

---

# A BILL FOR AN ACT

RELATING TO HEALTH CARE.

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

1           SECTION 1. The legislature finds that the people of Hawai'i  
2 have a long tradition of protecting an individual's right to  
3 privacy and bodily autonomy independently of, and more broadly  
4 than, the United States Constitution. In 2023, the legislature  
5 took one of its constitutionally required affirmative steps to  
6 implement the right to privacy by passing Act 2, Session Laws of  
7 Hawaii 2023 (Act 2), which protected an individual's right to  
8 privacy and bodily autonomy within the boundaries of the State,  
9 including minors, and declared that the laws of other states  
10 authorizing civil actions and criminal prosecutions for  
11 receiving, seeking, providing, or aiding and abetting the  
12 provision of reproductive health care services are contrary to  
13 the State's public policy and prohibit recognition and  
14 enforcement of other states' laws that impose civil or criminal  
15 liability relating to reproductive health care services.

16           The legislature further finds that since the passage of  
17 Act 2, some states have pursued laws and policies purporting to



1 impose civil or criminal liability, professional disciplinary  
2 actions, or otherwise allow for the initiation of abusive  
3 litigation in connection with the provision or receipt of, or  
4 assistance with, gender-affirming health care services outside  
5 of these states' borders.

6 It is the policy of this State that the rights of equality,  
7 liberty, and privacy guaranteed under article I, sections 3, 5,  
8 and 6, of the Hawaii State Constitution are fundamental rights  
9 and that those rights include an individual's right to make  
10 health care decisions about one's own body, including the right  
11 to seek and receive health care services that affirm their  
12 expressed gender. Due to the shifting legal landscape regarding  
13 the right to privacy and an individual's bodily autonomy, the  
14 legislature finds it is imperative to reiterate and bolster the  
15 State's policy to affirm protection of these rights and freedoms  
16 within the state boundaries.

17 The legislature notes that the term "abusive litigation" is  
18 not intended to include potential insurance disputes over  
19 coverage status, medical necessity, fraud, waste and abuse, or  
20 the recovery of overpayments. The legislature further notes  
21 that this Act does not expand required health care coverage of



1 any treatments or services or create any new mandates for health  
2 insurance coverage in Hawaii.

3 Accordingly, the purpose of this Act is to:

- 4 (1) Expand protections of reproductive health care  
5 services established by Act 2, Session Laws of Hawaii  
6 2023, to include gender-affirming health care services  
7 and clarify permitted disclosures of protected health  
8 information to address changes in federal regulations;
- 9 (2) Establish protections against abusive litigation; and
- 10 (3) Prohibit medical malpractice insurers and health  
11 carriers from taking certain adverse actions against  
12 health care providers solely on the basis that the  
13 health care provider provides lawful reproductive or  
14 gender-affirming health care services.

15 SECTION 2. Chapter 323J, Hawaii Revised Statutes, is  
16 amended by adding three new sections to be appropriately  
17 designated and to read as follows:

18 "§323J- Abusive litigation; prohibited; remedies. (a)  
19 If a person or entity, whether or not acting under the color of  
20 law, engages in or attempts to engage in abusive litigation, or  
21 attempts to enforce any order or judgment issued in connection



1 with any such abusive litigation, any aggrieved person may bring  
2 a civil action in the circuit court of the circuit in which the  
3 aggrieved person resides against that person or entity for:

4 (1) Injunctive relief;

5 (2) Actual damages, including the amount of any judgment  
6 issued in connection with the abusive litigation;

7 (3) Expenses, costs, and reasonable attorney's fees  
8 incurred in connection with the abusive litigation;

9 (4) Expenses, costs, and reasonable attorney's fees  
10 incurred to bring an action under this section; and

11 (5) Punitive damages.

12 (b) Any civil action filed pursuant to this section shall  
13 be filed within six years after the date the abusive litigation  
14 is commenced, or if the person or entity is attempting to  
15 enforce an order or a judgment, within six years after the date  
16 enforcement is attempted.

17 (c) As used in this section:

18 "Abusive litigation" means any litigation or other legal  
19 action, including civil, criminal, or administrative action,  
20 brought against another person or entity for accessing,  
21 receiving, providing, facilitating, or attempting to access,



1 receive, provide, or facilitate reproductive health care  
2 services or gender-affirming health care services that are  
3 lawful under the laws of this State.

4 "Aggrieved person" means:

5 (1) A person or entity against whom abusive litigation is  
6 filed or prosecuted or against whom an order or  
7 judgment issued in connection with such abusive  
8 litigation is attempted to be enforced; or

9 (2) The employer or principal of a person against whom  
10 abusive litigation is filed or prosecuted or against  
11 whom an order or a judgment issued in connection with  
12 such abusive litigation is attempted to be enforced if  
13 the action that forms the basis of the abusive  
14 litigation was performed within the scope of the  
15 person's employment or agency relationship.

16 **§323J- Medical malpractice insurance; prohibited**  
17 **actions.** (a) Any insurer that issues medical malpractice  
18 insurance in this State shall not take a prohibited action  
19 against an applicant for, or the named insured under, a medical  
20 malpractice policy in this State solely because the applicant or  
21 insured has provided, or assisted in the provision of,



1 reproductive health care services or gender-affirming health  
2 care services or made a referral for reproductive health care  
3 services or gender-affirming health care services; provided that  
4 the care provided by the applicant or insured was consistent  
5 with generally accepted standards of practice under the laws of  
6 this State and did not otherwise violate the laws of this State.

7 (b) As used in this section, "prohibited action" means:

- 8 (1) Refusing to issue a medical malpractice policy;
- 9 (2) Canceling or terminating a medical malpractice policy;
- 10 (3) Refusing to renew a medical malpractice policy; or
- 11 (4) Imposing any sanctions, fines, penalties, or rate  
12 increases that are not supported by actuarial analysis  
13 conducted in accordance with the applicable Actuarial  
14 Standards of Practice promulgated by the Actuarial  
15 Standards Board.

16 **§323J- Health carriers; prohibitions.** No group health  
17 plan or health insurance insurer offering or renewing a health  
18 plan in this State shall terminate or refuse to renew a health  
19 care contract with a participating health care provider on the  
20 sole basis that the participating provider provides, or assists



1 in the provision of, reproductive health care services or  
2 gender-affirming health care services."

3 SECTION 3. Chapter 323J, Hawaii Revised Statutes, is  
4 amended to read as follows:

5 " [f]CHAPTER 323J [f]

6 **REPRODUCTIVE HEALTH CARE SERVICES AND GENDER-AFFIRMING HEALTH**  
7 **CARE SERVICES**

8 [f]§323J-1 [f] **Definitions.** As used in this chapter,  
9 unless the context otherwise requires:

10 "Gender-affirming health care services" means a service or  
11 product with the standard of care, to support and affirm an  
12 individual's actual gender identity as defined in section  
13 432:1-607.3, including but not limited to all supplies, care,  
14 and services of a medical, behavioral health, mental health,  
15 surgical, psychiatric, therapeutic, diagnostic, preventative,  
16 rehabilitative, or supportive nature, including medication.  
17 "Gender-affirming health care services" includes treatment for  
18 gender dysphoria and gender incongruence and services provided  
19 to two spirit, mahu, transgender, nonbinary, intersex, and other  
20 gender diverse individuals.



1 "Person" includes an individual, partnership, joint  
2 venture, corporation, association, business, trust, or any  
3 organized group of persons or legal entity, or any combination  
4 thereof.

5 "Reproductive health care services" includes all medical,  
6 surgical, pharmaceutical, counseling, or referral services  
7 relating to the human reproductive system, including but not  
8 limited to services relating to pregnancy, contraception, or the  
9 termination of a pregnancy.

10 ~~[§323J-2] Disclosures prohibited.~~ Protected health  
11 information; use or disclosure, when prohibited; covered  
12 entities; written consent. (a) ~~[Except as provided in rules~~  
13 ~~504, 504.1, and 505.5 of the Hawaii rules of evidence and~~  
14 ~~subsection (b) or as authorized under the Health Insurance~~  
15 ~~Portability and Accountability Act of 1996, P.L. 104-191, and~~  
16 ~~federal regulations promulgated thereunder, in any civil action~~  
17 ~~or any proceeding preliminary thereto or in any probate,~~  
18 ~~legislative, or administrative proceeding, no covered entity, as~~  
19 ~~defined in title 45 Code of Federal Regulations section 160.103,~~  
20 ~~or as the same as may be from time to time amended or modified,~~  
21 ~~shall disclose:~~



1       ~~(1) Any communication made to the covered entity, or any~~  
2       ~~information obtained by the covered entity from a~~  
3       ~~patient or the conservator, guardian, or other~~  
4       ~~authorized legal representative of a patient relating~~  
5       ~~to reproductive health care services that are~~  
6       ~~permitted under the laws of the State, or~~

7       ~~(2) Any information obtained by personal examination of a~~  
8       ~~patient relating to reproductive health care services~~  
9       ~~that are permitted under the laws of the State,~~  
10      ~~unless the patient or that patient's conservator, guardian, or~~  
11      ~~other authorized legal representative explicitly consents to the~~  
12      ~~disclosure in writing in the form of a release of protected~~  
13      ~~health information compliant with the federal Health Insurance~~  
14      ~~Portability and Accountability Act of 1996, P.L. 104-191, as~~  
15      ~~amended. A covered entity shall inform the patient or the~~  
16      ~~patient's conservator, guardian, or other authorized legal~~  
17      ~~representative of the patient's right to withhold the written~~  
18      ~~consent.~~

19       ~~(b) Written consent of the patient or the patient's~~  
20      ~~conservator, guardian, or other authorized legal representative~~



1 ~~shall not be required for the disclosure of the communication or~~  
2 ~~information:~~

3 ~~(1) If the records relate to a patient who is a plaintiff~~  
4 ~~in a complaint pending before a court of competent~~  
5 ~~jurisdiction alleging health care negligence and a~~  
6 ~~request for records has been served on a named~~  
7 ~~defendant in that litigation;~~

8 ~~(2) If the records are requested by a licensing authority,~~  
9 ~~as defined in section 436B-2, and the request is made~~  
10 ~~in connection with an investigation of a complaint to~~  
11 ~~the licensing authority and the records are related to~~  
12 ~~the complaint, unless the complaint is made solely on~~  
13 ~~the basis that the licensee, acting within the~~  
14 ~~licensee's scope of practice, provided reproductive~~  
15 ~~health care services that are lawful in this State;~~

16 ~~(3) To the director of health for records of a patient of~~  
17 ~~a covered entity in connection with an investigation~~  
18 ~~of a complaint, if the records are related to the~~  
19 ~~complaint; or~~

20 ~~(4) If child abuse, abuse of an individual who is sixty~~  
21 ~~years of age or older, abuse of an individual who is~~



1 ~~physically disabled or incompetent, or abuse of an~~  
2 ~~individual with an intellectual disability is known or~~  
3 ~~in good faith suspected.]~~

4 No covered entity shall use or disclose protected health  
5 information for purposes or activities relating to conducting a  
6 civil, criminal, or administrative investigation into any person  
7 for the mere act of seeking, obtaining, providing, or  
8 facilitating reproductive health care services or gender-  
9 affirming health care services, or for purposes or activities  
10 relating to imposing civil, criminal, or administrative  
11 liability on any person for the mere act of seeking, obtaining,  
12 providing, or facilitating reproductive health care services or  
13 gender-affirming health care services, where the reproductive  
14 health care services or gender-affirming health care services  
15 are:

- 16 (1) Lawful under the laws of this State; or  
17 (2) Protected, required, or authorized by federal law,  
18 including the United States Constitution, under the  
19 circumstances in which such services are provided,  
20 regardless of the state in which they are provided.



1        For purposes of this subsection, reproductive health care  
2 services or gender-affirming health care services are presumed  
3 lawful unless the covered entity has actual knowledge that the  
4 reproductive health care services or gender-affirming health  
5 care services were not lawful under the circumstances in which  
6 they were provided, or factual information supplied by the  
7 person requesting the use or disclosure of protected health  
8 information demonstrates a substantial factual basis that the  
9 reproductive health care services or gender-affirming health  
10 care services were not lawful under the specific circumstances  
11 in which they were provided.

12        (b) When a covered entity receives a request for protected  
13 health information relating to reproductive health care services  
14 or gender-affirming health care services and the request is for:

15        (1) Health oversight activities, as described in title 45  
16        Code of Federal Regulations section 164.512(d), as  
17        that section may be amended or modified from time to  
18        time;

19        (2) Judicial and administrative proceedings, as described  
20        in title 45 Code of Federal Regulations section



1           164.512(e), as that section may be amended or modified  
2           from time to time;

3           (3) Law enforcement purposes, as described in title 45  
4           Code of Federal Regulations section 164.512(f), as  
5           that section may be amended or modified from time to  
6           time; or

7           (4) Coroners and medical examiners, as described in title  
8           45 Code of Federal Regulations section 164.512(g)(1),  
9           as that section may be amended or modified from time  
10          to time,

11          the covered entity may disclose the requested protected health  
12          information; provided that the covered entity obtains from the  
13          person requesting the protected health information a written,  
14          signed attestation that the disclosure is not otherwise  
15          prohibited by subsection (a). Any person who knowingly provides  
16          a false attestation under this section shall be guilty of a  
17          misdemeanor.

18           (c) Nothing in this section shall be construed to impede  
19          the lawful sharing of ~~[medical records]~~ protected health  
20          information as [permitted by state or] required by federal law  
21          or the ~~[rules of the court, except in the case of a subpoena or~~



1 ~~warrant issued by a court, government agency, or legislative~~  
2 ~~body of another state commanding the production, copying, or~~  
3 ~~inspection of medical records relating to reproductive health~~  
4 ~~care services.] laws of this State, or as authorized by the~~  
5 ~~patient or the patient's conservator, guardian, or other~~  
6 ~~authorized legal representative in a valid, written~~  
7 ~~authorization for the disclosure that complies with the federal~~  
8 ~~Health Insurance Portability and Accountability Act of 1996,~~  
9 ~~P.L. 104-191, as amended, and federal regulations promulgated~~  
10 ~~thereunder; provided that a covered entity shall inform the~~  
11 ~~patient or the patient's conservator, guardian, or other~~  
12 ~~authorized legal representative of the patient's right to~~  
13 ~~withhold the written consent.~~

14 (d) As used in this section:

15 "Covered entity" has the same meaning as in title 45 Code  
16 of Federal Regulations section 160.103, as that section may be  
17 amended or modified from time to time.

18 "Protected health information" has the same meaning as in  
19 title 45 Code of Federal Regulations section 160.103, as that  
20 section may be amended or modified from time to time.



1           ~~[§323J-3]~~ **Subpoenas; when allowed.** Notwithstanding  
2 sections 624-27 and 624D-3 or any other law to the contrary, no  
3 court or clerk of a court shall order the issuance of a subpoena  
4 requested by an officer, appointed according to the laws or  
5 usages of another state or government, or by any court of the  
6 United States or of another state or government, in connection  
7 with an out-of-state or interstate investigation or proceeding  
8 relating to reproductive health care services ~~[legally performed~~  
9 ~~in the]~~ or gender-affirming health care services that are lawful  
10 under the laws of this State.

11           ~~[§323J-4]~~ **Agencies prohibited from providing**  
12 **information or expending resources.** (a) No agency, as defined  
13 in section 92F-3, or employee, appointee, officer, official, or  
14 any other person acting on behalf of an agency shall provide any  
15 nonpublic information or expend or use time, money, facilities,  
16 property, equipment, personnel, or other resources in  
17 furtherance of any out-of-state or interstate investigation or  
18 proceeding seeking to impose civil or criminal liability upon a  
19 person or entity for:

20           (1) ~~[The provision, seeking,]~~ Seeking, receiving, paying  
21           for, ~~[receipt of,]~~ or inquiring about reproductive



1 health care services [~~that are legal in the~~] or  
2 gender-affirming health care services that are lawful  
3 under the laws of this State; [~~or~~]

4 (2) Providing or responding to an inquiry about  
5 reproductive health care services or gender-affirming  
6 health care services that are lawful under the laws of  
7 this State;

8 [~~(2)~~] (3) Assisting [~~any person or entity providing,~~  
9 seeking, receiving, paying for, or responding to an  
10 inquiry about reproductive health care services that  
11 are legal in the State.] or aiding or abetting in any  
12 of the conduct described in paragraph (1) or (2); or

13 (4) Attempting or intending to engage in or providing  
14 material support for (or any other theory of  
15 vicarious, attempt, joint, several, or conspiracy  
16 liability derived therefrom) conduct described in  
17 paragraphs (1) to (3).

18 (b) This section shall not apply to any investigation or  
19 proceeding where the conduct subject to potential liability  
20 under the investigation or proceeding would be subject to



1 liability under the laws of this State if committed in this  
2 State.

3 **[+]§323J-5[+]** **Prohibition on state action.** The State  
4 shall not penalize, prosecute, or otherwise take adverse action  
5 against an individual based on the individual's actual,  
6 potential, perceived, or alleged pregnancy or gender-affirming  
7 health care outcomes. The State shall not penalize, prosecute,  
8 or otherwise take adverse action against a person for aiding or  
9 assisting [a]:

10 (1) A pregnant individual accessing reproductive health  
11 care services [~~in accordance with~~] that are lawful  
12 under the laws of [~~the~~] this State and with the  
13 pregnant individual's voluntary consent[~~er~~]; or

14 (2) An individual accessing gender-affirming health care  
15 services that are lawful under the laws of this State  
16 and with the individual's voluntary consent.

17 **[+]§323J-6[+]** **Denial of demands for surrender.**

18 Notwithstanding any provision of chapter 832 to the contrary,  
19 the governor shall deny any demand made by the executive  
20 authority of any state for the surrender of any person charged



1 with a crime under the laws of that state when the alleged crime  
2 involves ~~[the provision or receipt of,]~~:

- 3       (1) Seeking, receiving, paying for, or ~~[assistance with,]~~  
4       inquiring about reproductive health care services~~[,]~~  
5       or gender-affirming health care services;
- 6       (2) Providing or responding to an inquiry about  
7       reproductive health care services or gender-affirming  
8       health care services;
- 9       (3) Assisting or aiding or abetting in any of the conduct  
10       described in paragraph (1) or (2); or
- 11       (4) Attempting or intending to engage in or providing  
12       material support for (or any other theory of  
13       vicarious, attempt, joint, several, or conspiracy  
14       liability derived therefrom) conduct described in  
15       paragraphs (1) to (3),

16 unless the acts forming the basis of the prosecution would also  
17 constitute a criminal offense in this State. This section shall  
18 not apply to demands made under Article IV, section 2, of the  
19 United States Constitution.

20       [+]§323J-7[+] **Laws contrary to the public policy of this**  
21 **State.** (a) A law of another state authorizing a civil action



1 or criminal prosecution based on any of the following ~~[is]~~ shall  
2 be declared to be contrary to the public policy of this State:

3 (1) ~~[Receiving, seeking, or]~~ Seeking, receiving, paying  
4 for, or inquiring about reproductive health care  
5 services[+] or gender-affirming health care services  
6 that are lawful under the laws of this State;

7 (2) Providing or responding to an inquiry about  
8 reproductive health care services[+] or gender-  
9 affirming health care services that are lawful under  
10 the laws of this State;

11 (3) ~~[Engaging in conduct that assists or aids or abets the~~  
12 ~~provision or receipt of reproductive health care~~  
13 ~~services+] Assisting or aiding or abetting in any of~~  
14 the conduct described in paragraph (1) or (2); or

15 (4) Attempting or intending to engage in or providing  
16 material support for (or any other theory of  
17 vicarious, attempt, joint, several or conspiracy  
18 liability derived therefrom) conduct described in  
19 paragraphs (1) to (3) [7

20 ~~in accordance with the laws of this State].~~



1 (b) No law described in subsection (a) shall be applied to  
2 a case or controversy heard in the courts of this State."

3 SECTION 4. Section 451J-11, Hawaii Revised Statutes, is  
4 amended by amending subsection (a) to read as follows:

5 "(a) The department shall deny, revoke, condition, or  
6 suspend a license granted pursuant to this chapter on the  
7 following grounds:

8 (1) Conviction by a court of competent jurisdiction of a  
9 crime ~~[which]~~ that the department has determined, by  
10 rules adopted pursuant to chapter 91, to be of a  
11 nature that renders the person convicted unfit to  
12 practice marriage and family therapy~~[+]~~, except when  
13 the conviction was based on the provision or  
14 assistance in receipt or provision of gender-affirming  
15 health care services, as defined in section 323J-1, so  
16 long as the provision or assistance in receipt or  
17 provision of the services was in accordance with the  
18 laws of this State or would have been in accordance  
19 with the laws of this State if it occurred within this  
20 State;



- 1           (2) Failing to report in writing to the director any  
2           disciplinary decision related to the provision of  
3           mental health services issued against the licensee or  
4           the applicant in any jurisdiction within thirty days  
5           of the disciplinary decision, or within thirty days of  
6           licensure;
- 7           (3) Violation of recognized ethical standards for marriage  
8           and family therapists or licensed marriage and family  
9           therapists as set by the association;
- 10          (4) Fraud or misrepresentation in obtaining or renewing a  
11          license, including making a false certification of  
12          compliance with the continuing education requirement  
13          set forth in section 451J-10;
- 14          (5) Revocation, suspension, or other disciplinary action  
15          by any state or federal agency against a licensee or  
16          applicant for any reason provided under this  
17          section[+], except when the revocation, suspension, or  
18          other disciplinary action was based on the provision  
19          or assistance in receipt or provision of gender-  
20          affirming health care services, as defined in section  
21          323J-1, so long as the provision or assistance in



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

5           (6) Other just and sufficient cause that renders a person  
6           unfit to practice marriage and family therapy."

7           SECTION 5. Section 451J-12, Hawaii Revised Statutes, is  
8 amended to read as follows:

9           "**§451J-12 Confidentiality and privileged communications.**

10 No person licensed as a marriage and family therapist or an  
11 associate marriage and family therapist, nor any of the person's  
12 employees or associates, shall be required to disclose any  
13 information that the person may have acquired in rendering  
14 marriage and family therapy services except in the following  
15 circumstances:

16           (1) As required by law;

17           (2) To prevent a clear and immediate danger to a person or  
18           persons;

19           (3) In the course of a civil, criminal, or disciplinary  
20           action arising from the therapy where the therapist is  
21           a defendant[+], except when the civil, criminal, or



1 disciplinary action by another state or federal agency  
2 is based on the provision or assistance in receipt or  
3 provision of gender-affirming health care services, as  
4 defined in section 323J-1, so long as the provision or  
5 assistance in receipt or provision of the services was  
6 in accordance with the laws of this State or would  
7 have been in accordance with the laws of this State if  
8 it occurred within this State;

9 (4) In a criminal proceeding where the client is a  
10 defendant and the use of the privilege would violate  
11 the defendant's right to a compulsory process of the  
12 right to present testimony and witnesses in the  
13 defendant's own behalf;

14 (5) In accordance with the terms of a client's previously  
15 written waiver of the privilege; or

16 (6) Where more than one person in a family jointly  
17 receives therapy and each [~~family member~~] person who  
18 is legally competent executes a written waiver[~~in~~].  
19 In that instance, a marriage and family therapist or  
20 an associate marriage and family therapist may  
21 disclose information received from any [~~family member~~]



1            person in accordance with the terms of the person's  
2            waiver."

3            SECTION 6. Section 453-8, Hawaii Revised Statutes, is  
4 amended by amending subsections (a), (b), and (c) to read as  
5 follows:

6            "(a) In addition to any other actions authorized by law,  
7 any license to practice medicine and surgery may be revoked,  
8 limited, or suspended by the board at any time in a proceeding  
9 before the board, or may be denied, for any cause authorized by  
10 law, including but not limited to the following:

11            (1) Procuring, or aiding or abetting in procuring, an  
12            abortion that is unlawful under the laws of this State  
13            or that would be unlawful under the laws of this State  
14            if performed within this State;

15            (2) Employing any person to solicit patients for one's  
16            self;

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

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



- 1 (B) Assuring a permanent cure for an incurable
- 2 disease; or
- 3 (C) Making any untruthful and improbable statement in
- 4 advertising one's medical or surgical practice or
- 5 business;
- 6 (4) Being habituated to the excessive use of drugs or
- 7 alcohol; or being addicted to, dependent on, or a
- 8 habitual user of a narcotic, barbiturate, amphetamine,
- 9 hallucinogen, or other drug having similar effects;
- 10 (5) Practicing medicine while the ability to practice is
- 11 impaired by alcohol, drugs, physical disability, or
- 12 mental instability;
- 13 (6) Procuring a license through fraud, misrepresentation,
- 14 or deceit, or knowingly permitting an unlicensed
- 15 person to perform activities requiring a license;
- 16 (7) Professional misconduct, hazardous negligence causing
- 17 bodily injury to another, or manifest incapacity in
- 18 the practice of medicine or surgery;
- 19 (8) Incompetence or multiple instances of negligence,
- 20 including but not limited to the consistent use of



1 medical service, [~~which~~] that is inappropriate or  
2 unnecessary;

3 (9) Conduct or practice contrary to recognized standards  
4 of ethics of the medical profession as adopted by the  
5 Hawaii Medical Association, the American Medical  
6 Association, the Hawaii Association of Osteopathic  
7 Physicians and Surgeons, or the American Osteopathic  
8 Association;

9 (10) Violation of the conditions or limitations upon which  
10 a limited or temporary license is issued;

11 (11) Revocation, suspension, or other disciplinary action  
12 by another state or federal agency of a license,  
13 certificate, or medical privilege, except when the  
14 revocation, suspension, or other disciplinary action  
15 was based on the provision or assistance in receipt or  
16 provision of [~~medical~~];

17 (A) Medical, surgical, pharmaceutical, counseling, or  
18 referral services relating to the human  
19 reproductive system, including but not limited to  
20 services relating to pregnancy, contraception, or  
21 the termination of a pregnancy[~~τ~~]; or



1           (B) Gender-affirming health care services, as defined  
2                           in section 323J-1,  
3           so long as the provision or assistance in receipt or  
4           provision of the services was in accordance with the  
5           laws of this State or would have been in accordance  
6           with the laws of this State if it occurred within this  
7           State;

8           (12) Conviction, whether by nolo contendere or otherwise,  
9           of a penal offense substantially related to the  
10          qualifications, functions, or duties of a physician or  
11          osteopathic physician, notwithstanding any statutory  
12          provision to the contrary, except when the conviction  
13          was based on the provision or assistance in receipt or  
14          provision of [medical];

15          (A) Medical, surgical, pharmaceutical, counseling, or  
16                           referral services relating to the human  
17                           reproductive system, including but not limited to  
18                           services relating to pregnancy, contraception, or  
19                           the termination of a pregnancy~~]~~; or

20          (B) Gender-affirming health care services, as defined  
21                           in section 323J-1,



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

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

9 (14) Failure to report to the board, in writing, any  
10 disciplinary decision issued against the licensee or  
11 the applicant in another jurisdiction within thirty  
12 days after the disciplinary decision is issued; or

13 (15) Submitting to or filing with the board any notice,  
14 statement, or other document required under this  
15 chapter [~~which~~] that is false or untrue or contains  
16 any material misstatement or omission of fact.

17 (b) If disciplinary action related to the practice of  
18 medicine has been taken against the applicant by another state  
19 or federal agency, or if the applicant reveals a physical or  
20 mental condition that would constitute a violation under this



1 section, then the board may impose one or more of the following  
2 requirements as a condition for licensure:

- 3 (1) Physical and mental evaluation of the applicant by a  
4 licensed physician or osteopathic physician approved  
5 by the board;
- 6 (2) Probation, including conditions of probation such as  
7 requiring observation of the licensee by an  
8 appropriate group or society of licensed physicians,  
9 osteopathic physicians, or surgeons;
- 10 (3) Limitation of the license by restricting the fields of  
11 practice in which the licensee may engage;
- 12 (4) Further education or training or proof of performance  
13 competency; and
- 14 (5) Limitation of the medical practice of the licensee in  
15 any reasonable manner to assure the safety and welfare  
16 of the consuming public;

17 provided that the board shall not impose as a condition for  
18 licensure any of the requirements pursuant to this subsection if  
19 the disciplinary action related to the practice of medicine  
20 taken against the applicant was based on the provision or  
21 assistance in receipt or provision of medical, surgical,



1 pharmaceutical, counseling, or referral services relating to the  
2 human reproductive system, including but not limited to services  
3 relating to pregnancy, contraception, or the termination of a  
4 pregnancy, or the provision or assistance in receipt or  
5 provision of gender-affirming health care services, as defined  
6 in section 323J-1, so long as the provision or assistance in  
7 receipt or provision of the services was in accordance with the  
8 laws of this State or would have been in accordance with the  
9 laws of this State if it occurred within this State.

10 (c) Notwithstanding any other law to the contrary, the  
11 board may deny a license to any applicant who has been  
12 disciplined by another state or federal agency, except on the  
13 basis of discipline for the provision or assistance in receipt  
14 or provision of medical, surgical, pharmaceutical, counseling,  
15 or referral services relating to the human reproductive system,  
16 including but not limited to services relating to pregnancy,  
17 contraception, or the termination of a pregnancy, or the  
18 provision or assistance in receipt or provision of  
19 gender-affirming health care services, as defined in section  
20 323J-1, so long as the provision or assistance in receipt or  
21 provision of the services was in accordance with the laws of



1 this State or would have been in accordance with the laws of  
2 this State if it occurred within this State. Any final order of  
3 discipline taken pursuant to this subsection shall be a matter  
4 of public record."

5 SECTION 7. Section 453-8.6, Hawaii Revised Statutes, is  
6 amended as follows:

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

8 "(a) Upon receipt of evidence of revocation, suspension,  
9 or other disciplinary action against a licensee by another state  
10 or federal agency, the board may issue an order imposing  
11 disciplinary action upon the licensee on the following  
12 conditions:

13 (1) The board shall serve the licensee with a proposed  
14 order imposing disciplinary action as required by  
15 chapter 91;

16 (2) The licensee shall have the right to request a hearing  
17 pursuant to chapter 91 to show cause why the action  
18 described in the proposed order should not be imposed;

19 (3) Any request for a hearing shall be made in writing and  
20 filed with the board within twenty days after mailing  
21 of the proposed order to the licensee; and



1           (4) If the licensee does not submit a written request for  
2           a hearing within twenty days after mailing of the  
3           proposed order, the board may issue a final order  
4           imposing the disciplinary action described in the  
5           proposed order;  
6           provided that the board shall not issue an order imposing  
7           disciplinary action upon the licensee if the revocation,  
8           suspension, or other disciplinary action against a licensee by  
9           another state was based on the provision or assistance in  
10          receipt or provision of medical, surgical, pharmaceutical,  
11          counseling, or referral services relating to the human  
12          reproductive system, including but not limited to services  
13          relating to pregnancy, contraception, or the termination of a  
14          pregnancy, or the provision or assistance in receipt or  
15          provision of gender-affirming health care services, as defined  
16          in section 323J-1, so long as the provision or assistance in  
17          receipt or provision of the services was in accordance with the  
18          laws of this State or would have been in accordance with the  
19          laws of this State if it occurred within this State."  
20          2. By amending subsection (c) to read:



1           "(c) A licensee against whom the board has issued a  
2 proposed order under this section shall be prohibited from  
3 practicing in this State until the board issues a final order  
4 if:

5           (1) The licensee was the subject of disciplinary action by  
6 another state, except where the disciplinary action  
7 against the licensee by another state was based on the  
8 provision or assistance in receipt or provision of  
9 ~~medical,~~:

10           (A) Medical, surgical, pharmaceutical, counseling, or  
11 referral services relating to the human  
12 reproductive system, including but not limited to  
13 services relating to pregnancy, contraception, or  
14 the termination of a pregnancy~~;~~ or

15           (B) Gender-affirming health care services, as defined  
16 in section 323J-1,

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



1 (2) The disciplinary action by another state prohibits the  
2 licensee from practicing in that state."

3 SECTION 8. Section 453D-12, Hawaii Revised Statutes, is  
4 amended by amending subsection (a) to read as follows:

5 "(a) In addition to any other acts or conditions provided  
6 by law, the director may refuse to renew, reinstate, or restore,  
7 and may deny, revoke, suspend, or condition in any manner, any  
8 license for any one or more of the following acts or conditions  
9 on the part of a licensee or license applicant:

10 (1) Failing to meet or maintain the conditions and  
11 requirements necessary to qualify for the granting of  
12 a license;

13 (2) Engaging in false, fraudulent, or deceptive  
14 advertising, or making untruthful or improbable  
15 statements;

16 (3) Being addicted to, dependent on, or a habitual user of  
17 a narcotic, barbiturate, amphetamine, hallucinogen,  
18 opium, cocaine, or other drugs or derivatives of a  
19 similar nature;



- 1 (4) Practicing the licensed profession while impaired by  
2 alcohol, drugs, physical disability, or mental  
3 instability;
- 4 (5) Procuring a license through fraud, misrepresentation,  
5 or deceit;
- 6 (6) Aiding and abetting an unlicensed person to directly  
7 or indirectly perform activities requiring a license;
- 8 (7) Professional misconduct, incompetence, gross  
9 negligence, or manifest incapacity, in the practice of  
10 the licensed profession;
- 11 (8) Engaging in conduct or practice contrary to recognized  
12 standards of ethics for the licensed profession;
- 13 (9) Violating any condition or limitation upon which a  
14 conditional or temporary license was issued;
- 15 (10) Engaging in business under a past or present license  
16 issued pursuant to the licensing laws, in a manner  
17 causing injury to one or more members of the public;
- 18 (11) Failing to comply with, observe, or adhere to any law  
19 in a manner [~~such~~] that the director deems the  
20 applicant or holder to be an unfit or improper person  
21 to hold a license;



1           (12) Having had a license revoked or suspended, or having  
 2           been the subject of other disciplinary action, by  
 3           another state or a federal agency for any reason  
 4           provided by the licensing laws or this section[+],  
 5           except when the revocation, suspension, or other  
 6           disciplinary action was based on the provision or  
 7           assistance in receipt or provision of gender-affirming  
 8           health care services, as defined in section 323J-1, so  
 9           long as the provision or assistance in receipt or  
 10          provision of the services was in accordance with the  
 11          laws of this State or would have been in accordance  
 12          with the laws of this State if it occurred within this  
 13          State;

14          (13) Having been convicted of a crime, whether by nolo  
 15          contendere or otherwise, directly related to the  
 16          qualifications, functions, or duties of the licensed  
 17          profession[+], except when the conviction was based on  
 18          the provision or assistance in receipt or provision of  
 19          gender-affirming health care services, as defined in  
 20          section 323J-1, so long as the provision or assistance  
 21          in receipt or provision of the services was in



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

4           (14) Failing to report in writing to the director any  
5           disciplinary decision issued against the licensee or  
6           applicant in another jurisdiction within thirty days  
7           of the disciplinary decision;

8           (15) Employing, utilizing, or attempting to employ or  
9           utilize, at any time, any person not licensed under  
10          the licensing laws where licensure is required; or

11          (16) Violating this chapter, chapter 436B, or any rule or  
12          order of the director."

13          SECTION 9. Section 453D-13, Hawaii Revised Statutes, is  
14          amended to read as follows:

15                **"§453D-13 Confidentiality and privileged communications.**

16          No person licensed as a mental health counselor or an associate  
17          mental health counselor, nor any of the person's employees or  
18          associates, shall be required to disclose any information that  
19          the person may have acquired in rendering mental health  
20          counseling services, except in the following circumstances:

21                (1) As required by law;



- 1 (2) To prevent a clear and imminent danger to a person or  
2 persons;
- 3 (3) In accordance with the terms of a previously written  
4 waiver of the privilege where the waiver is executed  
5 by the client or by the client's legally recognized  
6 representative;
- 7 (4) Where more than one person jointly receives counseling  
8 and each person who is legally competent executes a  
9 written waiver. In that instance, information may be  
10 disclosed from any person in accordance with that  
11 person's waiver; or
- 12 (5) In the course of a disciplinary action or pursuant to  
13 a duly authorized subpoena issued by the  
14 department[-], except when the disciplinary action by  
15 another state or federal agency is based on the  
16 provision or assistance in receipt or provision of  
17 gender-affirming health care services, as defined in  
18 section 323J-1, so long as the provision or assistance  
19 in receipt or provision of the services was in  
20 accordance with the laws of this State or would have



1           been in accordance with the laws of this State if it  
2           occurred within this State."

3           SECTION 10. Section 457-12, Hawaii Revised Statutes, is  
4 amended by amending subsections (a) and (b) to read as follows:

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

- 12           (1) Fraud or deceit in procuring or attempting to procure  
13           a license to practice nursing as a registered nurse or  
14           as a licensed practical nurse;
- 15           (2) Gross immorality;
- 16           (3) Unfitness or incompetence by reason of negligence,  
17           habits, or other causes;
- 18           (4) Habitual intemperance, addiction to, or dependency on  
19           alcohol or other habit-forming substances;
- 20           (5) Mental incompetence;



- 1 (6) Unprofessional conduct as defined by the board in  
2 accordance with its own rules;
- 3 (7) Wilful or repeated violation of any of the provisions  
4 of this chapter or any rule adopted by the board;
- 5 (8) Revocation, suspension, limitation, or other  
6 disciplinary action by another state of a nursing  
7 license, except when the revocation, suspension,  
8 limitation, or other disciplinary action by another  
9 state was based on the provision or assistance in  
10 receipt or provision of [medical];
- 11 (A) Medical, surgical, pharmaceutical, counseling, or  
12 referral services relating to the human  
13 reproductive system, including but not limited to  
14 services relating to pregnancy, contraception, or  
15 the termination of a pregnancy~~[7]~~; or
- 16 (B) Gender-affirming health care services, as defined  
17 in section 323J-1,  
18 so long as the provision or assistance in receipt or  
19 provision of the services was in accordance with the  
20 laws of this State or would have been in accordance



1 with the laws of this State if it occurred within this  
2 State;  
3 (9) Conviction, whether by nolo contendere or otherwise,  
4 of a penal offense substantially related to the  
5 qualifications, functions, or duties of a nurse,  
6 notwithstanding any statutory provision to the  
7 contrary, except when the conviction was based on the  
8 provision or assistance in receipt or provision of  
9 ~~medical~~]:  
10 (A) Medical, surgical, pharmaceutical, counseling, or  
11 referral services relating to the human  
12 reproductive system, including but not limited to  
13 services relating to pregnancy, contraception, or  
14 the termination of a pregnancy~~];~~ or  
15 (B) Gender-affirming health care services, as defined  
16 in section 323J-1,  
17 so long as the provision or assistance in receipt or  
18 provision of the services was in accordance with the  
19 laws of this State or would have been in accordance  
20 with the laws of this State if it occurred within this  
21 State;



- 1 (10) Failure to report to the board any disciplinary action  
2 taken against the licensee in another jurisdiction  
3 within thirty days after the disciplinary action  
4 becomes final;
- 5 (11) Submitting to or filing with the board any notice,  
6 statement, or other document required under this  
7 chapter[~~, which~~] that is false or untrue or contains  
8 any material misstatement of fact, including a false  
9 attestation of compliance with continuing competency  
10 requirements; or
- 11 (12) Violation of the conditions or limitations upon which  
12 any license is issued.
- 13 (b) Notwithstanding any other law to the contrary, the  
14 board may deny a license to any applicant who has been  
15 disciplined by another state, except on the basis of discipline  
16 by another state for the provision or assistance in receipt or  
17 provision of [~~medical~~]:
- 18 (1) Medical, surgical, pharmaceutical, counseling, or  
19 referral services relating to the human reproductive  
20 system, including but not limited to services relating



1 to pregnancy, contraception, or the termination of a  
 2 pregnancy[~~τ~~]; or  
 3 (2) Gender-affirming health care services, as defined in  
 4 section 323J-1,  
 5 so long as the provision or assistance in receipt or provision  
 6 of the services was in accordance with the laws of this State or  
 7 would have been in accordance with the laws of this State if it  
 8 occurred within this State. Any final order entered pursuant to  
 9 this subsection shall be a matter of public record."

10 SECTION 11. Section 457-12.5, Hawaii Revised Statutes, is  
 11 amended as follows:

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

13 "(a) Upon receipt of evidence of revocation, suspension,  
 14 or other disciplinary action against a licensee in another  
 15 state, the board may issue an order imposing disciplinary action  
 16 upon the licensee on the following conditions:

17 (1) The board shall serve the licensee with a proposed  
 18 order imposing disciplinary action as required by  
 19 chapter 91;



1 (2) The licensee shall have the right to request a hearing  
2 pursuant to chapter 91 to show cause why the action  
3 described in the proposed order should not be imposed;

4 (3) Any request for a hearing shall be made in writing and  
5 filed with the board within twenty days after mailing  
6 of the proposed order to the licensee; and

7 (4) If the licensee does not submit a written request for  
8 a hearing within twenty days after mailing of the  
9 proposed order, the board shall issue a final order  
10 imposing the disciplinary action described in the  
11 proposed order;

12 provided that the board shall not issue an order imposing  
13 disciplinary action upon the licensee if the revocation,  
14 suspension, or other disciplinary action against a licensee by  
15 another state was based on the provision or assistance in  
16 receipt or provision of medical, surgical, pharmaceutical,  
17 counseling, or referral services relating to the human  
18 reproductive system, including but not limited to services  
19 relating to pregnancy, contraception, or the termination of a  
20 pregnancy, or the provision or assistance in receipt or  
21 provision of gender-affirming health care services, as defined



1 in section 323J-1, so long as the provision or assistance in  
2 receipt or provision of the services was in accordance with the  
3 laws of this State or would have been in accordance with the  
4 laws of this State if it occurred within this State."

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

6 "(c) A licensee against whom the board has issued a  
7 proposed order under this section shall be prohibited from  
8 practicing in this State until the board issues a final order  
9 if:

10 (1) The licensee was the subject of disciplinary action by  
11 another state, except where the disciplinary action  
12 against the licensee by another state was based on the  
13 provision or assistance in receipt or provision of  
14 ~~[medical]~~:

15 (A) Medical, surgical, pharmaceutical, counseling, or  
16 referral services relating to the human  
17 reproductive system, including but not limited to  
18 services relating to pregnancy, contraception, or  
19 the termination of a pregnancy~~[r]~~; or

20 (B) Gender-affirming health care services, as defined  
21 in section 323J-1,



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

6 (2) The disciplinary action in the other state prohibits  
7 the licensee from practicing in that state."

8 SECTION 12. Section 461-21.5, Hawaii Revised Statutes, is  
9 amended as follows:

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

11 "(a) Upon receipt of evidence of revocation, suspension,  
12 or other disciplinary action against a licensee by another state  
13 or federal agency, the board may issue an order imposing  
14 disciplinary action upon the licensee on the following  
15 conditions:

16 (1) The board shall serve the licensee with a proposed  
17 order imposing disciplinary action as required by  
18 chapter 91;

19 (2) The licensee shall have the right to request a hearing  
20 pursuant to chapter 91 to show cause why the action  
21 described in the proposed order should not be imposed;



1           (3) Any request for a hearing shall be made in writing and  
2           filed with the board within twenty days after mailing  
3           of the proposed order to the licensee; and  
4           (4) If the licensee does not submit a written request for  
5           a hearing within twenty days after mailing of the  
6           proposed order, the board shall issue a final order  
7           imposing the disciplinary action described in the  
8           proposed order;  
9   provided that the board shall not issue an order imposing  
10   disciplinary action upon the licensee if the revocation,  
11   suspension, or other disciplinary action against a licensee by  
12   another state was based on the provision or assistance in  
13   receipt or provision of medical, surgical, pharmaceutical,  
14   counseling, or referral services relating to the human  
15   reproductive system, including but not limited to services  
16   relating to pregnancy, contraception, or the termination of a  
17   pregnancy, or the provision or assistance in receipt or  
18   provision of gender-affirming health care services, as defined  
19   in section 323J-1, so long as the provision or assistance in  
20   receipt or provision of the services was in accordance with the



1 laws of this State or would have been in accordance with the  
2 laws of this State if it occurred within this State."

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

4 "(c) A licensee against whom the board has issued a  
5 proposed order under this section shall be prohibited from  
6 practicing in this State until the board issues a final order  
7 if:

8 (1) The licensee was the subject of disciplinary action by  
9 another state, except where the disciplinary action  
10 against the licensee by another state was based on the  
11 provision or assistance in receipt or provision of  
12 ~~medical~~:

13 (A) Medical, surgical, pharmaceutical, counseling, or  
14 referral services relating to the human  
15 reproductive system, including but not limited to  
16 services relating to pregnancy, contraception, or  
17 the termination of a pregnancy~~];~~ or

18 (B) Gender-affirming health care services, as defined  
19 in section 323J-1,

20 so long as the provision or assistance in receipt or  
21 provision of the services was in accordance with the



1 laws of this State or would have been in accordance  
2 with the laws of this State if it occurred within this  
3 State; and

4 (2) The disciplinary action by another state prohibits the  
5 licensee from practicing in that state."

6 SECTION 13. Section 465-13, Hawaii Revised Statutes, is  
7 amended by amending subsection (a) to read as follows:

8 "(a) In addition to any other actions authorized by law,  
9 the board shall refuse to grant a license to any applicant and  
10 may revoke or suspend any license, or may place a license or  
11 [~~may~~] put a license holder on conditional probation, for any  
12 cause authorized by law, including but not limited to the  
13 following:

14 (1) Professional misconduct, gross carelessness, manifest  
15 incapacity, or incompetency in the practice of  
16 psychology;

17 (2) Violation of this chapter by the applicant within one  
18 year of the application, or violation of this chapter  
19 by a license holder any time the license is valid;

20 (3) Any unethical practice of psychology as defined by the  
21 board in accordance with its own rules;



- 1 (4) Fraud or deception in applying for or procuring a  
2 license to practice psychology as defined in section  
3 465-1;
- 4 (5) Conviction of a crime substantially related to the  
5 qualifications, functions, or duties of  
6 psychologists[+], except when the conviction was based  
7 on the provision or assistance in receipt or provision  
8 of gender-affirming health care services, as defined  
9 in section 323J-1, so long as the provision or  
10 assistance in receipt or provision of the services was  
11 in accordance with the laws of this State or would  
12 have been in accordance with the laws of this State if  
13 it occurred within this State;
- 14 (6) Wilful unauthorized communication of information  
15 received in professional confidence;
- 16 (7) The suspension, revocation, or imposition of  
17 probationary conditions by another state of a license  
18 or certificate to practice psychology issued by that  
19 state if the act for which the disciplinary action was  
20 taken constitutes a violation of this chapter;



- 1 (8) The commission of any dishonest, corrupt, or  
2 fraudulent act or any act of sexual abuse, or sexual  
3 relations with a client, or sexual misconduct that is  
4 substantially related to the qualifications,  
5 functions, or duties of a psychologist;
- 6 (9) Harassment, intimidation, or abuse, sexual or  
7 otherwise, of a client or patient;
- 8 (10) Exercising undue influence in the manner as to exploit  
9 the client, patient, student, or supervisee for  
10 financial or other personal advantage to the  
11 practitioner or a third party;
- 12 (11) Conviction of fraud in filing medicaid claims or  
13 conviction of fraud in filing claims to any third  
14 party payor, for which a copy of the record of  
15 conviction, certified by the clerk of the court  
16 entering the conviction, shall be conclusive evidence;
- 17 (12) Aiding or abetting any unlicensed person to engage in  
18 the practice of psychology;
- 19 (13) Repeated acts of excessive treatment or use of  
20 diagnostic procedures as determined by the standard of  
21 the local community of licensees;



- 1 (14) Inability to practice psychology with reasonable skill  
2 and safety to patients or clients by reason of  
3 illness, inebriation, or excessive use of any  
4 substance, or as a result of any mental or physical  
5 condition;
- 6 (15) Conviction of any crime or offense that reflects the  
7 inability of the practitioner to practice psychology  
8 with due regard for the health and safety of clients  
9 or patients;
- 10 (16) Use of untruthful or deceptive or improbable  
11 statements concerning the licensee's qualifications or  
12 the effects or results of proposed treatment;
- 13 (17) Functioning outside of the licensee's professional  
14 competence established by education, training, and  
15 experience;
- 16 (18) Refusal to comply with any written order of the board;
- 17 (19) Making any fraudulent or untrue statement to the  
18 board, including a false certification of compliance  
19 with the continuing education requirement of section  
20 465-11; or
- 21 (20) Violation of a board rule."



1 SECTION 14. Section 636C-9, Hawaii Revised Statutes, is  
2 amended to read as follows:

3 "[+]§636C-9[+] Enforcement of foreign penal civil actions  
4 relating to protected reproductive health care services[-] or  
5 protected gender-affirming health care services. (a) No  
6 judgment or other order arising from a foreign penal civil  
7 action or other penal law banning, restricting, burdening,  
8 punishing, penalizing, or otherwise interfering with the  
9 provision of protected reproductive health care services or  
10 protected gender-affirming health care services shall be  
11 enforced in this State.

12 (b) As used in this section:

13 "Foreign penal civil action" means an action authorized by  
14 the law of a state, or of any municipality or other governmental  
15 entity within a state, other than this State, the essential  
16 character and effect of which is to punish an offense against  
17 the public justice of that state, municipality, or other  
18 governmental entity.

19 "Gender-affirming health care services" has the same  
20 meaning as in section 323J-1.



1       "Protected gender-affirming health care services" means  
2 gender-affirming health care services that are protected under  
3 the Hawaii State Constitution or are otherwise lawful under the  
4 laws of this State or that would be constitutionally protected  
5 or otherwise lawful if performed within this State.

6       "Protected reproductive health care services" means  
7 medical, surgical, pharmaceutical, counseling, or referral  
8 services relating to the human reproductive system, including  
9 but not limited to services relating to pregnancy,  
10 contraception, or termination of a pregnancy, that are protected  
11 under the Hawaii State Constitution or are otherwise lawful  
12 under the laws of this State or that would be constitutionally  
13 protected or otherwise lawful if performed within this State."

14       SECTION 15. Section 836-2, Hawaii Revised Statutes, is  
15 amended to read as follows:

16       "**§836-2 Summoning witness in this State to testify in**  
17 **another state.** (a) If a judge of a court of record in any  
18 state [~~which~~] that by its laws has made provision for commanding  
19 persons within that state to attend and testify in this State  
20 certifies under the seal of that court that there is a criminal  
21 prosecution pending in that court, or that a grand jury



1 investigation has commenced or is about to commence, that a  
2 person in this State is a material witness in the prosecution or  
3 grand jury investigation, and that the person's presence will be  
4 required for a specified number of days, upon presentation of  
5 the certificate to any judge of a court of record in this State  
6 in the judicial district in which the person is, the judge shall  
7 fix a time and place for a hearing, and shall make an order  
8 directing the witness to appear at a time and place certain for  
9 the hearing.

10 (b) If at a hearing the judge determines that the witness  
11 is material and necessary, that it will not cause undue hardship  
12 to the witness to be compelled to attend and testify in the  
13 prosecution or a grand jury investigation in the other state,  
14 and that the laws of the state in which the prosecution is  
15 pending, or grand jury investigation has commenced or is about  
16 to commence, and of any other state through which the witness  
17 may be required to pass by ordinary course of travel, will give  
18 to the witness protection from arrest and the service of civil  
19 and criminal process, the judge shall issue a summons, with a  
20 copy of the certificate attached, directing the witness to  
21 attend and testify in the court where the prosecution is



1 pending, or where a grand jury investigation has commenced or is  
2 about to commence at a time and place specified in the summons[~~7~~  
3 ~~except~~]; provided that no judge shall issue a summons in a case  
4 where prosecution is pending, or where a grand jury  
5 investigation has commenced or is about to commence for a  
6 criminal violation of a law of another state involving [~~the~~  
7 ~~provision,~~]:

- 8       (1) Seeking, receiving, paying for, [~~receipt of, or~~  
9       assistance with] or inquiring about reproductive  
10       health care services [~~as defined in section 323J-1~~] or  
11       gender-affirming health care services;
- 12       (2) Providing or responding to an inquiry about  
13       reproductive health care services or gender-affirming  
14       health care services;
- 15       (3) Assisting or aiding or abetting in any of the conduct  
16       described in paragraph (1) or (2); or
- 17       (4) Attempting or intending to engage in or providing  
18       material support for (or any other theory of  
19       vicarious, attempt, joint, several, or conspiracy  
20       liability derived therefrom) conduct described in  
21       paragraphs (1) to (3),



1 unless the acts forming the basis of the prosecution or  
2 investigation would also constitute an offense in this State.  
3 In any hearing, the certificate shall be prima facie evidence of  
4 all the facts stated therein.

5 (c) If the certificate recommends that the witness be  
6 taken into immediate custody and delivered to an officer of the  
7 requesting state to assure the witness' attendance in the  
8 requesting state, the judge may, in lieu of notification of the  
9 hearing, direct that the witness be forthwith brought before the  
10 judge for the hearing; and the judge at the hearing being  
11 satisfied of the desirability of the custody and delivery, for  
12 which determination the certificate shall be prima facie proof  
13 of the desirability may, in lieu of issuing subpoena or summons,  
14 order that the witness be forthwith taken into custody and  
15 delivered to an officer of the requesting state.

16 (d) If the witness, who is summoned pursuant to this  
17 section, after being paid or tendered by some properly  
18 authorized person a sum equivalent to the cost of round-trip air  
19 fare to the place where the prosecution is pending and \$30 for  
20 each day, that the witness is required to travel and attend as a  
21 witness, fails without good cause to attend and testify as



1 directed in the summons, the witness shall be punished in the  
2 manner provided for the punishment of any witness who disobeys a  
3 summons issued from a court of record in this State.

4 (e) As used in this section:

5 "Gender-affirming health care services" has the same  
6 meaning as in section 323J-1.

7 "Reproductive health care services" has the same meaning as  
8 in section 323J-1."

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

15 SECTION 17. Statutory material to be repealed is bracketed  
16 and stricken. New statutory material is underscored.

17 SECTION 18. This Act shall take effect upon its approval.



**Report Title:**

Gender-Affirming Health Care Services; Reproductive Health Care Services; Protections; Abusive Litigation; Medical Malpractice Insurance; Health Carriers; Protected Health Information; Covered Entities

**Description:**

Expands the protections established under Act 2, SLH 2023, to include gender-affirming health care services, including clarifying permitted disclosures of protected health information to address changes in federal regulations. Establishes protections against abusive litigation. Prohibits medical malpractice insurers and health carriers from taking certain adverse actions against health care providers solely on the basis that the health care provider provides lawful reproductive health care services or gender-affirming health care services.  
(SD1)

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

