions, or e-mail text, in combination or
10 alone, do not constitute telehealth services."

11 SECTION 148. Section 431:10A-116.6, Hawaii Revised
12 Statutes, is amended by amending subsection (e) to read as
13 follows:

14 "(e) For purposes of this section:

15 "Contraceptive services" means [~~physician-delivered,~~
16 ~~physician-supervised, physician-assistant-delivered, advanced~~
17 ~~practice registered nurse-delivered, nurse-delivered, or~~
18 ~~pharmacist-delivered~~] medical services supervised or delivered
19 by a health care provider that are intended to promote the
20 effective use of contraceptive supplies or devices to prevent
21 unwanted pregnancy.



1 "Contraceptive supplies" means all United States Food and
2 Drug Administration-approved contraceptive drugs or devices used
3 to prevent unwanted pregnancy.

4 "Health care provider" means a physician or an osteopathic
5 physician licensed under chapter 453, a physician assistant
6 licensed under chapter 453, an advanced practice registered
7 nurse or a registered nurse licensed under chapter 457, a
8 pharmacist licensed under chapter 461, a naturopathic physician
9 licensed under chapter 455, or a midwife licensed under chapter
10 457J."

11 SECTION 149. Section 431:10A-116.7, Hawaii Revised
12 Statutes, is amended by amending subsection (g) to read as
13 follows:

14 "(g) For purposes of this section:

15 "Contraceptive services" means [~~physician-delivered,~~
16 ~~physician-supervised, physician assistant-delivered, advanced~~
17 ~~practice registered nurse-delivered, nurse-delivered, or~~
18 ~~pharmacist-delivered~~] medical services supervised or delivered
19 by a health care provider that are intended to promote the
20 effective use of contraceptive supplies or devices to prevent
21 unwanted pregnancy.



1 "Contraceptive supplies" means all United States Food and
2 Drug Administration-approved contraceptive drugs or devices used
3 to prevent unwanted pregnancy.

4 "Health care provider" means a physician or an osteopathic
5 physician licensed under chapter 453, a physician assistant
6 licensed under chapter 453, an advanced practice registered
7 nurse or a registered nurse licensed under chapter 457, a
8 pharmacist licensed under chapter 461, a naturopathic physician
9 licensed under chapter 455, or a midwife licensed under chapter
10 457J."

11 SECTION 150. Section 431:10A-120, Hawaii Revised Statutes,
12 is amended as follows:

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

14 "(a) Each policy of accident and health or sickness
15 insurance, other than life insurance, disability income
16 insurance, and long-term care insurance, issued or renewed in
17 this State, each employer group health policy, contract, plan,
18 or agreement issued or renewed in this State, all accident and
19 health or sickness insurance policies issued or renewed in this
20 State, all policies providing family coverages as defined in
21 section 431:10A-103, and all policies providing reciprocal



1 beneficiary family coverage as defined in section 431:10A-601,
2 shall contain a provision for coverage for medical foods and
3 low-protein modified food products for the treatment of an
4 inborn error of metabolism for its policyholders or dependents
5 of the policyholder in this State; provided that the medical
6 food or low-protein modified food product is:

7 (1) Prescribed as medically necessary for the therapeutic
8 treatment of an inborn error of metabolism; and

9 (2) Consumed or administered enterally under the
10 supervision of a physician or osteopathic physician
11 licensed under chapter 453[-] or other qualified
12 health care provider.

13 Coverage shall be for at least eighty per cent of the cost of
14 the medical food or low-protein modified food product prescribed
15 and administered pursuant to this subsection."

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

17 "(c) For the purposes of this section:

18 "Inborn error of metabolism" means a disease caused by an
19 inherited abnormality of the body chemistry of a person that is
20 characterized by deficient metabolism, originating from



1 congenital defects or defects arising shortly after birth, of
2 amino acid, organic acid, carbohydrate, or fat.

3 "Low-protein modified food product" means a food product
4 that:

5 (1) Is specially formulated to have less than one gram of
6 protein per serving;

7 (2) Is prescribed or ordered by a physician or osteopathic
8 physician as medically necessary for the dietary
9 treatment of an inborn error of metabolism; and

10 (3) Does not include a food that is naturally low in
11 protein.

12 "Medical food" means a food that is formulated to be
13 consumed or administered enterally under the supervision of a
14 physician or osteopathic physician and is intended for the
15 specific dietary management of a disease or condition for which
16 distinctive nutritional requirements, based on recognized
17 scientific principles, are established by medical evaluation.

18 "Qualified health care provider" has the same meaning as in
19 section 325- ."

20 SECTION 151. Section 431:10A-122, Hawaii Revised Statutes,
21 is amended by amending subsection (b) to read as follows:



1 "(b) Beginning March 1, 2011, all health insurance
2 providers in Hawaii shall inform their insured about the risk
3 associated with undiagnosed colorectal-cancer and encourage the
4 insured to consult with the insured's ~~[physician]~~ qualified
5 health care provider about available screening options.

6 For purposes of this subsection, "qualified health care
7 provider" has the same meaning as in section 325- ."

8 SECTION 152. Section 431:10A-126, Hawaii Revised Statutes,
9 is amended by amending subsection (d) to read as follows:

10 "(d) For the purposes of this section:

11 "Cost-share" or "cost-sharing" means copayment,
12 coinsurance, or deductible provisions applicable to coverage for
13 medications or treatments.

14 "Intravenously administered chemotherapy" means a
15 ~~[physician-prescribed]~~ cancer treatment prescribed by a licensed
16 health care provider that is administered through injection
17 directly into the patient's circulatory system by a physician,
18 physician assistant, ~~[nurse-practitioner,]~~ advanced practice
19 registered nurse, nurse, or other medical personnel under the
20 supervision of a physician and in a hospital, medical office, or
21 other clinical setting.



1 "Oral chemotherapy" means a United States Food and Drug
2 Administration-approved, [~~physician-prescribed~~] cancer treatment
3 prescribed by a licensed health care provider that is taken
4 orally in the form of a tablet or capsule and may be
5 administered in a hospital, medical office, or other clinical
6 setting or may be delivered to the patient for self-
7 administration under the direction or supervision of a physician
8 or other licensed health care provider outside of a hospital,
9 medical office, or other clinical setting."

10 SECTION 153. Section 431:10A-133, Hawaii Revised Statutes,
11 is amended by amending subsection (m) to read as follows:

12 "(m) As used in this section, unless the context clearly
13 requires otherwise:

14 "Applied behavior analysis" means the design,
15 implementation, and evaluation of environmental modifications,
16 using behavioral stimuli and consequences, to produce socially
17 significant improvement in human behavior, including the use of
18 direct observation, measurement, and functional analysis of the
19 relations between environment and behavior.



1 "Autism" means autism spectrum disorder as defined by the
2 most recent edition of the Diagnostic and Statistical Manual of
3 Mental Disorders.

4 "Autism service provider" means any person, entity, or
5 group that provides treatment for autism and meets the minimum
6 requirements pursuant to subsection (1).

7 "Behavioral health treatment" means [~~evidence-based~~]
8 evidence-based counseling and treatment programs, including
9 applied behavior analysis, that are:

10 (1) Necessary to develop, maintain, or restore, to the
11 maximum extent practicable, the functioning of an
12 individual; and

13 (2) Provided or supervised by an autism service provider.

14 "Diagnosis of autism" means medically necessary
15 assessments, evaluations, or tests conducted to diagnose whether
16 an individual has autism.

17 "Pharmacy care" means medications prescribed by a licensed
18 physician [~~or registered nurse practitioner~~], physician
19 assistant, or advanced practice registered nurse and any health-
20 related services that are deemed medically necessary to
21 determine the need or effectiveness of the medications.



1 "Psychiatric care" means direct or consultative services
2 provided by a licensed psychiatrist~~[-]~~, physician assistant, or
3 advanced practice registered nurse.

4 "Psychological care" means direct or consultative services
5 provided by a licensed psychologist~~[-]~~, physician, physician
6 assistant, or advanced practice registered nurse.

7 "Therapeutic care" means services provided by licensed
8 speech pathologists, registered occupational therapists,
9 licensed social workers, licensed clinical social workers, or
10 licensed physical therapists.

11 "Treatment for autism" includes the following care
12 prescribed or ordered for an individual diagnosed with autism by
13 a licensed physician, psychiatrist, physician assistant,
14 psychologist, licensed clinical social worker, or ~~[registered~~
15 ~~nurse practitioner]~~ advanced practice registered nurse if the
16 care is determined to be medically necessary:

- 17 (1) Behavioral health treatment;
- 18 (2) Pharmacy care;
- 19 (3) Psychiatric care;
- 20 (4) Psychological care; and
- 21 (5) Therapeutic care."



SECTION 154. Section 431:10A-206.5, Hawaii Revised Statutes, is amended by amending subsection (e) to read as follows:

"(e) For the purposes of this section [~~,"child health supervision services"]~~:

"Child health supervision services" means [physician-
delivered, physician-supervised, physician assistant-delivered,
or nurse-delivered services as defined by section 457-2
(~~"registered nurse"~~),] services supervised or delivered by a
physician, a physician assistant, an advanced practice
registered nurse, a registered nurse, or a qualified health care
provider, which shall include as the minimum benefit coverage
for services delivered at intervals and scope stated in this
section.

"Qualified health care provider" has the same meaning as in
section 325- ."

SECTION 155. Section 431:10A-304, Hawaii Revised Statutes, is amended to read as follows:

"§431:10A-304 Standards for policy provisions. (a) No
medicare supplement policy or certificate in force in the State



1 shall contain benefits that duplicate benefits provided by
2 medicare.

3 (b) The commissioner shall adopt reasonable rules to
4 establish specific standards for the provisions of medicare
5 supplement policies and certificates. The standards shall be in
6 addition to and in accordance with applicable laws of this
7 State, including the provisions of part I of this article. No
8 requirement of this chapter relating to minimum required policy
9 benefits, other than the minimum standards contained in this
10 part, shall apply to medicare supplement policies and
11 certificates. The standards may cover[7] but shall not be
12 limited to:

- 13 (1) Terms of renewability;
- 14 (2) Initial and subsequent conditions of eligibility;
- 15 (3) Nonduplication of coverage;
- 16 (4) Probationary periods;
- 17 (5) Benefit limitations, exceptions, and reductions;
- 18 (6) Elimination periods;
- 19 (7) Requirements for replacement;
- 20 (8) Recurrent conditions; and
- 21 (9) Definition of terms.



1 (c) The commissioner may adopt reasonable rules that
2 specify prohibited policy provisions not otherwise specifically
3 authorized by law, which, in the opinion of the commissioner,
4 are unjust, unfair, or unfairly discriminatory to any person
5 insured or proposed to be insured under any medicare supplement
6 policy or certificate.

7 (d) A medicare supplement policy or certificate shall not
8 exclude or limit benefits for losses incurred more than six
9 months after the effective date of coverage because it involved
10 a preexisting condition. The policy or certificate shall not
11 define a preexisting condition more restrictively than a
12 condition for which medical advice was given or treatment was
13 recommended by or received from a ~~[physician]~~ qualified health
14 care provider, consistent with all applicable federal laws and
15 regulations, within six months before the effective date of
16 coverage.

17 (e) For purposes of this section, "qualified health care
18 provider" has the same meaning as in section 325-."

19 SECTION 156. Section 431:10C-103, Hawaii Revised Statutes,
20 is amended by amending the definition of "anesthetist" to read
21 as follows:



1 ""Anesthetist" means [~~a registered nurse anesthetist~~] an
2 advanced practice registered nurse licensed pursuant to chapter
3 457 or a physician assistant licensed pursuant to chapter 453
4 who performs anesthesia services under the supervision of a
5 licensed physician."

6 SECTION 157. Section 431:10C-308.7, Hawaii Revised
7 Statutes, is amended by amending subsection (c) to read as
8 follows:

9 "(c) No health care provider shall refer, for any service
10 or treatment authorized under this chapter, a patient to any
11 entity in which the referring provider has a financial interest
12 unless the referring provider has disclosed that financial
13 interest to the patient.

14 For the purposes of this section "financial interest" shall
15 mean an ownership or investment interest through debt, equity,
16 or any other means. "Financial interest" does not refer to
17 salary or other compensation paid to [~~physicians~~] health care
18 providers by a health maintenance organization, or any
19 compensation arrangement involving payment by a group practice
20 [~~which~~] that contracts with a health maintenance organization to
21 a [~~physician~~] health care provider in the same group practice or



1 entity affiliated with the health maintenance organization for
2 services provided to a member of the health maintenance
3 organization."

4 SECTION 158. Section 431:10H-201, Hawaii Revised Statutes,
5 is amended by amending subsection (a) to read as follows:

6 "(a) No long-term care insurance policy delivered or
7 issued for delivery in this State shall use the terms set forth
8 in this section, unless the terms are defined in the policy and
9 the definitions satisfy the following requirements:

10 "Activities of daily living" means at least bathing,
11 continence, dressing, eating, toileting, and transferring.

12 "Acute condition" means that the individual is medically
13 unstable. This individual requires frequent monitoring by
14 medical professionals such as physicians and registered nurses,
15 or other qualified health care providers, in order to maintain
16 the individual's health status.

17 "Adult day care" means a program for six or more
18 individuals, of social and health-related services provided
19 during the day in a community group setting for the purpose of
20 supporting frail, impaired elderly or other disabled adults who
21 can benefit from care in a group setting outside the home.



1 "Bathing" means washing oneself by sponge bath, or in
2 either a tub or shower, including the task of getting into or
3 out of the tub or shower.

4 "Cognitive impairment" means a deficiency in a person's
5 short- or long-term memory, orientation as to person, place, and
6 time, deductive or abstract reasoning, or judgment as it relates
7 to safety awareness.

8 "Continence" means the ability to maintain control of bowel
9 and bladder function, or when unable to maintain control of
10 bowel or bladder function, the ability to perform associated
11 personal hygiene (including caring for catheter or colostomy
12 bag).

13 "Dressing" means putting on and taking off all items of
14 clothing and any necessary braces, fasteners, or artificial
15 limbs.

16 "Eating" means feeding oneself by getting food into the
17 body from a receptacle (such as a plate, cup, or table) or by a
18 feeding tube or intravenously.

19 "Hands-on assistance" means physical assistance (minimal,
20 moderate, or maximal) without which the individual would not be
21 able to perform the activity of daily living.



1 "Home health care services" means medical and nonmedical
2 services, provided to ill, disabled, or infirm persons in their
3 residences. These services may include homemaker services,
4 assistance with activities of daily living, and respite care
5 services.

6 "Medicare" shall be defined as "The Health Insurance for
7 the Aged Act, Title XVIII of the Social Security Amendments of
8 1965 as Then Constituted or Later Amended", or title I, part I
9 of Public Law 89-97, as Enacted by the Eighty-Ninth Congress of
10 the United States of America and popularly known as the Health
11 Insurance for the Aged Act, as then constituted and any later
12 amendments or substitutes thereof, or words of similar import.

13 "Mental or nervous disorder" means neurosis,
14 psychoneurosis, psychopathy, psychosis, or mental or emotional
15 disease or disorder, and shall not be defined beyond these
16 terms.

17 "Personal care" means the provision of hands-on services to
18 assist an individual with activities of daily living.

19 "Qualified health care provider" has the same meaning as in
20 section 325-_____.



1 "Skilled nursing care", "personal care", "home care",
2 "specialized care", "assisted living care", and other services
3 shall be defined in relation to the level of skill required, the
4 nature of the care, and the setting in which care must be
5 delivered.

6 "Toileting" means getting to and from the toilet, getting
7 on and off the toilet, and performing associated personal
8 hygiene.

9 "Transferring" means moving into or out of a bed, chair, or
10 wheelchair."

11 SECTION 159: Section 431:13-103, Hawaii Revised Statutes,
12 is amended by amending subsection (a) to read as follows:

13 "(a) The following are defined as unfair methods of
14 competition and unfair or deceptive acts or practices in the
15 business of insurance:

16 (1) Misrepresentations and false advertising of insurance
17 policies. Making, issuing, circulating, or causing to
18 be made, issued, or circulated, any estimate,
19 illustration, circular, statement, sales presentation,
20 omission, or comparison that:



- 1 (A) Misrepresents the benefits, advantages,
2 conditions, or terms of any insurance policy;
- 3 (B) Misrepresents the dividends or share of the
4 surplus to be received on any insurance policy;
- 5 (C) Makes any false or misleading statement as to the
6 dividends or share of surplus previously paid on
7 any insurance policy;
- 8 (D) Is misleading or is a misrepresentation as to the
9 financial condition of any insurer, or as to the
10 legal reserve system upon which any life insurer
11 operates;
- 12 (E) Uses any name or title of any insurance policy or
13 class of insurance policies misrepresenting the
14 true nature thereof;
- 15 (F) Is a misrepresentation for the purpose of
16 inducing or tending to induce the lapse,
17 forfeiture, exchange, conversion, or surrender of
18 any insurance policy;
- 19 (G) Is a misrepresentation for the purpose of
20 effecting a pledge or assignment of or effecting
21 a loan against any insurance policy;



1 (H) Misrepresents any insurance policy as being
2 shares of stock;

3 (I) Publishes or advertises the assets of any insurer
4 without publishing or advertising with equal
5 conspicuousness the liabilities of the insurer,
6 both as shown by its last annual statement; or

7 (J) Publishes or advertises the capital of any
8 insurer without stating specifically the amount
9 of paid-in and subscribed capital;

10 (2) False information and advertising generally. Making,
11 publishing, disseminating, circulating, or placing
12 before the public, or causing, directly or indirectly,
13 to be made, published, disseminated, circulated, or
14 placed before the public, in a newspaper, magazine, or
15 other publication, or in the form of a notice,
16 circular, pamphlet, letter, or poster, or over any
17 radio or television station, or in any other way, an
18 advertisement, announcement, or statement containing
19 any assertion, representation, or statement with
20 respect to the business of insurance or with respect



1 to any person in the conduct of the person's insurance
2 business, which is untrue, deceptive, or misleading;

3 (3) Defamation. Making, publishing, disseminating, or
4 circulating, directly or indirectly, or aiding,
5 abetting, or encouraging the making, publishing,
6 disseminating, or circulating of any oral or written
7 statement or any pamphlet, circular, article, or
8 literature which is false, or maliciously critical of
9 or derogatory to the financial condition of an
10 insurer, and which is calculated to injure any person
11 engaged in the business of insurance;

12 (4) Boycott, coercion, and intimidation.

13 (A) Entering into any agreement to commit, or by any
14 action committing, any act of boycott, coercion,
15 or intimidation resulting in or tending to result
16 in unreasonable restraint of, or monopoly in, the
17 business of insurance; or

18 (B) Entering into any agreement on the condition,
19 agreement, or understanding that a policy will
20 not be issued or renewed unless the prospective
21 insured contracts for another class or an



1 additional policy of the same class of insurance
2 with the same insurer;

3 (5) False financial statements.

4 (A) Knowingly filing with any supervisory or other
5 public official, or knowingly making, publishing,
6 disseminating, circulating, or delivering to any
7 person, or placing before the public, or
8 knowingly causing, directly or indirectly, to be
9 made, published, disseminated, circulated,
10 delivered to any person, or placed before the
11 public, any false statement of a material fact as
12 to the financial condition of an insurer; or

13 (B) Knowingly making any false entry of a material
14 fact in any book, report, or statement of any
15 insurer with intent to deceive any agent or
16 examiner lawfully appointed to examine into its
17 condition or into any of its affairs, or any
18 public official to whom the insurer is required
19 by law to report, or who has authority by law to
20 examine into its condition or into any of its
21 affairs, or, with like intent, knowingly omitting



1 to make a true entry of any material fact
2 pertaining to the business of the insurer in any
3 book, report, or statement of the insurer;

4 (6) Stock operations and advisory board contracts.

5 Issuing or delivering or permitting agents, officers,
6 or employees to issue or deliver, agency company stock
7 or other capital stock, or benefit certificates or
8 shares in any common-law corporation, or securities or
9 any special or advisory board contracts or other
10 contracts of any kind promising returns and profits as
11 an inducement to insurance;

12 (7) Unfair discrimination.

13 (A) Making or permitting any unfair discrimination
14 between individuals of the same class and equal
15 expectation of life in the rates charged for any
16 policy of life insurance or annuity contract or
17 in the dividends or other benefits payable
18 thereon, or in any other of the terms and
19 conditions of the contract;

20 (B) Making or permitting any unfair discrimination in
21 favor of particular individuals or persons, or



1 between insureds or subjects of insurance having
2 substantially like insuring, risk, and exposure
3 factors, or expense elements, in the terms or
4 conditions of any insurance contract, or in the
5 rate or amount of premium charge therefor, or in
6 the benefits payable or in any other rights or
7 privilege accruing thereunder;

8 (C) Making or permitting any unfair discrimination
9 between individuals or risks of the same class
10 and of essentially the same hazards by refusing
11 to issue, refusing to renew, canceling, or
12 limiting the amount of insurance coverage on a
13 property or casualty risk because of the
14 geographic location of the risk, unless:

- 15 (i) The refusal, cancellation, or limitation is
16 for a business purpose which is not a mere
17 pretext for unfair discrimination; or
18 (ii) The refusal, cancellation, or limitation is
19 required by law or regulatory mandate;

20 (D) Making or permitting any unfair discrimination
21 between individuals or risks of the same class



1 and of essentially the same hazards by refusing
2 to issue, refusing to renew, canceling, or
3 limiting the amount of insurance coverage on a
4 residential property risk, or the personal
5 property contained therein, because of the age of
6 the residential property, unless:

7 (i) The refusal, cancellation, or limitation is
8 for a business purpose which is not a mere
9 pretext for unfair discrimination; or

10 (ii) The refusal, cancellation, or limitation is
11 required by law or regulatory mandate;

12 (E) Refusing to insure, refusing to continue to
13 insure, or limiting the amount of coverage
14 available to an individual because of the sex or
15 marital status of the individual; however,
16 nothing in this subsection shall prohibit an
17 insurer from taking marital status into account
18 for the purpose of defining persons eligible for
19 dependent benefits;

20 (F) Terminating or modifying coverage, or refusing to
21 issue or renew any property or casualty policy or



1 contract of insurance solely because the
2 applicant or insured or any employee of either is
3 mentally or physically impaired; provided that
4 this subparagraph shall not apply to accident and
5 health or sickness insurance sold by a casualty
6 insurer; provided further that this subparagraph
7 shall not be interpreted to modify any other
8 provision of law relating to the termination,
9 modification, issuance, or renewal of any
10 insurance policy or contract;

11 (G) Refusing to insure, refusing to continue to
12 insure, or limiting the amount of coverage
13 available to an individual based solely upon the
14 individual's having taken a human
15 immunodeficiency virus (HIV) test prior to
16 applying for insurance; or

17 (H) Refusing to insure, refusing to continue to
18 insure, or limiting the amount of coverage
19 available to an individual because the individual
20 refuses to consent to the release of information
21 which is confidential as provided in section



1 325-101; provided that nothing in this
2 subparagraph shall prohibit an insurer from
3 obtaining and using the results of a test
4 satisfying the requirements of the commissioner,
5 which was taken with the consent of an applicant
6 for insurance; provided further that any
7 applicant for insurance who is tested for HIV
8 infection shall be afforded the opportunity to
9 obtain the test results, within a reasonable time
10 after being tested, and that the confidentiality
11 of the test results shall be maintained as
12 provided by section 325-101;

13 (8) Rebates. Except as otherwise expressly provided by
14 law:

15 (A) Knowingly permitting or offering to make or
16 making any contract of insurance, or agreement as
17 to the contract other than as plainly expressed
18 in the contract, or paying or allowing, or giving
19 or offering to pay, allow, or give, directly or
20 indirectly, as inducement to the insurance, any
21 rebate of premiums payable on the contract, or



1 any special favor or advantage in the dividends
2 or other benefits, or any valuable consideration
3 or inducement not specified in the contract; or
4 (B) Giving, selling, or purchasing, or offering to
5 give, sell, or purchase as inducement to the
6 insurance or in connection therewith, any stocks,
7 bonds, or other securities of any insurance
8 company or other corporation, association, or
9 partnership, or any dividends or profits accrued
10 thereon, or anything of value not specified in
11 the contract;

12 (9) Nothing in paragraph (7) or (8) shall be construed as
13 including within the definition of discrimination or
14 rebates any of the following practices:

15 (A) In the case of any life insurance policy or
16 annuity contract, paying bonuses to policyholders
17 or otherwise abating their premiums in whole or
18 in part out of surplus accumulated from
19 nonparticipating insurance; provided that any
20 bonus or abatement of premiums shall be fair and



1 equitable to policyholders and in the best
2 interests of the insurer and its policyholders;

3 (B) In the case of life insurance policies issued on
4 the industrial debit plan, making allowance to
5 policyholders who have continuously for a
6 specified period made premium payments directly
7 to an office of the insurer in an amount which
8 fairly represents the saving in collection
9 expense;

10 (C) Readjustment of the rate of premium for a group
11 insurance policy based on the loss or expense
12 experience thereunder, at the end of the first or
13 any subsequent policy year of insurance
14 thereunder, which may be made retroactive only
15 for the policy year;

16 (D) In the case of any contract of insurance, the
17 distribution of savings, earnings, or surplus
18 equitably among a class of policyholders, all in
19 accordance with this article; and

20 (E) A reward under a wellness program established
21 under a health care plan that favors an



1 individual if the wellness program meets the
2 following requirements:

3 (i) The wellness program is reasonably designed
4 to promote health or prevent disease;

5 (ii) An individual has an opportunity to qualify
6 for the reward at least once a year;

7 (iii) The reward is available for all similarly
8 situated individuals;

9 (iv) The wellness program has alternative
10 standards for individuals who are unable to
11 obtain the reward because of a health
12 factor;

13 (v) Alternative standards are available for an
14 individual who is unable to participate in a
15 reward program because of a health
16 condition;

17 (vi) The insurer provides information explaining
18 the standard for achieving the reward and
19 discloses the alternative standards; and



(vii) The total rewards for all wellness programs under the health care plan do not exceed twenty per cent of the cost of coverage;

(10) Refusing to provide or limiting coverage available to an individual because the individual may have a third-party claim for recovery of damages; provided that:

(A) Where damages are recovered by judgment or settlement of a third-party claim, reimbursement of past benefits paid shall be allowed pursuant to section 663-10;

(B) This paragraph shall not apply to entities licensed under chapter 386 or 431:10C; and

(C) For entities licensed under chapter 432 or 432D:

(i) It shall not be a violation of this section to refuse to provide or limit coverage available to an individual because the entity determines that the individual reasonably appears to have coverage available under chapter 386 or 431:10C; and

(ii) Payment of claims to an individual who may have a third-party claim for recovery of



1 damages may be conditioned upon the
2 individual first signing and submitting to
3 the entity documents to secure the lien and
4 reimbursement rights of the entity and
5 providing information reasonably related to
6 the entity's investigation of its liability
7 for coverage.

8 Any individual who knows or reasonably should
9 know that the individual may have a third-party
10 claim for recovery of damages and who fails to
11 provide timely notice of the potential claim to
12 the entity, shall be deemed to have waived the
13 prohibition of this paragraph against refusal or
14 limitation of coverage. "Third-party claim" for
15 purposes of this paragraph means any tort claim
16 for monetary recovery or damages that the
17 individual has against any person, entity, or
18 insurer, other than the entity licensed under
19 chapter 432 or 432D;



1 (11) Unfair claim settlement practices. Committing or
2 performing with such frequency as to indicate a
3 general business practice any of the following:

4 (A) Misrepresenting pertinent facts or insurance
5 policy provisions relating to coverages at issue;

6 (B) With respect to claims arising under its
7 policies, failing to respond with reasonable
8 promptness, in no case more than fifteen working
9 days, to communications received from:

10 (i) The insurer's policyholder;

11 (ii) Any other persons, including the
12 commissioner; or

13 (iii) The insurer of a person involved in an
14 incident in which the insurer's policyholder
15 is also involved.

16 The response shall be more than an acknowledgment
17 that such person's communication has been
18 received and shall adequately address the
19 concerns stated in the communication;



- 1 (C) Failing to adopt and implement reasonable
2 standards for the prompt investigation of claims
3 arising under insurance policies;
- 4 (D) Refusing to pay claims without conducting a
5 reasonable investigation based upon all available
6 information;
- 7 (E) Failing to affirm or deny coverage of claims
8 within a reasonable time after proof of loss
9 statements have been completed;
- 10 (F) Failing to offer payment within thirty calendar
11 days of affirmation of liability, if the amount
12 of the claim has been determined and is not in
13 dispute;
- 14 (G) Failing to provide the insured, or when
15 applicable the insured's beneficiary, with a
16 reasonable written explanation for any delay, on
17 every claim remaining unresolved for thirty
18 calendar days from the date it was reported;
- 19 (H) Not attempting in good faith to effectuate
20 prompt, fair, and equitable settlements of claims
21 in which liability has become reasonably clear;



- 1 (I) Compelling insureds to institute litigation to
2 recover amounts due under an insurance policy by
3 offering substantially less than the amounts
4 ultimately recovered in actions brought by the
5 insureds;
- 6 (J) Attempting to settle a claim for less than the
7 amount to which a reasonable person would have
8 believed the person was entitled by reference to
9 written or printed advertising material
10 accompanying or made part of an application;
- 11 (K) Attempting to settle claims on the basis of an
12 application that was altered without notice,
13 knowledge, or consent of the insured;
- 14 (L) Making claims payments to insureds or
15 beneficiaries not accompanied by a statement
16 setting forth the coverage under which the
17 payments are being made;
- 18 (M) Making known to insureds or claimants a policy of
19 appealing from arbitration awards in favor of
20 insureds or claimants for the purpose of
21 compelling them to accept settlements or



1 compromises less than the amount awarded in
2 arbitration;

3 (N) Delaying the investigation or payment of claims
4 by requiring an insured, claimant, or the
5 physician ~~[or]~~, advanced practice registered
6 nurse, or qualified health care provider of
7 either to submit a preliminary claim report and
8 then requiring the subsequent submission of
9 formal proof of loss forms, both of which
10 submissions contain substantially the same
11 information; provided that for purposes of this
12 subparagraph, "qualified health care provider"
13 has the same meaning as in section 325- ;

14 (O) Failing to promptly settle claims, where
15 liability has become reasonably clear, under one
16 portion of the insurance policy coverage to
17 influence settlements under other portions of the
18 insurance policy coverage;

19 (P) Failing to promptly provide a reasonable
20 explanation of the basis in the insurance policy
21 in relation to the facts or applicable law for



1 denial of a claim or for the offer of a
2 compromise settlement; and

3 (Q) Indicating to the insured on any payment draft,
4 check, or in any accompanying letter that the
5 payment is "final" or is "a release" of any claim
6 if additional benefits relating to the claim are
7 probable under coverages afforded by the policy;
8 unless the policy limit has been paid or there is
9 a bona fide dispute over either the coverage or
10 the amount payable under the policy;

11 (12) Failure to maintain complaint handling procedures.

12 Failure of any insurer to maintain a complete record
13 of all the complaints that it has received since the
14 date of its last examination under section 431:2-302.

15 This record shall indicate the total number of
16 complaints, their classification by line of insurance,
17 the nature of each complaint, the disposition of the
18 complaints, and the time it took to process each
19 complaint. For purposes of this section, "complaint"
20 means any written communication primarily expressing a
21 grievance;



1 (13) Misrepresentation in insurance applications. Making
2 false or fraudulent statements or representations on
3 or relative to an application for an insurance policy,
4 for the purpose of obtaining a fee, commission, money,
5 or other benefit from any insurer, producer, or
6 individual; and

7 (14) Failure to obtain information. Failure of any
8 insurance producer, or an insurer where no producer is
9 involved, to comply with section 431:10D-623(a), (b),
10 or (c) by making reasonable efforts to obtain
11 information about a consumer before making a
12 recommendation to the consumer to purchase or exchange
13 an annuity."

14 SECTION 160. Section 431:13-108, Hawaii Revised Statutes,
15 is amended as follows:

16 1. By amending subsection (c) to read:

17 "(c) If a claim is contested or denied or requires more
18 time for review by an entity, the entity shall notify the health
19 care facility, qualified health care provider, insured, or
20 member filing a claim from a non-contracted provider in writing
21 or electronically not more than fifteen calendar days after



1 receiving a claim filed in writing, or not more than seven
2 calendar days after receiving a claim filed electronically, as
3 appropriate. The notice shall identify the contested portion of
4 the claim and the specific reason for contesting or denying the
5 claim[7] and may request additional information; provided that a
6 notice shall not be required if the entity provides a
7 reimbursement report containing the information, at least
8 monthly, to the health care facility or qualified health care
9 provider."

10 2. By amending subsections (i) to (l) to read:

11 "(i) Prior to initiating any recoupment or offset demand
12 efforts, an entity shall send a written notice to a health care
13 facility or qualified health care provider at least thirty
14 calendar days prior to engaging in the recoupment or offset
15 efforts. The following information shall be prominently
16 displayed on the written notice:

17 (1) The patient's name;

18 (2) The date health care services were provided;

19 (3) The payment amount received by the health care
20 facility or qualified health care provider;

21 (4) The reason for the recoupment or offset; and



(5) The telephone number or mailing address through which a health care facility or qualified health care provider may initiate an appeal along with the deadline for initiating an appeal. Any appeal of a recoupment or offset shall be made by a health care facility or qualified health care provider within sixty days after the receipt of the written notice.

(j) An entity shall not initiate recoupment or offset efforts more than eighteen months after the initial claim payment was received by the health care facility, qualified health care provider, or health care entity; provided that this time limit shall not apply to the initiation of recoupment or offset efforts: to claims for self-insured employer groups; for services rendered to individuals associated with a health care entity through a national participating provider network; or for claims for medicaid, medicare, medigap, or other federally financed plan; provided further that this section shall not be construed to prevent entities from resolving claims that involve coordination of benefits, subrogation, or preexisting condition investigations, or that involve third-party liability beyond the eighteen month time limit; provided further that in cases of



1 fraud or material misrepresentation, an entity shall not
2 initiate recoupment or offset efforts more than seventy-two
3 months after the initial claim payment was received by the
4 health care facility, qualified health care provider, or health
5 care entity.

6 (k) In determining the penalties under section 431:13-201
7 for a violation of this section, the commissioner shall
8 consider:

9 (1) The appropriateness of the penalty in relation to the
10 financial resources and good faith of the entity;

11 (2) The gravity of the violation;

12 (3) The history of the entity for previous similar
13 violations;

14 (4) The economic benefit to be derived by the entity and
15 the economic impact upon the health care facility or
16 qualified health care provider resulting from the
17 violation; and

18 (5) Any other relevant factors bearing upon the violation.

19 (1) As used in this section:

20 "Claim" means any claim, bill, or request for payment for
21 all or any portion of health care services provided by a health



1 care facility or qualified health care provider [~~of services~~]
2 submitted by an individual or pursuant to a contract or
3 agreement with an entity, using the entity's standard claim form
4 with all required fields completed with correct and complete
5 information.

6 "Clean claim" means a claim in which the information in the
7 possession of an entity adequately indicates that:

8 (1) The claim is for a covered health care service
9 provided by an eligible health care entity or
10 qualified health care provider to a covered person
11 under the contract;

12 (2) The claim has no material defect or impropriety;

13 (3) There is no dispute regarding the amount claimed; and

14 (4) The payer has no reason to believe that the claim was
15 submitted fraudulently.

16 [~~The term~~] "Clean claim" does not include:

17 (1) Claims for payment of expenses incurred during a
18 period of time when premiums were delinquent;

19 (2) Claims that are submitted fraudulently or that are
20 based upon material misrepresentations;



(3) Claims for self-insured employer groups; claims for services rendered to individuals associated with a health care entity through a national participating provider network; or claims for medicaid, medicare, medigap, or other federally financed plan; and

(4) Claims that require a coordination of benefits, subrogation, or preexisting condition investigations, or that involve third-party liability.

"Contest", "contesting", or "contested" means the circumstances under which an entity was not provided with, or did not have reasonable access to, sufficient information needed to determine payment liability or basis for payment of the claim.

"Deny", "denying", or "denied" means the assertion by an entity that it has no liability to pay a claim based upon eligibility of the patient, coverage of a service, medical necessity of a service, liability of another payer, or other grounds.

"Entity" means accident and health or sickness insurance providers under part I of article 10A of chapter 431, mutual benefit societies under article 1 of chapter 432, dental service



corporations under chapter 423, and health maintenance organizations under chapter 432D.

"Fraud" shall have the same meaning as in section 431:2-403.

"Health care facility" shall have the same meaning as in section 323D-2.

~~["Health care provider" means a Hawaii health care facility, physician, nurse, or any other provider of health care services covered by an entity.]~~

"Qualified health care provider" has the same meaning as in section 325- ."

SECTION 161. Section 431C-33, Hawaii Revised Statutes, is amended as follows:

1. By amending subsection (a) to read:

"(a) A provider entering into a life settlement contract with any owner of a policy, wherein the insured is terminally or chronically ill, shall first obtain:

(1) If the owner is the insured, a written statement from a licensed attending physician or other qualified health care provider that the owner is of sound mind



1 and under no constraint or undue influence to enter
2 into a life settlement contract; and

3 (2) A document in which the insured consents to the
4 release of the insured's medical records to a
5 provider, broker, or insurance producer and, if the
6 policy was issued less than two years from the date of
7 application for a life settlement contract, to the
8 insurance company that issued the policy.

9 The provider, broker, or its authorized representative shall be
10 limited to contact for the purpose of determining the owner's
11 health status or to verify the owner's address, once every three
12 months if the insured has a life expectancy of more than one
13 year, and no more than once per month if the insured has a life
14 expectancy of one year or less.

15 For purposes of this subsection and subsection (m),
16 qualified health care provider has the same meaning as in
17 section 325- ."

18 2. By amending subsection (m) to read:

19 "(m) No person at any time prior to or at the time of the
20 application for, or issuance of, a policy, or during a two-year
21 period commencing with the date of issuance of the policy, shall



1 enter into a life settlement contract regardless of the date the
2 compensation is to be provided and regardless of the date the
3 assignment, transfer, sale, devise, bequest, or surrender of the
4 policy is to occur. This prohibition shall not apply if the
5 owner certifies to the provider that:

6 (1) The policy was issued upon the owner's exercise of
7 conversion rights arising out of a group or individual
8 policy; provided that the total of the time covered
9 under the conversion policy plus the time covered
10 under the prior policy is at least two years. The
11 time covered under a group policy shall be calculated
12 without regard to a change in insurance carriers;
13 provided further that the coverage has been continuous
14 and under the same group sponsorship; or

15 (2) The owner submits independent evidence to the provider
16 that one or more of the following conditions have been
17 met within the two-year period:

18 (A) The owner or insured is chronically or terminally
19 ill;

20 (B) The owner or insured disposes of ownership
21 interests in a closely-held corporation, pursuant



1 to the terms of a buyout or other similar
2 agreement in effect at the time the policy was
3 initially issued;

4 (C) The owner's spouse dies;

5 (D) The owner divorces the owner's spouse;

6 (E) The owner retires from full-time employment;

7 (F) The owner becomes physically or mentally disabled
8 and a physician or other qualified health care

9 provider determines that the disability prevents
10 the owner from maintaining full-time employment;

11 or

12 (G) A final order, judgment, or decree is entered by
13 a court of competent jurisdiction, on the
14 application of a creditor of the owner,
15 adjudicating the owner bankrupt or insolvent, or
16 approving a petition seeking reorganization of
17 the owner or appointing a receiver, trustee, or
18 liquidator to all or a substantial part of the
19 owner's assets.

20 Copies of the independent evidence required by paragraph

21 (2) shall be submitted to the insurer when the provider submits



1 a request to the insurer for verification of coverage. The
2 copies shall be accompanied by a letter of attestation from the
3 provider that the copies are true and correct copies of the
4 documents received by the provider. Nothing in this section
5 shall prohibit an insurer from exercising its right to contest
6 the validity of any policy.

7 If the provider submits to the insurer a copy of
8 independent evidence required by paragraph (2) when the provider
9 submits a request to the insurer to effect the transfer of the
10 policy to the provider, the copy shall be deemed to establish
11 that the life settlement contract satisfies the requirements of
12 this section."

13 SECTION 162. Section 431M-1, Hawaii Revised Statutes, is
14 amended as follows:

15 1. By adding a new definition to be appropriately inserted
16 and to read:

17 "Physician assistant" means a person licensed as a
18 physician assistant pursuant to chapter 453."

19 2. By amending the definition of "alcohol or drug
20 dependence outpatient services" to read:



1 ""Alcohol or drug dependence outpatient services" means
2 alcohol or drug dependence nonresidential treatment provided on
3 an ambulatory basis to patients with alcohol or drug dependence
4 problems that includes interventions prescribed and performed by
5 qualified physicians, psychologists, licensed clinical social
6 workers, licensed marriage and family therapists, licensed
7 mental health [†]counselors[†], [~~or~~] advanced practice
8 registered nurses[~~or~~], or physician assistants. This definition
9 shall not imply a broadening of the scope of or granting of
10 prescriptive authority privileges, except as otherwise allowed
11 pursuant to chapter 457."

12 3. By amending the definitions of "day treatment services"
13 and "detoxification services" to read:

14 ""Day treatment services" means treatment services provided
15 by a hospital, mental health outpatient facility, or nonhospital
16 facility to patients who, because of their conditions, require
17 more than periodic hourly service. Day treatment services shall
18 be prescribed by a physician, psychologist, licensed clinical
19 social worker, licensed marriage and family therapist, licensed
20 mental health counselor, [~~or~~] advanced practice registered
21 nurse, or physician assistant, and carried out under the



1 supervision of a physician, psychologist, licensed clinical
2 social worker, licensed marriage and family therapist, licensed
3 mental health counselor, ~~[or]~~ advanced practice registered
4 nurse~~[,]~~, or physician assistant. Day treatment services
5 require less than twenty-four hours of care and a minimum of
6 three hours in any one day.

7 "Detoxification services" means the process whereby a
8 person intoxicated by alcohol, drugs, or both, or a person who
9 is dependent upon alcohol, drugs, or both, is assisted through
10 the period of time necessary to eliminate, by metabolic or other
11 means, the intoxicating alcohol or drug dependency factors, as
12 determined by a physician ~~[or]~~, advanced practice registered
13 nurse, or physician assistant, while keeping the physiological
14 risk to the person at a minimum."

15 4. By amending the definition of "mental health outpatient
16 services" to read:

17 ""Mental health outpatient services" means mental health
18 nonresidential treatment provided on an ambulatory basis to
19 patients with mental illness that includes interventions
20 prescribed and performed by a physician, psychologist, licensed
21 clinical social worker, licensed marriage and family therapist,



1 licensed mental health counselor, [~~or~~] advanced practice
2 registered nurse[~~-~~], or physician assistant."

3 5. By amending the definition of "partial hospitalization"
4 to read:

5 ""Partial hospitalization" means treatment services,
6 including in-hospital treatment services or benefits, provided
7 by a hospital or mental health outpatient facility to patients
8 who, because of their conditions, require more than periodic
9 hourly service. Partial hospitalization shall be prescribed by
10 a physician or psychologist[~~-~~] and may be prescribed by a
11 licensed clinical social worker, licensed marriage and family
12 therapist, licensed mental health counselor, [~~or~~] advanced
13 practice registered nurse, or physician assistant in
14 consultation with a physician or psychologist. Partial
15 hospitalization requires less than twenty-four hours of care and
16 a minimum of three hours in any one day."

17 6. By amending the definition of "qualified" to read:

18 ""Qualified" means:

19 (1) Having skill in the diagnosis or treatment of
20 substance use disorders, based on a practitioner's
21 credentials, including but not limited to professional



1 education, clinical training, licensure, board or
2 other certification, clinical experience, letters of
3 reference, other professional qualifications, and
4 disciplinary action; or

5 (2) Being a licensed physician, psychologist, licensed
6 clinical social worker, licensed marriage and family
7 therapist, licensed mental health counselor, ~~[or]~~
8 advanced practice registered nurse, or physician
9 assistant, and certified pursuant to chapter 321."

10 7. By amending the definition of "treatment episode" to
11 read:

12 ""Treatment episode" means one admission to an accredited
13 hospital or nonhospital facility, or office of a qualified
14 physician, psychologist, licensed clinical social worker,
15 licensed marriage and family therapist, licensed mental health
16 counselor, ~~[or]~~ advanced practice registered nurse, or physician
17 assistant for treatment of alcohol or drug dependence, or both,
18 as stipulated in a prescribed treatment plan and that would
19 generally produce remission in those who complete the treatment.
20 The prescribed treatment plan may include the provision of
21 substance abuse services in more than one location and may



1 include in-hospital, nonhospital residential, day treatment, or
2 alcohol or drug dependence outpatient services, or any
3 combination thereof. An admission for only detoxification
4 services shall not constitute a treatment episode."

5 SECTION 163. Section 431M-4, Hawaii Revised Statutes, is
6 amended to read as follows:

7 **"§431M-4 Mental illness, alcohol and drug dependence**
8 **benefits.** (a) Alcohol and drug dependence benefits shall be as
9 follows:

10 (1) Detoxification services as a covered benefit under
11 this chapter shall be provided either in a hospital or
12 in a nonhospital facility that has a written
13 affiliation agreement with a hospital for emergency,
14 medical, and mental health support services. The
15 following services shall be covered under
16 detoxification services:

- 17 (A) Room and board;
18 (B) Diagnostic x-rays;
19 (C) Laboratory testing; and
20 (D) Drugs, equipment use, special therapies, and
21 supplies.



1 Detoxification services shall be included as part of
2 the covered in-hospital services;

3 (2) Alcohol or drug dependence treatment through in-
4 hospital, nonhospital residential, or day treatment
5 substance abuse services as a covered benefit under
6 this chapter shall be provided in a hospital or
7 nonhospital facility. Before a person qualifies to
8 receive benefits under this subsection, a qualified
9 physician, psychologist, licensed clinical social
10 worker, licensed marriage and family therapist,
11 licensed mental health counselor, ~~[or]~~ advanced
12 practice registered nurse, or physician assistant
13 shall determine that the person suffers from alcohol
14 or drug dependence, or both; provided that the
15 substance abuse services covered under this paragraph
16 shall include those services that are required for
17 licensure and accreditation. Excluded from alcohol or
18 drug dependence treatment under this subsection are
19 detoxification services and educational programs to
20 which drinking or drugged drivers are referred by the



1 judicial system and services performed by mutual self-
2 help groups;

3 (3) Alcohol or drug dependence outpatient services as a
4 covered benefit under this chapter shall be provided
5 under an individualized treatment plan approved by a
6 qualified physician, psychologist, licensed clinical
7 social worker, licensed marriage and family therapist,
8 licensed mental health counselor, ~~[or]~~ advanced
9 practice registered nurse, or physician assistant and
10 shall be services reasonably expected to produce
11 remission of the patient's condition. An
12 individualized treatment plan approved by a licensed
13 marriage and family therapist, licensed mental health
14 counselor, licensed clinical social worker, ~~[or an]~~
15 advanced practice registered nurse, or physician
16 assistant for a patient already under the care or
17 treatment of a physician or psychologist shall be done
18 in consultation with the physician or psychologist;
19 and

20 (4) Substance abuse assessments for alcohol or drug
21 dependence as a covered benefit under this section for



1 a child facing disciplinary action under section 302A-
2 1134.6 shall be provided by a qualified physician,
3 psychologist, licensed clinical social worker,
4 advanced practice registered nurse, physician
5 assistant, or certified substance abuse counselor.

6 The certified substance abuse counselor shall be
7 employed by a hospital or nonhospital facility
8 providing substance abuse services. The substance
9 abuse assessment shall evaluate the suitability for
10 substance abuse treatment and placement in an
11 appropriate treatment setting.

12 (b) Mental illness benefits.

13 (1) Covered benefits for mental health services set forth
14 in this subsection shall be limited to coverage for
15 diagnosis and treatment of mental disorders. All
16 mental health services shall be provided under an
17 individualized treatment plan approved by a physician,
18 psychologist, licensed clinical social worker,
19 licensed marriage and family therapist, licensed
20 mental health counselor, advanced practice registered
21 nurse, physician assistant, or licensed dietitian



1 treating eating disorders, and must be reasonably
2 expected to improve the patient's condition. An
3 individualized treatment plan approved by a licensed
4 clinical social worker, licensed marriage and family
5 therapist, licensed mental health counselor, advanced
6 practice registered nurse, physician assistant, or [a]
7 licensed dietitian treating eating disorders, for a
8 patient already under the care or treatment of a
9 physician or psychologist shall be done in
10 consultation with the physician or psychologist;

11 (2) In-hospital and nonhospital residential mental health
12 services as a covered benefit under this chapter shall
13 be provided in a hospital or a nonhospital residential
14 facility. The services to be covered shall include
15 those services required for licensure and
16 accreditation;

17 (3) Mental health partial hospitalization as a covered
18 benefit under this chapter shall be provided by a
19 hospital or a mental health outpatient facility. The
20 services to be covered under this paragraph shall



1 include those services required for licensure and
2 accreditation; and

3 (4) Mental health outpatient services shall be a covered
4 benefit under this chapter."

5 SECTION 164. Section 432:1-303, Hawaii Revised Statutes,
6 is amended by amending subsection (b) to read as follows:

7 "(b) Except as [~~hereinafter~~] otherwise provided[7] in this
8 subsection, no society shall incur any liability other than for
9 the advance payments, nor issue any benefit certificate, nor
10 allow, or offer or promise to pay, or allow to any person any
11 death benefit until:

12 (1) Actual bona fide applications for death certificates
13 have been secured upon at least one hundred lives for
14 at least \$25 each, and all the applicants for death
15 benefits have been regularly examined by a qualified
16 [~~practicing physician,~~] health care provider and
17 certificates of the examination have been duly filed
18 with and approved by the administrative board or body
19 of the society[~~7 and~~]; provided that for purposes of
20 this paragraph, "qualified health care provider" has
21 the same meaning as in section 325- ;



1 (2) At least one hundred applicants have been accepted for
2 membership; ~~and~~

3 (3) There has been submitted to the commissioner, under
4 oath of the president and secretary, or corresponding
5 officers of the society, a list of applicants
6 including the following information about each
7 applicant:

8 (A) Name and address[];

9 (B) Date examined[];

10 (C) Date of approval[];

11 (D) Date accepted as member[];

12 (E) If subordinate branches have been established,
13 the name and number of the subordinate branch of
14 which each applicant is a member[];

15 (F) Amount of benefits to be granted[]; and

16 (G) The rate of stated periodical contributions
17 ~~[which]~~ that shall be sufficient to provide for
18 meeting the mortuary obligations contracted when
19 valued for death purposes upon the basis of a
20 recognized table of mortality or any mutual
21 benefit standard based on at least twenty years'



1 experience, and for disability benefits by tables
2 based upon reliable experience, and for combined
3 death and permanent total disability benefits by
4 tables based upon reliable experience; and

5 (4) It has been shown to the commissioner by the sworn
6 statement of the treasurer or corresponding officer of
7 the society that at least one hundred applicants have
8 paid in cash at least one regular monthly payment as
9 provided under subsection (a), which payments in the
10 aggregate shall amount to at least five times the
11 maximum amount of death benefit offered or promised to
12 be paid to any one member."

13 SECTION 165. Section 432:1-601.5, Hawaii Revised Statutes,
14 is amended by amending subsection (g) to read as follows:

15 "(g) For the purposes of this section:

16 "Health care provider" means a provider of services, as
17 defined in title 42 United States Code section 1395x(u), a
18 provider of medical and other health services, as defined in
19 title 42 United States Code section 1395x(s), other
20 practitioners licensed by the State and working within their
21 scope of practice, and any other person or organization who



1 furnishes, bills, or is paid for health care in the normal
2 course of business, including but not limited to primary care
3 providers, mental health providers, oral health providers,
4 physicians and osteopathic physicians licensed under chapter
5 453, advanced practice registered nurses licensed under chapter
6 457, psychologists licensed under chapter 465, ~~[and]~~ dentists
7 licensed under chapter 448~~[-]~~, and qualified health care
8 providers.

9 "Interactive telecommunications system" has the same
10 meaning as the term is defined in title 42 Code of Federal
11 Regulations section 410.78(a).

12 "Originating site" means the location where the patient is
13 located, whether accompanied or not by a health care provider,
14 at the time services are provided by a health care provider
15 through telehealth, including but not limited to a health care
16 provider's office, hospital, health care facility, a patient's
17 home, and other nonmedical environments such as school-based
18 health centers, university-based health centers, or the work
19 location of a patient.

20 "Qualified health care provider" has the same meaning as in
21 section 325- .



1 "Telehealth" means the use of telecommunications services,
2 as defined in section 269-1, to encompass four modalities:
3 store and forward technologies, remote monitoring, live
4 consultation, and mobile health; and which shall include but not
5 be limited to real-time video conferencing-based communication,
6 secure interactive and non-interactive web-based communication,
7 and secure asynchronous information exchange, to transmit
8 patient medical information, including diagnostic-quality
9 digital images and laboratory results for medical interpretation
10 and diagnosis, for the purpose of delivering enhanced health
11 care services and information while a patient is at an
12 originating site and the health care provider is at a distant
13 site. Except as provided through an interactive
14 telecommunications system, standard telephone contacts,
15 facsimile transmissions, or e-mail text, in combination or
16 alone, do not constitute telehealth services."

17 SECTION 166. Section 432:1-602.5, Hawaii Revised Statutes,
18 is amended by amending subsection (e) to read as follows:

19 "(e) For the purposes of this section[, ~~"child health~~
20 ~~supervision services"~~]:



1 "Child health supervision services" means [~~physician-~~
2 ~~delivered, physician-supervised, physician assistant-delivered,~~
3 ~~or nurse-delivered services as defined by section 457-2~~
4 ~~("registered nurse"),]~~ services supervised or delivered by a
5 physician, a physician assistant, an advanced practice
6 registered nurse, a registered nurse, or a qualified health care
7 provider-delivered, which shall include as the minimum benefit
8 coverage for services delivered at intervals and scope stated in
9 this section.

10 "Qualified health care provider" has the same meaning as in
11 section 325- ."

12 SECTION 167. Section 432:1-603, Hawaii Revised Statutes,
13 is amended to read as follows:

14 **"§432:1-603 Reimbursement for psychological services.**

15 Notwithstanding any provision of any individual or group
16 hospital or medical service plan contract, whenever the plan
17 contract provides reimbursement or payment for any service which
18 is within the lawful scope of practice of a psychologist
19 licensed in this State, the person entitled to benefits or
20 performing the service shall be entitled to reimbursement or
21 payment whether the service is performed by a licensed physician



1 ~~[or]~~, licensed psychologist[-], licensed physician assistant, or
2 licensed advanced practice registered nurse."

3 SECTION 168. Section 432:1-604.5, Hawaii Revised Statutes,
4 is amended by amending subsection (e) to read as follows:

5 "(e) For purposes of this section:

6 "Contraceptive services" means ~~[physician-delivered,~~
7 ~~physician-supervised, physician assistant-delivered, advanced~~
8 ~~practice registered nurse-delivered, nurse-delivered, or~~
9 ~~pharmacist-delivered]~~ medical services supervised or delivered
10 by a health care provider that are intended to promote the
11 effective use of contraceptive supplies or devices to prevent
12 unwanted pregnancy.

13 "Contraceptive supplies" means all Food and Drug
14 Administration-approved contraceptive drugs or devices used to
15 prevent unwanted pregnancy.

16 "Health care provider" means a physician or an osteopathic
17 physician licensed under chapter 453, a physician assistant
18 licensed under chapter 453, an advanced practice registered
19 nurse or a registered nurse licensed under chapter 457, a
20 pharmacist licensed under chapter 461, a naturopathic physician



1 licensed under chapter 455, or a midwife licensed under chapter
2 457J."

3 SECTION 169. Section 432:1-605, Hawaii Revised Statutes,
4 is amended by amending subsection (a) to read as follows:

5 "(a) Notwithstanding any provision to the contrary, each
6 policy, contract, plan, or agreement issued on or after February
7 1, 1991, except for policies that only provide coverage for
8 specified diseases or other limited benefit coverage, but
9 including policies issued by companies subject to chapter 431,
10 article 10A, part II and chapter 432, article 1 shall provide
11 coverage for screening by low-dose mammography for occult breast
12 cancer as follows:

13 (1) For women forty years of age and older, an annual
14 mammogram; and

15 (2) For a woman of any age with a history of breast cancer
16 or whose mother or sister has had a history of breast
17 cancer, a mammogram upon the recommendation of the
18 woman's physician[~~-~~] or other qualified health care
19 provider; provided that for purposes of this
20 paragraph, "qualified health care provider" has the
21 same meaning as in section 325- ."



SECTION 170. Section 432:1-605.5, Hawaii Revised Statutes,
is amended to read as follows:

"[+]§432:1-605.5[+] Mammograms; referral not required.

(a) For purposes of the annual screening mammogram coverage required under section 432:1-605, no mutual benefit society shall require a covered person forty years of age and older to obtain a referral from a primary care provider or other ~~physician~~ qualified health care provider for an annual screening mammogram.

(b) If the screening mammogram indicates that follow up services are advisable, a referral shall be made to the patient's primary care physician or other ~~physician,~~ qualified health care provider, as designated by the patient.

(c) For purposes of this section, "qualified health care provider" has the same meaning as in section 325- ."

SECTION 171. Section 432:1-609, Hawaii Revised Statutes,
is amended as follows:

1. By amending subsection (a) to read:

"(a) All individual and group hospital and medical service plan contracts and medical service corporation contracts under this chapter shall provide coverage for medical foods and low-



1 protein modified food products for the treatment of an inborn
2 error of metabolism for its members or dependents of the member
3 in this State; provided that the medical food or low-protein
4 modified food product is:

5 (1) Prescribed as medically necessary for the therapeutic
6 treatment of an inborn error of metabolism; and

7 (2) Consumed or administered enterally under the
8 supervision of a physician or osteopathic physician
9 licensed under chapter 453[-] or other qualified
10 health care provider.

11 Coverage shall be for at least eighty per cent of the cost of
12 the medical food or low-protein modified food product prescribed
13 and administered pursuant to this subsection."

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

15 "(c) For the purposes of this section:

16 "Inborn error of metabolism" means a disease caused by an
17 inherited abnormality of the body chemistry of a person that is
18 characterized by deficient metabolism, originating from
19 congenital defects or defects arising shortly after birth, of
20 amino acid, organic acid, carbohydrate, or fat.



1 "Low-protein modified food product" means a food product
2 that:

3 (1) Is specially formulated to have less than one gram of
4 protein per serving;

5 (2) Is prescribed or ordered by a physician or osteopathic
6 physician as medically necessary for the dietary
7 treatment of an inherited metabolic disease; and

8 (3) Does not include a food that is naturally low in
9 protein.

10 "Medical food" means a food that is formulated to be
11 consumed or administered enterally under the supervision of a
12 physician or osteopathic physician and is intended for the
13 specific dietary management of a disease or condition for which
14 distinctive nutritional requirements, based on recognized
15 scientific principles, are established by medical evaluation.

16 "Qualified health care provider" has the same meaning as in
17 section 325- ."

18 SECTION 172. Section 432:1-614, Hawaii Revised Statutes,
19 is amended by amending subsection (m) to read as follows:

20 "(m) As used in this section, unless the context clearly
21 requires otherwise:



1 "Applied behavior analysis" means the design,
2 implementation, and evaluation of environmental modifications,
3 using behavioral stimuli and consequences, to produce socially
4 significant improvement in human behavior, including the use of
5 direct observation, measurement, and functional analysis of the
6 relations between environment and behavior.

7 "Autism" means autism spectrum disorder as defined by the
8 most recent edition of the Diagnostic and Statistical Manual of
9 Mental Disorders.

10 "Autism service provider" means any person, entity, or
11 group that provides treatment for autism and meets the minimum
12 requirements pursuant to subsection (1).

13 "Behavioral health treatment" means [~~evidence-based~~]
14 evidence-based counseling and treatment programs, including
15 applied behavior analysis, that are:

- 16 (1) Necessary to develop, maintain, or restore, to the
17 maximum extent practicable, the functioning of an
18 individual; and
19 (2) Provided or supervised by an autism service provider.



1 "Diagnosis of autism" means medically necessary
2 assessments, evaluations, or tests conducted to diagnose whether
3 an individual has autism.

4 "Pharmacy care" means medications prescribed by a licensed
5 physician [~~or registered nurse practitioner~~], physician
6 assistant, or advanced practice registered nurse and any health-
7 related services that are deemed medically necessary to
8 determine the need or effectiveness of the medications.

9 "Psychiatric care" means direct or consultative services
10 provided by a licensed psychiatrist[~~-~~], physician assistant, or
11 advanced practice registered nurse.

12 "Psychological care" means direct or consultative services
13 provided by a licensed psychologist[~~-~~], physician, physician
14 assistant, or advanced practice registered nurse.

15 "Therapeutic care" means services provided by licensed
16 speech pathologists, registered occupational therapists,
17 licensed social workers, licensed clinical social workers, or
18 licensed physical therapists.

19 "Treatment for autism" includes the following care
20 prescribed or ordered for an individual diagnosed with autism by
21 a licensed physician, psychiatrist, physician assistant,



1 psychologist, licensed clinical social worker, or [~~registered~~
2 ~~nurse practitioner~~] advanced practice registered nurse if the
3 care is determined to be medically necessary:

- 4 (1) Behavioral health treatment;
- 5 (2) Pharmacy care;
- 6 (3) Psychiatric care;
- 7 (4) Psychological care; and
- 8 (5) Therapeutic care."

9 SECTION 173. Section 432:1-616, Hawaii Revised Statutes,
10 is amended by amending subsection (d) to read as follows:

11 "(d) For the purposes of this section:

12 "Cost-share" or "cost-sharing" means copayment,
13 coinsurance, or deductible provisions applicable to coverage for
14 medications or treatments.

15 "Intravenously administered chemotherapy" means a
16 [~~physician-prescribed~~] cancer treatment prescribed by a licensed
17 health care provider that is administered through injection
18 directly into the patient's circulatory system by a physician,
19 physician assistant, [~~nurse practitioner,~~] advanced practice
20 registered nurse, nurse, or other medical personnel under the



1 supervision of a physician and in a hospital, medical office, or
2 other clinical setting.

3 "Oral chemotherapy" means a United States Food and Drug
4 Administration-approved, [~~physician-prescribed~~] cancer treatment
5 prescribed by a licensed health care provider that is taken
6 orally in the form of a tablet or capsule and may be
7 administered in a hospital, medical office, or other clinical
8 setting or may be delivered to the patient for self-
9 administration under the direction or supervision of a physician
10 or other licensed health care provider outside of a hospital,
11 medical office, or other clinical setting."

12 SECTION 174. Section 432:1-617, Hawaii Revised Statutes,
13 is amended by amending subsection (b) to read as follows:

14 "(b) Beginning March 1, 2011, all health insurance
15 providers in Hawaii shall inform their insured of the risk
16 associated with undiagnosed colorectal cancer and encourage the
17 insured to consult with the insured's [~~physician~~] qualified
18 health care provider about available screening options.

19 For purposes of this subsection, "qualified health care
20 provider" has the same meaning as in section 325-."



SECTION 175. Section 432:2-406, Hawaii Revised Statutes,
is amended to read as follows:

**"[+]§432:2-406[+] Mammogram coverage required; referral
not required.** (a) A fraternal benefit society shall provide
coverage for an annual screening mammogram to the same extent as
required under section 431:10A-116; provided that no fraternal
benefit society shall require a covered person forty years of
age and older to obtain a referral from a primary care provider
or other ~~[physician]~~ qualified health care provider for an
annual screening mammogram.

(b) If the screening mammogram indicates that follow up
services are advisable, a referral shall be made to the
patient's primary care physician or other ~~[physician]~~ qualified
health care provider, as designated by the patient.

(c) For purposes of this section, "qualified health care
provider" has the same meaning as in section 325- ."

SECTION 176. Section 435C-2, Hawaii Revised Statutes, is
amended as follows:

1. By adding a new definition to be appropriately inserted
and to read:



1 "Qualified health care provider" has the same meaning as
2 in section 325- ."

3 2. By amending the definition of "medical malpractice
4 insurance" to read:

5 "'Medical malpractice insurance" means insurance coverage
6 against the legal liability of the insured and against loss,
7 damage, or expense incident to a claim arising out of the death
8 or injury of any person as the result of negligence or
9 malpractice in rendering professional service by any [~~licensed~~
10 ~~physician~~] qualified health care provider or hospital.
11 pursuant to the provisions of this chapter."

12 SECTION 177. Section 435C-3, Hawaii Revised Statutes, is
13 amended by amending subsection (a) to read as follows:

14 "(a) A joint underwriting plan is established, consisting
15 of all insurers authorized to write and engaged in writing
16 casualty insurance in this State on a direct basis. Each
17 insurer shall be a member of the plan and shall maintain
18 membership as a condition of its licensure to transact such
19 insurance in this State. The purpose of the plan shall be to
20 provide medical malpractice insurance on a self-supporting
21 basis. The plan shall be the exclusive agency through which



1 medical malpractice insurance may be written in this State on a
2 primary basis for [~~physicians~~] qualified health care providers
3 and hospitals."

4 SECTION 178. Section 435C-4, Hawaii Revised Statutes, is
5 amended by amending subsection (a) to read as follows:

6 "(a) (1) Any [~~licensed physician~~] qualified health care
7 provider or hospital shall, on or after the effective
8 date of the plan of operation, apply to the plan for
9 such coverage. Such application may be made on behalf
10 of an applicant by a producer authorized by the
11 applicant~~[-]~~; and

12 (2) If the plan determines that the applicant meets the
13 underwriting standards of the plan as provided in the
14 plan of operation and there is no unpaid, uncontested
15 premium due from the applicant for prior insurance (as
16 shown by the insured having failed to make written
17 objection to the premium charges within thirty days
18 after billing), then the plan, upon receipt of the
19 premium, or such portion thereof as is prescribed in
20 the plan of operation, shall cause to be issued a



1 policy of medical malpractice insurance for a term of
2 one year."

3 SECTION 179. Section 435C-11, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "[+]§435C-11[+] **Initiation of plan.** The plan becomes
6 operational at the direction of the insurance commissioner, upon
7 a finding that medical malpractice insurance is not or will not
8 be readily available in this State to the majority of [~~the~~
9 ~~physicians~~] qualified health care providers and hospitals. Upon
10 a finding by the insurance commissioner that medical malpractice
11 insurance has become readily available in the voluntary market,
12 the commissioner may direct the plan to cease writing medical
13 malpractice insurance.

14 The plan, being a temporary measure, shall not remain in
15 existence for more than three years after the plan becomes
16 operational."

17 SECTION 180. Section 432D-1, Hawaii Revised Statutes, is
18 amended as follows:

19 1. By adding a new definition to be appropriately inserted
20 and to read:



1 "Qualified health care provider" has the same meaning as
2 in section 325- ."

3 2. By amending the definition of "basic health care
4 services" to read:

5 "Basic health care services" means the following medical
6 services: preventive care[~~7~~]; emergency care[~~7~~]; inpatient and
7 outpatient hospital [~~and~~] care, physician care, and qualified
8 health care provider care; diagnostic laboratory services[~~7~~];
9 and diagnostic and therapeutic radiological services. [~~7~~]

10 "Basic health care services" does not include mental health
11 services, services for alcohol or drug abuse, dental or vision
12 services, or long-term rehabilitation treatment, except as
13 provided in chapter 431M."

14 SECTION 181. Section 432D-23.5, Hawaii Revised Statutes,
15 is amended by amending subsection (g) to read as follows:

16 "(g) For the purposes of this section:

17 "Distant site" means the location of the health care
18 provider delivering services through telehealth at the time the
19 services are provided.

20 "Health care provider" means a provider of services, as
21 defined in title 42 United States Code section 1395x(u), a



1 provider of medical and other health services, as defined in
2 title 42 United States Code section 1395x(s), other
3 practitioners licensed by the State and working within their
4 scope of practice, and any other person or organization who
5 furnishes, bills, or is paid for health care in the normal
6 course of business, including but not limited to primary care
7 providers, mental health providers, oral health providers,
8 physicians and osteopathic physicians licensed under chapter
9 453, advanced practice registered nurses licensed under chapter
10 457, psychologists licensed under chapter 465, ~~and~~ dentists
11 licensed under chapter 448~~(-)~~, and qualified health care
12 providers.

13 "Interactive telecommunications system" has the same
14 meaning as the term is defined in title 42 Code of Federal
15 Regulations section 410.78(a).

16 "Originating site" means the location where the patient is
17 located, whether accompanied or not by a health care provider,
18 at the time services are provided by a health care provider
19 through telehealth, including but not limited to a health care
20 provider's office, hospital, health care facility, a patient's
21 home, and other nonmedical environments such as school-based



1 health centers, university-based health centers, or the work
2 location of a patient.

3 "Qualified health care provider" has the same meaning as in
4 section 325- .

5 "Telehealth" means the use of telecommunications services,
6 as defined in section 269-1, to encompass four modalities:
7 store and forward technologies, remote monitoring, live
8 consultation, and mobile health; and which shall include but not
9 be limited to real-time video conferencing-based communication,
10 secure interactive and non-interactive web-based communication,
11 and secure asynchronous information exchange, to transmit
12 patient medical information, including diagnostic-quality
13 digital images and laboratory results for medical interpretation
14 and diagnosis, for the purpose of delivering enhanced health
15 care services and information while a patient is at an
16 originating site and the health care provider is at a distant
17 site. Except as provided through an interactive
18 telecommunications system, standard telephone contacts,
19 facsimile transmissions, or e-mail text, in combination or
20 alone, do not constitute telehealth services."



1 SECTION 182. Section 432E-1.4, Hawaii Revised Statutes, is
2 amended by amending subsections (b) to (d) to read as follows:

3 "(b) A health intervention is medically necessary if it is
4 recommended by the treating physician, treating physician
5 assistant, or other treating licensed health care provider, is
6 approved by the health plan's medical director [~~or~~], physician
7 designee, or physician assistant designee, and is:

8 (1) For the purpose of treating a medical condition;

9 (2) The most appropriate delivery or level of service,
10 considering potential benefits and harms to the
11 patient;

12 (3) Known to be effective in improving health outcomes;
13 provided that:

14 (A) Effectiveness is determined first by scientific
15 evidence;

16 (B) If no scientific evidence exists, then by
17 professional standards of care; and

18 (C) If no professional standards of care exist or if
19 they exist but are outdated or contradictory,
20 then by expert opinion; and



(4) Cost-effective for the medical condition being treated compared to alternative health interventions, including no intervention. For purposes of this paragraph, cost-effective shall not necessarily mean the lowest price.

(c) When the treating licensed health care provider and the health plan's medical director ~~[or]~~, physician designee, or physician assistant designee do not agree on whether a health intervention is medically necessary, a reviewing body, whether internal to the plan or external, shall give consideration to, but shall not be bound by, the recommendations of the treating licensed health care provider and the health plan's medical director ~~[or]~~, physician designee[-], or physician assistant designee.

(d) For the purposes of this section:

"Cost-effective" means a health intervention where the benefits and harms relative to the costs represent an economically efficient use of resources for patients with the medical condition being treated through the health intervention; provided that the characteristics of the individual patient



1 shall be determinative when applying this criterion to an
2 individual case.

3 "Effective" means a health intervention that may reasonably
4 be expected to produce the intended results and to have expected
5 benefits that outweigh potential harmful effects.

6 "Health intervention" means an item or service delivered or
7 undertaken primarily to treat a medical condition or to maintain
8 or restore functional ability. A health intervention is defined
9 not only by the intervention itself, but also by the medical
10 condition and patient indications for which it is being applied.

11 New interventions for which clinical trials have not been
12 conducted and effectiveness has not been scientifically
13 established shall be evaluated on the basis of professional
14 standards of care or expert opinion. For existing
15 interventions, scientific evidence shall be considered first
16 and, to the greatest extent possible, shall be the basis for
17 determinations of medical necessity. If no scientific evidence
18 is available, professional standards of care shall be
19 considered. If professional standards of care do not exist or
20 are outdated or contradictory, decisions about existing
21 interventions shall be based on expert opinion. Giving priority



1 to scientific evidence shall not mean that coverage of existing
2 interventions shall be denied in the absence of conclusive
3 scientific evidence. Existing interventions may meet the
4 definition of medical necessity in the absence of scientific
5 evidence if there is a strong conviction of effectiveness and
6 benefit expressed through up-to-date and consistent professional
7 standards of care, or in the absence of such standards,
8 convincing expert opinion.

9 "Health outcomes" mean outcomes that affect health status
10 as measured by the length or quality of a patient's life,
11 primarily as perceived by the patient.

12 "Medical condition" means a disease, illness, injury,
13 genetic or congenital defect, pregnancy, or a biological or
14 psychological condition that lies outside the range of normal,
15 age-appropriate human variation.

16 "Physician designee" means a physician or other health care
17 practitioner designated to assist in the decision-making process
18 who has training and credentials at least equal to the treating
19 licensed health care provider.

20 "Physician assistant designee" means a physician assistant
21 designated to assist in the decision-making process who has



1 training and credentials at least equal to the treating licensed
2 health care provider.

3 "Scientific evidence" means controlled clinical trials that
4 either directly or indirectly demonstrate the effect of the
5 intervention on health outcomes. If controlled clinical trials
6 are not available, observational studies that demonstrate a
7 causal relationship between the intervention and the health
8 outcomes may be used. Partially controlled observational
9 studies and uncontrolled clinical series may be suggestive, but
10 do not by themselves demonstrate a causal relationship unless
11 the magnitude of the effect observed exceeds anything that could
12 be explained either by the natural history of the medical
13 condition or potential experimental biases. Scientific evidence
14 may be found in the following and similar sources:

- 15 (1) Peer-reviewed scientific studies published in or
16 accepted for publication by medical journals that meet
17 nationally recognized requirements for scientific
18 manuscripts and that submit most of their published
19 articles for review by experts who are not part of the
20 editorial staff;



- (2) Peer-reviewed literature, biomedical compendia, and other medical literature that meet the criteria of the National Institutes of Health's National Library of Medicine for indexing in Index Medicus, Excerpta Medicus (EMBASE), Medline, and MEDLARS database Health Services Technology Assessment Research (HSTAR);
- (3) Medical journals recognized by the Secretary of Health and Human Services under section 1861(t)(2) of the Social Security Act, as amended;
- (4) Standard reference compendia including the American Hospital Formulary Service-Drug Information, American Medical Association Drug Evaluation, American Dental Association Accepted Dental Therapeutics, and United States Pharmacopoeia-Drug Information;
- (5) Findings, studies, or research conducted by or under the auspices of federal agencies and nationally recognized federal research institutes including but not limited to the Federal Agency for Health Care Policy and Research, National Institutes of Health, National Cancer Institute, National Academy of Sciences, Centers for Medicare and Medicaid Services,



1 Congressional Office of Technology Assessment, and any
2 national board recognized by the National Institutes
3 of Health for the purpose of evaluating the medical
4 value of health services; and

5 (6) Peer-reviewed abstracts accepted for presentation at
6 major medical association meetings.

7 "Treat" means to prevent, diagnose, detect, provide medical
8 care, or palliate.

9 "Treating licensed health care provider" means a licensed
10 health care provider who has personally evaluated the patient."

11 SECTION 183. Section 432E-36, Hawaii Revised Statutes, is
12 amended as follows:

13 1. By amending subsection (b) to read:

14 "(b) An enrollee or the enrollee's appointed
15 representative may make an oral request for an expedited
16 external review of the adverse action if the enrollee's treating
17 physician, treating physician assistant, or treating advanced
18 practice registered nurse certifies, in writing, that the health
19 care service or treatment that is the subject of the request
20 would be significantly less effective if not promptly initiated.
21 A written request for an expedited external review pursuant to



1 this subsection shall include, and oral request shall be
2 promptly followed by, a certification signed by the enrollee's
3 treating physician, treating physician assistant, or treating
4 advanced practice registered nurse and the authorization for
5 release and disclosures required by section 432E-33. Upon
6 receipt of all items required by this subsection, the
7 commissioner shall immediately notify the health carrier."

8 2. By amending subsection (g) to read:

9 "(g) Except for a request for an expedited external review
10 made pursuant to subsection (b), within three business days
11 after the date of receipt of the request, the commissioner shall
12 notify the health carrier that the enrollee has requested an
13 external review pursuant to this section. Within five business
14 days following the date of receipt of notice, the health carrier
15 shall determine whether:

16 (1) The individual is or was an enrollee in the health
17 benefit plan at the time the health care service or
18 treatment was recommended or requested or, in the case
19 of a retrospective review, was an enrollee in the
20 health benefit plan at the time the health care
21 service or treatment was provided;



(2) The recommended or requested health care service or treatment that is the subject of the adverse action:

(A) Would be a covered benefit under the enrollee's health benefit plan but for the health carrier's determination that the service or treatment is experimental or investigational for the enrollee's particular medical condition; and

(B) Is not explicitly listed as an excluded benefit under the enrollee's health benefit plan;

(3) The enrollee's treating physician, treating physician assistant, or treating advanced practice registered nurse has certified in writing that:

(A) Standard health care services or treatments have not been effective in improving the condition of the enrollee;

(B) Standard health care services or treatments are not medically appropriate for the enrollee; or

(C) There is no available standard health care service or treatment covered by the health carrier that is more beneficial than the health



1 care service or treatment that is the subject of
2 the adverse action;

3 (4) The enrollee's treating physician, treating physician
4 assistant, or treating advanced practice registered
5 nurse:

6 (A) Has recommended a health care service or
7 treatment that the physician ~~[or]~~, physician
8 assistant, or advanced practice registered nurse
9 certifies, in writing, is likely to be more
10 beneficial to the enrollee, in the physician's
11 ~~[or]~~, physician assistant's, or advanced practice
12 registered nurse's opinion, than any available
13 standard health care services or treatments; or

14 (B) Who is a licensed, board certified or board
15 eligible physician qualified to practice in the
16 area of medicine appropriate to treat the
17 enrollee's condition, who is a physician
18 assistant qualified to treat the enrollee's
19 condition, or who is an advanced practice
20 registered nurse qualified to treat the
21 enrollee's condition, has certified in writing



that scientifically valid studies using accepted protocols demonstrate that the health care service or treatment that is the subject of the adverse action is likely to be more beneficial to the enrollee than any available standard health care services or treatments;

(5) The enrollee has exhausted the health carrier's internal appeals process or the enrollee is not required to exhaust the health carrier's internal appeals process pursuant to section 432E-33(b); and

(6) The enrollee has provided all the information and forms required by the commissioner that are necessary to process an external review, including the release form and disclosure of conflict of interest information as provided under section 432E-33(a)."

PART VIII

SECTION 184. The purpose of this part is to amend the Uniform Probate Code.

SECTION 185. Section 560:5-102, Hawaii Revised Statutes,
is amended by adding a new definition to be appropriately
inserted and to read as follows:



1 "Qualified health care provider" has the same meaning as
2 in section 325- ."

3 SECTION 186. Section 560:5-202, Hawaii Revised Statutes,
4 is amended by amending subsection (c) to read as follows:

5 "(c) Subject to section 560:5-203, the appointment of a
6 guardian becomes effective upon:

7 (1) The appointing parent's death;

8 (2) An adjudication that the parent is an incapacitated
9 person; or

10 (3) A written determination by a physician or other
11 qualified health care provider who has examined the
12 parent that the parent is no longer able to care for
13 the child,
14 whichever first occurs."

15 SECTION 187. Section 560:5-303, Hawaii Revised Statutes,
16 is amended by amending subsection (a) to read as follows:

17 "(a) The appointment of a guardian under section 560:5-302
18 becomes effective upon:

19 (1) The death of the appointing parent, spouse, or
20 reciprocal beneficiary;



1 (2) The adjudication of incapacity of the appointing
2 parent, spouse, or reciprocal beneficiary; or
3 (3) A written determination by a physician or other
4 qualified health care provider who has examined the
5 appointing parent, spouse, or reciprocal beneficiary
6 that the appointing parent, spouse, or reciprocal
7 beneficiary is no longer able to care for the
8 incapacitated person,
9 whichever first occurs."

10 SECTION 188. Section 560:5-305, Hawaii Revised Statutes,
11 is amended by amending subsection (d) to read as follows:

12 "(d) In addition to the duties imposed by subsection (c),
13 the kokua kanawai shall:

14 (1) Interview the petitioner and the proposed guardian;

15 (2) Visit the respondent's present dwelling, unless
16 otherwise ordered by the court for good cause shown,
17 and visit any dwelling in which the respondent will
18 live if the appointment is made;

19 (3) Obtain information from any physician, qualified
20 health care provider, or other person who is known to



1 have treated, advised, or assessed the respondent's
2 relevant physical or mental condition; and
3 (4) Make any other investigation the court directs."

4 SECTION 189. Section 560:5-306, Hawaii Revised Statutes,
5 is amended to read as follows:

6 "**§560:5-306 Judicial appointment of guardian; professional**
7 **evaluation.** At or before a hearing under this part, the court
8 may order a professional evaluation of the respondent and shall
9 order the evaluation if the respondent so demands. If the court
10 orders the evaluation, the respondent shall be examined by a
11 physician, psychologist, qualified health care provider, or
12 other individual appointed by the court who is qualified to
13 evaluate the respondent's alleged impairment. The examiner
14 shall promptly file a written report with the court. Unless
15 otherwise directed by the court, the report shall contain:

16 (1) A description of the nature, type, and extent of the
17 respondent's specific cognitive and functional
18 limitations;

19 (2) An evaluation of the respondent's mental and physical
20 condition and, if appropriate, educational potential,
21 adaptive behavior, and social skills;



- 1 (3) A prognosis for improvement and a recommendation as to
2 the appropriate treatment or habilitation plan; and
3 (4) The date of any assessment or examination upon which
4 the report is based."

5 SECTION 190. Section 560:5-308, Hawaii Revised Statutes,
6 is amended by amending subsection (a) to read as follows:

7 "(a) Unless excused by the court for good cause, the
8 proposed guardian shall attend the hearing. The respondent
9 shall attend and participate in the hearing, unless excused by
10 the court for good cause. The respondent may present evidence
11 and subpoena witnesses and documents, examine witnesses,
12 including any court-appointed physician, psychologist, qualified
13 health care provider, or other individual qualified to evaluate
14 the alleged impairment, and the kokua kanawai, and otherwise
15 participate in the hearing. The hearing may be held in a
16 location convenient to the respondent and may be closed upon the
17 request of the respondent and a showing of good cause."

18 SECTION 191. Section 560:5-417, Hawaii Revised Statutes,
19 is amended to read as follows:

20 "**§560:5-417 Compensation and expenses.** If not otherwise
21 compensated for services rendered, a guardian, conservator,



1 physician, qualified health care provider, lawyer for the
2 respondent, lawyer whose services resulted in a protective order
3 or in an order beneficial to a protected person's estate, or any
4 person appointed by the court is entitled to reasonable
5 compensation from the estate, even if no guardian or conservator
6 is appointed. Compensation may be paid and expenses reimbursed
7 without court order. If the court or the family court
8 determines that the compensation is excessive or the expenses
9 are inappropriate, the excessive or inappropriate amount shall
10 be repaid to the estate."

11 SECTION 192. Section 560:5-601, Hawaii Revised Statutes,
12 is amended as follows:

13 1. By adding a new definition to be appropriately inserted
14 and to read:

15 "Health care provider" means a physician or an osteopathic
16 physician licensed under chapter 453, a physician assistant
17 licensed under chapter 453, or an advanced practice registered
18 nurse licensed under chapter 457."

19 2. By deleting the definition of "licensed physician".



1 ~~["Licensed physician" means any person who is licensed to~~
2 ~~practice medicine or osteopathic medicine in Hawaii under~~
3 ~~chapter 453."]~~

4 SECTION 193. Section 560:5-608, Hawaii Revised Statutes,
5 is amended by amending subsection (b) to read as follows:

6 "(b) The ward assents to sterilization if the ward
7 manifests an uncoerced willingness to undergo sterilization
8 after being fully informed of the nature, risks, consequences,
9 and alternatives to the procedure. A ward who lacks the
10 capacity to understand the nature, risks, consequences, and
11 alternatives to the procedure, or who lacks the capacity to
12 manifest an uncoerced willingness or unwillingness to
13 sterilization cannot assent to the procedure. To determine
14 whether the ward is capable of giving informed assent, the court
15 shall consider whether the ward understands and appreciates:

16 (1) The causal relationship between sexual intercourse and
17 pregnancy or parenthood;

18 (2) The causal relationship between sterilization and the
19 impossibility of pregnancy or parenthood;

20 (3) The nature of the sterilization operation including
21 the pain, discomfort, and risks of the procedure;



1 (4) The probable permanency and irreversibility of the
2 sterilization procedure;

3 (5) All medically approved alternatives to sterilization;

4 (6) The consequences of initiating pregnancy or becoming
5 pregnant, mothering or fathering a child, and becoming
6 a parent; and

7 (7) The power to change one's mind about being sterilized
8 at any time before the procedure is performed.

9 To assure the adequacy of the ward's informed assent, evidence
10 shall be presented showing that the ward received appropriate
11 counseling from the ~~[physician]~~ health care provider who will
12 perform the sterilization and at least one other qualified
13 independent counselor such as a social worker with a master's
14 degree, ~~[a clinical nurse specialist, or]~~ an advanced practice
15 registered nurse, a licensed psychologist, or a psychiatrist.

16 The counseling shall cover the benefits or advantages to
17 sterilization and conversely the losses and disadvantages of
18 sterilization including the feelings, values, and lifestyle
19 changes attendant with sterilization.

20 Persons who attest in court as to the soundness of informed
21 assent shall comment on and assess the ward's understanding of



1 each issue and shall comment on and assess the degree to which
2 the prospective patient expresses an uncoerced willingness to
3 accept each risk and consequence. Any reservations or
4 resistance expressed or otherwise evidenced by the prospective
5 patient shall be disclosed to the court."

6 SECTION 194. Section 560:5-612, Hawaii Revised Statutes,
7 is amended to read as follows:

8 **"§560:5-612 No liability arising from sterilization;**
9 **exception.** No ~~[physician]~~ health care provider or hospital, nor
10 the State or its agents, or any other person acting in
11 accordance with this part shall be liable to anyone, either
12 civilly or criminally, for having performed or authorized the
13 performance of the individual sterilization, except for
14 liability of the health care provider or hospital ~~[or physician]~~
15 caused by the negligent performance of the sterilization, in
16 accordance with laws covering such negligence."

17 PART IX

18 SECTION 195. The purpose of this part is to repeal the
19 obsolete Hawaii health corps, which was established in 2012 but
20 never operational due to lack of funding.



SECTION 196. Chapter 309H, Hawaii Revised Statutes, is repealed.

PART X

SECTION 197. Sections 88-74, 88-192, 286-4.1, 321-43, 324-21, 325-16.5, 325-18, 325-51, 325-52, 325-71, 325-72, 325-74, 325-75, 325-103, 350-1.6, 440-8.5, 440-9, 440-12, 440-13, 440-21, 440-32, 440E-4, 440E-8, 440E-9, 440E-18, 451A-14.1, Hawaii Revised Statutes, are amended by substituting the word "qualified health care provider" "qualified health care provider's", or "qualified health care providers" wherever the word "physician" "physician's", or "physicians" appears, as the context requires.

PART XI

SECTION 198. If any provision of this Act, or the application thereof to any person or circumstance, is held invalid, the invalidity does not affect other provisions or applications of the Act that can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

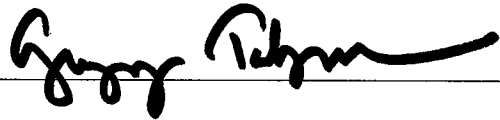
SECTION 199. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.



H.B. NO. 1857

1 SECTION 200. This Act shall take effect upon its approval;
2 provided that the amendments made to sections 346-59.1, 431:10A-
3 116.3, 432:1-601.5, and 432D-23.5, Hawaii Revised Statutes, by
4 sections 113, 147, 165, and 181 of this Act, respectively, shall
5 not be repealed when those sections are reenacted on December
6 31, 2027, pursuant to section 8 of Act 107, Session Laws of
7 Hawaii 2023, as amended by section 1 of Act 217, Session Laws of
8 Hawaii 2025.

INTRODUCED BY:



JAN 23 2026



H.B. NO. 1857

Report Title:

Health Care; Qualified Health Care Providers; Health Care Providers; Scope of Practice; Access to Health Care; Licensure; Certification; Education; Insurance; Professions and Vocations; Pain Patient's Bill of Rights; Uniform Probate Code; Children; Medical Care for Minors; Capacity Determinations; Child Protective Act; Penal Code

Description:

Establishes a broad definition of "qualified health care provider" in numerous areas of existing law. Clarifies and standardizes references to specific health care providers. Updates outdated language to reflect correct terminology. Makes numerous clarifying and conforming amendments to support these changes, including but not limited to chapters related to health, education, insurance, professions and vocations, the pain patient's bill of rights, the Uniform Probate Code, minors, the Child Protective Act, and the Penal Code. Repeals the obsolete Hawaii Health Corps.

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

