
A BILL FOR AN ACT

RELATING TO HEALTH CARE.

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

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PART I

2

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.

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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

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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



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

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

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8 updating outdated language to reflect correct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

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

16 (4) Repealing the obsolete Hawaii health corps.

17 PART II

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



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

4 **"324- Definitions.** For purposes of this part,
5 "qualified health care provider" has the same meaning as in
6 section 325- ."

7 PART IV

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

10 **"§11-117 Withdrawal of candidates; disqualification;**
11 **death; notice.** (a) Any candidate may withdraw in writing not
12 later than 4:30 p.m. on the day immediately following the close
13 of filing for any reason and may withdraw after the close of
14 filing up to 4:30 p.m. on the fiftieth day prior to an election
15 for reasons of ill health. When a candidate withdraws for ill
16 health, the candidate shall give notice in writing to the chief
17 election officer if the candidate was seeking a congressional or
18 state office, or the candidate shall give notice in writing to
19 the county clerk if the candidate was seeking a county office.
20 The notice shall be accompanied by a statement from a [~~licensed~~
21 ~~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- ."



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

3 "**§88-4 Medical aid, etc., when free.** Every recipient of
4 any retirement allowance or pension payable by the State or by
5 any county or by any other governmental body or agency created
6 by or under the laws of the State who is actually and solely
7 dependent upon the recipient's retirement allowance or pension
8 for the recipient's maintenance and support or whose total
9 income in whatever form or from whatever source received,
10 including but not limited to, the recipient's retirement
11 allowance or pension and any income of the recipient's spouse or
12 reciprocal beneficiary is less than \$2,400 a year shall, for the
13 recipient and the recipient's spouse or reciprocal beneficiary,
14 be entitled to free medical treatment from any [~~government~~
15 ~~physician~~] qualified health care provider employed by the State
16 or any county and to free hospitalization at any state hospital
17 or at a hospital where county patients are treated at county
18 expense in the county wherein the recipient resides.

19 Whenever a retirant or pensioner having a spouse or
20 reciprocal beneficiary dies, then the spouse or reciprocal
21 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-_____."



1 SECTION 14. Section 291C-14, Hawaii Revised Statutes, is
2 amended to read as follows:

3 **"§291C-14 Duty to give information and render aid. (a)**
4 The driver of any vehicle involved in a collision resulting in
5 injury to or death of any person or damage to any vehicle or
6 other property that is driven or attended by any person shall
7 give the driver's name, address, and the registration number of
8 the vehicle the driver is driving, and shall upon request and if
9 available exhibit the driver's license or permit to drive to any
10 person injured in the collision or to the driver or occupant of
11 or person attending any vehicle or other property damaged in the
12 collision and shall give the information and upon request
13 exhibit the license or permit to any police officer at the scene
14 of the collision or who is investigating the collision and shall
15 render to any person injured in the collision reasonable
16 assistance, including the carrying, or the making of
17 arrangements for the carrying, of the person to a physician,
18 surgeon, qualified health care provider, or hospital for medical
19 or surgical treatment if it is apparent that treatment is
20 necessary, or if the carrying is requested by the injured
21 person; provided that if the vehicle involved in the collision



1 is a bicycle, the driver of the bicycle need not exhibit a
2 license or permit to drive.

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

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

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

17 SECTION 15. Section 291E-12, Hawaii Revised Statutes, is
18 amended to read as follows:

19 "**§291E-12 Persons qualified to take blood specimen.** No
20 person, other than a [~~physician, physician assistant, registered~~
21 ~~nurse,~~] qualified health care provider or phlebotomist deemed



1 qualified by the director of a clinical laboratory that is
2 licensed by the State, or person licensed in a clinical
3 laboratory occupation under section 321-13, may withdraw blood
4 for the purpose of determining the alcohol concentration or drug
5 content therein. This limitation shall not apply to the taking
6 of a breath or urine specimen."

7 SECTION 16. Section 291E-13, Hawaii Revised Statutes, is
8 amended to read as follows:

9 "**§291E-13 Additional tests.** The person tested may choose
10 any [~~physician, physician assistant, registered nurse,~~]
11 qualified health care provider or person licensed in a clinical
12 laboratory occupation under section 321-13 to withdraw blood and
13 also may choose any qualified person to administer a test or
14 tests in addition to any administered at the direction of a law
15 enforcement officer. The result of the test or tests may be
16 used as provided in section 291E-3. The failure or inability to
17 obtain an additional test by a person shall not preclude the
18 admission of the test or tests administered at the direction of
19 a law enforcement officer. Upon the request of the person who
20 is tested, full information concerning the test or tests
21 administered shall be made available to that person."



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

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

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

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

9 ""Exceptional children" includes:

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

18 (2) Persons under twenty-two years of age who by reason of
19 physical defects cannot attend the regular public
20 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



- 1 (6) Where:
 - 2 (A) The child has attained the age of sixteen years;
 - 3 (B) The principal has determined that:
 - 4 (i) The child has engaged in behavior which is
 - 5 disruptive to other students, teachers, or
 - 6 staff; or
 - 7 (ii) The child's non-attendance is chronic and
 - 8 has become a significant factor that hinders
 - 9 the child's learning; and
 - 10 (C) The principal of the child's school, and the
 - 11 child's teacher or counselor, in consultation
 - 12 with the child and the child's parent, guardian,
 - 13 or other adult having legal responsibility for or
 - 14 care of the child, develops an alternative
 - 15 educational plan for the child. The alternative
 - 16 educational plan shall include a process that
 - 17 shall permit the child to resume school.
- 18 The principal of the child's school shall file the
- 19 plan made pursuant to subparagraph (C) with the
- 20 child's school record. If the adult having legal
- 21 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 [~~that~~] and other qualified health care providers,



- 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- ."



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

3 "**§325-5 Antitoxins, antiserums, vaccines, biologics, and**
4 **drugs.** The department of health shall purchase from time to
5 time out of moneys which may be available to it therefor, and
6 keep on hand and available for administration under this section
7 in the several counties to persons unable to pay for them,
8 antitoxins, antiserums, vaccines, and other biologics and drugs
9 of types and in a supply sufficient for the public health,
10 welfare, and safety.

11 The antitoxins, antiserums, vaccines, biologics, and drugs
12 shall by any [~~physician of~~] qualified health care provider with
13 prescriptive authority employed by the department or of any such
14 county be administered free of charge to any person who is in
15 need of them and is unable to pay for them or shall be furnished
16 free of charge to the attending [~~physician~~] qualified health
17 care provider with prescriptive authority of the person for use
18 in the treatment of the person; provided that the person so
19 benefited, or the person's estate, or personal representatives,
20 if subsequently able to do so, may be required by the department
21 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."



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

3 **"§330-8 Use of certain chemical substances as inhalants**
4 **unlawful.** (a) It shall be unlawful for any person to use as an
5 inhalant any substance, not a "food" as defined in section 328-
6 1, which substance includes in its composition volatile organic
7 solvents including amylacetate, trichloroethylene, and acetone
8 or any other chemical substance, capable of producing upon
9 inhalation any degree of intoxication; provided that this
10 section shall not apply to any person using as an inhalant any
11 such chemical substance pursuant to the direction of a
12 [physician.] qualified health care provider with prescriptive
13 authority."

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

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

18 "(h) All psychotropic medications covered by this section
19 shall be prescribed by a ~~[psychiatrist, a physician, or an~~
20 ~~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 396-7, Hawaii Revised Statutes, is
4 amended to read as follows:

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

10 (b) All employers shall prominently post information
11 regarding hazards in the employer's workplace including
12 information about suitable precautions, relevant symptoms, and
13 emergency treatment in case of exposure, and where appropriate,
14 medical examination at no cost to employees with the results of
15 such medical examinations being furnished only to appropriate
16 state officials, and if the employee so requests, to the
17 employee's own ~~[physician.]~~ qualified health care provider.
18 Where possible, said information shall additionally be posted or
19 labeled on or near said hazard. Where suitable protective
20 equipment is available, all employers shall provide information
21 concerning their availability and use to the affected employees



1 including control or technological procedures with respect to
2 such hazards including monitoring or measuring exposure.

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

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

- 11 (1) Observation by employees of the monitoring or
12 measuring of such materials or agents;
- 13 (2) Employee access to the records of such monitoring or
14 measuring after notice of exposure, and explanation of
15 said monitoring or measuring procedures where
16 necessary;
- 17 (3) In addition to the above, information shall be
18 provided to the employees of corrective action being
19 taken.

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



1 SECTION 47. Section 436H-7, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "~~§~~436H-7~~§~~ Duties of treating physician~~[-]~~ or
4 qualified health care provider. (a) A treating physician or
5 qualified health care provider shall provide direction to an
6 athletic trainer by verbal order when in the presence of the
7 athletic trainer or by written order or written athletic
8 training service plans or protocols when a treating physician or
9 qualified health care provider is not present with the athletic
10 trainer.

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

13 SECTION 48. Section 440-1, Hawaii Revised Statutes, is
14 amended by adding a new definition to be appropriately inserted
15 and to read as follows:

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

18 SECTION 49. Section 440E-1, 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 50. Section 440E-5, Hawaii Revised Statutes, is
4 amended by amending subsection (b) to read as follows:

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

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

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

18 (3) Each mixed martial arts contestant is examined within
19 six hours of the contest by at least one [~~physician or~~
20 ~~osteopathic physician licensed under chapter 453]~~
21 qualified health care provider who shall certify in



1 writing to the referee of the contest that the
2 contestant is physically fit to engage [~~therein~~] in
3 the contest;

4 (4) Each contestant furnishes to the director:

5 (A) A medical report of a medical examination
6 completed not less than six months before the
7 contest, including the results of HIV and
8 hepatitis testing; and

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

11 (5) The contest is under the control of a licensed referee
12 in the ring who has at least one year of experience in
13 refereeing a match or exhibition involving mixed
14 martial arts and who has passed a physical examination
15 by a [~~physician or osteopathic physician licensed~~
16 ~~under chapter 453,~~] qualified health care provider,
17 including an eye examination, within two years prior
18 to the contest;

19 (6) The promoter has complied with sections 440E-6 and
20 440E-7; and



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

6 SECTION 51. Section 440E-16, Hawaii Revised Statutes, is
7 amended to read as follows:

8 "~~S440E-16 [Physician or osteopathic physician,]~~ Qualified
9 health care provider; duties. Every promoter holding a license
10 to conduct, hold, or give mixed martial arts contests shall have
11 in attendance at every contest at least two [~~physicians licensed~~
12 ~~to practice medicine or osteopathic medicine in the State under~~
13 ~~chapter 453]~~ qualified health care providers who shall observe
14 the physical condition of the mixed martial arts contestants and
15 advise the referee with regard thereto and, one hour before each
16 contestant enters the ring, certify in writing as to the
17 physical condition of the contestant to engage in the contest.
18 A report of the medical examination shall be filed with the
19 director not later than forty-eight hours after the conclusion
20 of the contest. If a contestant is knocked down or severely
21 injured during a contest, or for any other reason as provided in



1 rules adopted by the director pursuant to chapter 91, at least
2 one [~~physician~~] qualified health care provider shall immediately
3 examine the contestant and file a written medical opinion with
4 the director within forty-eight hours of the contest."

5 SECTION 52. Section 448-1, Hawaii Revised Statutes, is
6 amended to read as follows:

7 "**S448-1 Dentistry defined; exempted practices.** (a) A
8 person practices dentistry, within the meaning of this chapter,
9 who represents oneself as being able to diagnose, treat, operate
10 or prescribe for any disease, pain, injury, deficiency,
11 deformity, or physical condition of the human teeth, alveolar
12 process, gums, or jaw, or who offers or undertakes by any means
13 or methods to diagnose, treat, operate or prescribe for any
14 disease, pain, injury, deficiency, deformity, or physical
15 condition of the same, or to take impressions of the teeth or
16 jaws; or who owns, maintains, or operates an office for the
17 practice of dentistry; or who engages in any of the practices
18 included in the curricula of recognized and approved dental
19 schools or colleges. Dentistry includes that part of health
20 care concerned with the diagnosis, prevention, and treatment of
21 diseases of the teeth, oral cavity, and associated structures



1 including the restoration of defective or missing teeth. The
2 fact that a person uses any dental degree, or designation, or
3 any card, device, directory, poster, sign, or other media
4 whereby one represents oneself to be a dentist, shall be prima
5 facie evidence that the person is engaged in the practice of
6 dentistry.

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

- 9 (1) The rendering of dental relief in emergency cases in
10 the practice of one's profession by a physician or
11 surgeon, licensed as such and registered under the
12 laws of this State, or other qualified health care
13 provider, unless one undertakes to reproduce or
14 reproduces lost parts of the human teeth in the mouth
15 or to restore or replace in the human mouth lost or
16 missing teeth;
- 17 (2) The practice of dentistry in the discharge of their
18 official duties by dentists in the United States Army,
19 the United States Navy, the United States Air Force,
20 the United States Public Health Service, or the United
21 States Department of Veterans Affairs;



1 (3) The practice of dentistry by licensed dentists of
2 other states or countries at meetings of the Hawaii
3 Dental Association or component parts thereof, alumni
4 meetings of dental colleges, or any other like dental
5 organizations, while appearing as clinicians;

6 (4) The use of roentgen and other rays for making
7 radiograms or similar records of dental or oral
8 tissues;

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

17 (6) The ownership and management of a dental practice by
18 the executor or administrator of a dentist's estate or
19 the legal guardian or authorized representative of a
20 dentist, where the licensed dentist has died or is
21 incapacitated, for the purpose of winding down,



1 transferring, or selling the practice, for a period
 2 not to exceed one year from the time of death or from
 3 the date the dentist is declared incapacitated;
 4 provided that all other aspects of the practice of
 5 dentistry are performed by one or more licensed
 6 dentists.

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

9 SECTION 53. Section 451A-1, Hawaii Revised Statutes, is
 10 amended as follows:

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

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

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

17 "Practice of dealing and fitting of hearing aids" means
 18 the measurement of human hearing by an audiometer or by any
 19 other means solely for the purpose of making selections,
 20 adaptations, or sales of hearing aids or the manufacture of
 21 impressions for earmolds, and, at the request of a [~~physician~~]



1 qualified health care provider or a member of a profession
2 related to the practice of medicine and surgery, the
3 administration of audiograms for use in consultation with the
4 hard-of-hearing."

5 SECTION 54. Section 451A-18, Hawaii Revised Statutes, is
6 amended to read as follows:

7 "**§451A-18 Persons and practices not affected.** This
8 chapter is not intended to:

- 9 (1) Prohibit any person from engaging in the practice of
10 measuring human hearing for the purpose of selection
11 of hearing aids; provided that the person or the
12 organization employing the person does not sell
13 hearing aids or accessories;
- 14 (2) Prohibit a person in maintaining an established
15 business address from engaging in the business of
16 selling or offering for sale hearing aids at retail
17 without a license; provided that it employs persons
18 licensed under this chapter responsible for the
19 fitting and direct sale of such products;
- 20 (3) Apply to a person who is a [~~physician licensed to~~
21 ~~practice in Hawaii; or~~] qualified health care



1 provider; provided that the person shall not use any
2 designation that would imply that the person is
3 licensed under this chapter to engage in the sale or
4 practice of dealing and fitting of hearing aids; or

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

7 SECTION 55. Section 456-19, Hawaii Revised Statutes, is
8 amended to read as follows:

9 "**§456-19 Notary public signing for disabled person.** (a)

10 A notary public may sign the name of a person physically unable
11 to sign or to make a mark on a document presented for
12 notarization; provided that the notary public is satisfied that
13 the person has voluntarily given consent for the notary public
14 to sign on the person's behalf, if the notary public writes, in
15 the presence of the person: "Signature affixed by notary public
16 pursuant to section 456-19, Hawaii Revised Statutes." beneath
17 the signature, and if a [~~doctor's~~] qualified health care
18 provider's written certificate is provided to the notary public
19 certifying that the person is unable to physically sign or make
20 a mark because of the disability, and that the person is capable



1 of communicating the person's intentions. The certificate shall
2 be attached to the document.

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

5 SECTION 56. Section 457-9.2, Hawaii Revised Statutes, is
6 amended to read as follows:

7 "~~§~~457-9.2~~§~~ **Continuing competency requirements;**

8 **exemptions; extensions; records retention; audit.** (a)

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

15 (b) The following nurses shall be exempt from the
16 continuing competency requirements:

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



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

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

10 If a licensee graduated or completed pre-licensure
11 requirements from an accredited nursing program more than twelve
12 months but less than two years prior to the renewal date, the
13 registered nurse or practical nurse licensee shall be required
14 to obtain fifteen contact hours of continuing education, one
15 semester credit of post-licensure academic education related to
16 nursing practice from an accredited nursing program, completion
17 of a board-recognized nurse residency program, or other learning
18 activity options from an approved provider recognized by the
19 board prior to the first renewal period.

20 (c) The board may extend the deadline for compliance with
21 the continuing competency requirements and shall consider each



1 case on an individual basis. Prior to the expiration of the
2 license, a nurse licensee may submit a written request for an
3 extension and any documentation requested by the board to
4 substantiate the reason for the extension of the deadline for
5 compliance with the continuing competency requirements of this
6 section, based on the following circumstances:

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

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

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

18 (e) Upon application for license renewal, restoration, or
19 reinstatement, each licensee shall have complied with and attest
20 to completion of one of the learning activity options recognized
21 by the board pursuant to subsection (a) during the two years



1 preceding the application for license renewal, restoration, or
2 reinstatement and shall be prepared to submit evidence of
3 completion if requested by the board.

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

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

12 SECTION 57. Section 457B-3.2, Hawaii Revised Statutes, is
13 amended to read as follows:

14 **"§457B-3.2 Grounds for refusal to renew, reinstate, or**
15 **restore, and for revocation, suspension, denial, or condition of**
16 **licenses. (a) The director may refuse to renew, reinstate, or**
17 **restore, or may revoke, suspend, deny, or condition in any**
18 **manner, any license for any one or more of the following acts or**
19 **conditions on the part of the licensee or the applicant:**

20 (1) Altering in any way the [~~physician's~~] qualified health
21 care provider's order for any patient's or resident's



1 medical or therapeutic care unless the orders are
2 clearly hazardous to the patient or resident, in which
3 case the [~~physician~~] qualified health care provider
4 shall be immediately notified;

5 (2) Defrauding any federal, state, county, or social
6 agency, business, or individual in the operation of a
7 nursing home;

8 (3) Engaging in false, fraudulent, or deceptive
9 advertising, or making false or improbable statements
10 regarding the services of the nursing home; and

11 (4) Submitting or filing with the board any notice,
12 statement, or other document required under this
13 chapter which is false or which contains any material
14 misstatement of fact.

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

17 SECTION 58. Section 459-1, Hawaii Revised Statutes, is
18 amended by amending subsections (b) and (c) to read as follows:

19 "(b) Any person who engages in the prescribing of visual
20 training, with or without the use of scientific instruments to
21 train the visual system or other abnormal condition of the eyes,



1 or claims to be able to do so, shall be deemed to be engaged in
2 the practice of optometry and shall first secure and hold an
3 unrevoked and unsuspended license as provided in this chapter;
4 provided that an orthoptist may give visual training, including
5 exercises, under the supervision of a [~~physician~~] qualified
6 health care provider or optometrist. The use and prescription
7 of pharmaceutical agents and the removal of superficial foreign
8 bodies from the human eye and eyelid shall be granted to an
9 optometrist licensed under this chapter who has met the
10 requirements under sections 459-7 and 459-7.4.

11 (c) If while examining or treating a patient, a licensed
12 optometrist finds, by history or examination, any ocular
13 abnormality or any evidence of systemic disease requiring
14 further diagnosis and possible treatment beyond the scope of
15 practice as defined in this section, the optometrist shall refer
16 that patient to an appropriate [~~licensed physician.~~] qualified
17 health care provider."

18 SECTION 59. Section 459-1.5, 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 60. Section 459-9, Hawaii Revised Statutes, is
4 amended to read as follows:

5 **"§459-9 Refusal to permit examination or issue license;**
6 **revocation and suspension of license; grounds for.** In addition
7 to any other actions authorized by law, the Hawaii board of
8 optometry may refuse to admit persons to its examinations or to
9 issue a license or may revoke or suspend, for the period of time
10 as may be determined by the board, a license previously issued,
11 or may impose a penalty as shall be established by the board,
12 for any cause authorized by law, including but not limited to
13 the following:

14 (1) Presentation to the board of any certificate or
15 testimony or information [~~which~~] that was untrue in
16 any material respect or illegally or fraudulently
17 obtained, or when fraud or deceit has been practiced
18 in obtaining any license under this chapter or in
19 passing an examination;

20 (2) Conduct of a character likely to deceive or defraud
21 the public, or habits of intemperance or drug



1 addiction calculated to destroy the accuracy of the
2 work of an optometrist, or professional misconduct, or
3 gross carelessness or negligence, or manifest
4 incapacity in the practice of optometry;

5 (3) Advertising by means of false and deceptive statements
6 or by statements [~~which~~] that tend to deceive or
7 defraud;

8 (4) Directly or indirectly accepting or offering
9 employment to practice optometry from, or to any
10 person not having a valid, unrevoked and unsuspended
11 license or from any company or corporation;

12 (5) Soliciting or receiving, directly or indirectly, any
13 price differential, rebate, refund, discount,
14 commission, credit, kickback, or other allowance,
15 whether in the form of money or otherwise, from a
16 dispensing optician for or on account of referring or
17 sending to the dispensing optician of any intended or
18 prospective wearer or user of any article or appliance
19 prepared or furnished by a dispensing optician, or for
20 or on account of any service or article furnished by



- 1 the dispensing optician to any intended or prospective
2 wearer or user;
- 3 (6) Using any name in connection with the licensee's
4 practice other than the name under which the licensee
5 is licensed to practice, or using any advertising
6 [~~which~~] that fails to clearly identify the individual
7 licensee or [~~which~~] that is ambiguous or misleading as
8 to the licensee's identity;
- 9 (7) Employing or utilizing any unlicensed individual to
10 perform optometric services in connection with
11 refraction or visual training without directly and
12 personally supervising the individuals in the
13 performances of the services;
- 14 (8) Violating this chapter or the rules adopted by the
15 board;
- 16 (9) Utilizing pharmaceutical agents for purposes other
17 than those specified in section 459-1; or
- 18 (10) Failure to refer a patient to an appropriate [~~licensed~~
19 ~~physician~~] qualified health care provider upon
20 discovery, by history or examination, that the patient
21 evidences an ocular abnormality or symptoms of



1 systemic disease requiring further diagnosis and
2 possible treatment by a [~~licensed physician.~~]
3 qualified health care provider."

4 SECTION 61. Section 461-1, Hawaii Revised Statutes, is
5 amended by adding a new definition to be appropriately inserted
6 and to read as follows:

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

9 SECTION 62. Section 461-8, Hawaii Revised Statutes, is
10 amended by amending subsection (d) to read as follows:

11 "(d) Beginning with the renewal for the licensing biennium
12 commencing on January 1, 2008, and every biennial renewal
13 thereafter, each licensee shall have completed thirty credit
14 hours in continuing education courses within the two-year period
15 preceding the renewal date, regardless of the licensee's initial
16 date of licensure; provided that a licensee who has graduated
17 from an accredited pharmacy school within one year of the
18 licensee's first license renewal period shall not be subject to
19 the continuing education requirement for the first license
20 renewal. The board may extend the deadline for compliance with



1 the continuing education requirement based on any of the
2 following:

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

15 SECTION 63. Section 461-11.4, Hawaii Revised Statutes, is
16 amended by amending subsection (e) to read as follows:

17 "(e) For the purposes of this section, "medical home"
18 means the primary care physician or other qualified health care
19 provider providing primary care who, working in collaboration
20 with the family, oversees the acute, chronic, and preventive



1 health needs of the patient in a comprehensive, coordinated, and
2 continuous fashion."

3 SECTION 64. Section 461-15, Hawaii Revised Statutes, is
4 amended by amending subsection (a) to read as follows:

5 "(a) It shall be unlawful:

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

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

19 (3) For wholesalers to sell, distribute, or dispense any
20 prescription drug, except to a [~~pharmacist, physician,~~
21 ~~dentist, veterinarian, or optometrist~~] qualified



1 health care provider who is allowed to use
2 pharmaceutical agents under chapter 459 or to a
3 generally recognized industrial, agricultural,
4 manufacturing, or scientific user of drugs for
5 professional or business purposes; provided that it
6 shall be unlawful for wholesalers to sell, distribute,
7 or dispense any prescription pharmaceutical agent that
8 is not approved by the Hawaii board of optometry;

9 (4) For any wholesale prescription drug distributor to
10 sell or distribute medical oxygen except to a:

11 (A) Licensed practitioner with prescriptive
12 authority;

13 (B) Pharmacist;

14 (C) Medical oxygen distributor;

15 (D) Patient or a patient's agent pursuant to a
16 prescription; or

17 (E) Emergency medical services for administration by
18 trained personnel for oxygen deficiency and
19 resuscitation;

20 (5) For any medical oxygen distributor to supply medical
21 oxygen pursuant to a prescription order, to a patient



1 or a patient's agent, without first obtaining a permit
2 from the board to do so;

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

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

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

14 (B) Attest that the applicant or any personnel of the
15 applicant has not been found in violation of any
16 state or federal drug laws, including the illegal
17 use of drugs or improper distribution of drugs;

18 (C) Submit verification of a valid unexpired license,
19 permit, or registration in good standing to
20 conduct the pharmacy in compliance with the laws
21 of the home state and agree to maintain in good



1 standing the license, permit, or registration;
2 and

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

5 SECTION 65. Section 461J-1, Hawaii Revised Statutes, is
6 amended as follows:

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

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

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

13 "Physical therapy" or "physical therapy services" means
14 the examination, treatment, and instruction of human beings to
15 detect, assess, prevent, correct, alleviate, and limit physical
16 disability, bodily malfunction, pain from injury, disease, and
17 any other physical or mental condition as performed by a
18 physical therapist appropriately licensed under this chapter.

19 [~~It~~] "Physical therapy" or "physical therapy services" includes
20 but is not limited to:



- 1 (1) Administration, evaluation, modification of treatment,
 2 and instruction involving the use of physical
 3 measures, activities, and devices, for preventive and
 4 therapeutic purposes; provided that should the care or
 5 treatment given by a physical therapist or physical
 6 therapist assistant contravene treatment diagnosed or
 7 prescribed by a [~~medical doctor, osteopath,~~]
 8 physician, osteopathic physician, physician assistant,
 9 or advanced practice registered nurse or as determined
 10 by the board, the physical therapist shall confer with
 11 the professional regarding the manner or course of
 12 treatment in conflict and take appropriate action in
 13 the best interest of the patient; and
- 14 (2) The provision of consultative, educational, and other
 15 advisory services for the purpose of reducing the
 16 incidence and severity of physical disability, bodily
 17 malfunction, or pain."

18 SECTION 66. Section 461J-10.14, Hawaii Revised Statutes,
 19 is amended by amending subsection (b) to read as follows:

20 "(b) The request for an exemption shall include the
 21 following information:



- 1 (1) Evidence that, during the two-year period prior to the
2 expiration of the license, the licensee was residing
3 in another country for one year or longer, reasonably
4 preventing completion of the continuing competence
5 requirements;
- 6 (2) Evidence that, during the two-year period prior to the
7 expiration of the license, the licensee was ill or
8 disabled for one year or longer as documented by a
9 [~~licensed physician, surgeon, or clinical~~
10 ~~psychologist,~~] qualified health care provider,
11 preventing completion of the continuing competence
12 requirements; or
- 13 (3) Evidence that, during the two-year period prior to the
14 expiration of the license, a dependent family member
15 of the licensee was ill or disabled for one year or
16 longer as documented by a [~~licensed physician,~~
17 ~~surgeon, or clinical psychologist,~~] qualified health
18 care provider, preventing completion of the continuing
19 competence requirements."



1 SECTION 67. Section 463E-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 68. Section 463E-15, Hawaii Revised Statutes, is
7 amended to read as follows:

8 **"[+]§463E-15[+] Use of podiatrist; public programs.**

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

17 SECTION 69. Section 464-1, 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- ."



1 SECTION 70. Section 464-9, Hawaii Revised Statutes, is
2 amended by amending subsection (d) to read as follows:

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

- 10 (1) Architects initially licensed in the first year of the
11 biennium shall have completed eight continuing
12 education credit hours;
- 13 (2) Architects initially licensed in the second year of
14 the biennium shall not be required to complete any
15 continuing education credit hours;
- 16 (3) All other architects shall have completed sixteen
17 continuing education credit hours;
- 18 (4) The board shall randomly audit an architect's
19 continuing education courses, and shall establish
20 guidelines for random audits in rules adopted in
21 accordance with chapter 91;



- 1 (5) An architect whose license is not renewed because of
2 failure to comply with the continuing education
3 requirement shall have two years from the expiration
4 date of the license to restore the license by
5 complying with all applicable continuing professional
6 education requirements and paying the appropriate
7 renewal and penalty fees. After the two-year
8 restoration period, the licensee shall be required to
9 apply as a new applicant, and meet the requirements in
10 effect at that time; and
- 11 (6) An architect licensee shall not be subject to the
12 continuing education requirement if the architect
13 otherwise meets all other renewal requirements and:
- 14 (A) Is a member of the armed forces, National Guard,
15 or a reserve component on active duty and
16 deployed during a state or national crisis as
17 "state or national crisis" is defined in chapter
18 436B;
- 19 (B) Is ill or disabled for a significant period of
20 time as documented by a [~~licensed physician,~~
21 qualified health care provider, and is unable to



1 meet the continuing education requirements of
2 this subsection;

3 (C) Can demonstrate undue hardship that prevented the
4 licensee from meeting the continuing education
5 requirements of this subsection; or

6 (D) Is retired from the practice of architecture and
7 is no longer performing or providing
8 architectural services;

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

11 SECTION 71. Section 466D-7, Hawaii Revised Statutes, is
12 amended to read as follows:

13 "[~~f~~]~~S~~466D-7[~~}]~~ **Exemptions.** This chapter is not intended
14 to restrict the practice of other licensed or credentialed
15 [~~healthcare~~] health care practitioners practicing within their
16 own recognized scopes of practice and shall not apply to:

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



- 1 (2) A person working as, or training to become, a sleep
2 technologist or person who is enrolled in a Commission
3 on Accreditation of Allied Health Education Programs,
4 Accredited Sleep Technologist Education Program, or a
5 program approved by the American Association of Sleep
6 Technologists to become a sleep technologist; provided
7 that ~~[r]~~ as used in this paragraph, [a] "sleep
8 technologist" ~~[is defined as]~~ means a person trained
9 in sleep technology and relevant aspects of sleep
10 medicine, evaluation, and follow-up care of patients
11 with sleep disorders;
- 12 (3) A person enrolled as a student in an accredited
13 respiratory therapy program where the performance of
14 duties that are regulated by this chapter is an
15 integral part of the student's program of study;
- 16 (4) A person employed by a durable medical equipment
17 provider who engages in the delivery, assembly, setup,
18 testing, and demonstration of oxygen and aerosol
19 equipment upon the order of a ~~[physician]~~ qualified
20 health care provider; provided that no person
21 providing those services shall be authorized to assess



1 patients, develop care plans, instruct patients in
 2 taking treatment, or discuss the hazards,
 3 administration, or side effects of medication with
 4 patients; provided further that for purposes of this
 5 paragraph, "qualified health care provider" has the
 6 same meaning as in section 325- ;

7 (5) A person rendering services in the case of an
 8 emergency or in the domestic administration of family
 9 remedies; or

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

14 SECTION 72. Section 486N-1, Hawaii Revised Statutes, is
 15 amended by adding a new definition to be appropriately inserted
 16 and to read as follows:

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

19 SECTION 73. Section 486N-2, Hawaii Revised Statutes, is
 20 amended to read as follows:



- 1 "~~§~~486N-2~~§~~ **Exemptions.** This chapter shall not apply
2 to:
- 3 (1) Any nonprofit organization;
- 4 (2) Any person operating a business primarily for the
5 purpose of teaching a form of self-defense or dance as
6 an art;
- 7 (3) Any private club owned and operated by its members;
- 8 (4) Any medically related service performed by a ~~doctor~~
9 qualified health care provider legally authorized to
10 practice ~~[medicine or osteopathy]~~ in the State, in a
11 private office, clinic, or hospital;
- 12 (5) The State or any of its political subdivisions;
- 13 (6) Any health club ~~[which]~~ that began offering health
14 club contracts or any other contracts in the State
15 prior to December 31, 1969; or
- 16 (7) Any club whose function as a health club is only
17 incidental to its overall function and purpose, and
18 whose covered floor space devoted to the maintenance
19 or development of physical fitness or well-being
20 through physical exercise comprises less than thirty-



1 five per cent of the total covered floor space of the
2 club available to members."

3 SECTION 74. Section 486N-7, Hawaii Revised Statutes, is
4 amended by amending subsection (e) to read as follows:

5 "(e) [~~"Disability", as used in]~~ For the purposes of this
6 section, "disability" means a condition [~~which]~~ that has existed
7 for more than thirty days, which precludes the buyer from using
8 the facilities or services of the health club, and the condition
9 is verified by a [~~doctor]~~ qualified health care provider legally
10 authorized to practice [~~medicine or osteopathy]~~ in the State."

11 SECTION 75. Section 571-44, Hawaii Revised Statutes, is
12 amended to read as follows:

13 "**§571-44 Physical or mental examination and treatment.**

14 (a) The court may order that a child or minor for whom a
15 petition has been filed, be examined by a physician, surgeon,
16 psychiatrist, [~~or~~] psychologist, or other qualified health care
17 provider. The court may order treatment by a physician,
18 surgeon, psychiatrist, [~~or~~] psychologist, or other qualified
19 health care provider of a child or minor who has been
20 adjudicated by the court. For either the examination or
21 treatment, the court may place the child or minor in a hospital



1 or other suitable facility. After a hearing, the court may
2 order an examination by a physician, surgeon, psychiatrist, [~~or~~]
3 psychologist, or other qualified health care provider of a
4 parent or guardian whose ability to care for a child before the
5 court is at issue.

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

8 SECTION 76. Section 587A-4, 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 77. Section 587A-9, Hawaii Revised Statutes, is
14 amended by amending subsection (c) to read as follows:

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



1 SECTION 78. Section 612-6, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "**§612-6 Exempt when.** (a) A person may claim exemption
4 from service as a juror if the person is:

- 5 (1) An elected official while the legislature is in
6 session, or a judge of the United States, State, or
7 county;
- 8 (2) An actively practicing [~~physician or dentist,~~]
9 qualified health care provider;
- 10 (3) A member of the armed forces or militia when on active
11 service and deployed out-of-state;
- 12 (4) An active member of a police or fire department;
- 13 (5) A person who has served as a juror, either in a court
14 of this State or the United States District Court for
15 the District of Hawaii, within one year preceding the
16 time of filling out the juror qualification form;
- 17 (6) An active member of an emergency medical services
18 agency;
- 19 (7) A person living more than seventy miles from the court
20 for which jury service is required;
- 21 (8) A person eighty years of age or older; or



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

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

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

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

12 SECTION 79. Section 622-51, Hawaii Revised Statutes, is
13 amended by adding a new definition to be appropriately inserted
14 and to read as follows:

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

17 SECTION 80. Section 703-309, Hawaii Revised Statutes, is
18 amended to read as follows:

19 **"§703-309 Use of force by persons with special**
20 **responsibility for care, discipline, or safety of others.** The



1 use of force upon or toward the person of another is justifiable
2 under the following circumstances:

3 (1) The actor is the parent, guardian, or other person
4 similarly responsible for the general care and
5 supervision of a minor, or a person acting at the
6 request of the parent, guardian, or other responsible
7 person, and:

8 (a) The force is employed with due regard for the age
9 and size of the minor and is reasonably related
10 to the purpose of safeguarding or promoting the
11 welfare of the minor, including the prevention or
12 punishment of the minor's misconduct; provided
13 that there shall be a rebuttable presumption that
14 the following types of force are not justifiable
15 for purposes of this [†]paragraph[†]: throwing,
16 kicking, burning, biting, cutting, striking with
17 a closed fist, shaking a minor under three years
18 of age, interfering with breathing, or
19 threatening with a deadly weapon; and

20 (b) The force used does not intentionally, knowingly,
21 recklessly, or negligently create a risk of



1 causing substantial bodily injury, disfigurement,
2 extreme pain or mental distress, or neurological
3 damage.

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

7 (a) The actor believes that the force used is
8 necessary to further that special purpose,
9 including maintenance of reasonable discipline in
10 a school, class, other group, or at activities
11 supervised by the department of education held on
12 or off school property and that the use of force
13 is consistent with the welfare of the minor; and

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

17 (3) The actor is the guardian or other person similarly
18 responsible for the general care and supervision of an
19 incompetent person, and:

20 (a) The force is employed with due regard for the age
21 and size of the incompetent person and is



1 reasonably related to the purpose of safeguarding
2 or promoting the welfare of the incompetent
3 person, including the prevention of the
4 incompetent person's misconduct, or, when such
5 incompetent person is in a hospital or other
6 institution for the incompetent person's care and
7 custody, for the maintenance of reasonable
8 discipline in the institution; and

9 (b) The force used is not designed to cause or known
10 to create a risk of causing substantial bodily
11 injury, disfigurement, extreme pain or mental
12 distress, or neurological damage.

13 (4) The actor is a [~~doctor or other therapist~~] qualified
14 health care provider or a person assisting the [~~doctor~~
15 ~~or therapist~~] qualified health care provider at the
16 [~~doctor's or therapist's~~] qualified health care
17 provider's direction, and:

18 (a) The force is used for the purpose of
19 administering a recognized form of treatment
20 which the actor believes to be adapted to



1 promoting the physical or mental health of the
2 patient; and

3 (b) The treatment is administered with the consent of
4 the patient, or, if the patient is a minor or an
5 incompetent person, with the consent of the
6 minor's or incompetent person's parent or
7 guardian or other person legally competent to
8 consent in the minor's or incompetent person's
9 behalf, or the treatment is administered in an
10 emergency when the actor believes that no one
11 competent to consent can be consulted and that a
12 reasonable person, wishing to safeguard the
13 welfare of the patient, would consent.

14 For purposes of this subsection, "qualified health
15 care provider" has the same meaning as in section
16 325-_____.

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

19 (a) The actor believes that the force used is
20 necessary for the purpose of enforcing the lawful
21 rules or procedures of the institution;



- 1 (b) The nature or degree of force used is not
2 forbidden by other provisions of the law
3 governing the conduct of correctional
4 institutions; and
- 5 (c) If deadly force is used, its use is otherwise
6 justifiable under this chapter.
- 7 (6) The actor is a person responsible for the safety of a
8 vessel or an aircraft or a person acting at the
9 direction of the person responsible for the safety of
10 a vessel or an aircraft, and:
- 11 (a) The actor believes that the force used is
12 necessary to prevent interference with the
13 operation of the vessel or aircraft or
14 obstruction of the execution of a lawful order,
15 unless the actor's belief in the lawfulness of
16 the order is erroneous and the actor's error is
17 due to ignorance or mistake as to the law
18 defining authority; and
- 19 (b) If deadly force is used, its use is otherwise
20 justifiable under this chapter.



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

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

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

10 SECTION 81. Section 706-624, Hawaii Revised Statutes, is
11 amended by amending subsection (2) to read as follows:

12 "(2) Discretionary conditions. The court may provide, as
13 further conditions of a sentence of probation, to the extent
14 that the conditions are reasonably related to the factors set
15 forth in section 706-606 and to the extent that the conditions
16 involve only deprivations of liberty or property as are
17 reasonably necessary for the purposes indicated in section 706-
18 606(2), that the defendant:

19 (a) Serve a term of imprisonment to be determined by the
20 court at sentencing in class A felony cases under
21 section 707-702, not exceeding two years in class A



1 felony cases under part IV of chapter 712, not
2 exceeding eighteen months in class B felony cases, not
3 exceeding one year in class C felony cases, not
4 exceeding six months in misdemeanor cases, and not
5 exceeding five days in petty misdemeanor cases;
6 provided that notwithstanding any other provision of
7 law, any order of imprisonment under this subsection
8 that provides for prison work release shall require
9 the defendant to pay thirty per cent of the
10 defendant's gross pay earned during the prison work
11 release period to satisfy any restitution order. The
12 payment shall be handled by the adult probation
13 division and shall be paid to the victim on a monthly
14 basis;

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

17 (c) Support the defendant's dependents and meet other
18 family responsibilities;

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

20 (e) Work conscientiously at suitable employment or pursue
21 conscientiously a course of study or vocational



- 1 training that will equip the defendant for suitable
2 employment;
- 3 (f) Refrain from engaging in a specified occupation,
4 business, or profession bearing a reasonably direct
5 relationship to the conduct constituting the crime or
6 engage in the specified occupation, business, or
7 profession only to a stated degree or under stated
8 circumstances;
- 9 (g) Refrain from frequenting specified kinds of places or
10 from associating unnecessarily with specified persons,
11 including the victim of the crime, any witnesses,
12 regardless of whether they actually testified in the
13 prosecution, law enforcement officers, co-defendants,
14 or other individuals with whom contact may adversely
15 affect the rehabilitation or reformation of the person
16 convicted;
- 17 (h) Refrain from use of alcohol or any use of narcotic
18 drugs or controlled substances without a prescription;
- 19 (i) Refrain from possessing a firearm, ammunition,
20 destructive device, or other dangerous weapon;



- 1 (j) Undergo available medical or mental health assessment
2 and treatment, including assessment and treatment for
3 substance abuse dependency, and remain in a specified
4 facility if required for that purpose;
- 5 (k) Reside in a specified place or area or refrain from
6 residing in a specified place or area;
- 7 (l) Submit to periodic urinalysis or other similar testing
8 procedure;
- 9 (m) Refrain from entering specified geographical areas
10 without the court's permission;
- 11 (n) Refrain from leaving the person's dwelling place
12 except to go to and from the person's place of
13 employment, the office of the person's [~~physician or~~
14 ~~dentist,~~] qualified health care provider, the
15 probation office, or any other location as may be
16 approved by the person's probation officer pursuant to
17 court order. As used in this paragraph [~~,"dwelling~~
18 ~~place"~~];
- 19 "Dwelling place" includes the person's yard or,
20 in the case of condominiums, the common elements[+].



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

3 (o) Comply with a specified curfew;

4 (p) Submit to monitoring by an electronic monitoring
5 device;

6 (q) Submit to a search by any probation officer, with or
7 without a warrant, of the defendant's person,
8 residence, vehicle, or other sites or property under
9 the defendant's control, based upon the probation
10 officer's reasonable suspicion that illicit substances
11 or contraband may be found on the person or in the
12 place to be searched;

13 (r) Sign a waiver of extradition and pay extradition costs
14 as determined and ordered by the court;

15 (s) Comply with a service plan developed using current
16 assessment tools; and

17 (t) Satisfy other reasonable conditions as the court may
18 impose."

19 SECTION 82. Section 708-880, Hawaii Revised Statutes, is
20 amended by amending subsection (2) to read as follows:

21 "(2) ~~[1]~~ For the purposes of this section:



- 1 "Agent" means:
- 2 (a) An agent or employee of another;
- 3 (b) A trustee, guardian, or other fiduciary;
- 4 (c) A lawyer, [~~physician,~~] qualified health care provider,
5 accountant, appraiser, or other professional adviser
6 or informant;
- 7 (d) An officer, director, partner, manager, or other
8 participant in the direction of the affairs of an
9 incorporated or unincorporated association; or
- 10 (e) An arbitrator or other purportedly disinterested
11 adjudicator or referee.

12 "Agent in charge of employment" does not include any person
13 conducting a private employment agency licensed and operating in
14 accordance with law.

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

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

20 SECTION 83. Section 709-903.5, Hawaii Revised Statutes, is
21 amended by amending subsection (1) to read as follows:



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

4 (a) Intentionally or knowingly allows another person to
5 inflict serious or substantial bodily injury on the
6 minor; or

7 (b) Intentionally or knowingly causes or permits the minor
8 to inject, ingest, inhale, or otherwise introduce into
9 the minor's body any controlled substance listed in
10 sections 329-14, 329-16, 329-18, and 329-20 that has
11 not been prescribed by a ~~physician~~ qualified health
12 care provider for the minor, except as permitted under
13 section 329-122. For purposes of this paragraph,
14 "qualified health care provider" has the same meaning
15 as in section 325- ."

16 SECTION 84. Section 709-904, Hawaii Revised Statutes, is
17 amended by amending subsection (1) to read as follows:

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



- 1 (a) Recklessly allows another person to inflict serious or
2 substantial bodily injury on the minor; or
- 3 (b) Recklessly causes or permits the minor to inject,
4 ingest, inhale, or otherwise introduce into the
5 minor's body any controlled substance listed in
6 sections 329-14, 329-16, 329-18, and 329-20 that has
7 not been prescribed by a [~~physician~~] qualified health
8 care provider for the minor, except as permitted under
9 section 329-122. For purposes of this paragraph,
10 "qualified health care provider" has the same meaning
11 as in section 325-_____.

12 This subsection shall not apply to nursing mothers who may cause
13 the ingestion or introduction of detectable amounts of any
14 controlled substance listed in sections 329-14, 329-16, 329-18,
15 and 329-20 to their minor children through breastfeeding."

16 SECTION 85. Section 712-1250.5, Hawaii Revised Statutes,
17 is amended by amending subsection (2) to read as follows:

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



- 1 (a) The intoxicating liquor provided to the person under
2 the age of twenty-one was an ingredient in a medicine
3 prescribed by a [~~licensed physician~~] qualified health
4 care provider for medical treatment of the person
5 under the age of twenty-one[+]. For purposes of this
6 paragraph, "qualified health care provider" has the
7 same meaning as in section 325- ;
- 8 (b) The intoxicating liquor was provided to the person
9 under the age of twenty-one as part of a ceremony of a
10 recognized religion;
- 11 (c) The defendant provided the intoxicating liquor to the
12 person under the age of twenty-one with the belief,
13 which was reasonable under the circumstances, that the
14 person under the age of twenty-one had attained the
15 age of twenty-one;
- 16 (d) The defendant provided the intoxicating liquor to the
17 person under the age of twenty-one with the express
18 consent of the parent or legal guardian and with the
19 belief, which was reasonable under the circumstances,
20 that the person under the age of twenty-one would not
21 consume any portion of the substance;



1 (e) The defendant provided the intoxicating liquor to the
2 person under the age of twenty-one with the express
3 consent of the parent or legal guardian and with the
4 belief, which was reasonable under the circumstances,
5 that the person under the age of twenty-one would
6 consume the substance only in the presence of the
7 parent or legal guardian; or

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

11 SECTION 86. Section 806-73, Hawaii Revised Statutes, is
12 amended to read as follows:

13 **"§806-73 Duties and powers of probation officers; adult**
14 **probation records.** (a) A probation officer shall investigate
15 any case referred to the probation officer for investigation by
16 the court in which the probation officer is serving and report
17 thereon to the court. The probation officer shall instruct each
18 defendant placed on probation under the probation officer's
19 supervision of the terms and conditions of the defendant's
20 probation. The probation officer shall keep informed concerning
21 the conduct and condition of the defendant and report thereon to



1 the court, and shall use all suitable methods to aid the
2 defendant and bring about an improvement in the defendant's
3 conduct and condition. The probation officer shall keep these
4 records and perform other duties as the court may direct. No
5 probation officer shall be subject to civil liability or
6 criminal culpability for any disclosure or nondisclosure, under
7 this section, if the probation officer acts in good faith and
8 upon reasonable belief.

9 (b) All adult probation records shall be confidential and
10 shall not be deemed to be public records. As used in this
11 section, [~~the term~~] "records" includes but is not limited to all
12 records made by any adult probation officer in the course of
13 performing the probation officer's official duties. The
14 records, or the content of the records, shall be divulged only
15 as follows:

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

19 (A) An adult probation officer, court officer, social
20 worker of a Hawaii state adult probation unit, or



1 a family court officer who is preparing a report
2 for the courts; or

3 (B) A state or federal criminal justice agency, or
4 state or federal court program that:

5 (i) Is providing supervision of a defendant or
6 offender convicted and sentenced by the
7 courts of Hawaii; or

8 (ii) Is responsible for the preparation of a
9 report for a court;

10 (2) The residence address, work address, home telephone
11 number, or work telephone number of a current or
12 former defendant shall be provided only to:

13 (A) A law enforcement officer as defined in section
14 710-1000 to locate the probationer for the
15 purpose of serving a summons or bench warrant in
16 a civil, criminal, or deportation hearing, or for
17 the purpose of a criminal investigation; or

18 (B) A collection agency or licensed attorney
19 contracted by the judiciary to collect any
20 delinquent court-ordered penalties, fines,



1 restitution, sanctions, and court costs pursuant
2 to section 601-17.5;

3 (3) A copy of a presentence report or investigative report
4 shall be provided only to:

5 (A) The persons or entities named in section 706-604;
6 (B) The Hawaii paroling authority;
7 (C) Any psychiatrist, psychologist, or other
8 treatment practitioner who is treating the
9 defendant pursuant to a court order or parole
10 order for that treatment;

11 (D) The intake service centers;
12 (E) In accordance with applicable law, persons or
13 entities doing research; and

14 (F) Any Hawaii state adult probation officer or adult
15 probation officer of another state or federal
16 jurisdiction who:

17 (i) Is engaged in the supervision of a defendant
18 or offender convicted and sentenced in the
19 courts of Hawaii; or

20 (ii) Is engaged in the preparation of a report
21 for a court regarding a defendant or



1 offender convicted and sentenced in the
2 courts of Hawaii;

3 (4) Access to adult probation records by a victim, as
4 defined in section 706-646 to enforce an order filed
5 pursuant to section 706-647, shall be limited to the:
6 (A) Name and contact information of the defendant's
7 adult probation officer;
8 (B) Compliance record of the defendant with court-
9 ordered payments;
10 (C) Amounts paid by the defendant;
11 (D) Dates of the payments made by the defendant;
12 (E) Payee of payments made by the defendant; and
13 (F) Remaining unpaid balance,
14 without the assessment of a filing fee or surcharge;

15 (5) Upon written request, the victim, or the parent or
16 guardian of a minor victim or incapacitated victim, of
17 a defendant who has been placed on probation for an
18 offense under section 580-10(d)(1), 586-4(e),
19 586-11(a), or 709-906 may be notified by the
20 defendant's probation officer when the probation



1 officer has any information relating to the safety and
2 welfare of the victim;

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

16 (A) A case management, assessment, or treatment
17 service provider assigned by adult probation to
18 service the defendant; provided that such
19 information shall be given only upon the
20 acceptance or admittance of the defendant into a
21 treatment program;



- 1 (B) Correctional case manager, correctional unit
2 manager, and parole officers involved with the
3 defendant's treatment or supervision; and
- 4 (C) In accordance with applicable law, persons or
5 entities doing research;
- 6 (7) Probation drug test results may be released with prior
7 written consent of a defendant to the defendant's
8 treating [~~physician~~] qualified health care provider
9 when test results indicate substance use [~~which~~] that
10 may be compromising the defendant's medical care or
11 treatment;
- 12 (8) Records obtained pursuant to section 704-404(9) may be
13 made available as provided in that section;
- 14 (9) Any person, agency, or entity receiving records, or
15 contents of records, pursuant to this subsection shall
16 be subject to the same restrictions on disclosure of
17 the records as Hawaii state adult probation offices;
18 and
- 19 (10) Any person who uses the information covered by this
20 subsection for purposes inconsistent with the intent
21 of this subsection or outside of the scope of the



1 person's official duties shall be fined no more than
2 \$500.

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

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

8 SECTION 87. Section 841-3, Hawaii Revised Statutes, is
9 amended to read as follows:

10 "**S841-3 Duties.** [†](a)[†] As soon as any coroner or
11 deputy coroner has notice of the death of any person within the
12 coroner's or deputy coroner's jurisdiction as the result of
13 violence, [~~or~~] as the result of any accident, [~~or~~] by suicide,
14 [~~or~~] suddenly when in apparent health, [~~or~~] when unattended by a
15 [~~physician, or~~] qualified health care provider, in prison, [~~or~~]
16 in a suspicious or unusual manner, or within twenty-four hours
17 after admission to a hospital or institution, the coroner or
18 deputy coroner shall [~~forthwith~~] inquire into and make a
19 complete investigation of the cause of the death.

20 [†](b)[†] Any person who becomes aware of the death of any
21 person under any of the circumstances set forth [~~above~~] in



1 subsection (a) shall immediately notify the coroner or deputy
2 coroner of the known facts concerning the time, place, manner,
3 and circumstances of the death.

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

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

9 PART V

10 SECTION 88. Section 134-61, Hawaii Revised Statutes, is
11 amended by amending the definition of "medical professional" to
12 read as follows:

13 ""Medical professional" means a licensed physician,
14 physician assistant, advanced practice registered nurse,
15 psychologist, or psychiatrist who has examined the respondent."

16 SECTION 89. Section 302A-493, Hawaii Revised Statutes, is
17 amended by amending subsection (a) to read as follows:

18 "(a) An educational representative may be appointed if a
19 student lacks decisional capacity to provide informed consent.
20 A determination that the adult student lacks capacity, or that
21 another condition exists that affects the adult student's



1 instruction shall be made by a qualified licensed professional,
2 such as the student's primary physician, psychologist,
3 psychiatrist, physician assistant, advanced practice registered
4 nurse, or the department of health developmental disabilities
5 division."

6 SECTION 90. Section 321-2.5, Hawaii Revised Statutes, is
7 amended by amending subsection (a) to read as follows:

8 "(a) This section shall apply to all volunteer medical
9 assistance personnel, including[+] but not limited to:

- 10 (1) Physicians;
- 11 (2) Psychologists;
- 12 (3) Nurses;
- 13 (4) Emergency medical technicians;
- 14 (5) Social workers;
- 15 (6) Mobile intensive care technicians;
- 16 (7) Physician assistants; and
- 17 (8) Pharmacists,

18 licensed or certified in this State, or employed by a health
19 care facility, while providing volunteer medical assistance
20 services."



1 SECTION 91. Section 321-15.61, Hawaii Revised Statutes, is
2 amended by amending subsection (a) to read as follows:

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

- 7 (1) Admitted to a medicaid waiver program and determined
8 by the department of human services to require nursing
9 facility level care to manage the individual's
10 physical, mental, and social functions; or
11 (2) A private-paying individual certified by a physician,
12 a physician assistant, or an advanced practice
13 registered nurse as needing a nursing facility level
14 of care."

15 SECTION 92. Section 321-15.62, Hawaii Revised Statutes, is
16 amended by amending subsection (b) to read as follows:

17 "(b) The director of health shall adopt rules regarding
18 expanded adult residential care homes in accordance with chapter
19 91 that shall implement a social model of health care designed
20 to:



- 1 (1) Protect the health, safety, civil rights, and rights
2 of choice of residents in a nursing facility or in
3 home- or community-based care;
- 4 (2) Provide for the licensing of expanded adult
5 residential care homes for persons who are certified
6 by the department of human services, a physician, a
7 physician assistant, an advanced practice registered
8 nurse, or a registered nurse case manager as requiring
9 skilled nursing facility level or intermediate care
10 facility level of care who have no financial
11 relationship with the home care operator or facility
12 staff; provided that the rules shall allow group
13 living in the following two categories of expanded
14 adult residential care homes as licensed by the
15 department of health:
- 16 (A) A type I home shall consist of five or fewer
17 residents with no more than two nursing facility
18 level residents; provided that more nursing
19 facility level residents may be allowed at the
20 discretion of the department; [~~and~~] provided
21 further that up to six residents may be allowed



1 at the discretion of the department to live in a
2 type I home; provided that the primary caregiver
3 or home operator is a certified nurse aide who
4 has completed a state-approved training program
5 and other training as required by the department;
6 and

7 (B) A type II home shall consist of six or more
8 residents, with no more than twenty per cent of
9 the home's licensed capacity as nursing facility
10 level residents; provided that more nursing
11 facility level residents may be allowed at the
12 discretion of the department;

13 provided further that the department shall exercise
14 its discretion for a resident presently residing in a
15 type I or type II home, to allow the resident to
16 remain as an additional nursing facility level
17 resident based upon the best interests of the
18 resident. The best interests of the resident shall be
19 determined by the department after consultation with
20 the resident[τ]; the resident's family[τ]; primary
21 physician, physician assistant, advanced practice



1 registered nurse, or registered nurse; case
2 manager[~~r~~]; primary caregiver[~~r~~]; and home operator;
3 (3) Comply with applicable federal laws and regulations of
4 title XVI of the Social Security Act, as amended; and
5 (4) Provide penalties for the failure to comply with any
6 rule."

7 SECTION 93. Section 321-23.3, Hawaii Revised Statutes, is
8 amended by amending subsection (a) to read as follows:

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

- 11 (1) Physicians;
12 (2) Psychologists;
13 (3) Nurses;
14 (4) Emergency medical technicians;
15 (5) Social workers;
16 (6) Mobile intensive care technicians;
17 (7) Physician assistants; and
18 (8) Pharmacists,

19 licensed in the State, or employed by a health care facility,
20 while engaged in the emergency response to a mass casualty event
21 or disaster condition, including participation during periods of



1 mass casualty and disaster management training, shall be deemed
2 state employees or county employees, as the case may be, and
3 shall have the powers, duties, rights, and privileges of such in
4 the performance of their duties as prescribed by or under the
5 authority of the governor or a county."

6 SECTION 94. Section 321-23.6, Hawaii Revised Statutes, is
7 amended by amending subsection (a) to read as follows:

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

10 (1) Uniform methods of rapidly identifying an adult person
11 who has certified, or for whom has been certified, in
12 a written "comfort care only" document that the person
13 or, consistent with chapter 327E, the person's
14 guardian, agent, or surrogate directs emergency
15 medical services personnel, first responder personnel,
16 and health care providers not to administer chest
17 compressions, rescue breathing, electric shocks, or
18 medication, or all of these, given to restart the
19 heart if the person's breathing or heart stops, and
20 directs that the person is to receive care for comfort
21 only, including oxygen, airway suctioning, splinting



- 1 of fractures, pain medicine, and other measures
2 required for comfort;
- 3 (2) The written document containing the certification
4 shall be signed by the patient or, consistent with
5 chapter 327E, the person's guardian, agent, or
6 surrogate and by any two other adult persons who
7 personally know the patient; and
- 8 (3) The original document containing the certification and
9 all three signatures shall be maintained by the
10 patient, the patient's:
- 11 (A) Physician[+], physician assistant, or advanced
12 practice registered nurse;
- 13 (B) Attorney;
- 14 (C) Guardian;
- 15 (D) Surrogate; or
- 16 (E) Any other person who may lawfully act on the
17 patient's behalf.
- 18 Two copies of the document shall be given to the
19 patient, or the patient's guardian, agent, or
20 surrogate.
- 21 (b) The rules shall provide for the following:



- 1 (1) The patient, or the patient's guardian, agent, or
2 surrogate, may verbally revoke the "comfort care only"
3 document at any time, including during the emergency
4 situation;
- 5 (2) An anonymous tracking system shall be developed to
6 assess the success or failure of the procedures and to
7 ensure that abuse is not occurring; and
- 8 (3) If an emergency medical services person, first
9 responder, or any other health care provider believes
10 in good faith that the provider's safety, the safety
11 of the family or immediate bystanders, or the
12 provider's own conscience requires the patient be
13 resuscitated despite the presence of a "comfort care
14 only" document, then that provider may attempt to
15 resuscitate that patient, and neither the provider,
16 the ambulance service, nor any other person or entity
17 shall be liable for attempting to resuscitate the
18 patient against the patient's will."

19 SECTION 95. Section 321-313, Hawaii Revised Statutes, is
20 amended to read as follows:



1 "~~§321-313~~ **Definition of health care professional.** [A
2 ~~health care professional means a physician or osteopathic~~
3 ~~physician as licensed under chapter 453.]~~ For purposes of this
4 part, "health care professional" has the same meaning as in
5 section 451D-2."

6 SECTION 96. Section 321-331, Hawaii Revised Statutes, is
7 amended by amending subsection (b) to read as follows:

8 "(b) The department of health may:

- 9 (1) Provide educational resources to all women in the
10 State before and early in pregnancy about the
11 availability of prenatal tests, including non-
12 directive counseling and impartial information on the
13 benefits, risks, and limitations of prenatal tests;
- 14 (2) Make available prenatal screening and diagnosis tests
15 to all pregnant women in this State who choose to be
16 so screened;
- 17 (3) Specify the diseases which may be screened for;
- 18 (4) Determine screening and diagnostic test methodologies;
- 19 (5) Establish laboratory quality control standards for
20 performance of designated tests;



- 1 (6) Provide technical assistance to laboratories,
2 hospitals, physicians, physician assistants, advanced
3 practice registered nurses, and other health care
4 providers;
- 5 (7) Maintain a confidential registry and collect
6 appropriate statistical data for the purposes of
7 research and evaluation;
- 8 (8) Collect fees for program services; and
- 9 (9) Maintain confidentiality of records of women and their
10 families participating in the program."

11 SECTION 97. Section 323D-54, Hawaii Revised Statutes, is
12 amended to read as follows:

13 **"§323D-54 Exemptions from certificate of need**
14 **requirements.** Nothing in this part or rules with respect to the
15 requirement for certificates of need applies to:

- 16 (1) Offices of physicians, dentists, or other
17 [~~practitioners of the healing arts~~] health care
18 providers in private practice as distinguished from
19 organized ambulatory health care facilities, except in
20 any case of purchase or acquisition of equipment
21 attendant to the delivery of health care service and



- 1 the instruction or supervision for any private office
2 or clinic involving a total expenditure in excess of
3 the expenditure minimum;
- 4 (2) Laboratories, as defined in section 321-11(12), except
5 in any case of purchase or acquisition of equipment
6 attendant to the delivery of health care service and
7 the instruction or supervision for any laboratory
8 involving a total expenditure in excess of the
9 expenditure minimum;
- 10 (3) Dispensaries and first aid stations located within
11 business or industrial establishments and maintained
12 solely for the use of employees; provided such
13 facilities do not regularly provide inpatient or
14 resident beds for patients or employees on a daily
15 twenty-four-hour basis;
- 16 (4) Dispensaries or infirmaries in correctional or
17 educational facilities;
- 18 (5) Dwelling establishments, such as hotels, motels, and
19 rooming or boarding houses that do not regularly
20 provide health care facilities or health care
21 services;



- 1 (6) Any home or institution conducted only for those who,
2 pursuant to the teachings, faith, or belief of any
3 group, depend for healing upon prayer or other
4 spiritual means;
- 5 (7) Dental clinics;
- 6 (8) Nonpatient areas of care facilities such as parking
7 garages and administrative offices;
- 8 (9) Bed changes that involve ten per cent or ten beds of
9 existing licensed bed types, whichever is less, of a
10 facility's total existing licensed beds within a two-
11 year period;
- 12 (10) Projects that are wholly dedicated to meeting the
13 State's obligations under court orders, including
14 consent decrees, that have already determined that
15 need for the projects exists;
- 16 (11) Replacement of existing equipment with its modern-day
17 equivalent;
- 18 (12) Primary care clinics under the expenditure thresholds
19 referenced in section 323D-2;
- 20 (13) Equipment and services related to that equipment, that
21 are primarily invented and used for research purposes



- 1 as opposed to usual and customary diagnostic and
2 therapeutic care;
- 3 (14) Capital expenditures that are required:
- 4 (A) To eliminate or prevent imminent safety hazards
5 as defined by federal, state, or county fire,
6 building, or life safety codes or regulations;
- 7 (B) To comply with state licensure standards;
- 8 (C) To comply with accreditation standards,
9 compliance with which is required to receive
10 reimbursements under Title XVIII of the Social
11 Security Act or payments under a state plan for
12 medical assistance approved under Title XIX of
13 such Act;
- 14 (15) Extended care adult residential care homes and
15 assisted living facilities; or
- 16 (16) Other facilities or services that the agency through
17 the statewide council chooses to exempt, by rules
18 pursuant to section 323D-62."

19 SECTION 98. Section 325-54, Hawaii Revised Statutes, is
20 amended to read as follows:



1 "**§325-54 Reports confidential; penalty.** Any information
2 secured from the tests or the reports in this part required to
3 be made by persons having access to such tests or reports shall
4 be used only in connection with their professional duties or
5 within the scope and course of their employment, but not
6 otherwise, and except to the extent required in connection with
7 enforcement of the laws and ordinances of the State, and its
8 political subdivisions, and valid rules and regulations adopted
9 thereunder, which are for the protection of the public health,
10 shall not be divulged to others than the [~~doctor~~] physician and
11 other person permitted by law to attend and attending a pregnant
12 woman, laboratory technicians, or the department of health and
13 its duly authorized representatives. Any person violating this
14 section shall be fined \$500, or imprisoned not more than ninety
15 days, or both."

16 SECTION 99. Section 325-101, Hawaii Revised Statutes, is
17 amended by amending subsection (a) to read as follows:

18 "(a) The records of any person that indicate that a person
19 has a human immunodeficiency virus (HIV) infection, AIDS related
20 complex (ARC), or acquired immune deficiency syndrome (AIDS),
21 which are held or maintained by any state agency, health care



1 provider or facility, physician, [~~osteopathic physician,~~
2 physician assistant, advanced practice registered nurse,
3 laboratory, clinic, blood bank, third party payor, or any other
4 agency, individual, or organization in the State shall be
5 strictly confidential. For the purposes of this part, [~~the~~
6 ~~term~~] "records" shall be broadly construed to include all
7 communication that identifies any individual who has HIV
8 infection, ARC, or AIDS. This information shall not be released
9 or made public upon subpoena or any other method of discovery.
10 Notwithstanding any other provision to the contrary, release of
11 the records protected under this part shall be permitted under
12 the following circumstances:

- 13 (1) Release is made to the department of health in order
14 that it may comply with federal reporting requirements
15 imposed on the State. The department shall ensure
16 that personal identifying information from these
17 records is protected from public disclosure;
- 18 (2) Release is made of the records, or of specific medical
19 or epidemiological information contained [~~therein,~~] in
20 the records, with the prior written consent of the
21 person or persons to whom the records pertain;



- 1 (3) Release is made to medical personnel in a medical
2 emergency only to the extent necessary to protect the
3 health, life, or well-being of the named party;
- 4 (4) Release is made from a physician [~~or osteopathic~~
5 ~~physician~~] licensed pursuant to chapter 453, a
6 physician assistant licensed pursuant to chapter 453,
7 or an advanced practice registered nurse licensed
8 pursuant to chapter 457 to the department of health to
9 inform the sexual or needle sharing contact of an HIV
10 seropositive patient where:
- 11 (A) There is reason for the physician [~~or osteopathic~~
12 ~~physician~~], physician assistant, or advanced
13 practice registered nurse to believe that the
14 contact is or has been at risk of HIV
15 transmission as a result of the index patient
16 having engaged in conduct [~~which~~] that is likely
17 to transmit HIV; and
- 18 (B) The index patient has first been counseled by the
19 physician [~~or osteopathic physician~~], physician
20 assistant, or advanced practice registered nurse
21 of the need for disclosure and the patient is



1 unwilling to inform the contact directly or is
2 unwilling to consent to the disclosure of the
3 index patient's HIV status by the physician, [~~the~~
4 ~~osteopathic physician,~~] physician assistant,
5 advanced practice registered nurse, or [~~the~~
6 department of health; provided that the identity
7 of the index patient is not disclosed; [~~and~~
8 provided further that there is no obligation to
9 identify or locate any contact. Any
10 determination by a physician [~~or osteopathic~~
11 ~~physician~~], physician assistant, or advanced
12 practice registered nurse to disclose or withhold
13 disclosure of an index patient's sexual contacts
14 to the department of health pursuant to this
15 subsection [~~which~~] that is made in good faith
16 shall not be subject to penalties under this part
17 or otherwise subject to civil or criminal
18 liability for damages under the laws of the
19 State;

20 (5) Release is made by the department of health of medical
21 or epidemiological information from the records to



1 medical personnel, appropriate county and state
2 agencies, blood banks, plasma centers, organ and
3 tissue banks, schools, preschools, day care centers,
4 or county or district courts to enforce this part and
5 to enforce rules adopted by the department concerning
6 the control and treatment of HIV infection, ARC, and
7 AIDS, or to the sexual or needle sharing contacts of
8 an HIV seropositive index patient for purposes of
9 contact notification as provided in paragraph (4);
10 provided that the identity of the index patient, if
11 known, shall not be disclosed; provided further that
12 release of information under this paragraph shall only
13 be made by confidential communication to a designated
14 individual charged with compliance with this part;

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

18 (7) Release of a child's records is made within the
19 department of human services and to child protective
20 services team consultants under contract to the
21 department of human services for the purpose of



1 enforcing and administering chapters 350 and 587A on a
2 ~~[need to know]~~ need-to-know basis pursuant to a
3 written protocol to be established and implemented, in
4 consultation with the director of health, by the
5 director of human services;

6 (8) Release of a child's records is made by employees of
7 the department of human services authorized to do so
8 by the protocol established in paragraph (7) to a
9 natural parent of a child who is the subject of the
10 case when the natural parent is a client in the case,
11 the guardian ad litem of the child, the court, each
12 party to the court proceedings, and also to an
13 adoptive or a prospective adoptive parent, an
14 individual or an agency with whom the child is placed
15 for twenty-four hour residential care, and medical
16 personnel responsible for the care or treatment of the
17 child. When a release is made to a natural parent of
18 the child, it shall be with appropriate counseling as
19 required by section 325-16. In no event shall
20 proceedings be initiated against a child's natural
21 parents for claims of child abuse under chapter 350 or



1 harm to a child or to affect parental rights under
2 chapter 587A solely on the basis of the HIV
3 seropositivity of a child or the child's natural
4 parents;

5 (9) Release is made to the patient's health care insurer
6 to obtain reimbursement for services rendered to the
7 patient; provided that release shall not be made if,
8 after being informed that a claim will be made to an
9 insurer, the patient is afforded the opportunity to
10 make the reimbursement directly and actually makes the
11 reimbursement;

12 (10) Release is made by the patient's health care provider
13 to another health care provider for the purpose of
14 continued care or treatment of the patient;

15 (11) Release is made pursuant to a court order, after an in
16 camera review of the records, upon a showing of good
17 cause by the party seeking release of the records;

18 (12) Disclosure by a physician [~~or osteopathic physician~~],
19 a physician assistant, or an advanced practice
20 registered nurse, on a confidential basis, of the
21 identity of a person who is HIV seropositive and who



1 also shows evidence of tuberculosis infection, to a
2 person within the department of health as designated
3 by the director of health for purposes of evaluating
4 the need for or the monitoring of tuberculosis
5 chemotherapy for the person and the person's contacts
6 who are at risk of developing tuberculosis; or
7 (13) Release is made for the purpose of complying with
8 sections 325-16.5 and 801D-4(b). Nothing in this
9 section shall be construed to prohibit a victim to
10 whom information is released pursuant to section 325-
11 16.5 from requesting the release of information by a
12 physician, [~~osteopathic physician,~~] a physician
13 assistant, an advanced practice registered nurse, or
14 an HIV counselor to a person with whom the victim
15 shares a privileged relationship recognized by chapter
16 626; provided that prior to such release, the person
17 to whom the information is to be released shall be
18 required to sign a notice of HIV status disclosure
19 advising them of the confidentiality provisions
20 regarding HIV test results and the penalties for
21 unlawful disclosure to any person other than a



1 designated physician, [~~osteopathic physician,~~
2 physician assistant, advanced practice registered
3 nurse, or HIV counselor.

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

6 "Medical emergency" means any disease-related situation
7 that threatens life or limb.

8 "Medical personnel" means any health care provider in the
9 State, as provided in section 323D-2, who deals directly or
10 indirectly with the identified patient or the patient's
11 contacts, and includes hospital emergency room personnel, the
12 staff of the communicable disease division of the department of
13 health, and any other department personnel as designated by the
14 director."

15 SECTION 100. Section 327C-1, Hawaii Revised Statutes, is
16 amended to read as follows:

17 "**§327C-1 Determination of death.** (a) Except as provided
18 in subsection (b), a person shall be considered dead if, in the
19 announced opinion of a physician [~~or osteopathic physician]~~
20 licensed under part I of chapter 453, physician [~~or osteopathic~~
21 ~~physician]~~ excepted from licensure by section 453-2(b)(3),



1 physician assistant licensed under chapter 453, advanced
2 practice registered nurse licensed under chapter 457, or
3 registered nurse licensed under chapter 457, based on ordinary
4 standards of current medical practice, the person has
5 experienced irreversible cessation of spontaneous respiratory
6 and circulatory functions. Death will have occurred at the time
7 when the irreversible cessation of the functions first
8 coincided.

9 (b) In the event that artificial means of support preclude
10 a determination that respiratory and circulatory functions have
11 ceased, a person shall be considered dead if, in the opinion of
12 [~~an attending physician or osteopathic physician licensed under~~
13 ~~part I of chapter 453, or attending physician or osteopathic~~
14 ~~physician excepted from licensure by section 453-2(b)(3),~~] a
15 health care provider, and of a consulting [~~physician or~~
16 ~~osteopathic physician licensed under part I of chapter 453, or~~
17 ~~consulting physician or osteopathic physician excepted from~~
18 ~~licensure by section 453-2(b)(3),~~] health care provider, based
19 on ordinary standards of current medical practice, the person
20 has experienced irreversible cessation of all functions of the
21 entire brain, including the brain stem. The opinions of the



1 ~~[physicians or osteopathic physicians]~~ health care providers
2 shall be evidenced by signed statements. Death will have
3 occurred at the time when the irreversible cessation of all
4 functions of the entire brain, including the brain stem, first
5 occurred. Death shall be pronounced before artificial means of
6 support are withdrawn and before any vital organ is removed for
7 purposes of transplantation.

8 (c) When a part of a donor is used for direct organ
9 transplantation under chapter 327, and the donor's death is
10 established by determining that the donor experienced
11 irreversible cessation of all functions of the entire brain,
12 including the brain stem, the determination shall only be made
13 under subsection (b). The determination of death in all other
14 cases shall be made under subsection (a). The ~~[physicians or~~
15 ~~osteopathic physicians]~~ health care providers making the
16 determination of death shall not participate in the procedures
17 for removing or transplanting a part, or in the care of any
18 recipient.

19 (d) All death determinations in the State shall be made
20 pursuant to this section and shall apply to all purposes,
21 including but not limited to civil and criminal actions, any



1 laws to the contrary notwithstanding; provided that presumptive
2 deaths under the Uniform Probate Code shall not be affected by
3 this section.

4 (e) The director of health may convene in every odd-
5 numbered year, a committee [~~which~~] that shall be composed of
6 representatives of appropriate general and specialized medical
7 professional organizations, licensed attorneys, and members of
8 the public. The committee shall review medical practice, legal
9 developments, and other appropriate matters to determine the
10 continuing viability of this section, and shall submit a report
11 of its findings and recommendations to the legislature, prior to
12 the convening of the regular session held in each even-numbered
13 year.

14 (f) For purposes of this section, "health care provider"
15 means a physician or osteopathic physician licensed under
16 chapter 453, a physician or osteopathic physician excepted from
17 licensure by section 453-2(b)(3), a physician assistant licensed
18 under chapter 453, or an advanced practice registered nurse
19 licensed under chapter 457."



1 SECTION 101. Section 328-1, Hawaii Revised Statutes, is
2 amended by amending the definition of "out-of-state
3 practitioner" to read as follows:

4 "Out-of-state practitioner" means a physician, surgeon,
5 osteopathic physician [~~and~~] or surgeon, physician assistant,
6 advanced practice registered nurse, pharmacist, dentist,
7 podiatrist, or veterinarian authorized to prescribe drugs to
8 patients under the applicable laws of any state of the United
9 States except the State of Hawaii, or a physician, surgeon,
10 osteopathic physician [~~and~~] or surgeon, physician assistant,
11 advanced practice registered nurse, pharmacist, dentist,
12 podiatrist, or veterinarian authorized to prescribe drugs under
13 the applicable laws of Hawaii, but practicing in a state other
14 than Hawaii."

15 SECTION 102. Section 328-112, Hawaii Revised Statutes, is
16 amended as follows:

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

19 ""Practitioner" means an individual licensed by the State
20 or authorized by the laws of the State to prescribe prescription
21 drugs within the scope of the individual's practice."



1 2. By amending the definition of "wholesale distributor"
2 to read:

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

18 SECTION 103. Section 328-97, Hawaii Revised Statutes, is
19 amended to read as follows:



1 "**§328-97 Posting requirements.** Every pharmacy shall
2 prominently display, in clear and unobstructed public view, a
3 sign in block letters that shall read:

4

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

10

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

12 SECTION 104. Section 329-125.5, Hawaii Revised Statutes,
13 is amended by amending subsection (b) to read as follows:

14 "(b) For the purposes of medical care, including organ
15 transplants, a registered qualifying patient's use of cannabis
16 in compliance with this part shall be considered the equivalent
17 of the use of any other medication under the direction of a
18 physician, advanced practice registered nurse, or other
19 authorized health care provider and shall not constitute the use
20 of an illicit substance or otherwise disqualify a registered
21 qualifying patient from medical care."



1 SECTION 105. Section 334B-2, Hawaii Revised Statutes, is
2 amended as follows:

3 1. By adding three new definitions to be appropriately
4 inserted and to read:

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

7 "Pharmacist" means a person licensed pursuant to chapter
8 461.

9 "Physician assistant" means a person licensed pursuant to
10 section 453-5.3."

11 2. By amending the definition of "health care provider" to
12 read:

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



1 SECTION 106. Section 338-10, Hawaii Revised Statutes, is
2 amended to read as follows:

3 **"§338-10 Late determination of the cause of death.** If the
4 cause of death cannot be determined within three days, the
5 certification of its cause may be filed after the prescribed
6 period, but the attending physician, physician assistant,
7 advanced practice registered nurse, or coroner's physician shall
8 notify in writing the local agent of the department of health of
9 the district in which the death occurred of the reason for late
10 filing, in order that a permit for the disposition of the body
11 may be issued.

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

14 SECTION 107. Section 338-17.7, Hawaii Revised Statutes, is
15 amended by amending subsection (a) to read as follows:

16 "(a) The department of health shall establish, in the
17 following circumstances, a new certificate of birth for a person
18 born in this State who already has a birth certificate filed
19 with the department and who is referred to below as the "birth
20 registrant":



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



- 1 (A) The physician [~~or~~], physician assistant, or
2 advanced practice registered nurse has a bona
3 fide provider-patient relationship with the birth
4 registrant;
- 5 (B) The physician [~~or~~], physician assistant, or
6 advanced practice registered nurse has treated
7 and evaluated the birth registrant and has
8 reviewed and evaluated the birth registrant's
9 medical history;
- 10 (C) The birth registrant has had appropriate clinical
11 treatment for gender transition to the new gender
12 and has completed the transition to the new
13 gender; and
- 14 (D) The new gender does not align with the sex
15 designation on the birth registrant's birth
16 certificate; or
- 17 (5) Upon request of a law enforcement agency certifying
18 that a new birth certificate showing different
19 information would provide for the safety of the birth
20 registrant; provided that the new birth certificate
21 shall contain information requested by the law



1 enforcement agency, shall be assigned a new number and
2 filed accordingly, and shall not substitute for the
3 birth registrant's original birth certificate, which
4 shall remain in place."

5 SECTION 108. Section 342D-21, Hawaii Revised Statutes, is
6 amended as follows:

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

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

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

14 "(c) For purposes of this section:

15 [~~"Licensed healthcare provider"~~] "Licensed health care
16 provider" means a physician or an osteopathic physician licensed
17 pursuant to chapter 453, a physician assistant licensed pursuant
18 to chapter 453, or an advanced practice registered nurse
19 licensed pursuant to chapter 457.

20 "Octinoxate" refers to the chemical (RS)-2-Ethylhexyl (2E)-
21 3-(4-methoxyphenyl)prop-2-enoate under the International Union



1 of Pure and Applied Chemistry chemical nomenclature registry;
2 that has a chemical abstract service registry number 5466-77-3;
3 the synonyms of which include but are not limited to ethylhexyl
4 methoxycinnamate, octyl methoxycinnamate, Eusolex 2292, Neo
5 Heliopan AV, NSC 26466, Parsol MOX, Parsol MCX, and Uvinul MC80;
6 and is intended to be used as protection against ultraviolet
7 light radiation with a spectrum wavelength from 370 nanometers
8 to 220 nanometers in a sunscreen.

9 "Oxybenzone" refers to the chemical (2-Hydroxy-4-
10 methoxyphenyl)-phenylmethanone under the International Union of
11 Pure and Applied Chemistry chemical nomenclature registry; that
12 has a chemical abstract service registry number 131-57-7; the
13 synonyms of which include but are not limited to benzophenone-3,
14 Escalol 567, Eusolex 4360, KAHSCREEN BZ-3, Uvasorb MET/C,
15 Syntase 62, UV 9, Uvinul 9, Uvinul M-40, Uvistat 24, USAF Cy-9,
16 Uniphenone-3U, 4-methoxy-2-hydroxybenzophenone and Milestab 9;
17 and is intended to be used as protection against ultraviolet
18 light radiation with a spectrum wavelength from 370 nanometers
19 to 220 nanometers in a sunscreen.

20 "Prescription" means an order for medication, that is
21 dispensed to or for an ultimate user. "Prescription" shall not



1 include an order for medication that is dispensed for immediate
2 administration to the ultimate user, such as a chart order to
3 dispense a drug to a bed patient for immediate administration in
4 a hospital. "Prescription" includes an order for a sunscreen.

5 "Sunscreen" means a product marketed or intended for
6 topical use to prevent sunburn. Sunscreen does not include
7 products marketed or intended for use as a cosmetic, as defined
8 in section 328-1, for the face."

9 SECTION 109. Section 346-1, Hawaii Revised Statutes, is
10 amended by amending the definition of "other work eligible
11 household" to read as follows:

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

17 (1) Unable to engage in full-time employment as defined by
18 the work participation requirements of the Social
19 Security Act, title 42 United States Code section 607,
20 at a job for which the non-recipient parent is
21 equipped by education, training, or experience, for a



1 period of more than thirty days from the onset of an
2 illness, incapacity, or disability due to a physical
3 or mental impairment or substance abuse, as determined
4 by a licensed physician, physician assistant, advanced
5 practice registered nurse, or psychologist;

6 (2) A domestic violence victim or any other adult in the
7 assistance unit who meets the criteria established by
8 the department; or

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

10 SECTION 110. Section 346-53.64, Hawaii Revised Statutes,
11 is amended by amending subsection (a) to read as follows:

12 "(a) Services eligible for prospective payment system
13 reimbursement are those services that are furnished by a
14 federally qualified health center or rural health clinic that
15 are:

16 (1) Within the legal authority of a federally qualified
17 health center to deliver, as defined in section 1905
18 of the Social Security Act;

19 (2) Actually provided by the federally qualified health
20 center, either directly or under arrangements;



- 1 (3) Covered benefits under the medicaid program, as
2 defined in section 4231 of the State Medicaid Manual
3 and the Hawaii medicaid state plan;
- 4 (4) Provided to a recipient eligible for medicaid
5 benefits;
- 6 (5) Delivered exclusively by health care professionals,
7 including physicians, [~~physician's~~] physician
8 assistants, [~~nurse practitioners, nurse midwives,~~]
9 advanced practice registered nurses, clinical social
10 workers, clinical psychologists, pharmacists, and
11 other persons acting within the lawful scope of their
12 license or certificate to provide services;
- 13 (6) Provided at the federally qualified health center's
14 practice site, a hospital emergency room, in an
15 inpatient setting, at the patient's place of
16 residence, including [~~long-term~~] long-term care
17 facilities, or at another medical facility; and
- 18 (7) Within the scope of services provided by the State
19 under its fee-for-service medicaid program and its
20 medicaid managed care program, on and after August
21 1994, and as amended from time to time."



1 SECTION 111. Section 346-59, Hawaii Revised Statutes, is
2 amended by amending subsection (b) to read as follows:

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

14 The appropriation act shall indicate the percentage of the
15 medicare fee schedule for the year 2000 to be used as the basis
16 for establishing the Hawaii medicaid fee schedule. For any
17 subsequent adjustments to the fee schedule, the legislature
18 shall specify the extent of the adjustment in the appropriation
19 act."

20 SECTION 112. Section 346-59.1, Hawaii Revised Statutes, is
21 amended by amending subsection (g) to read as follows:



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

2 "Distant site" means the location of the health care
3 provider delivering services through telehealth at the time the
4 services are provided.

5 "Health care provider" means a provider of services, as
6 defined in title 42 United States Code section 1395x(u), a
7 provider of medical and other health services, as defined in
8 title 42 United States Code section 1395x(s), other
9 practitioners licensed by the State and working within their
10 scope of practice, and any other person or organization who
11 furnishes, bills, or is paid for health care in the normal
12 course of business, including but not limited to primary care
13 providers, mental health providers, oral health providers,
14 physicians and osteopathic physicians licensed under chapter
15 453, physician assistants licensed under chapter 453, advanced
16 practice registered nurses licensed under chapter 457,
17 psychologists licensed under chapter 465, pharmacists licensed
18 under chapter 461, and dentists licensed under chapter 448.

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



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

10 "Telehealth" means the use of telecommunications services,
11 as defined in section 269-1, to encompass four modalities:
12 store and forward technologies, remote monitoring, live
13 consultation, and mobile health; and which shall include but not
14 be limited to real-time video conferencing-based communication,
15 secure interactive and non-interactive web-based communication,
16 and secure asynchronous information exchange, to transmit
17 patient medical information, including diagnostic-quality
18 digital images and laboratory results for medical interpretation
19 and diagnosis, for the purpose of delivering enhanced health
20 care services and information while a patient is at an
21 originating site and the health care provider is at a distant



1 site. Except as provided through an interactive
2 telecommunications system, standard telephone contacts,
3 facsimile transmissions, or e-mail text, in combination or
4 alone, do not constitute telehealth services."

5 SECTION 113. Section 346-71, Hawaii Revised Statutes, is
6 amended by amending subsection (b) to read as follows:

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

- 10 (1) Is determined to be needy in accordance with standards
11 established by this chapter and the rules adopted
12 under subsection (e);
- 13 (2) Is unable to meet the disability requirements
14 established by the federal supplemental security
15 income program or its successor agency; and
- 16 (3) Is unable to engage in any substantial gainful
17 employment because of a determined and certified
18 physical, mental, or combination of physical and
19 mental disability. Upon application, the department
20 shall ask the person whether the person has a physical
21 or mental disability, or both. If the person claims



1 to have both a physical and mental disability, the
2 department shall ask the person to choose whether the
3 person's primary disability is physical or mental.

4 Determination and certification of the disability
5 shall be as follows:

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

13 (B) A determination and certification of mental
14 disability shall be made by a board of licensed
15 psychologists [e], licensed physicians,
16 physician assistants, advanced practice
17 registered nurses, or other licensed health care
18 providers whose specialty is in psychiatry. This
19 board shall be designated and paid by the
20 department. Meetings of this board shall not be
21 subject to part I of chapter 92;



- 1 (C) If a determination and certification is made that
2 the applicant does not have a physical, mental,
3 or combination of a physical and mental
4 disability, prior to a denial of any claim, the
5 department shall provide the applicant with an
6 initial denial notice that gives the applicant at
7 least ten calendar days to provide additional
8 medical evidence. The notice shall refer the
9 applicant to free legal services for assistance
10 and permit the applicant to request extensions of
11 time, if necessary;
- 12 (D) If a determination of physical, mental, or
13 combination of a physical and mental disability
14 is made, the person shall accept and pursue
15 appropriate medical treatment from a provider of
16 the person's choice. The department shall
17 promptly provide the person with a complete and
18 legible copy of the recommended appropriate
19 treatment;
- 20 (E) Any person, to continue to be certified as
21 mentally disabled, physically disabled, or both



1 mentally and physically disabled, shall be
2 reevaluated annually, as provided by this
3 section, and more frequently, as required by the
4 department; and

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

9 (i) Treatment is unavailable;

10 (ii) Personal emergencies; and

11 (iii) Circumstances that threaten the safety of
12 the patient.

13 The department shall adopt rules in accordance with chapter 91
14 to define "good cause", as used in subparagraph (F), in order to
15 determine when treatment is unavailable, what constitutes a
16 personal emergency, what circumstances may threaten the safety
17 of a patient, and other factors that may constitute good cause.

18 As used in this subsection:

19 "Substantial gainful employment" means at least thirty
20 hours of work per week.



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

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

17 SECTION 114. Section 346-240, Hawaii Revised Statutes, is
18 amended by amending subsection (c) to read as follows:

19 "(c) If facts sufficient to sustain the petition are
20 established in court, or are stipulated to by all parties, the
21 court shall enter an order finding that the vulnerable adult has



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

17 SECTION 115. Section 353-10, Hawaii Revised Statutes, is
18 amended by amending subsection (a) to read as follows:

19 "(a) There shall be within the department of corrections
20 and rehabilitation, an intake service center for adults in each
21 of the counties to screen, evaluate, and classify the admission



1 of persons to community correctional centers. Each center shall
2 be directed and managed by a manager and shall be staffed by a
3 team of psychiatrists, social workers, advanced practice
4 registered nurses with a nationally accredited board
5 certification in psychiatric mental health, physician
6 assistants, pharmacists, psychologists, technicians, and other
7 personnel as may be necessary. The director of corrections and
8 rehabilitation may appoint full-time or part-time professional
9 and clerical staff or contract for professional services."

10 SECTION 116. Section 353-13.5, Hawaii Revised Statutes, is
11 amended to read as follows:

12 "[~~§~~353-13.5] **Election of private medical or**
13 **psychological care by prisoners.** The director shall permit
14 prisoners to retain any private licensed [~~medical doctor~~]
15 physician or osteopathic physician, physician assistant,
16 advanced practice registered nurse, or psychologist for their
17 own medical or psychological care at the correctional facility
18 in addition to [~~such~~] care [~~as~~] that may be provided by the
19 department; provided that any fees or other costs charged by a
20 private [~~medical doctor~~] physician or osteopathic physician,
21 physician assistant, advanced practice registered nurse, or



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

18 SECTION 117. Section 353-13.7, Hawaii Revised Statutes, is
19 amended to read as follows:

20 "**§353-13.7 Initiation of proceeding for involuntary**
21 **medical treatment.** (a) The director, or the director's



1 designee, may file a petition for involuntary medical treatment
2 alleging that a person in the custody of the department meets
3 the criteria for involuntary medical treatment under section
4 353-13.6. The petition shall be executed subject to the
5 penalties of perjury but need not be sworn to before a notary
6 public and shall be filed in the circuit court of the circuit
7 wherein the person who is the subject of the petition is in
8 custody. The attorney general, the attorney general's deputy,
9 special deputy, or appointee designated to present the case
10 shall assist the petitioner to state the substance of the
11 petition in plain and simple language. The petition may be
12 accompanied by an affidavit or declaration of the licensed
13 ~~[physician or psychologist]~~ health care provider who has
14 examined the person within five days prior to submission of the
15 petition, unless the person whose treatment is sought has
16 refused to submit to a medical or psychological examination, in
17 which case the fact of refusal shall be alleged in the petition.
18 The affidavit or declaration shall set forth the signs and
19 symptoms relied upon by the ~~[physician or psychologist]~~ health
20 care provider to determine whether the person is in need of
21 treatment, whether the person is capable of realizing and making



1 a rational decision with respect to the person's need for
2 treatment, and the recommended treatment. If the petitioner
3 believes that further evaluation is necessary before treatment,
4 the petitioner may request such further evaluation.

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

13 (c) For purposes of this section, "health care provider"
14 means a physician or an osteopathic physician licensed pursuant
15 to chapter 453, a physician assistant licensed pursuant to
16 chapter 453, an advanced practice registered nurse licensed
17 pursuant to chapter 457, or a psychologist licensed pursuant to
18 chapter 465."

19 SECTION 118. Section 353-13.9, Hawaii Revised Statutes, is
20 amended by amending subsection (g) to read as follows:



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

15 For purposes of this section, "health care provider" means
16 a physician or an osteopathic physician licensed pursuant to
17 chapter 453, a physician assistant licensed pursuant to chapter
18 453, an advanced practice registered nurse licensed pursuant to
19 chapter 457, or a psychologist licensed pursuant to chapter
20 465."



1 SECTION 119. Section 378-32, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "**§378-32 Unlawful suspension, [~~barring~~], discharge,**
4 **[~~withholding pay, demoting~~], or discrimination.** [~~(a)~~] It shall
5 be unlawful for any employer to suspend, discharge, or
6 discriminate against any of the employer's employees:

7 (1) Solely because the employer was summoned as a
8 garnishee in a cause where the employee is the debtor
9 or because the employee has filed a petition in
10 proceedings for a wage earner plan under chapter XIII
11 of the Bankruptcy Act;

12 (2) Solely because the employee has suffered a work injury
13 which arose out of and in the course of the employee's
14 employment with the employer and which is compensable
15 under chapter 386 unless the employee is no longer
16 capable of performing the employee's work as a result
17 of the work injury and the employer has no other
18 available work which the employee is capable of
19 performing. Any employee who is discharged because of
20 the work injury shall be given first preference of
21 reemployment by the employer in any position which the



1 employee is capable of performing and which becomes
2 available after the discharge and during the period
3 thereafter until the employee secures new employment.

4 This paragraph shall not apply to any employer in
5 whose employment there are less than three employees
6 at the time of the work injury or who is a party to a
7 collective bargaining agreement which prevents the
8 continued employment or reemployment of the injured
9 employee;

10 (3) Because the employee testified or was subpoenaed to
11 testify in a proceeding under this part; or

12 (4) Because an employee tested positive for the presence
13 of drugs, alcohol, or the metabolites of drugs in a
14 substance abuse on-site screening test conducted in
15 accordance with section 329B-5.5; provided that this
16 provision shall not apply to an employee who fails or
17 refuses to report to a laboratory for a substance
18 abuse test pursuant to section 329B-5.5.

19 ~~[(b) It shall be unlawful for an employer or a labor~~
20 ~~organization to bar or discharge from employment, withhold pay~~



1 ~~from, or demote an employee because the employee uses accrued~~
2 ~~and available sick leave; provided that:~~

3 ~~(1) After an employee uses three or more consecutive days~~
4 ~~of sick leave, an employer or labor organization may~~
5 ~~require the employee to provide written verification~~
6 ~~from a physician indicating that the employee was ill~~
7 ~~when the sick leave was used;~~

8 ~~(2) This subsection shall apply only to employers who:~~

9 ~~(A) Have a collective bargaining agreement with their~~
10 ~~employees; and~~

11 ~~(B) Employ one hundred or more employees; and~~

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

16 SECTION 120. Section 378-33, Hawaii Revised Statutes, is
17 amended by amending subsection (b) to read as follows:

18 "(b) No complaint shall be filed after the expiration of
19 thirty days after the alleged act of unlawful suspension,
20 discharge, or discrimination, or after the employee learns of
21 the suspension or discharge, except that a complaint for an



1 alleged act of unlawful discharge under section [~~378-32(a)(2)~~]
2 378-32(2) occurring while the aggrieved employee is still
3 physically or mentally incapacitated and unable to work also may
4 be filed before the expiration of thirty days after the date the
5 aggrieved employee is able to return to work."

6 SECTION 121. Section 451D-5, Hawaii Revised Statutes, is
7 amended to read as follows:

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



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

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

10 "(c) For purposes of this section:

11 "Advertise" means a communication made by or on behalf of a
12 person who is licensed to provide professional counseling, made
13 for the purpose of inducing or promoting a professional
14 counseling relationship in which conversion therapy will be
15 undertaken on a person under the age of eighteen. "Advertise"
16 includes oral, written, graphic, or pictorial statements or
17 representations, including those made through any electronic or
18 print medium.

19 "Conversion therapy" means any practices or treatments that
20 seek to change an individual's sexual orientation or gender
21 identity, including efforts to change behaviors or gender



1 expressions or to eliminate or reduce sexual or romantic
2 attractions or feelings toward individuals of the same gender.

3 "Conversion therapy" shall not include counseling that
4 provides assistance to a person undergoing gender transition, or
5 counseling that provides acceptance, support, and understanding
6 of a person or facilitates a person's coping, social support,
7 and identity exploration and development, including sexual
8 orientation-neutral interventions to prevent or address unlawful
9 conduct or unsafe sexual practices, as long as such counseling
10 does not seek to change an individual's sexual orientation or
11 gender identity.

12 "Person who is licensed to provide professional counseling"
13 means a person who performs counseling as part of the person's
14 professional training, including a physician, especially one
15 practicing psychiatry, licensed pursuant to chapter 453;
16 physician assistant licensed pursuant to chapter 453;
17 psychologist licensed pursuant to chapter 465; nurse licensed
18 pursuant to chapter 457; social worker licensed pursuant to
19 chapter 467E; licensed mental health counselor licensed pursuant
20 to chapter 453D; or licensed marriage and family therapist
21 licensed pursuant to chapter 451J."



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

3 **"§481B-11 Sensitivity-awareness group seminars.** (a) Any
4 person who deposits any money to attend a sensitivity-awareness
5 group seminar and before the first day of the seminar, requests
6 to cancel [~~his or her~~] the person's right to attend and requests
7 a refund of moneys deposited or paid, shall be refunded in full,
8 less identifiable nonrecoverable costs not to exceed the lesser
9 of \$50 or twenty per cent of the price of the course, by the
10 sensitivity-awareness group. Any person, who while attending or
11 after completing a sensitivity-awareness seminar, deposits any
12 money to attend subsequent seminars of a sensitivity-awareness
13 group and within five days of making the deposit or before the
14 first day of the subsequent seminar, whichever occurs later,
15 requests to cancel [~~his or her~~] the person's right to attend and
16 requests a refund of moneys deposited or paid, shall be refunded
17 in full, less identifiable nonrecoverable costs not to exceed
18 the lesser of \$50 or twenty per cent of the price of the course,
19 by the sensitivity-awareness group. Any offering of a
20 sensitivity-awareness group seminar by a representative of the
21 sensitivity-awareness group sponsoring the sensitivity-awareness



1 group seminar shall disclose to the offeree these rights of
2 refund.

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

5 "Sensitivity-awareness groups" includes any individual,
6 associated group of persons, or organizations [~~which~~] that
7 advertise or assert that attendance by persons at seminars,
8 meetings, training sessions, therapy sessions, or the like
9 sponsored by the individual, group, or organization, will help
10 the persons attending have greater self-awareness or awareness
11 of others, greater self-understanding or understanding of
12 others, or greater capacity for life adjustment or success in
13 life; provided that psychological or psychotherapeutic
14 techniques are used as part of the individual's, group's, or
15 organization's methodology at the seminars, meetings, training
16 sessions, therapy sessions, or the like. [~~The term~~
17 ~~"sensitivity-awareness groups"~~] "Sensitivity-awareness groups"
18 does not include licensed psychologists, or psychologists with a
19 temporary permit, in accordance with chapter 465[~~7-07~~]; a
20 psychiatrist licensed in accordance with chapter 453[~~7~~]; or any
21 other health care providers with a certification in psychiatric



1 mental health who are licensed pursuant to the relevant chapter
2 under title 25, who teach, direct, administer, conduct, preside
3 over, or are similarly involved in seminars, meetings, training
4 sessions, therapy sessions, or the like.

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

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

11 "(b) For each family court the judge or senior judge where
12 there is more than one shall appoint necessary probation
13 officers, social workers, and marital counselors and may
14 appoint, or make arrangements for the services of physicians,
15 psychologists, psychiatrists, physician assistants, advanced
16 practice registered nurses, and other professionally competent
17 persons, to carry on the work of the court."

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



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

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

5 (2) Physician under chapter 453 and is a board certified
6 psychiatrist or has completed a residency in
7 psychiatry;

8 (3) Physician assistant under chapter 453 who practices
9 under the supervision of a physician who meets the
10 requirements of paragraph (2);

11 (4) Advanced practice registered nurse under chapter 457
12 with a nationally accredited board certification in
13 psychiatric mental health;

14 ~~[(3)]~~ (5) Psychologist under chapter 465; or

15 ~~[(4)]~~ (6) Clinical social worker under section 467E-
16 7(a)(3)."

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

19 "(a) Except for children placed under the custody of the
20 department of human services, pursuant to proceedings under
21 chapter 587A, a caregiver who possesses and presents a notarized



1 affidavit of caregiver consent for a minor's health care under
2 subsection (b) may consent on behalf of a minor to primary and
3 preventive medical and dental care and diagnostic testing, and
4 other medically necessary health care and treatment.
5 Examination and treatment shall be prescribed by or under the
6 supervision of a physician, physician assistant, advanced
7 practice registered nurse, dentist, or mental health
8 professional licensed to practice in the State."

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

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

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

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

- 16 (1) A licensed mental health counselor licensed pursuant
17 to chapter 453D;
- 18 (2) A licensed marriage and family therapist licensed
19 pursuant to chapter 451J;
- 20 (3) A licensed clinical social worker licensed pursuant to
21 chapter 467E;



1 (4) A licensed psychologist licensed pursuant to chapter
2 465;

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

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

9 [~~+6~~] (7) An advanced practice registered nurse licensed
10 pursuant to chapter 457 who holds [~~an~~] a nationally
11 accredited [~~national~~] board certification in an
12 [~~advanced practice registered nurse~~] psychiatric
13 [~~specialization.~~] mental health.

14 "Mental health professional" means a person who is working
15 under the supervision of a licensed mental health professional
16 and:

- 17 (1) Is enrolled in an accredited training program; or
- 18 (2) Has completed all licensing requirements except the
- 19 hours of supervised post-degree experience or
- 20 examination required for state licensure as a licensed
- 21 mental health counselor pursuant to chapter 453D;



1 licensed marriage and family therapist pursuant to
2 chapter 451J; licensed clinical social worker pursuant
3 to chapter 467E; licensed psychologist pursuant to
4 chapter 465; licensed physician assistant pursuant to
5 chapter 453; or advanced practice registered nurse
6 licensed pursuant to chapter 457.

7 "Mental health treatment or counseling services" means the
8 provision of outpatient mental health treatment or counseling by
9 a licensed mental health professional or mental health
10 professional."

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

14 ""Licensed health care provider" means a physician or an
15 osteopathic physician licensed under chapter 453, a physician
16 assistant licensed under chapter 453, [~~or~~] an advanced practice
17 registered nurse licensed under chapter 457[~~+~~], or a pharmacist
18 licensed under chapter 461."

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



1 ""Licensed health care practitioner" includes dentists
2 licensed under chapter 448, physicians licensed under chapter
3 453, physician assistants licensed under chapter 453, [~~and~~
4 advanced practice registered nurses licensed under chapter
5 457[~~7~~], and pharmacists licensed under chapter 461."

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

8 "(a) A licensed health care practitioner may provide
9 primary medical care and services to a minor who consents to the
10 primary medical care and services if the [~~physician~~] licensed
11 health care practitioner reasonably believes that:

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

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

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

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



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

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

7 (2) Permitting the child to return to the family from
8 which the child was removed, unless otherwise ordered
9 by the court. The child's return may occur only if no
10 party objects to such placement and prior written
11 notice is given to the court and to all parties
12 stating that there is no objection of any party to the
13 child's return. Upon the child's return to the
14 family, temporary foster custody or foster custody
15 shall be automatically revoked, and the child and the
16 child's family members who are parties shall be placed
17 under temporary family supervision or the family
18 supervision of the authorized agency;

19 (3) Ensuring that the child is provided with adequate
20 food, clothing, shelter, psychological care, physical



1 care, medical care, supervision, and other necessities
2 in a timely manner;

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

5 (5) Providing required consents for the child's physical
6 or psychological health or welfare, including ordinary
7 medical, dental, psychiatric, psychological,
8 educational, employment, recreational, or social
9 needs;

10 (6) Providing consents for any other medical or
11 psychological care or treatment, including surgery, if
12 the persons who are otherwise authorized to provide
13 consent are unable or unwilling to consent. Before
14 being provided to the child, this care or treatment
15 shall be deemed necessary for the child's physical or
16 psychological health or welfare by any combination of
17 two of the following: physicians, physician
18 assistants, or advanced practice registered nurses or
19 two psychologists, as appropriate, who are licensed or
20 authorized to practice in the State;



1 (7) Providing consent for the child's application for a
2 driver's instructional permit, provisional driver's
3 license, or driver's license;

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

6 (9) Providing the court with information concerning the
7 child.

8 The court, in its discretion, may vest foster custody of a
9 child in any authorized agency or subsequently authorized
10 agencies, if the court finds that it is in the child's best
11 interests to do so. The rights and duties that are so assumed
12 by an authorized agency shall supersede the rights and duties of
13 any legal or permanent custodian of the child."

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

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

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



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

5 (3) Shall enter orders:

6 (A) That the child be placed in foster custody if the
7 court finds that the child's remaining in the
8 family home is contrary to the welfare of the
9 child and the child's parents are not willing and
10 able to provide a safe family home for the child,
11 even with the assistance of a service plan; or

12 (B) That the child be placed in family supervision if
13 the court finds that the child's parents are
14 willing and able to provide the child with a safe
15 family home with the assistance of a service
16 plan;

17 (4) Shall determine whether aggravated circumstances are
18 present.

19 (A) If aggravated circumstances are present, the
20 court shall:



- 1 (i) Conduct a permanency hearing within thirty
2 days, and the department shall not be
3 required to provide the child's parents with
4 an interim service plan or interim
5 visitation; and
- 6 (ii) Order the department to file, within sixty
7 days after the court's finding that
8 aggravated circumstances are present, a
9 motion to terminate parental rights unless
10 the department has documented in the safe
11 family home factors or other written report
12 submitted to the court a compelling reason
13 why it is not in the best interest of the
14 child to file a motion.
- 15 (B) If aggravated circumstances are not present or
16 there is a compelling reason why it is not in the
17 best interest of the child to file a motion to
18 terminate parental rights, the court shall order
19 that the department make reasonable efforts to
20 reunify the child with the child's parents and
21 order an appropriate service plan;



- 1 (5) Shall order reasonable supervised or unsupervised
2 visits for the child and the child's family, including
3 with the child's siblings, unless such visits are
4 determined to be unsafe or detrimental to, and not in
5 the best interests of, the child;
- 6 (6) Shall order each of the child's birth parents to
7 complete the medical information forms and release the
8 medical information required under section 578-14.5,
9 to the department. If the child's birth parents
10 refuse to complete the forms or to release the
11 information, the court may order the release of the
12 information over the parents' objections;
- 13 (7) Shall determine whether each party understands that
14 unless the family is willing and able to provide the
15 child with a safe family home, even with the
16 assistance of a service plan, within the reasonable
17 period of time specified in the service plan, their
18 respective parental and custodial duties and rights
19 shall be subject to termination;
- 20 (8) Shall determine the child's date of entry into foster
21 care as defined in this chapter;



1 (9) Shall set a periodic review hearing to be conducted no
2 later than six months after the date of entry into
3 foster care and a permanency hearing to be held no
4 later than twelve months after the date of entry into
5 foster care;

6 (10) Shall set a status conference, as the court deems
7 appropriate, to be conducted no later than ninety days
8 after the return hearing; and

9 (11) May order that:

10 (A) Any party participate in, complete, be liable
11 for, and make every good faith effort to arrange
12 payment for such services or treatment as are
13 authorized by law and that are determined to be
14 in the child's best interests;

15 (B) The child be examined by a physician, surgeon,
16 psychiatrist, ~~[or]~~ psychologist~~[+]~~, physician
17 assistant, or advanced practice registered nurse;
18 and

19 (C) The child receive treatment, including
20 hospitalization or placement in other suitable



1 facilities, as is determined to be in the child's
2 best interests."

3 SECTION 133. Section 587A-43, Hawaii Revised Statutes, is
4 amended by amending subsection (a) to read as follows:

5 "(a) The department shall establish a child protective
6 review panel to review each case of child abuse or neglect that
7 leads to near fatality or death as a result of acts or omissions
8 of the child's legal caretaker. Based upon its review, the
9 panel shall submit a report of its findings and recommendations
10 to the director of the department. The department shall appoint
11 members of the child protective review panel, who may include:

- 12 (1) Any physician, surgeon, psychiatrist, psychologist,
13 physician assistant, or advanced practice registered
14 nurse treating the child for abuse;
- 15 (2) Any child protective services worker assigned to the
16 case and the worker's supervisor;
- 17 (3) The guardian ad litem for the child, appointed under
18 section 587A-16, if applicable;
- 19 (4) The members of the child's multidisciplinary team or a
20 child protective services consultant; and



1 (5) Other child protective services workers and
2 supervisors."

3 SECTION 134. Section 612-4, Hawaii Revised Statutes, is
4 amended by amending subsection (b) to read as follows:

5 "(b) A prospective juror shall be disqualified to serve as
6 a juror if the prospective juror:

7 (1) Is incapable, by reason of the prospective juror's
8 disability, of rendering satisfactory jury service;
9 provided that a prospective juror claiming this
10 disqualification may be required to submit a
11 physician's, physician assistant's, [~~or~~] advanced
12 practice registered nurse's, or psychologist's
13 certificate as to the disability, and the certifying
14 physician, physician assistant, [~~or~~] advanced practice
15 registered nurse, or psychologist is subject to
16 inquiry by the court at its discretion;

17 (2) Has been convicted of a felony in a state or federal
18 court and not finally discharged or pardoned; or

19 (3) Fails to meet the qualifications in subsection (a)."



1 SECTION 135. Section 626-1, Hawaii Revised Statutes, is
2 amended by amending rule 505.5, subsection (a), to read as
3 follows:

4 "(a) Definitions. As used in this rule:

5 (1) A communication is "confidential" if not intended to
6 be disclosed to third persons other than those to whom
7 disclosure would be in furtherance of the provision of
8 counseling or treatment services to the victim or
9 those reasonably necessary for the transmission of the
10 communication.

11 (2) "Domestic violence victims' program" means any refuge,
12 shelter, office, safe home, institution, or center
13 established for the purpose of offering assistance to
14 victims of abuse through crisis intervention, medical,
15 legal, or support counseling.

16 (3) "Sexual assault crisis center" means any office,
17 institution, or center offering assistance to victims
18 of sexual assault and the families of such victims
19 through crisis intervention, medical, legal, or
20 support counseling.



- 1 (4) "Social worker" means a person who has received a
2 master's degree in social work from a school of social
3 work accredited by the Council on Social Work
4 Education.
- 5 (5) A "victim" is a person who consults a victim counselor
6 for assistance in overcoming any adverse emotional or
7 psychological effect of sexual assault, domestic
8 violence, dating violence, stalking, sexual
9 harassment, or child abuse.
- 10 (6) A "victim counseling program" is any activity of a
11 domestic violence victims' program or a sexual assault
12 crisis center that has, as its primary function, the
13 counseling and treatment of sexual assault, domestic
14 violence, or child abuse victims and their families,
15 and that operates independently of any law enforcement
16 agency, prosecutor's office, or the department of
17 human services.
- 18 (7) A "victim counselor" is a sexual assault counselor,
19 domestic violence victims' counselor, or confidential
20 advocate. A sexual assault counselor is a person who
21 is employed by or is a volunteer in a sexual assault



1 crisis center, has undergone a minimum of thirty-five
2 hours of training and who is, or who reports to and is
3 under the direct control and supervision of, a social
4 worker, nurse, psychiatrist, psychologist, physician
5 assistant, or psychotherapist, and whose primary
6 function is the rendering of advice, counseling, or
7 assistance to victims of sexual assault. A domestic
8 violence victims' counselor is a person who is
9 employed by or is a volunteer in a domestic violence
10 victims' program, has undergone a minimum of thirty-
11 five hours of training and who is, or who reports to
12 and is under the direct control and supervision of, a
13 direct service supervisor of a domestic violence
14 victims' program, and whose primary function is the
15 rendering of advice, counseling, or assistance to
16 victims of abuse. A confidential advocate is a person
17 who is designated by the University of Hawaii pursuant
18 to section 304A-120 to confidentially discuss sexual
19 assault, domestic violence, dating violence, stalking,
20 sexual harassment, and related issues with victims,
21 has undergone a minimum of thirty-five hours of



1 training, and whose primary function is the rendering
2 of advice, counseling, or assistance to victims."

3 SECTION 136. Section 657-7.3, Hawaii Revised Statutes, is
4 amended by amending subsection (a) to read as follows:

5 "[+] (a) [+] No action for injury or death against a
6 chiropractor, clinical laboratory technologist or technician,
7 dentist, naturopathic physician, nurse, advanced practice
8 registered nurse, nursing home administrator, dispensing
9 optician, optometrist, [~~osteopath,~~] osteopathic physician,
10 physician or surgeon, physician assistant, physical therapist,
11 podiatrist, psychologist, or veterinarian duly licensed or
12 registered under the laws of the State, or a licensed hospital
13 as the employer of any such person, based upon such person's
14 alleged professional negligence, or for rendering professional
15 services without consent, or for error or omission in such
16 person's practice, shall be brought more than two years after
17 the plaintiff discovers, or through the use of reasonable
18 diligence should have discovered, the injury, but in any event
19 not more than six years after the date of the alleged act or
20 omission causing the injury or death. This six-year time
21 limitation shall be tolled for any period during which the



1 person has failed to disclose any act, error, or omission upon
2 which the action is based and which is known to the person."

3 SECTION 137. Section 707-711, Hawaii Revised Statutes, is
4 amended by amending subsection (1) to read as follows:

5 "(1) A person commits the offense of assault in the second
6 degree if the person:

7 (a) Intentionally, knowingly, or recklessly causes
8 substantial bodily injury to another;

9 (b) Recklessly causes serious bodily injury to another;

10 (c) Intentionally or knowingly causes bodily injury to a
11 correctional worker, as defined in section 710-
12 1031(2), who is engaged in the performance of duty or
13 who is within a correctional facility;

14 (d) Intentionally or knowingly causes bodily injury to
15 another with a dangerous instrument;

16 (e) Intentionally or knowingly causes bodily injury to an
17 educational worker who is engaged in the performance
18 of duty or who is within an educational facility. For
19 the purposes of this paragraph, "educational worker"
20 means any administrator, specialist, counselor,
21 teacher, or employee of the department of education or



1 an employee of a charter school; a person who is a
2 volunteer, as defined in section 90-1, in a school
3 program, activity, or function that is established,
4 sanctioned, or approved by the department of
5 education; or a person hired by the department of
6 education on a contractual basis and engaged in
7 carrying out an educational function;

8 (f) Intentionally or knowingly causes bodily injury to any
9 emergency medical services provider who is engaged in
10 the performance of duty. For the purposes of this
11 paragraph, "emergency medical services provider" means
12 emergency medical services personnel, as defined in
13 section 321-222, and physicians, [~~physician's~~
14 physician assistants, nurses, [~~nurse practitioners,~~
15 ~~certified registered nurse anesthetists,~~] advanced
16 practice registered nurses, respiratory therapists,
17 laboratory technicians, radiology technicians, and
18 social workers, providing services in the emergency
19 room of a hospital;

20 (g) Intentionally or knowingly causes bodily injury to a
21 person employed at a state-operated or -contracted



1 mental health facility. For the purposes of this
2 paragraph, "a person employed at a state-operated or -
3 contracted mental health facility" includes health
4 care professionals as defined in section 451D-2,
5 administrators, orderlies, security personnel,
6 volunteers, and any other person who is engaged in the
7 performance of a duty at a state-operated or -
8 contracted mental health facility;

9 (h) Intentionally or knowingly causes bodily injury to a
10 person who:

11 (i) The defendant has been restrained from, by order
12 of any court, including an ex parte order,
13 contacting, threatening, or physically abusing
14 pursuant to chapter 586; or

15 (ii) Is being protected by a police officer ordering
16 the defendant to leave the premises of that
17 protected person pursuant to section 709-906(4),
18 during the effective period of that order;

19 (i) Intentionally or knowingly causes bodily injury to any
20 firefighter or water safety officer who is engaged in
21 the performance of duty. For the purposes of this



1 paragraph, "firefighter" has the same meaning as in
2 section 710-1012 and "water safety officer" means any
3 public servant employed by the United States, the
4 State, or any county as a lifeguard or person
5 authorized to conduct water rescue or ocean safety
6 functions;

7 (j) Intentionally or knowingly causes bodily injury to a
8 person who is engaged in the performance of duty at a
9 health care facility as defined in section 323D-2.

10 For purposes of this paragraph, "a person who is
11 engaged in the performance of duty at a health care
12 facility" includes health care professionals as
13 defined in section 451D-2, physician assistants,
14 surgical assistants, advanced practice registered
15 nurses, nurse aides, respiratory therapists,
16 laboratory technicians, and radiology technicians;

17 (k) Intentionally or knowingly causes bodily injury to a
18 person who is engaged in providing home health care
19 services, as defined in section 431:10H-201;

20 (l) Intentionally or knowingly causes bodily injury to a
21 person employed or contracted to work by a mutual



1 benefit society, as defined in section 432:1-104, to
2 provide case management services to an individual in a
3 hospital, health care provider's office, or home,
4 while that person is engaged in the performance of
5 those services;

6 (m) Intentionally or knowingly causes bodily injury to a
7 person who is sixty years of age or older and the age
8 of the injured person is known or reasonably should be
9 known to the person causing the injury;

10 (n) Intentionally or knowingly causes bodily injury to a
11 sports official who is engaged in the lawful discharge
12 of the sports official's duties. For the purposes of
13 this paragraph, "sports official" and "lawful
14 discharge of the sports official's duties" have the
15 same meaning as in section 706-605.6;

16 (o) Intentionally or knowingly causes bodily injury to a
17 national guard member who is engaged in the
18 performance of duty. For purposes of this paragraph,
19 "national guard member" means a member of the national
20 guard on any duty or service done under or in
21 pursuance of an order or call of the governor or the



1 President of the United States or any proper authority
2 as provided by law; or

3 [†](p)[†] Intentionally or knowingly causes bodily injury
4 to any protective services worker who is engaged in
5 the performance of the worker's duties. For purposes
6 of this paragraph, "protective services worker" means
7 any administrator, specialist, social worker, case
8 manager, or aide employed by the department of human
9 services to investigate or provide services in
10 response to reports of child abuse or neglect, or to
11 investigate or provide services in response to reports
12 of abuse or neglect of a vulnerable adult."

13 SECTION 138. Section 707-716, Hawaii Revised Statutes, is
14 amended by amending subsection (1) to read as follows:

15 "(1) A person commits the offense of terroristic
16 threatening in the first degree if the person commits
17 terroristic threatening:

18 (a) By threatening another person on more than one
19 occasion for the same or a similar purpose;

20 (b) By threats made in a common scheme against different
21 persons;



- 1 (c) Against a public servant arising out of the
2 performance of the public servant's official duties.
3 For the purposes of this paragraph, "public servant"
4 includes but is not limited to an educational worker
5 or protective services worker. "Educational worker"
6 and "protective services worker" have the same
7 meanings as defined in section 707-711;
- 8 (d) Against any emergency medical services provider who is
9 engaged in the performance of duty. For purposes of
10 this paragraph, "emergency medical services provider"
11 means emergency medical services personnel, as defined
12 in section 321-222, and physicians, ~~[physician's]~~
13 physician assistants, nurses, ~~[nurse practitioners,~~
14 ~~certified registered nurse anesthetists,]~~ advanced
15 practice registered nurses, respiratory therapists,
16 laboratory technicians, radiology technicians, and
17 social workers, providing services in the emergency
18 room of a hospital;
- 19 (e) With the use of a dangerous instrument or a simulated
20 firearm. For purposes of this section, "simulated
21 firearm" means any object that:



- 1 (i) Substantially resembles a firearm;
- 2 (ii) Can reasonably be perceived to be a firearm; or
- 3 (iii) Is used or brandished as a firearm; or
- 4 (f) By threatening a person who:
 - 5 (i) The defendant has been restrained from, by order
 - 6 of any court, including an ex parte order,
 - 7 contacting, threatening, or physically abusing
 - 8 pursuant to chapter 586; or
 - 9 (ii) Is being protected by a police officer ordering
 - 10 the defendant to leave the premises of that
 - 11 protected person pursuant to section 709-906(4),
 - 12 during the effective period of that order."

PART VI

14 SECTION 139. The purpose of this part is to amend the pain
15 patient's bill of rights.

16 SECTION 140. Chapter 327H, Hawaii Revised Statutes, is
17 amended by adding a new section to be appropriately designated
18 and to read as follows:

19 "327H- Definitions. As used in this chapter,
20 "prescriber" means a physician or an osteopathic physician
21 licensed under chapter 453, a physician assistant licensed under



1 chapter 453, an advanced practice registered nurse licensed
2 under chapter 457, or a pharmacist licensed under chapter 461."

3 SECTION 141. Section 327H-1, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "[~~+~~]**§327H-1**[~~+~~] **Pain patient's bill of rights; findings.**

6 The legislature finds that:

- 7 (1) Inadequate treatment of severe acute pain and severe
8 chronic pain originating from cancer or noncancerous
9 conditions is a significant health problem;
- 10 (2) For some patients, pain management is the single most
11 important treatment a [~~physician~~] prescriber can
12 provide;
- 13 (3) A patient who suffers from severe acute pain or severe
14 chronic pain should have access to proper treatment of
15 pain;
- 16 (4) Due to the complexity of their problems, many patients
17 who suffer from severe acute pain or severe chronic
18 pain may require referral to a [~~physician~~] prescriber
19 with expertise in the treatment of severe acute pain
20 and severe chronic pain. In some cases, severe acute
21 pain and severe chronic pain is best treated by a team



1 of clinicians to address the associated physical,
2 psychological, social, and vocational issues;

3 (5) In the hands of knowledgeable, ethical, and
4 experienced pain management practitioners, opiates
5 administered for severe acute pain or severe chronic
6 pain can be safe; and

7 (6) Opiates may be part of an overall treatment plan for a
8 patient in severe acute pain or severe chronic pain
9 who has not obtained relief from any other means of
10 treatment."

11 SECTION 142. Section 327H-2, Hawaii Revised Statutes, is
12 amended to read as follows:

13 "**§327H-2 Bill of rights.** (a) The pain patient's bill of
14 rights includes the following:

15 (1) A patient who suffers from severe acute pain or severe
16 chronic pain has the option to request or reject the
17 use of any or all modalities to relieve the pain;

18 (2) A patient who suffers from severe acute pain or severe
19 chronic pain has the option to choose from appropriate
20 pharmacologic treatment options to relieve severe
21 acute pain or severe chronic pain, including opiate



1 medications, without first having to submit to an
2 invasive medical procedure.

3 For purposes of this paragraph, "invasive medical
4 procedure" means surgery, destruction of a nerve or
5 other body tissue by manipulation, or the implantation
6 of a drug delivery system or device;

7 (3) A patient's [~~physician~~] prescriber may refuse to
8 prescribe opiate medication for a patient who requests
9 a treatment for severe acute pain or severe chronic
10 pain. However, that [~~physician~~] prescriber may inform
11 the patient of [~~physicians~~] prescribers who are
12 qualified to treat severe acute pain and severe
13 chronic pain employing methods that include the use of
14 opiates;

15 (4) A [~~physician~~] prescriber who uses opiate therapy to
16 relieve severe acute pain or severe chronic pain may
17 prescribe a dosage deemed medically necessary to
18 relieve the pain;

19 (5) A patient may voluntarily request that the patient's
20 [~~physician~~] prescriber provide an identifying notice



1 of the prescription for purposes of emergency
2 treatment or law enforcement identification; and
3 (6) With regard to pain patients, the application of this
4 section shall be guided by the medical principle that
5 physical tolerance and dependence are normal
6 consequences of sustained use of opiate medication,
7 distinguishable from psychological dependency or
8 addiction that bears no relationship to pain
9 experienced by a patient. For the purposes of this
10 section, psychological dependency shall be
11 characterized by a patient's compulsion to take a drug
12 notwithstanding the fact that the patient knows the
13 harmful and destructive effect of the drug on the
14 patient. The distinction is one of treatment of pain
15 as opposed to feeding a psychological need. A patient
16 who suffers severe acute pain or severe chronic pain
17 secondary to a diagnosis in any form of disease and
18 chronic conditions may be entitled to receive a
19 prescription of opiate medication for the treatment of
20 the pain, if requested by that patient; provided that:



1 (A) The particular opiate is appropriate to the
 2 treatment of that pain; and
 3 (B) The patient is not addicted to the opiate. For
 4 the purposes of this subparagraph, the term
 5 "addicted" refers to a psychological dependence,
 6 rather than a progressive physical tolerance for
 7 the opiate to relieve the pain; provided that the
 8 term does not include a narcotic-dependent person
 9 as defined in section 329-40.

10 (b) Nothing in this section shall be construed to:
 11 (1) Expand the authorized scope of practice of any
 12 [~~licensed physician;~~] prescriber;
 13 (2) Limit any reporting or disciplinary provisions
 14 applicable to [~~licensed physicians and surgeons]~~
 15 prescribers who violate prescribing practices; and
 16 (3) Prohibit the discipline or prosecution of a [~~licensed~~
 17 ~~physician]~~ prescriber for:
 18 (A) Failing to maintain complete, accurate, and
 19 current records that document the physical
 20 examination and medical history of a patient, the



- 1 basis for the clinical diagnosis of a patient,
2 and the treatment plan for a patient;
- 3 (B) Writing false or fictitious prescriptions for
4 controlled substances scheduled in the Federal
5 Comprehensive Drug Abuse Prevention and Control
6 Act of 1970, 21 United States Code 801 et seq. or
7 in chapter 329;
- 8 (C) Prescribing, administering, or dispensing
9 pharmaceuticals in violation of the provisions of
10 the Federal Comprehensive Drug Abuse Prevention
11 and Control Act of 1970, 21 United States Code
12 801 et seq. or of chapter 329;
- 13 (D) Diverting medications prescribed for a patient to
14 the [~~licensed physician's~~] prescriber's own
15 personal use; and
- 16 (E) Causing, or assisting in causing, the suicide,
17 euthanasia, or mercy killing of any individual;
18 provided that:
- 19 (i) It is not "causing, or assisting in causing,
20 the suicide, euthanasia, or mercy killing of
21 any individual" to prescribe, dispense, or



1 administer medical treatment for the purpose
 2 of treating severe acute pain or severe
 3 chronic pain, even if the medical treatment
 4 may increase the risk of death, so long as
 5 the medical treatment is not also furnished
 6 for the purpose of causing, or the purpose
 7 of assisting in causing, death for any
 8 reason; and

9 (ii) This subparagraph shall not apply to actions
 10 taken under chapter 327L."

11 PART VII

12 SECTION 143. The purpose of this part is to amend various
 13 sections in title 24, Hawaii Revised Statutes, relating to
 14 insurance.

15 SECTION 144. Section 431:10A-115.5, Hawaii Revised
 16 Statutes, is amended by amending subsection (e) to read as
 17 follows:

18 "(e) For the purposes of this section[, ~~"child health~~
 19 ~~supervision services"~~]:

20 "Child health supervision services" means [~~physician-~~
 21 ~~delivered, physician-supervised, physician assistant delivered,~~



1 ~~or nurse-delivered services as defined by section 457-2~~
2 ~~("registered nurse")]~~ services supervised or delivered by a
3 physician, a physician assistant, an advanced practice
4 registered nurse, a registered nurse, or a qualified health care
5 provider, which shall include as the minimum benefit coverage
6 for services delivered at intervals and scope stated in this
7 section.

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

10 SECTION 145. Section 431:10A-116, Hawaii Revised Statutes,
11 is amended to read as follows:

12 **"§431:10A-116 Coverage for specific services.** Every
13 person insured under a policy of accident and health or sickness
14 insurance delivered or issued for delivery in this State shall
15 be entitled to the reimbursements and coverages specified below:

16 (1) Notwithstanding any provision to the contrary,
17 whenever a policy, contract, plan, or agreement
18 provides for reimbursement for any visual or
19 optometric service that is within the lawful scope of
20 practice of a duly licensed optometrist, the person
21 entitled to benefits or the person performing the



1 services shall be entitled to reimbursement whether
2 the service is performed by a licensed physician or by
3 a licensed optometrist. Visual or optometric services
4 shall include eye or visual examination, or both, or a
5 correction of any visual or muscular anomaly, and the
6 supplying of ophthalmic materials, lenses, contact
7 lenses, spectacles, eyeglasses, and appurtenances
8 thereto;

9 (2) Notwithstanding any provision to the contrary, for all
10 policies, contracts, plans, or agreements issued on or
11 after May 30, 1974, whenever provision is made for
12 reimbursement or indemnity for any service related to
13 surgical or emergency procedures that is within the
14 lawful scope of practice of any [~~practitioner~~]
15 qualified health care provider licensed to practice
16 [~~medicine~~] in this State, reimbursement or
17 indemnification under the policy, contract, plan, or
18 agreement shall not be denied when the services are
19 performed by a dentist acting within the lawful scope
20 of the dentist's license;



- 1 (3) Notwithstanding any provision to the contrary,
2 whenever the policy provides reimbursement or payment
3 for any service that is within the lawful scope of
4 practice of a psychologist licensed in this State, the
5 person entitled to benefits or performing the service
6 shall be entitled to reimbursement or payment, whether
7 the service is performed by a licensed physician [~~or~~],
8 licensed psychologist[+], licensed physician
9 assistant, or licensed advanced practice registered
10 nurse;
- 11 (4) Notwithstanding any provision to the contrary, each
12 policy, contract, plan, or agreement issued on or
13 after February 1, 1991, except for policies that only
14 provide coverage for specified diseases or other
15 limited benefit coverage, but including policies
16 issued by companies subject to chapter 431, article
17 10A, part II, and chapter 432, article 1, shall
18 provide coverage for screening by low-dose mammography
19 for occult breast cancer as follows:
- 20 (A) For women forty years of age and older, an annual
21 mammogram; and



1 (B) For a woman of any age with a history of breast
2 cancer or whose mother or sister has had a
3 history of breast cancer, a mammogram upon the
4 recommendation of the woman's physician[-] or
5 other qualified health care provider.

6 The services provided in this paragraph are
7 subject to any coinsurance provisions that may be in
8 force in these policies, contracts, plans, or
9 agreements; provided that the insured's dollar limits,
10 deductibles, and copayments for services shall be on
11 terms at least as favorable to the insured as those
12 applicable to other radiological examinations.

13 For the purpose of this paragraph, the term "low-
14 dose mammography" means the x-ray examination of the
15 breast using equipment dedicated specifically for
16 mammography, including but not limited to the x-ray
17 tube, filter, compression device, screens, films, and
18 cassettes, with an average radiation exposure delivery
19 of less than one rad mid-breast, with two views for
20 each breast. An insurer may provide the services
21 required by this paragraph through contracts with



1 providers; provided that the contract is determined to
2 be a cost-effective means of delivering the services
3 without sacrifice of quality and meets the approval of
4 the director of health; and

5 (5) (A) (i) Notwithstanding any provision to the
6 contrary, whenever a policy, contract, plan,
7 or agreement provides coverage for the
8 children of the insured, that coverage shall
9 also extend to the date of birth of any
10 newborn child to be adopted by the insured;
11 provided that the insured gives written
12 notice to the insurer of the insured's
13 intent to adopt the child prior to the
14 child's date of birth or within thirty days
15 after the child's birth or within the time
16 period required for enrollment of a natural
17 born child under the policy, contract, plan,
18 or agreement of the insured, whichever
19 period is longer; provided further that if
20 the adoption proceedings are not successful,



1 the insured shall reimburse the insurer for
2 any expenses paid for the child; and

3 (ii) Where notification has not been received by
4 the insurer prior to the child's birth or
5 within the specified period following the
6 child's birth, insurance coverage shall be
7 effective from the first day following the
8 insurer's receipt of legal notification of
9 the insured's ability to consent for
10 treatment of the infant for whom coverage is
11 sought; and

12 (B) When the insured is a member of a health
13 maintenance organization, coverage of an adopted
14 newborn is effective:

15 (i) From the date of birth of the adopted
16 newborn when the newborn is treated from
17 birth pursuant to a provider contract with
18 the health maintenance organization, and
19 written notice of enrollment in accord with
20 the health maintenance organization's usual
21 enrollment process is provided within thirty



1 days of the date the insured notifies the
2 health maintenance organization of the
3 insured's intent to adopt the infant for
4 whom coverage is sought; or

5 (ii) From the first day following receipt by the
6 health maintenance organization of written
7 notice of the insured's ability to consent
8 for treatment of the infant for whom
9 coverage is sought and enrollment of the
10 adopted newborn in accord with the health
11 maintenance organization's usual enrollment
12 process if the newborn has been treated from
13 birth by a provider not contracting or
14 affiliated with the health maintenance
15 organization.

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

18 SECTION 146. Section 431:10A-116.2, Hawaii Revised
19 Statutes, is amended to read as follows:

20 "[~~+~~]**§431:10A-116.2**[~~+~~] **Mammograms; referral not required.**

21 (a) For purposes of the annual screening mammogram coverage



1 required under section 431:10A-116, no insurer shall require an
2 insured person forty years of age and older to obtain a referral
3 from a primary care provider or other [~~physician~~] qualified
4 health care provider for an annual screening mammogram.

5 (b) If the screening mammogram indicates that follow up
6 services are advisable, a referral shall be made to the
7 patient's primary care [~~physician~~] provider or other
8 [~~physician,~~] qualified health care provider, as designated by
9 the patient.

10 (c) As used in this section, "qualified health care
11 provider" has the same meaning as in section 325-_____."

12 SECTION 147. Section 431:10A-116.3, Hawaii Revised
13 Statutes, is amended by amending subsection (g) to read as
14 follows:

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

16 "Distant site" means the location of the health care
17 provider delivering services through telehealth at the time the
18 services are provided.

19 "Health care provider" means a provider of services, as
20 defined in title 42 United States Code section 1395x(u), a
21 provider of medical and other health services, as defined in



1 title 42 United States Code section 1395x(s), other
2 practitioners licensed by the State and working within their
3 scope of practice, and any other person or organization who
4 furnishes, bills, or is paid for health care in the normal
5 course of business, including but not limited to primary care
6 providers, mental health providers, oral health providers,
7 physicians and osteopathic physicians licensed under chapter
8 453, advanced practice registered nurses licensed under chapter
9 457, psychologists licensed under chapter 465, ~~and~~ dentists
10 licensed under chapter 448~~(-)~~, and qualified health care
11 providers.

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

15 "Originating site" means the location where the patient is
16 located, whether accompanied or not by a health care provider,
17 at the time services are provided by a health care provider
18 through telehealth, including but not limited to a health care
19 provider's office, hospital, health care facility, a patient's
20 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 148. Section 431:10A-116.6, Hawaii Revised
2 Statutes, is amended by amending subsection (e) to read as
3 follows:

4 "(e) For purposes of this section:

5 "Contraceptive services" means [~~physician-delivered,~~
6 ~~physician-supervised, physician assistant-delivered, advanced~~
7 ~~practice registered nurse-delivered, nurse-delivered, or~~
8 ~~pharmacist-delivered~~] medical services supervised or delivered
9 by a health care provider that are intended to promote the
10 effective use of contraceptive supplies or devices to prevent
11 unwanted pregnancy.

12 "Contraceptive supplies" means all United States Food and
13 Drug Administration-approved contraceptive drugs or devices used
14 to prevent unwanted pregnancy.

15 "Health care provider" means a physician or an osteopathic
16 physician licensed under chapter 453, a physician assistant
17 licensed under chapter 453, an advanced practice registered
18 nurse or a registered nurse licensed under chapter 457, a
19 pharmacist licensed under chapter 461, a naturopathic physician
20 licensed under chapter 455, or a midwife licensed under chapter
21 457J."



1 SECTION 149. Section 431:10A-116.7, Hawaii Revised
2 Statutes, is amended by amending subsection (g) to read as
3 follows:

4 "(g) For purposes of this section:

5 "Contraceptive services" means [~~physician-delivered,~~
6 ~~physician-supervised, physician assistant-delivered, advanced~~
7 ~~practice registered nurse-delivered, nurse-delivered, or~~
8 ~~pharmacist-delivered~~] medical services supervised or delivered
9 by a health care provider that are intended to promote the
10 effective use of contraceptive supplies or devices to prevent
11 unwanted pregnancy.

12 "Contraceptive supplies" means all United States Food and
13 Drug Administration-approved contraceptive drugs or devices used
14 to prevent unwanted pregnancy.

15 "Health care provider" means a physician or an osteopathic
16 physician licensed under chapter 453, a physician assistant
17 licensed under chapter 453, an advanced practice registered
18 nurse or a registered nurse licensed under chapter 457, a
19 pharmacist licensed under chapter 461, a naturopathic physician
20 licensed under chapter 455, or a midwife licensed under chapter
21 457J."



1 SECTION 150. Section 431:10A-120, Hawaii Revised Statutes,
2 is amended as follows:

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

4 "(a) Each policy of accident and health or sickness
5 insurance, other than life insurance, disability income
6 insurance, and long-term care insurance, issued or renewed in
7 this State, each employer group health policy, contract, plan,
8 or agreement issued or renewed in this State, all accident and
9 health or sickness insurance policies issued or renewed in this
10 State, all policies providing family coverages as defined in
11 section 431:10A-103, and all policies providing reciprocal
12 beneficiary family coverage as defined in section 431:10A-601,
13 shall contain a provision for coverage for medical foods and
14 low-protein modified food products for the treatment of an
15 inborn error of metabolism for its policyholders or dependents
16 of the policyholder in this State; provided that the medical
17 food or low-protein modified food product is:

18 (1) Prescribed as medically necessary for the therapeutic
19 treatment of an inborn error of metabolism; and

20 (2) Consumed or administered enterally under the
21 supervision of a physician or osteopathic physician



1 licensed under chapter 453[+] or other qualified
2 health care provider.

3 Coverage shall be for at least eighty per cent of the cost of
4 the medical food or low-protein modified food product prescribed
5 and administered pursuant to this subsection."

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

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

8 "Inborn error of metabolism" means a disease caused by an
9 inherited abnormality of the body chemistry of a person that is
10 characterized by deficient metabolism, originating from
11 congenital defects or defects arising shortly after birth, of
12 amino acid, organic acid, carbohydrate, or fat.

13 "Low-protein modified food product" means a food product
14 that:

- 15 (1) Is specially formulated to have less than one gram of
16 protein per serving;
- 17 (2) Is prescribed or ordered by a physician or osteopathic
18 physician as medically necessary for the dietary
19 treatment of an inborn error of metabolism; and
- 20 (3) Does not include a food that is naturally low in
21 protein.



1 "Medical food" means a food that is formulated to be
2 consumed or administered enterally under the supervision of a
3 physician or osteopathic physician and is intended for the
4 specific dietary management of a disease or condition for which
5 distinctive nutritional requirements, based on recognized
6 scientific principles, are established by medical evaluation.

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

9 SECTION 151. Section 431:10A-122, Hawaii Revised Statutes,
10 is amended by amending subsection (b) to read as follows:

11 "(b) Beginning March 1, 2011, all health insurance
12 providers in Hawaii shall inform their insured about the risk
13 associated with undiagnosed colorectal-cancer and encourage the
14 insured to consult with the insured's [~~physician~~] qualified
15 health care provider about available screening options.

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

18 SECTION 152. Section 431:10A-126, Hawaii Revised Statutes,
19 is amended by amending subsection (d) to read as follows:

20 "(d) For the purposes of this section:



1 "Cost-share" or "cost-sharing" means copayment,
2 coinsurance, or deductible provisions applicable to coverage for
3 medications or treatments.

4 "Intravenously administered chemotherapy" means a
5 [~~physician-prescribed~~] cancer treatment prescribed by a licensed
6 health care provider that is administered through injection
7 directly into the patient's circulatory system by a physician,
8 physician assistant, [~~nurse-practitioner,~~] advanced practice
9 registered nurse, nurse, or other medical personnel under the
10 supervision of a physician and in a hospital, medical office, or
11 other clinical setting.

12 "Oral chemotherapy" means a United States Food and Drug
13 Administration-approved, [~~physician-prescribed~~] cancer treatment
14 prescribed by a licensed health care provider that is taken
15 orally in the form of a tablet or capsule and may be
16 administered in a hospital, medical office, or other clinical
17 setting or may be delivered to the patient for self-
18 administration under the direction or supervision of a physician
19 or other licensed health care provider outside of a hospital,
20 medical office, or other clinical setting."



1 SECTION 153. Section 431:10A-133, Hawaii Revised Statutes,
2 is amended by amending subsection (m) to read as follows:

3 "(m) As used in this section, unless the context clearly
4 requires otherwise:

5 "Applied behavior analysis" means the design,
6 implementation, and evaluation of environmental modifications,
7 using behavioral stimuli and consequences, to produce socially
8 significant improvement in human behavior, including the use of
9 direct observation, measurement, and functional analysis of the
10 relations between environment and behavior.

11 "Autism" means autism spectrum disorder as defined by the
12 most recent edition of the Diagnostic and Statistical Manual of
13 Mental Disorders.

14 "Autism service provider" means any person, entity, or
15 group that provides treatment for autism and meets the minimum
16 requirements pursuant to subsection (l).

17 "Behavioral health treatment" means [~~evidence-based~~]
18 evidence-based counseling and treatment programs, including
19 applied behavior analysis, that are:



1 (1) Necessary to develop, maintain, or restore, to the
2 maximum extent practicable, the functioning of an
3 individual; and

4 (2) Provided or supervised by an autism service provider.

5 "Diagnosis of autism" means medically necessary
6 assessments, evaluations, or tests conducted to diagnose whether
7 an individual has autism.

8 "Pharmacy care" means medications prescribed by a licensed
9 physician [~~or registered nurse practitioner~~], physician
10 assistant, or advanced practice registered nurse and any health-
11 related services that are deemed medically necessary to
12 determine the need or effectiveness of the medications.

13 "Psychiatric care" means direct or consultative services
14 provided by a licensed psychiatrist[+], physician assistant, or
15 advanced practice registered nurse.

16 "Psychological care" means direct or consultative services
17 provided by a licensed psychologist[+], physician, physician
18 assistant, or advanced practice registered nurse.

19 "Therapeutic care" means services provided by licensed
20 speech pathologists, registered occupational therapists,



1 licensed social workers, licensed clinical social workers, or
2 licensed physical therapists.

3 "Treatment for autism" includes the following care
4 prescribed or ordered for an individual diagnosed with autism by
5 a licensed physician, psychiatrist, physician assistant,
6 psychologist, licensed clinical social worker, or [~~registered~~
7 ~~nurse practitioner~~] advanced practice registered nurse if the
8 care is determined to be medically necessary:

- 9 (1) Behavioral health treatment;
- 10 (2) Pharmacy care;
- 11 (3) Psychiatric care;
- 12 (4) Psychological care; and
- 13 (5) Therapeutic care."

14 SECTION 154. Section 431:10A-206.5, Hawaii Revised
15 Statutes, is amended by amending subsection (e) to read as
16 follows:

17 "(e) For the purposes of this section[, "~~child health~~
18 ~~supervision services~~"]:

19 "Child health supervision services" means [~~physician-~~
20 ~~delivered, physician-supervised, physician assistant-delivered,~~
21 ~~or nurse-delivered services as defined by section 457-2~~



1 (~~"registered nurse"~~),] services supervised or delivered by a
2 physician, a physician assistant, an advanced practice
3 registered nurse, a registered nurse, or a qualified health care
4 provider, which shall include as the minimum benefit coverage
5 for services delivered at intervals and scope stated in this
6 section.

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

9 SECTION 155. Section 431:10A-304, Hawaii Revised Statutes,
10 is amended to read as follows:

11 **"§431:10A-304 Standards for policy provisions.** (a) No
12 medicare supplement policy or certificate in force in the State
13 shall contain benefits that duplicate benefits provided by
14 medicare.

15 (b) The commissioner shall adopt reasonable rules to
16 establish specific standards for the provisions of medicare
17 supplement policies and certificates. The standards shall be in
18 addition to and in accordance with applicable laws of this
19 State, including the provisions of part I of this article. No
20 requirement of this chapter relating to minimum required policy
21 benefits, other than the minimum standards contained in this



1 part, shall apply to medicare supplement policies and
2 certificates. The standards may cover[7] but shall not be
3 limited to:

4 (1) Terms of renewability;

5 (2) Initial and subsequent conditions of eligibility;

6 (3) Nonduplication of coverage;

7 (4) Probationary periods;

8 (5) Benefit limitations, exceptions, and reductions;

9 (6) Elimination periods;

10 (7) Requirements for replacement;

11 (8) Recurrent conditions; and

12 (9) Definition of terms.

13 (c) The commissioner may adopt reasonable rules that
14 specify prohibited policy provisions not otherwise specifically
15 authorized by law, which, in the opinion of the commissioner,
16 are unjust, unfair, or unfairly discriminatory to any person
17 insured or proposed to be insured under any medicare supplement
18 policy or certificate.

19 (d) A medicare supplement policy or certificate shall not
20 exclude or limit benefits for losses incurred more than six
21 months after the effective date of coverage because it involved



1 a preexisting condition. The policy or certificate shall not
2 define a preexisting condition more restrictively than a
3 condition for which medical advice was given or treatment was
4 recommended by or received from a [~~physician~~] qualified health
5 care provider, consistent with all applicable federal laws and
6 regulations, within six months before the effective date of
7 coverage.

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

10 SECTION 156. Section 431:10C-103, Hawaii Revised Statutes,
11 is amended by amending the definition of "anesthetist" to read
12 as follows:

13 ""Anesthetist" means [~~a registered nurse-anesthetist~~] an
14 advanced practice registered nurse licensed pursuant to chapter
15 457 who maintains national certification as a Certified
16 Registered Nurse Anesthetist and who performs anesthesia
17 services [~~under the supervision of a licensed physician~~]."

18 SECTION 157. Section 431:10C-308.7, Hawaii Revised
19 Statutes, is amended by amending subsection (c) to read as
20 follows:



1 "(c) No health care provider shall refer, for any service
2 or treatment authorized under this chapter, a patient to any
3 entity in which the referring provider has a financial interest
4 unless the referring provider has disclosed that financial
5 interest to the patient.

6 For the purposes of this section "financial interest" shall
7 mean an ownership or investment interest through debt, equity,
8 or any other means. "Financial interest" does not refer to
9 salary or other compensation paid to ~~[physicians]~~ health care
10 providers by a health maintenance organization, or any
11 compensation arrangement involving payment by a group practice
12 ~~[which]~~ that contracts with a health maintenance organization to
13 a ~~[physician]~~ health care provider in the same group practice or
14 entity affiliated with the health maintenance organization for
15 services provided to a member of the health maintenance
16 organization."

17 SECTION 158. Section 431:10H-201, Hawaii Revised Statutes,
18 is amended by amending subsection (a) to read as follows:

19 "(a) No long-term care insurance policy delivered or
20 issued for delivery in this State shall use the terms set forth



1 in this section, unless the terms are defined in the policy and
2 the definitions satisfy the following requirements:

3 "Activities of daily living" means at least bathing,
4 continence, dressing, eating, toileting, and transferring.

5 "Acute condition" means that the individual is medically
6 unstable. This individual requires frequent monitoring by
7 medical professionals such as physicians and registered nurses,
8 or other qualified health care providers, in order to maintain
9 the individual's health status.

10 "Adult day care" means a program for six or more
11 individuals, of social and health-related services provided
12 during the day in a community group setting for the purpose of
13 supporting frail, impaired elderly or other disabled adults who
14 can benefit from care in a group setting outside the home.

15 "Bathing" means washing oneself by sponge bath, or in
16 either a tub or shower, including the task of getting into or
17 out of the tub or shower.

18 "Cognitive impairment" means a deficiency in a person's
19 short- or long-term memory, orientation as to person, place, and
20 time, deductive or abstract reasoning, or judgment as it relates
21 to safety awareness.



1 "Continence" means the ability to maintain control of bowel
2 and bladder function, or when unable to maintain control of
3 bowel or bladder function, the ability to perform associated
4 personal hygiene (including caring for catheter or colostomy
5 bag).

6 "Dressing" means putting on and taking off all items of
7 clothing and any necessary braces, fasteners, or artificial
8 limbs.

9 "Eating" means feeding oneself by getting food into the
10 body from a receptacle (such as a plate, cup, or table) or by a
11 feeding tube or intravenously.

12 "Hands-on assistance" means physical assistance (minimal,
13 moderate, or maximal) without which the individual would not be
14 able to perform the activity of daily living.

15 "Home health care services" means medical and nonmedical
16 services, provided to ill, disabled, or infirm persons in their
17 residences. These services may include homemaker services,
18 assistance with activities of daily living, and respite care
19 services.

20 "Medicare" shall be defined as "The Health Insurance for
21 the Aged Act, Title XVIII of the Social Security Amendments of



1 1965 as Then Constituted or Later Amended", or title I, part I
2 of Public Law 89-97, as Enacted by the Eighty-Ninth Congress of
3 the United States of America and popularly known as the Health
4 Insurance for the Aged Act, as then constituted and any later
5 amendments or substitutes thereof, or words of similar import.

6 "Mental or nervous disorder" means neurosis,
7 psychoneurosis, psychopathy, psychosis, or mental or emotional
8 disease or disorder, and shall not be defined beyond these
9 terms.

10 "Personal care" means the provision of hands-on services to
11 assist an individual with activities of daily living.

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

14 "Skilled nursing care", "personal care", "home care",
15 "specialized care", "assisted living care", and other services
16 shall be defined in relation to the level of skill required, the
17 nature of the care, and the setting in which care must be
18 delivered.

19 "Toileting" means getting to and from the toilet, getting
20 on and off the toilet, and performing associated personal
21 hygiene.



1 "Transferring" means moving into or out of a bed, chair, or
2 wheelchair."

3 SECTION 159. Section 431:13-103, Hawaii Revised Statutes,
4 is amended by amending subsection (a) to read as follows:

5 "(a) The following are defined as unfair methods of
6 competition and unfair or deceptive acts or practices in the
7 business of insurance:

8 (1) Misrepresentations and false advertising of insurance
9 policies. Making, issuing, circulating, or causing to
10 be made, issued, or circulated, any estimate,
11 illustration, circular, statement, sales presentation,
12 omission, or comparison that:

- 13 (A) Misrepresents the benefits, advantages,
14 conditions, or terms of any insurance policy;
- 15 (B) Misrepresents the dividends or share of the
16 surplus to be received on any insurance policy;
- 17 (C) Makes any false or misleading statement as to the
18 dividends or share of surplus previously paid on
19 any insurance policy;
- 20 (D) Is misleading or is a misrepresentation as to the
21 financial condition of any insurer, or as to the



- 1 legal reserve system upon which any life insurer
2 operates;
- 3 (E) Uses any name or title of any insurance policy or
4 class of insurance policies misrepresenting the
5 true nature thereof;
- 6 (F) Is a misrepresentation for the purpose of
7 inducing or tending to induce the lapse,
8 forfeiture, exchange, conversion, or surrender of
9 any insurance policy;
- 10 (G) Is a misrepresentation for the purpose of
11 effecting a pledge or assignment of or effecting
12 a loan against any insurance policy;
- 13 (H) Misrepresents any insurance policy as being
14 shares of stock;
- 15 (I) Publishes or advertises the assets of any insurer
16 without publishing or advertising with equal
17 conspicuousness the liabilities of the insurer,
18 both as shown by its last annual statement; or
- 19 (J) Publishes or advertises the capital of any
20 insurer without stating specifically the amount
21 of paid-in and subscribed capital;



- 1 (2) False information and advertising generally. Making,
2 publishing, disseminating, circulating, or placing
3 before the public, or causing, directly or indirectly,
4 to be made, published, disseminated, circulated, or
5 placed before the public, in a newspaper, magazine, or
6 other publication, or in the form of a notice,
7 circular, pamphlet, letter, or poster, or over any
8 radio or television station, or in any other way, an
9 advertisement, announcement, or statement containing
10 any assertion, representation, or statement with
11 respect to the business of insurance or with respect
12 to any person in the conduct of the person's insurance
13 business, which is untrue, deceptive, or misleading;
- 14 (3) Defamation. Making, publishing, disseminating, or
15 circulating, directly or indirectly, or aiding,
16 abetting, or encouraging the making, publishing,
17 disseminating, or circulating of any oral or written
18 statement or any pamphlet, circular, article, or
19 literature which is false, or maliciously critical of
20 or derogatory to the financial condition of an



1 insurer, and which is calculated to injure any person
2 engaged in the business of insurance;

3 (4) Boycott, coercion, and intimidation.

4 (A) Entering into any agreement to commit, or by any
5 action committing, any act of boycott, coercion,
6 or intimidation resulting in or tending to result
7 in unreasonable restraint of, or monopoly in, the
8 business of insurance; or

9 (B) Entering into any agreement on the condition,
10 agreement, or understanding that a policy will
11 not be issued or renewed unless the prospective
12 insured contracts for another class or an
13 additional policy of the same class of insurance
14 with the same insurer;

15 (5) False financial statements.

16 (A) Knowingly filing with any supervisory or other
17 public official, or knowingly making, publishing,
18 disseminating, circulating, or delivering to any
19 person, or placing before the public, or
20 knowingly causing, directly or indirectly, to be
21 made, published, disseminated, circulated,



1 delivered to any person, or placed before the
2 public, any false statement of a material fact as
3 to the financial condition of an insurer; or
4 (B) Knowingly making any false entry of a material
5 fact in any book, report, or statement of any
6 insurer with intent to deceive any agent or
7 examiner lawfully appointed to examine into its
8 condition or into any of its affairs, or any
9 public official to whom the insurer is required
10 by law to report, or who has authority by law to
11 examine into its condition or into any of its
12 affairs, or, with like intent, knowingly omitting
13 to make a true entry of any material fact
14 pertaining to the business of the insurer in any
15 book, report, or statement of the insurer;
16 (6) Stock operations and advisory board contracts.
17 Issuing or delivering or permitting agents, officers,
18 or employees to issue or deliver, agency company stock
19 or other capital stock, or benefit certificates or
20 shares in any common-law corporation, or securities or
21 any special or advisory board contracts or other



1 contracts of any kind promising returns and profits as
2 an inducement to insurance;

3 (7) Unfair discrimination.

4 (A) Making or permitting any unfair discrimination
5 between individuals of the same class and equal
6 expectation of life in the rates charged for any
7 policy of life insurance or annuity contract or
8 in the dividends or other benefits payable
9 thereon, or in any other of the terms and
10 conditions of the contract;

11 (B) Making or permitting any unfair discrimination in
12 favor of particular individuals or persons, or
13 between insureds or subjects of insurance having
14 substantially like insuring, risk, and exposure
15 factors, or expense elements, in the terms or
16 conditions of any insurance contract, or in the
17 rate or amount of premium charge therefor, or in
18 the benefits payable or in any other rights or
19 privilege accruing thereunder;

20 (C) 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 property or casualty risk because of the
5 geographic location of the risk, unless:
6 (i) The refusal, cancellation, or limitation is
7 for a business purpose which is not a mere
8 pretext for unfair discrimination; or
9 (ii) The refusal, cancellation, or limitation is
10 required by law or regulatory mandate;
11 (D) Making or permitting any unfair discrimination
12 between individuals or risks of the same class
13 and of essentially the same hazards by refusing
14 to issue, refusing to renew, canceling, or
15 limiting the amount of insurance coverage on a
16 residential property risk, or the personal
17 property contained therein, because of the age of
18 the residential property, unless:
19 (i) The refusal, cancellation, or limitation is
20 for a business purpose which is not a mere
21 pretext for unfair discrimination; or



1 (ii) The refusal, cancellation, or limitation is
2 required by law or regulatory mandate;
3 (E) Refusing to insure, refusing to continue to
4 insure, or limiting the amount of coverage
5 available to an individual because of the sex or
6 marital status of the individual; however,
7 nothing in this subsection shall prohibit an
8 insurer from taking marital status into account
9 for the purpose of defining persons eligible for
10 dependent benefits;
11 (F) Terminating or modifying coverage, or refusing to
12 issue or renew any property or casualty policy or
13 contract of insurance solely because the
14 applicant or insured or any employee of either is
15 mentally or physically impaired; provided that
16 this subparagraph shall not apply to accident and
17 health or sickness insurance sold by a casualty
18 insurer; provided further that this subparagraph
19 shall not be interpreted to modify any other
20 provision of law relating to the termination,



1 modification, issuance, or renewal of any
2 insurance policy or contract;

3 (G) Refusing to insure, refusing to continue to
4 insure, or limiting the amount of coverage
5 available to an individual based solely upon the
6 individual's having taken a human
7 immunodeficiency virus (HIV) test prior to
8 applying for insurance; or

9 (H) Refusing to insure, refusing to continue to
10 insure, or limiting the amount of coverage
11 available to an individual because the individual
12 refuses to consent to the release of information
13 which is confidential as provided in section
14 325-101; provided that nothing in this
15 subparagraph shall prohibit an insurer from
16 obtaining and using the results of a test
17 satisfying the requirements of the commissioner,
18 which was taken with the consent of an applicant
19 for insurance; provided further that any
20 applicant for insurance who is tested for HIV
21 infection shall be afforded the opportunity to



1 obtain the test results, within a reasonable time
2 after being tested, and that the confidentiality
3 of the test results shall be maintained as
4 provided by section 325-101;

5 (8) Rebates. Except as otherwise expressly provided by
6 law:

7 (A) Knowingly permitting or offering to make or
8 making any contract of insurance, or agreement as
9 to the contract other than as plainly expressed
10 in the contract, or paying or allowing, or giving
11 or offering to pay, allow, or give, directly or
12 indirectly, as inducement to the insurance, any
13 rebate of premiums payable on the contract, or
14 any special favor or advantage in the dividends
15 or other benefits, or any valuable consideration
16 or inducement not specified in the contract; or

17 (B) Giving, selling, or purchasing, or offering to
18 give, sell, or purchase as inducement to the
19 insurance or in connection therewith, any stocks,
20 bonds, or other securities of any insurance
21 company or other corporation, association, or



1 partnership, or any dividends or profits accrued
2 thereon, or anything of value not specified in
3 the contract;

4 (9) Nothing in paragraph (7) or (8) shall be construed as
5 including within the definition of discrimination or
6 rebates any of the following practices:

7 (A) In the case of any life insurance policy or
8 annuity contract, paying bonuses to policyholders
9 or otherwise abating their premiums in whole or
10 in part out of surplus accumulated from
11 nonparticipating insurance; provided that any
12 bonus or abatement of premiums shall be fair and
13 equitable to policyholders and in the best
14 interests of the insurer and its policyholders;

15 (B) In the case of life insurance policies issued on
16 the industrial debit plan, making allowance to
17 policyholders who have continuously for a
18 specified period made premium payments directly
19 to an office of the insurer in an amount which
20 fairly represents the saving in collection
21 expense;



- 1 (C) Readjustment of the rate of premium for a group
- 2 insurance policy based on the loss or expense
- 3 experience thereunder, at the end of the first or
- 4 any subsequent policy year of insurance
- 5 thereunder, which may be made retroactive only
- 6 for the policy year;
- 7 (D) In the case of any contract of insurance, the
- 8 distribution of savings, earnings, or surplus
- 9 equitably among a class of policyholders, all in
- 10 accordance with this article; and
- 11 (E) A reward under a wellness program established
- 12 under a health care plan that favors an
- 13 individual if the wellness program meets the
- 14 following requirements:
- 15 (i) The wellness program is reasonably designed
- 16 to promote health or prevent disease;
- 17 (ii) An individual has an opportunity to qualify
- 18 for the reward at least once a year;
- 19 (iii) The reward is available for all similarly
- 20 situated individuals;



- 1 (iv) The wellness program has alternative
- 2 standards for individuals who are unable to
- 3 obtain the reward because of a health
- 4 factor;
- 5 (v) Alternative standards are available for an
- 6 individual who is unable to participate in a
- 7 reward program because of a health
- 8 condition;
- 9 (vi) The insurer provides information explaining
- 10 the standard for achieving the reward and
- 11 discloses the alternative standards; and
- 12 (vii) The total rewards for all wellness programs
- 13 under the health care plan do not exceed
- 14 twenty per cent of the cost of coverage;
- 15 (10) Refusing to provide or limiting coverage available to
- 16 an individual because the individual may have a third-
- 17 party claim for recovery of damages; provided that:
- 18 (A) Where damages are recovered by judgment or
- 19 settlement of a third-party claim, reimbursement
- 20 of past benefits paid shall be allowed pursuant
- 21 to section 663-10;



- 1 (B) This paragraph shall not apply to entities
- 2 licensed under chapter 386 or 431:10C; and
- 3 (C) For entities licensed under chapter 432 or 432D:
- 4 (i) It shall not be a violation of this section
- 5 to refuse to provide or limit coverage
- 6 available to an individual because the
- 7 entity determines that the individual
- 8 reasonably appears to have coverage
- 9 available under chapter 386 or 431:10C; and
- 10 (ii) Payment of claims to an individual who may
- 11 have a third-party claim for recovery of
- 12 damages may be conditioned upon the
- 13 individual first signing and submitting to
- 14 the entity documents to secure the lien and
- 15 reimbursement rights of the entity and
- 16 providing information reasonably related to
- 17 the entity's investigation of its liability
- 18 for coverage.
- 19 Any individual who knows or reasonably should
- 20 know that the individual may have a third-party
- 21 claim for recovery of damages and who fails to



1 provide timely notice of the potential claim to
2 the entity, shall be deemed to have waived the
3 prohibition of this paragraph against refusal or
4 limitation of coverage. "Third-party claim" for
5 purposes of this paragraph means any tort claim
6 for monetary recovery or damages that the
7 individual has against any person, entity, or
8 insurer, other than the entity licensed under
9 chapter 432 or 432D;

- 10 (11) Unfair claim settlement practices. Committing or
11 performing with such frequency as to indicate a
12 general business practice any of the following:
- 13 (A) Misrepresenting pertinent facts or insurance
14 policy provisions relating to coverages at issue;
 - 15 (B) With respect to claims arising under its
16 policies, failing to respond with reasonable
17 promptness, in no case more than fifteen working
18 days, to communications received from:
 - 19 (i) The insurer's policyholder;
 - 20 (ii) Any other persons, including the
21 commissioner; or



1 (iii) The insurer of a person involved in an
2 incident in which the insurer's policyholder
3 is also involved.

4 The response shall be more than an acknowledgment
5 that such person's communication has been
6 received and shall adequately address the
7 concerns stated in the communication;

8 (C) Failing to adopt and implement reasonable
9 standards for the prompt investigation of claims
10 arising under insurance policies;

11 (D) Refusing to pay claims without conducting a
12 reasonable investigation based upon all available
13 information;

14 (E) Failing to affirm or deny coverage of claims
15 within a reasonable time after proof of loss
16 statements have been completed;

17 (F) Failing to offer payment within thirty calendar
18 days of affirmation of liability, if the amount
19 of the claim has been determined and is not in
20 dispute;



- 1 (G) Failing to provide the insured, or when
2 applicable the insured's beneficiary, with a
3 reasonable written explanation for any delay, on
4 every claim remaining unresolved for thirty
5 calendar days from the date it was reported;
- 6 (H) Not attempting in good faith to effectuate
7 prompt, fair, and equitable settlements of claims
8 in which liability has become reasonably clear;
- 9 (I) Compelling insureds to institute litigation to
10 recover amounts due under an insurance policy by
11 offering substantially less than the amounts
12 ultimately recovered in actions brought by the
13 insureds;
- 14 (J) Attempting to settle a claim for less than the
15 amount to which a reasonable person would have
16 believed the person was entitled by reference to
17 written or printed advertising material
18 accompanying or made part of an application;
- 19 (K) Attempting to settle claims on the basis of an
20 application that was altered without notice,
21 knowledge, or consent of the insured;



- 1 (L) Making claims payments to insureds or
- 2 beneficiaries not accompanied by a statement
- 3 setting forth the coverage under which the
- 4 payments are being made;
- 5 (M) Making known to insureds or claimants a policy of
- 6 appealing from arbitration awards in favor of
- 7 insureds or claimants for the purpose of
- 8 compelling them to accept settlements or
- 9 compromises less than the amount awarded in
- 10 arbitration;
- 11 (N) Delaying the investigation or payment of claims
- 12 by requiring an insured, claimant, or the
- 13 physician ~~[or]~~, advanced practice registered
- 14 nurse, or qualified health care provider of
- 15 either to submit a preliminary claim report and
- 16 then requiring the subsequent submission of
- 17 formal proof of loss forms, both of which
- 18 submissions contain substantially the same
- 19 information; provided that for purposes of this
- 20 subparagraph, "qualified health care provider"
- 21 has the same meaning as in section 325- ;



- 1 (O) Failing to promptly settle claims, where
- 2 liability has become reasonably clear, under one
- 3 portion of the insurance policy coverage to
- 4 influence settlements under other portions of the
- 5 insurance policy coverage;
- 6 (P) Failing to promptly provide a reasonable
- 7 explanation of the basis in the insurance policy
- 8 in relation to the facts or applicable law for
- 9 denial of a claim or for the offer of a
- 10 compromise settlement; and
- 11 (Q) Indicating to the insured on any payment draft,
- 12 check, or in any accompanying letter that the
- 13 payment is "final" or is "a release" of any claim
- 14 if additional benefits relating to the claim are
- 15 probable under coverages afforded by the policy;
- 16 unless the policy limit has been paid or there is
- 17 a bona fide dispute over either the coverage or
- 18 the amount payable under the policy;
- 19 (12) Failure to maintain complaint handling procedures.
- 20 Failure of any insurer to maintain a complete record
- 21 of all the complaints that it has received since the



1 date of its last examination under section 431:2-302.
2 This record shall indicate the total number of
3 complaints, their classification by line of insurance,
4 the nature of each complaint, the disposition of the
5 complaints, and the time it took to process each
6 complaint. For purposes of this section, "complaint"
7 means any written communication primarily expressing a
8 grievance;

9 (13) Misrepresentation in insurance applications. Making
10 false or fraudulent statements or representations on
11 or relative to an application for an insurance policy,
12 for the purpose of obtaining a fee, commission, money,
13 or other benefit from any insurer, producer, or
14 individual; and

15 (14) Failure to obtain information. Failure of any
16 insurance producer, or an insurer where no producer is
17 involved, to comply with section 431:10D-623(a), (b),
18 or (c) by making reasonable efforts to obtain
19 information about a consumer before making a
20 recommendation to the consumer to purchase or exchange
21 an annuity."



1 SECTION 160. Section 431:13-108, Hawaii Revised Statutes,
2 is amended as follows:

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

4 "(c) If a claim is contested or denied or requires more
5 time for review by an entity, the entity shall notify the health
6 care facility, qualified health care provider, insured, or
7 member filing a claim from a non-contracted provider in writing
8 or electronically not more than fifteen calendar days after
9 receiving a claim filed in writing, or not more than seven
10 calendar days after receiving a claim filed electronically, as
11 appropriate. The notice shall identify the contested portion of
12 the claim and the specific reason for contesting or denying the
13 claim[7] and may request additional information; provided that a
14 notice shall not be required if the entity provides a
15 reimbursement report containing the information, at least
16 monthly, to the health care facility or qualified health care
17 provider."

18 2. By amending subsections (i) to (l) to read:

19 "(i) Prior to initiating any recoupment or offset demand
20 efforts, an entity shall send a written notice to a health care
21 facility or qualified health care provider at least thirty



1 calendar days prior to engaging in the recoupment or offset
2 efforts. The following information shall be prominently
3 displayed on the written notice:

- 4 (1) The patient's name;
- 5 (2) The date health care services were provided;
- 6 (3) The payment amount received by the health care
7 facility or qualified health care provider;
- 8 (4) The reason for the recoupment or offset; and
- 9 (5) The telephone number or mailing address through which
10 a health care facility or qualified health care
11 provider may initiate an appeal along with the
12 deadline for initiating an appeal. Any appeal of a
13 recoupment or offset shall be made by a health care
14 facility or qualified health care provider within
15 sixty days after the receipt of the written notice.

16 (j) An entity shall not initiate recoupment or offset
17 efforts more than eighteen months after the initial claim
18 payment was received by the health care facility, qualified
19 health care provider, or health care entity; provided that this
20 time limit shall not apply to the initiation of recoupment or
21 offset efforts: to claims for self-insured employer groups; for



1 services rendered to individuals associated with a health care
2 entity through a national participating provider network; or for
3 claims for medicaid, medicare, medigap, or other federally
4 financed plan; provided further that this section shall not be
5 construed to prevent entities from resolving claims that involve
6 coordination of benefits, subrogation, or preexisting condition
7 investigations, or that involve third-party liability beyond the
8 eighteen month time limit; provided further that in cases of
9 fraud or material misrepresentation, an entity shall not
10 initiate recoupment or offset efforts more than seventy-two
11 months after the initial claim payment was received by the
12 health care facility, qualified health care provider, or health
13 care entity.

14 (k) In determining the penalties under section 431:13-201
15 for a violation of this section, the commissioner shall
16 consider:

- 17 (1) The appropriateness of the penalty in relation to the
18 financial resources and good faith of the entity;
- 19 (2) The gravity of the violation;
- 20 (3) The history of the entity for previous similar
21 violations;



1 (4) The economic benefit to be derived by the entity and
2 the economic impact upon the health care facility or
3 qualified health care provider resulting from the
4 violation; and

5 (5) Any other relevant factors bearing upon the violation.

6 (1) As used in this section:

7 "Claim" means any claim, bill, or request for payment for
8 all or any portion of health care services provided by a health
9 care facility or qualified health care provider [~~of services~~]
10 submitted by an individual or pursuant to a contract or
11 agreement with an entity, using the entity's standard claim form
12 with all required fields completed with correct and complete
13 information.

14 "Clean claim" means a claim in which the information in the
15 possession of an entity adequately indicates that:

16 (1) The claim is for a covered health care service
17 provided by an eligible health care entity or
18 qualified health care provider to a covered person
19 under the contract;

20 (2) The claim has no material defect or impropriety;

21 (3) There is no dispute regarding the amount claimed; and



1 (4) The payer has no reason to believe that the claim was
2 submitted fraudulently.

3 [~~The term~~] "Clean claim" does not include:

4 (1) Claims for payment of expenses incurred during a
5 period of time when premiums were delinquent;

6 (2) Claims that are submitted fraudulently or that are
7 based upon material misrepresentations;

8 (3) Claims for self-insured employer groups; claims for
9 services rendered to individuals associated with a
10 health care entity through a national participating
11 provider network; or claims for medicaid, medicare,
12 medigap, or other federally financed plan; and

13 (4) Claims that require a coordination of benefits,
14 subrogation, or preexisting condition investigations,
15 or that involve third-party liability.

16 "Contest", "contesting", or "contested" means the
17 circumstances under which an entity was not provided with, or
18 did not have reasonable access to, sufficient information needed
19 to determine payment liability or basis for payment of the
20 claim.



1 "Deny", "denying", or "denied" means the assertion by an
2 entity that it has no liability to pay a claim based upon
3 eligibility of the patient, coverage of a service, medical
4 necessity of a service, liability of another payer, or other
5 grounds.

6 "Entity" means accident and health or sickness insurance
7 providers under part I of article 10A of chapter 431, mutual
8 benefit societies under article 1 of chapter 432, dental service
9 corporations under chapter 423, and health maintenance
10 organizations under chapter 432D.

11 "Fraud" shall have the same meaning as in section
12 431:2-403.

13 "Health care facility" shall have the same meaning as in
14 section 323D-2.

15 [~~"Health care provider" means a Hawaii health care
16 facility, physician, nurse, or any other provider of health care
17 services covered by an entity.~~]

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

20 SECTION 161. Section 431C-33, Hawaii Revised Statutes, is
21 amended as follows:



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

2 "(a) A provider entering into a life settlement contract
3 with any owner of a policy, wherein the insured is terminally or
4 chronically ill, shall first obtain:

5 (1) If the owner is the insured, a written statement from
6 a licensed attending physician or other qualified
7 health care provider that the owner is of sound mind
8 and under no constraint or undue influence to enter
9 into a life settlement contract; and

10 (2) A document in which the insured consents to the
11 release of the insured's medical records to a
12 provider, broker, or insurance producer and, if the
13 policy was issued less than two years from the date of
14 application for a life settlement contract, to the
15 insurance company that issued the policy.

16 The provider, broker, or its authorized representative shall be
17 limited to contact for the purpose of determining the owner's
18 health status or to verify the owner's address, once every three
19 months if the insured has a life expectancy of more than one
20 year, and no more than once per month if the insured has a life
21 expectancy of one year or less.



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

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

4 "(m) No person at any time prior to or at the time of the
5 application for, or issuance of, a policy, or during a two-year
6 period commencing with the date of issuance of the policy, shall
7 enter into a life settlement contract regardless of the date the
8 compensation is to be provided and regardless of the date the
9 assignment, transfer, sale, devise, bequest, or surrender of the
10 policy is to occur. This prohibition shall not apply if the
11 owner certifies to the provider that:

12 (1) The policy was issued upon the owner's exercise of
13 conversion rights arising out of a group or individual
14 policy; provided that the total of the time covered
15 under the conversion policy plus the time covered
16 under the prior policy is at least two years. The
17 time covered under a group policy shall be calculated
18 without regard to a change in insurance carriers;
19 provided further that the coverage has been continuous
20 and under the same group sponsorship; or



1 (2) The owner submits independent evidence to the provider
2 that one or more of the following conditions have been
3 met within the two-year period:

4 (A) The owner or insured is chronically or terminally
5 ill;

6 (B) The owner or insured disposes of ownership
7 interests in a closely-held corporation, pursuant
8 to the terms of a buyout or other similar
9 agreement in effect at the time the policy was
10 initially issued;

11 (C) The owner's spouse dies;

12 (D) The owner divorces the owner's spouse;

13 (E) The owner retires from full-time employment;

14 (F) The owner becomes physically or mentally disabled
15 and a physician or other qualified health care
16 provider determines that the disability prevents
17 the owner from maintaining full-time employment;
18 or

19 (G) A final order, judgment, or decree is entered by
20 a court of competent jurisdiction, on the
21 application of a creditor of the owner,



1 adjudicating the owner bankrupt or insolvent, or
2 approving a petition seeking reorganization of
3 the owner or appointing a receiver, trustee, or
4 liquidator to all or a substantial part of the
5 owner's assets.

6 Copies of the independent evidence required by paragraph
7 (2) shall be submitted to the insurer when the provider submits
8 a request to the insurer for verification of coverage. The
9 copies shall be accompanied by a letter of attestation from the
10 provider that the copies are true and correct copies of the
11 documents received by the provider. Nothing in this section
12 shall prohibit an insurer from exercising its right to contest
13 the validity of any policy.

14 If the provider submits to the insurer a copy of
15 independent evidence required by paragraph (2) when the provider
16 submits a request to the insurer to effect the transfer of the
17 policy to the provider, the copy shall be deemed to establish
18 that the life settlement contract satisfies the requirements of
19 this section.

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



1 SECTION 162. Section 431M-1, Hawaii Revised Statutes, is
2 amended as follows:

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

5 "Physician assistant" means a person licensed as a
6 physician assistant pursuant to chapter 453."

7 2. By amending the definition of "alcohol or drug
8 dependence outpatient services" to read:

9 "Alcohol or drug dependence outpatient services" means
10 alcohol or drug dependence nonresidential treatment provided on
11 an ambulatory basis to patients with alcohol or drug dependence
12 problems that includes interventions prescribed and performed by
13 qualified physicians, psychologists, licensed clinical social
14 workers, licensed marriage and family therapists, licensed
15 mental health [+]counselors[+], [~~o~~] advanced practice
16 registered nurses[-], or physician assistants. This definition
17 shall not imply a broadening of the scope of or granting of
18 prescriptive authority privileges, except as otherwise allowed
19 pursuant to chapter 457."

20 3. By amending the definitions of "day treatment services"
21 and "detoxification services" to read:



1 ""Day treatment services" means treatment services provided
2 by a hospital, mental health outpatient facility, or nonhospital
3 facility to patients who, because of their conditions, require
4 more than periodic hourly service. Day treatment services shall
5 be prescribed by a physician, psychologist, licensed clinical
6 social worker, licensed marriage and family therapist, licensed
7 mental health counselor, [~~or~~] advanced practice registered
8 nurse, or physician assistant, and carried out under the
9 supervision of a physician, psychologist, licensed clinical
10 social worker, licensed marriage and family therapist, licensed
11 mental health counselor, [~~or~~] advanced practice registered
12 nurse[~~or~~], or physician assistant. Day treatment services
13 require less than twenty-four hours of care and a minimum of
14 three hours in any one day.

15 "Detoxification services" means the process whereby a
16 person intoxicated by alcohol, drugs, or both, or a person who
17 is dependent upon alcohol, drugs, or both, is assisted through
18 the period of time necessary to eliminate, by metabolic or other
19 means, the intoxicating alcohol or drug dependency factors, as
20 determined by a physician [~~or~~], advanced practice registered



1 nurse, or physician assistant, while keeping the physiological
2 risk to the person at a minimum."

3 4. By amending the definition of "mental health outpatient
4 services" to read:

5 ""Mental health outpatient services" means mental health
6 nonresidential treatment provided on an ambulatory basis to
7 patients with mental illness that includes interventions
8 prescribed and performed by a physician, psychologist, licensed
9 clinical social worker, licensed marriage and family therapist,
10 licensed mental health counselor, [~~or~~] advanced practice
11 registered nurse[~~or~~], or physician assistant."

12 5. By amending the definition of "partial hospitalization"
13 to read:

14 ""Partial hospitalization" means treatment services,
15 including in-hospital treatment services or benefits, provided
16 by a hospital or mental health outpatient facility to patients
17 who, because of their conditions, require more than periodic
18 hourly service. Partial hospitalization shall be prescribed by
19 a physician or psychologist[~~or~~] and may be prescribed by a
20 licensed clinical social worker, licensed marriage and family
21 therapist, licensed mental health counselor, [~~or~~] advanced



1 practice registered nurse, or physician assistant in
2 consultation with a physician or psychologist. Partial
3 hospitalization requires less than twenty-four hours of care and
4 a minimum of three hours in any one day."

5 6. By amending the definition of "qualified" to read:

6 ""Qualified" means:

- 7 (1) Having skill in the diagnosis or treatment of
8 substance use disorders, based on a practitioner's
9 credentials, including but not limited to professional
10 education, clinical training, licensure, board or
11 other certification, clinical experience, letters of
12 reference, other professional qualifications, and
13 disciplinary action; or
14 (2) Being a licensed physician, psychologist, licensed
15 clinical social worker, licensed marriage and family
16 therapist, licensed mental health counselor, [~~or~~]
17 advanced practice registered nurse, or physician
18 assistant, and certified pursuant to chapter 321."

19 7. By amending the definition of "treatment episode" to
20 read:



1 ""Treatment episode" means one admission to an accredited
2 hospital or nonhospital facility, or office of a qualified
3 physician, psychologist, licensed clinical social worker,
4 licensed marriage and family therapist, licensed mental health
5 counselor, ~~[or]~~ advanced practice registered nurse, or physician
6 assistant for treatment of alcohol or drug dependence, or both,
7 as stipulated in a prescribed treatment plan and that would
8 generally produce remission in those who complete the treatment.
9 The prescribed treatment plan may include the provision of
10 substance abuse services in more than one location and may
11 include in-hospital, nonhospital residential, day treatment, or
12 alcohol or drug dependence outpatient services, or any
13 combination thereof. An admission for only detoxification
14 services shall not constitute a treatment episode."

15 SECTION 163. Section 431M-4, Hawaii Revised Statutes, is
16 amended to read as follows:

17 "**§431M-4 Mental illness, alcohol and drug dependence**
18 **benefits.** (a) Alcohol and drug dependence benefits shall be as
19 follows:

20 (1) Detoxification services as a covered benefit under
21 this chapter shall be provided either in a hospital or



1 in a nonhospital facility that has a written
2 affiliation agreement with a hospital for emergency,
3 medical, and mental health support services. The
4 following services shall be covered under
5 detoxification services:

- 6 (A) Room and board;
- 7 (B) Diagnostic x-rays;
- 8 (C) Laboratory testing; and
- 9 (D) Drugs, equipment use, special therapies, and
10 supplies.

11 Detoxification services shall be included as part of
12 the covered in-hospital services;

- 13 (2) Alcohol or drug dependence treatment through in-
14 hospital, nonhospital residential, or day treatment
15 substance abuse services as a covered benefit under
16 this chapter shall be provided in a hospital or
17 nonhospital facility. Before a person qualifies to
18 receive benefits under this subsection, a qualified
19 physician, psychologist, licensed clinical social
20 worker, licensed marriage and family therapist,
21 licensed mental health counselor, [~~or~~] advanced



1 practice registered nurse, or physician assistant
2 shall determine that the person suffers from alcohol
3 or drug dependence, or both; provided that the
4 substance abuse services covered under this paragraph
5 shall include those services that are required for
6 licensure and accreditation. Excluded from alcohol or
7 drug dependence treatment under this subsection are
8 detoxification services and educational programs to
9 which drinking or drugged drivers are referred by the
10 judicial system and services performed by mutual self-
11 help groups;

12 (3) Alcohol or drug dependence outpatient services as a
13 covered benefit under this chapter shall be provided
14 under an individualized treatment plan approved by a
15 qualified physician, psychologist, licensed clinical
16 social worker, licensed marriage and family therapist,
17 licensed mental health counselor, [~~or~~] advanced
18 practice registered nurse, or physician assistant and
19 shall be services reasonably expected to produce
20 remission of the patient's condition. An
21 individualized treatment plan approved by a licensed



1 marriage and family therapist, licensed mental health
2 counselor, licensed clinical social worker, [~~or an~~]
3 advanced practice registered nurse, or physician
4 assistant for a patient already under the care or
5 treatment of a physician or psychologist shall be done
6 in consultation with the physician or psychologist;
7 and

8 (4) Substance abuse assessments for alcohol or drug
9 dependence as a covered benefit under this section for
10 a child facing disciplinary action under section 302A-
11 1134.6 shall be provided by a qualified physician,
12 psychologist, licensed clinical social worker,
13 advanced practice registered nurse, physician
14 assistant, or certified substance abuse counselor.
15 The certified substance abuse counselor shall be
16 employed by a hospital or nonhospital facility
17 providing substance abuse services. The substance
18 abuse assessment shall evaluate the suitability for
19 substance abuse treatment and placement in an
20 appropriate treatment setting.

21 (b) Mental illness benefits.



- 1 (1) Covered benefits for mental health services set forth
2 in this subsection shall be limited to coverage for
3 diagnosis and treatment of mental disorders. All
4 mental health services shall be provided under an
5 individualized treatment plan approved by a physician,
6 psychologist, licensed clinical social worker,
7 licensed marriage and family therapist, licensed
8 mental health counselor, advanced practice registered
9 nurse, physician assistant, or licensed dietitian
10 treating eating disorders, and must be reasonably
11 expected to improve the patient's condition. An
12 individualized treatment plan approved by a licensed
13 clinical social worker, licensed marriage and family
14 therapist, licensed mental health counselor, advanced
15 practice registered nurse, physician assistant, or [a]
16 licensed dietitian treating eating disorders, for a
17 patient already under the care or treatment of a
18 physician or psychologist shall be done in
19 consultation with the physician or psychologist;
- 20 (2) In-hospital and nonhospital residential mental health
21 services as a covered benefit under this chapter shall



1 be provided in a hospital or a nonhospital residential
2 facility. The services to be covered shall include
3 those services required for licensure and
4 accreditation;

5 (3) Mental health partial hospitalization as a covered
6 benefit under this chapter shall be provided by a
7 hospital or a mental health outpatient facility. The
8 services to be covered under this paragraph shall
9 include those services required for licensure and
10 accreditation; and

11 (4) Mental health outpatient services shall be a covered
12 benefit under this chapter."

13 SECTION 164. Section 432:1-303, Hawaii Revised Statutes,
14 is amended by amending subsection (b) to read as follows:

15 "(b) Except as [~~hereinafter~~] otherwise provided[~~7~~] in this
16 subsection, no society shall incur any liability other than for
17 the advance payments, nor issue any benefit certificate, nor
18 allow, or offer or promise to pay, or allow to any person any
19 death benefit until:

20 (1) Actual bona fide applications for death certificates
21 have been secured upon at least one hundred lives for



1 at least \$25 each, and all the applicants for death
 2 benefits have been regularly examined by a qualified
 3 [~~practicing physician,~~] health care provider and
 4 certificates of the examination have been duly filed
 5 with and approved by the administrative board or body
 6 of the society; [~~and~~] provided that for purposes of
 7 this paragraph, "qualified health care provider" has
 8 the same meaning as in section 325- ;

9 (2) At least one hundred applicants have been accepted for
 10 membership; [~~and~~]

11 (3) There has been submitted to the commissioner, under
 12 oath of the president and secretary, or corresponding
 13 officers of the society, a list of applicants
 14 including the following information about each
 15 applicant:

- 16 (A) Name and address[~~τ~~];
- 17 (B) Date examined[~~τ~~];
- 18 (C) Date of approval[~~τ~~];
- 19 (D) Date accepted as member[~~τ~~];



- 1 (E) If subordinate branches have been established,
2 the name and number of the subordinate branch of
3 which each applicant is a member[τ];
- 4 (F) Amount of benefits to be granted[τ]; and
- 5 (G) The rate of stated periodical contributions
6 [~~which~~] that shall be sufficient to provide for
7 meeting the mortuary obligations contracted when
8 valued for death purposes upon the basis of a
9 recognized table of mortality or any mutual
10 benefit standard based on at least twenty years'
11 experience, and for disability benefits by tables
12 based upon reliable experience, and for combined
13 death and permanent total disability benefits by
14 tables based upon reliable experience; and
- 15 (4) It has been shown to the commissioner by the sworn
16 statement of the treasurer or corresponding officer of
17 the society that at least one hundred applicants have
18 paid in cash at least one regular monthly payment as
19 provided under subsection (a), which payments in the
20 aggregate shall amount to at least five times the



1 maximum amount of death benefit offered or promised to
2 be paid to any one member."

3 SECTION 165. Section 432:1-601.5, Hawaii Revised Statutes,
4 is amended by amending subsection (g) to read as follows:

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

6 "Health care provider" means a provider of services, as
7 defined in title 42 United States Code section 1395x(u), a
8 provider of medical and other health services, as defined in
9 title 42 United States Code section 1395x(s), other
10 practitioners licensed by the State and working within their
11 scope of practice, and any other person or organization who
12 furnishes, bills, or is paid for health care in the normal
13 course of business, including but not limited to primary care
14 providers, mental health providers, oral health providers,
15 physicians and osteopathic physicians licensed under chapter
16 453, advanced practice registered nurses licensed under chapter
17 457, psychologists licensed under chapter 465, [~~and~~] dentists
18 licensed under chapter 448[-], and qualified health care
19 providers.



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

4 "Originating site" means the location where the patient is
5 located, whether accompanied or not by a health care provider,
6 at the time services are provided by a health care provider
7 through telehealth, including but not limited to a health care
8 provider's office, hospital, health care facility, a patient's
9 home, and other nonmedical environments such as school-based
10 health centers, university-based health centers, or the work
11 location of a patient.

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

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



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

9 SECTION 166. Section 432:1-602.5, Hawaii Revised Statutes,
10 is amended by amending subsection (e) to read as follows:

11 "(e) For the purposes of this section[, ~~"child health~~
12 ~~supervision services"~~]:

13 "Child health supervision services" means [~~physician-~~
14 ~~delivered, physician supervised, physician assistant delivered,~~
15 ~~or nurse delivered services as defined by section 457-2~~
16 ~~("registered nurse"),~~ services supervised or delivered by a
17 physician, a physician assistant, an advanced practice
18 registered nurse, a registered nurse, or a qualified health care
19 provider-delivered, which shall include as the minimum benefit
20 coverage for services delivered at intervals and scope stated in
21 this section.



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

3 SECTION 167. Section 432:1-603, Hawaii Revised Statutes,
4 is amended to read as follows:

5 **"§432:1-603 Reimbursement for psychological services.**

6 Notwithstanding any provision of any individual or group
7 hospital or medical service plan contract, whenever the plan
8 contract provides reimbursement or payment for any service which
9 is within the lawful scope of practice of a psychologist
10 licensed in this State, the person entitled to benefits or
11 performing the service shall be entitled to reimbursement or
12 payment whether the service is performed by a licensed physician
13 [~~or~~], licensed psychologist[-], licensed physician assistant, or
14 licensed advanced practice registered nurse."

15 SECTION 168. Section 432:1-604.5, Hawaii Revised Statutes,
16 is amended by amending subsection (e) to read as follows:

17 "(e) For purposes of this section:

18 "Contraceptive services" means [~~physician-delivered,~~
19 ~~physician-supervised, physician assistant-delivered, advanced~~
20 ~~practice registered nurse-delivered, nurse-delivered, or~~
21 ~~pharmacist-delivered~~] medical services supervised or delivered



1 by a health care provider that are intended to promote the
2 effective use of contraceptive supplies or devices to prevent
3 unwanted pregnancy.

4 "Contraceptive supplies" means all Food and Drug
5 Administration-approved contraceptive drugs or devices used to
6 prevent unwanted pregnancy.

7 "Health care provider" means a physician or an osteopathic
8 physician licensed under chapter 453, a physician assistant
9 licensed under chapter 453, an advanced practice registered
10 nurse or a registered nurse licensed under chapter 457, a
11 pharmacist licensed under chapter 461, a naturopathic physician
12 licensed under chapter 455, or a midwife licensed under chapter
13 457J."

14 SECTION 169. Section 432:1-605, Hawaii Revised Statutes,
15 is amended by amending subsection (a) to read as follows:

16 "(a) Notwithstanding any provision to the contrary, each
17 policy, contract, plan, or agreement issued on or after February
18 1, 1991, except for policies that only provide coverage for
19 specified diseases or other limited benefit coverage, but
20 including policies issued by companies subject to chapter 431,
21 article 10A, part II and chapter 432, article 1 shall provide



1 coverage for screening by low-dose mammography for occult breast
2 cancer as follows:

- 3 (1) For women forty years of age and older, an annual
4 mammogram; and
- 5 (2) For a woman of any age with a history of breast cancer
6 or whose mother or sister has had a history of breast
7 cancer, a mammogram upon the recommendation of the
8 woman's physician[-] or other qualified health care
9 provider; provided that for purposes of this
10 paragraph, "qualified health care provider" has the
11 same meaning as in section 325- ."

12 SECTION 170. Section 432:1-605.5, Hawaii Revised Statutes,
13 is amended to read as follows:

14 "[~~f~~]§432:1-605.5[~~}]~~ **Mammograms; referral not required.**

- 15 (a) For purposes of the annual screening mammogram coverage
16 required under section 432:1-605, no mutual benefit society
17 shall require a covered person forty years of age and older to
18 obtain a referral from a primary care provider or other
19 [~~physician~~] qualified health care provider for an annual
20 screening mammogram.



1 (b) If the screening mammogram indicates that follow up
2 services are advisable, a referral shall be made to the
3 patient's primary care physician or other ~~[physician,]~~ qualified
4 health care provider, as designated by the patient.

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

7 SECTION 171. Section 432:1-609, Hawaii Revised Statutes,
8 is amended as follows:

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

10 "(a) All individual and group hospital and medical service
11 plan contracts and medical service corporation contracts under
12 this chapter shall provide coverage for medical foods and low-
13 protein modified food products for the treatment of an inborn
14 error of metabolism for its members or dependents of the member
15 in this State; provided that the medical food or low-protein
16 modified food product is:

17 (1) Prescribed as medically necessary for the therapeutic
18 treatment of an inborn error of metabolism; and

19 (2) Consumed or administered enterally under the
20 supervision of a physician or osteopathic physician



1 licensed under chapter 453[+] or other qualified
2 health care provider.

3 Coverage shall be for at least eighty per cent of the cost of
4 the medical food or low-protein modified food product prescribed
5 and administered pursuant to this subsection."

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

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

8 "Inborn error of metabolism" means a disease caused by an
9 inherited abnormality of the body chemistry of a person that is
10 characterized by deficient metabolism, originating from
11 congenital defects or defects arising shortly after birth, of
12 amino acid, organic acid, carbohydrate, or fat.

13 "Low-protein modified food product" means a food product
14 that:

15 (1) Is specially formulated to have less than one gram of
16 protein per serving;

17 (2) Is prescribed or ordered by a physician or osteopathic
18 physician as medically necessary for the dietary
19 treatment of an inherited metabolic disease; and

20 (3) Does not include a food that is naturally low in
21 protein.



1 "Medical food" means a food that is formulated to be
2 consumed or administered enterally under the supervision of a
3 physician or osteopathic physician and is intended for the
4 specific dietary management of a disease or condition for which
5 distinctive nutritional requirements, based on recognized
6 scientific principles, are established by medical evaluation.

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

9 SECTION 172. Section 432:1-614, Hawaii Revised Statutes,
10 is amended by amending subsection (m) to read as follows:

11 "(m) As used in this section, unless the context clearly
12 requires otherwise:

13 "Applied behavior analysis" means the design,
14 implementation, and evaluation of environmental modifications,
15 using behavioral stimuli and consequences, to produce socially
16 significant improvement in human behavior, including the use of
17 direct observation, measurement, and functional analysis of the
18 relations between environment and behavior.

19 "Autism" means autism spectrum disorder as defined by the
20 most recent edition of the Diagnostic and Statistical Manual of
21 Mental Disorders.



1 "Autism service provider" means any person, entity, or
2 group that provides treatment for autism and meets the minimum
3 requirements pursuant to subsection (1).

4 "Behavioral health treatment" means [~~evidence based~~]
5 evidence-based counseling and treatment programs, including
6 applied behavior analysis, that are:

- 7 (1) Necessary to develop, maintain, or restore, to the
8 maximum extent practicable, the functioning of an
9 individual; and
10 (2) Provided or supervised by an autism service provider.

11 "Diagnosis of autism" means medically necessary
12 assessments, evaluations, or tests conducted to diagnose whether
13 an individual has autism.

14 "Pharmacy care" means medications prescribed by a licensed
15 physician [~~or registered nurse practitioner~~], physician
16 assistant, or advanced practice registered nurse and any health-
17 related services that are deemed medically necessary to
18 determine the need or effectiveness of the medications.

19 "Psychiatric care" means direct or consultative services
20 provided by a licensed psychiatrist[~~-~~], physician assistant, or
21 advanced practice registered nurse.



1 "Psychological care" means direct or consultative services
2 provided by a licensed psychologist[-], physician, physician
3 assistant, or advanced practice registered nurse.

4 "Therapeutic care" means services provided by licensed
5 speech pathologists, registered occupational therapists,
6 licensed social workers, licensed clinical social workers, or
7 licensed physical therapists.

8 "Treatment for autism" includes the following care
9 prescribed or ordered for an individual diagnosed with autism by
10 a licensed physician, psychiatrist, physician assistant,
11 psychologist, licensed clinical social worker, or [registered
12 nurse-practitioner] advanced practice registered nurse if the
13 care is determined to be medically necessary:

- 14 (1) Behavioral health treatment;
15 (2) Pharmacy care;
16 (3) Psychiatric care;
17 (4) Psychological care; and
18 (5) Therapeutic care."

19 SECTION 173. Section 432:1-616, Hawaii Revised Statutes,
20 is amended by amending subsection (d) to read as follows:

21 "(d) For the purposes of this section:



1 "Cost-share" or "cost-sharing" means copayment,
2 coinsurance, or deductible provisions applicable to coverage for
3 medications or treatments.

4 "Intravenously administered chemotherapy" means a
5 ~~[physician-prescribed]~~ cancer treatment prescribed by a licensed
6 health care provider that is administered through injection
7 directly into the patient's circulatory system by a physician,
8 physician assistant, ~~[nurse-practitioner,~~ advanced practice
9 registered nurse, nurse, or other medical personnel under the
10 supervision of a physician and in a hospital, medical office, or
11 other clinical setting.

12 "Oral chemotherapy" means a United States Food and Drug
13 Administration-approved, ~~[physician-prescribed]~~ cancer treatment
14 prescribed by a licensed health care provider that is taken
15 orally in the form of a tablet or capsule and may be
16 administered in a hospital, medical office, or other clinical
17 setting or may be delivered to the patient for self-
18 administration under the direction or supervision of a physician
19 or other licensed health care provider outside of a hospital,
20 medical office, or other clinical setting."



1 SECTION 174. Section 432:1-617, Hawaii Revised Statutes,
2 is amended by amending subsection (b) to read as follows:

3 "(b) Beginning March 1, 2011, all health insurance
4 providers in Hawaii shall inform their insured of the risk
5 associated with undiagnosed colorectal cancer and encourage the
6 insured to consult with the insured's [~~physician~~] qualified
7 health care provider about available screening options.

8 For purposes of this subsection, "qualified health care
9 provider" has the same meaning as in section 325- ."

10 SECTION 175. Section 432:2-406, Hawaii Revised Statutes,
11 is amended to read as follows:

12 "[~~§~~432:2-406[~~§~~] **Mammogram coverage required; referral**
13 **not required.** (a) A fraternal benefit society shall provide
14 coverage for an annual screening mammogram to the same extent as
15 required under section 431:10A-116; provided that no fraternal
16 benefit society shall require a covered person forty years of
17 age and older to obtain a referral from a primary care provider
18 or other [~~physician~~] qualified health care provider for an
19 annual screening mammogram.

20 (b) If the screening mammogram indicates that follow up
21 services are advisable, a referral shall be made to the



1 patient's primary care physician or other [~~physician,~~] qualified
2 health care provider, as designated by the patient.

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

5 SECTION 176. Section 432D-1, Hawaii Revised Statutes, is
6 amended as follows:

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

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

11 2. By amending the definition of "basic health care
12 services" to read:

13 "Basic health care services" means the following medical
14 services: preventive care[~~;~~]; emergency care[~~;~~]; inpatient and
15 outpatient hospital [~~and~~] care, physician care, and qualified
16 health care provider care; diagnostic laboratory services[~~;~~];
17 and diagnostic and therapeutic radiological services. [~~It~~]

18 "Basic health care services" does not include mental health
19 services, services for alcohol or drug abuse, dental or vision
20 services, or long-term rehabilitation treatment, except as
21 provided in chapter 431M."



1 SECTION 177. Section 432D-23.5, Hawaii Revised Statutes,
2 is amended by amending subsection (g) to read as follows:

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

4 "Distant site" means the location of the health care
5 provider delivering services through telehealth at the time the
6 services are provided.

7 "Health care provider" means a provider of services, as
8 defined in title 42 United States Code section 1395x(u), a
9 provider of medical and other health services, as defined in
10 title 42 United States Code section 1395x(s), other
11 practitioners licensed by the State and working within their
12 scope of practice, and any other person or organization who
13 furnishes, bills, or is paid for health care in the normal
14 course of business, including but not limited to primary care
15 providers, mental health providers, oral health providers,
16 physicians and osteopathic physicians licensed under chapter
17 453, advanced practice registered nurses licensed under chapter
18 457, psychologists licensed under chapter 465, [~~and~~] dentists
19 licensed under chapter 448[-], and qualified health care
20 providers.



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

4 "Originating site" means the location where the patient is
5 located, whether accompanied or not by a health care provider,
6 at the time services are provided by a health care provider
7 through telehealth, including but not limited to a health care
8 provider's office, hospital, health care facility, a patient's
9 home, and other nonmedical environments such as school-based
10 health centers, university-based health centers, or the work
11 location of a patient.

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

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



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

9 SECTION 178. Section 432E-1.4, Hawaii Revised Statutes, is
10 amended by amending subsections (b) to (d) to read as follows:

11 "(b) A health intervention is medically necessary if it is
12 recommended by the treating physician, treating physician
13 assistant, treating advanced practice registered nurse, or other
14 treating licensed health care provider~~[7]~~; is approved by the
15 health plan's medical director ~~[e#]~~, physician designee,
16 physician assistant designee, or advanced practice registered
17 nurse designee; and is:

- 18 (1) For the purpose of treating a medical condition;
19 (2) The most appropriate delivery or level of service,
20 considering potential benefits and harms to the
21 patient;



- 1 (3) Known to be effective in improving health outcomes;
2 provided that:
- 3 (A) Effectiveness is determined first by scientific
4 evidence;
- 5 (B) If no scientific evidence exists, then by
6 professional standards of care; and
- 7 (C) If no professional standards of care exist or if
8 they exist but are outdated or contradictory,
9 then by expert opinion; and
- 10 (4) Cost-effective for the medical condition being treated
11 compared to alternative health interventions,
12 including no intervention. For purposes of this
13 paragraph, cost-effective shall not necessarily mean
14 the lowest price.
- 15 (c) When the treating licensed health care provider and
16 the health plan's medical director [~~or~~], physician designee,
17 physician assistant designee, or advanced practice registered
18 nurse designee do not agree on whether a health intervention is
19 medically necessary, a reviewing body, whether internal to the
20 plan or external, shall give consideration to, but shall not be
21 bound by, the recommendations of the treating licensed health



1 care provider and the health plan's medical director [~~or~~],
2 physician designee[-], physician assistant designee, or advanced
3 practice registered nurse designee.

4 (d) For the purposes of this section:

5 "Cost-effective" means a health intervention where the
6 benefits and harms relative to the costs represent an
7 economically efficient use of resources for patients with the
8 medical condition being treated through the health intervention;
9 provided that the characteristics of the individual patient
10 shall be determinative when applying this criterion to an
11 individual case.

12 "Effective" means a health intervention that may reasonably
13 be expected to produce the intended results and to have expected
14 benefits that outweigh potential harmful effects.

15 "Health intervention" means an item or service delivered or
16 undertaken primarily to treat a medical condition or to maintain
17 or restore functional ability. A health intervention is defined
18 not only by the intervention itself, but also by the medical
19 condition and patient indications for which it is being applied.
20 New interventions for which clinical trials have not been
21 conducted and effectiveness has not been scientifically



1 established shall be evaluated on the basis of professional
2 standards of care or expert opinion. For existing
3 interventions, scientific evidence shall be considered first
4 and, to the greatest extent possible, shall be the basis for
5 determinations of medical necessity. If no scientific evidence
6 is available, professional standards of care shall be
7 considered. If professional standards of care do not exist or
8 are outdated or contradictory, decisions about existing
9 interventions shall be based on expert opinion. Giving priority
10 to scientific evidence shall not mean that coverage of existing
11 interventions shall be denied in the absence of conclusive
12 scientific evidence. Existing interventions may meet the
13 definition of medical necessity in the absence of scientific
14 evidence if there is a strong conviction of effectiveness and
15 benefit expressed through up-to-date and consistent professional
16 standards of care, or in the absence of such standards,
17 convincing expert opinion.

18 "Health outcomes" mean outcomes that affect health status
19 as measured by the length or quality of a patient's life,
20 primarily as perceived by the patient.



1 "Medical condition" means a disease, illness, injury,
2 genetic or congenital defect, pregnancy, or a biological or
3 psychological condition that lies outside the range of normal,
4 age-appropriate human variation.

5 "Physician designee" means a physician or other health care
6 practitioner designated to assist in the decision-making process
7 who has training and credentials at least equal to the treating
8 licensed health care provider.

9 "Physician assistant designee" means a physician assistant
10 designated to assist in the decision-making process who has
11 training and credentials at least equal to the treating licensed
12 health care provider.

13 "Scientific evidence" means controlled clinical trials that
14 either directly or indirectly demonstrate the effect of the
15 intervention on health outcomes. If controlled clinical trials
16 are not available, observational studies that demonstrate a
17 causal relationship between the intervention and the health
18 outcomes may be used. Partially controlled observational
19 studies and uncontrolled clinical series may be suggestive, but
20 do not by themselves demonstrate a causal relationship unless
21 the magnitude of the effect observed exceeds anything that could



1 be explained either by the natural history of the medical
2 condition or potential experimental biases. Scientific evidence
3 may be found in the following and similar sources:

- 4 (1) Peer-reviewed scientific studies published in or
5 accepted for publication by medical journals that meet
6 nationally recognized requirements for scientific
7 manuscripts and that submit most of their published
8 articles for review by experts who are not part of the
9 editorial staff;
- 10 (2) Peer-reviewed literature, biomedical compendia, and
11 other medical literature that meet the criteria of the
12 National Institutes of Health's National Library of
13 Medicine for indexing in Index Medicus, Excerpta
14 Medicus (EMBASE), Medline, and MEDLARS database Health
15 Services Technology Assessment Research (HSTAR);
- 16 (3) Medical journals recognized by the Secretary of Health
17 and Human Services under section 1861(t)(2) of the
18 Social Security Act, as amended;
- 19 (4) Standard reference compendia including the American
20 Hospital Formulary Service-Drug Information, American
21 Medical Association Drug Evaluation, American Dental



1 Association Accepted Dental Therapeutics, and United
2 States Pharmacopoeia-Drug Information;

3 (5) Findings, studies, or research conducted by or under
4 the auspices of federal agencies and nationally
5 recognized federal research institutes including but
6 not limited to the Federal Agency for Health Care
7 Policy and Research, National Institutes of Health,
8 National Cancer Institute, National Academy of
9 Sciences, Centers for Medicare and Medicaid Services,
10 Congressional Office of Technology Assessment, and any
11 national board recognized by the National Institutes
12 of Health for the purpose of evaluating the medical
13 value of health services; and

14 (6) Peer-reviewed abstracts accepted for presentation at
15 major medical association meetings.

16 "Treat" means to prevent, diagnose, detect, provide medical
17 care, or palliate.

18 "Treating licensed health care provider" means a licensed
19 health care provider who has personally evaluated the patient."

20 SECTION 179. Section 432E-36, Hawaii Revised Statutes, is
21 amended as follows:



1 1. By amending subsection (b) to read:

2 "(b) An enrollee or the enrollee's appointed

3 representative may make an oral request for an expedited

4 external review of the adverse action if the enrollee's treating

5 physician, treating physician assistant, or treating advanced

6 practice registered nurse certifies, in writing, that the health

7 care service or treatment that is the subject of the request

8 would be significantly less effective if not promptly initiated.

9 A written request for an expedited external review pursuant to

10 this subsection shall include, and oral request shall be

11 promptly followed by, a certification signed by the enrollee's

12 treating physician, treating physician assistant, or treating

13 advanced practice registered nurse and the authorization for

14 release and disclosures required by section 432E-33. Upon

15 receipt of all items required by this subsection, the

16 commissioner shall immediately notify the health carrier."

17 2. By amending subsection (g) to read:

18 "(g) Except for a request for an expedited external review

19 made pursuant to subsection (b), within three business days

20 after the date of receipt of the request, the commissioner shall

21 notify the health carrier that the enrollee has requested an



1 external review pursuant to this section. Within five business
2 days following the date of receipt of notice, the health carrier
3 shall determine whether:

4 (1) The individual is or was an enrollee in the health
5 benefit plan at the time the health care service or
6 treatment was recommended or requested or, in the case
7 of a retrospective review, was an enrollee in the
8 health benefit plan at the time the health care
9 service or treatment was provided;

10 (2) The recommended or requested health care service or
11 treatment that is the subject of the adverse action:

12 (A) Would be a covered benefit under the enrollee's
13 health benefit plan but for the health carrier's
14 determination that the service or treatment is
15 experimental or investigational for the
16 enrollee's particular medical condition; and

17 (B) Is not explicitly listed as an excluded benefit
18 under the enrollee's health benefit plan;

19 (3) The enrollee's treating physician, treating physician
20 assistant, or treating advanced practice registered
21 nurse has certified in writing that:



- 1 (A) Standard health care services or treatments have
2 not been effective in improving the condition of
3 the enrollee;
- 4 (B) Standard health care services or treatments are
5 not medically appropriate for the enrollee; or
- 6 (C) There is no available standard health care
7 service or treatment covered by the health
8 carrier that is more beneficial than the health
9 care service or treatment that is the subject of
10 the adverse action;
- 11 (4) The enrollee's treating physician, treating physician
12 assistant, or treating advanced practice registered
13 nurse:
- 14 (A) Has recommended a health care service or
15 treatment that the physician, physician
16 assistant, or advanced practice registered nurse
17 certifies, in writing, is likely to be more
18 beneficial to the enrollee, in the physician's,
19 physician assistant's, or advanced practice
20 registered nurse's opinion, than any available
21 standard health care services or treatments; or



1 (B) Who is a licensed, board certified or board
2 eligible physician qualified to practice in the
3 area of medicine appropriate to treat the
4 enrollee's condition, who is a physician
5 assistant qualified to treat the enrollee's
6 condition, or who is an advanced practice
7 registered nurse qualified to treat the
8 enrollee's condition, has certified in writing
9 that scientifically valid studies using accepted
10 protocols demonstrate that the health care
11 service or treatment that is the subject of the
12 adverse action is likely to be more beneficial to
13 the enrollee than any available standard health
14 care services or treatments;

15 (5) The enrollee has exhausted the health carrier's
16 internal appeals process or the enrollee is not
17 required to exhaust the health carrier's internal
18 appeals process pursuant to section 432E-33(b); and

19 (6) The enrollee has provided all the information and
20 forms required by the commissioner that are necessary
21 to process an external review, including the release



1 form and disclosure of conflict of interest
2 information as provided under section 432E-33(a)."

3 SECTION 180. Section 435C-2, Hawaii Revised Statutes, is
4 amended as follows:

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

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

9 2. By amending the definition of "medical malpractice
10 insurance" to read:

11 "Medical malpractice insurance" means insurance coverage
12 against the legal liability of the insured and against loss,
13 damage, or expense incident to a claim arising out of the death
14 or injury of any person as the result of negligence or
15 malpractice in rendering professional service by any [~~licensed~~
16 physician] qualified health care provider or hospital."

17 SECTION 181. Section 435C-3, Hawaii Revised Statutes, is
18 amended by amending subsection (a) to read as follows:

19 "(a) A joint underwriting plan is established, consisting
20 of all insurers authorized to write and engaged in writing
21 casualty insurance in this State on a direct basis. Each



1 insurer shall be a member of the plan and shall maintain
2 membership as a condition of its licensure to transact such
3 insurance in this State. The purpose of the plan shall be to
4 provide medical malpractice insurance on a self-supporting
5 basis. The plan shall be the exclusive agency through which
6 medical malpractice insurance may be written in this State on a
7 primary basis for [~~physicians~~] qualified health care providers
8 and hospitals."

9 SECTION 182. Section 435C-4, Hawaii Revised Statutes, is
10 amended by amending subsection (a) to read as follows:

11 "(a) (1) Any [~~licensed physician~~] qualified health care
12 provider or hospital shall, on or after the effective
13 date of the plan of operation, apply to the plan for
14 such coverage. Such application may be made on behalf
15 of an applicant by a producer authorized by the
16 applicant[-]; and

17 (2) If the plan determines that the applicant meets the
18 underwriting standards of the plan as provided in the
19 plan of operation and there is no unpaid, uncontested
20 premium due from the applicant for prior insurance (as
21 shown by the insured having failed to make written



1 objection to the premium charges within thirty days
2 after billing), then the plan, upon receipt of the
3 premium, or such portion thereof as is prescribed in
4 the plan of operation, shall cause to be issued a
5 policy of medical malpractice insurance for a term of
6 one year."

7 SECTION 183. Section 435C-11, Hawaii Revised Statutes, is
8 amended to read as follows:

9 "[~~f~~]**S435C-11**[~~]~~ **Initiation of plan.** The plan becomes
10 operational at the direction of the insurance commissioner, upon
11 a finding that medical malpractice insurance is not or will not
12 be readily available in this State to the majority of [~~the~~
13 ~~physicians~~] qualified health care providers and hospitals. Upon
14 a finding by the insurance commissioner that medical malpractice
15 insurance has become readily available in the voluntary market,
16 the commissioner may direct the plan to cease writing medical
17 malpractice insurance.

18 . The plan, being a temporary measure, shall not remain in
19 existence for more than three years after the plan becomes
20 operational."

21 PART VIII



1 SECTION 184. The purpose of this part is to amend the
2 Uniform Probate Code.

3 SECTION 185. Section 560:5-102, Hawaii Revised Statutes,
4 is amended by adding a new definition to be appropriately
5 inserted and to read as follows:

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

8 SECTION 186. Section 560:5-202, Hawaii Revised Statutes,
9 is amended by amending subsection (c) to read as follows:

10 "(c) Subject to section 560:5-203, the appointment of a
11 guardian becomes effective upon:

12 (1) The appointing parent's death;

13 (2) An adjudication that the parent is an incapacitated
14 person; or

15 (3) A written determination by a physician or other
16 qualified health care provider who has examined the
17 parent that the parent is no longer able to care for
18 the child,

19 whichever first occurs."

20 SECTION 187. Section 560:5-303, Hawaii Revised Statutes,
21 is amended by amending subsection (a) to read as follows:



1 "(a) The appointment of a guardian under section 560:5-302
2 becomes effective upon:
3 (1) The death of the appointing parent, spouse, or
4 reciprocal beneficiary;
5 (2) The adjudication of incapacity of the appointing
6 parent, spouse, or reciprocal beneficiary; or
7 (3) A written determination by a physician or other
8 qualified health care provider who has examined the
9 appointing parent, spouse, or reciprocal beneficiary
10 that the appointing parent, spouse, or reciprocal
11 beneficiary is no longer able to care for the
12 incapacitated person,
13 whichever first occurs."

14 SECTION 188. Section 560:5-305, Hawaii Revised Statutes,
15 is amended by amending subsection (d) to read as follows:

16 "(d) In addition to the duties imposed by subsection (c),
17 the kokua kanawai shall:
18 (1) Interview the petitioner and the proposed guardian;
19 (2) Visit the respondent's present dwelling, unless
20 otherwise ordered by the court for good cause shown,



- 1 and visit any dwelling in which the respondent will
2 live if the appointment is made;
- 3 (3) Obtain information from any physician, qualified
4 health care provider, or other person who is known to
5 have treated, advised, or assessed the respondent's
6 relevant physical or mental condition; and
- 7 (4) Make any other investigation the court directs."

8 SECTION 189. Section 560:5-306, Hawaii Revised Statutes,
9 is amended to read as follows:

10 **"§560:5-306 Judicial appointment of guardian; professional**
11 **evaluation.** At or before a hearing under this part, the court
12 may order a professional evaluation of the respondent and shall
13 order the evaluation if the respondent so demands. If the court
14 orders the evaluation, the respondent shall be examined by a
15 physician, psychologist, qualified health care provider, or
16 other individual appointed by the court who is qualified to
17 evaluate the respondent's alleged impairment. The examiner
18 shall promptly file a written report with the court. Unless
19 otherwise directed by the court, the report shall contain:



- 1 (1) A description of the nature, type, and extent of the
2 respondent's specific cognitive and functional
3 limitations;
- 4 (2) An evaluation of the respondent's mental and physical
5 condition and, if appropriate, educational potential,
6 adaptive behavior, and social skills;
- 7 (3) A prognosis for improvement and a recommendation as to
8 the appropriate treatment or habilitation plan; and
- 9 (4) The date of any assessment or examination upon which
10 the report is based."

11 SECTION 190. Section 560:5-308, Hawaii Revised Statutes,
12 is amended by amending subsection (a) to read as follows:

13 "(a) Unless excused by the court for good cause, the
14 proposed guardian shall attend the hearing. The respondent
15 shall attend and participate in the hearing, unless excused by
16 the court for good cause. The respondent may present evidence
17 and subpoena witnesses and documents, examine witnesses,
18 including any court-appointed physician, psychologist, qualified
19 health care provider, or other individual qualified to evaluate
20 the alleged impairment, and the kokua kanawai, and otherwise
21 participate in the hearing. The hearing may be held in a



1 location convenient to the respondent and may be closed upon the
2 request of the respondent and a showing of good cause."

3 SECTION 191. Section 560:5-417, Hawaii Revised Statutes,
4 is amended to read as follows:

5 "**§560:5-417 Compensation and expenses.** If not otherwise
6 compensated for services rendered, a guardian, conservator,
7 physician, qualified health care provider, lawyer for the
8 respondent, lawyer whose services resulted in a protective order
9 or in an order beneficial to a protected person's estate, or any
10 person appointed by the court is entitled to reasonable
11 compensation from the estate, even if no guardian or conservator
12 is appointed. Compensation may be paid and expenses reimbursed
13 without court order. If the court or the family court
14 determines that the compensation is excessive or the expenses
15 are inappropriate, the excessive or inappropriate amount shall
16 be repaid to the estate."

17 SECTION 192. Section 560:5-601, Hawaii Revised Statutes,
18 is amended as follows:

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



1 "Health care provider" means a physician or an osteopathic
2 physician licensed under chapter 453, a physician assistant
3 licensed under chapter 453, or an advanced practice registered
4 nurse licensed under chapter 457."

5 2. By deleting the definition of "licensed physician".

6 [~~"Licensed physician" means any person who is licensed to~~
7 ~~practice medicine or osteopathic medicine in Hawaii under~~
8 ~~chapter 453."]~~

9 SECTION 193. Section 560:5-608, Hawaii Revised Statutes,
10 is amended by amending subsection (b) to read as follows:

11 "(b) The ward assents to sterilization if the ward
12 manifests an uncoerced willingness to undergo sterilization
13 after being fully informed of the nature, risks, consequences,
14 and alternatives to the procedure. A ward who lacks the
15 capacity to understand the nature, risks, consequences, and
16 alternatives to the procedure, or who lacks the capacity to
17 manifest an uncoerced willingness or unwillingness to
18 sterilization cannot assent to the procedure. To determine
19 whether the ward is capable of giving informed assent, the court
20 shall consider whether the ward understands and appreciates:



- 1 (1) The causal relationship between sexual intercourse and
- 2 pregnancy or parenthood;
- 3 (2) The causal relationship between sterilization and the
- 4 impossibility of pregnancy or parenthood;
- 5 (3) The nature of the sterilization operation including
- 6 the pain, discomfort, and risks of the procedure;
- 7 (4) The probable permanency and irreversibility of the
- 8 sterilization procedure;
- 9 (5) All medically approved alternatives to sterilization;
- 10 (6) The consequences of initiating pregnancy or becoming
- 11 pregnant, mothering or fathering a child, and becoming
- 12 a parent; and
- 13 (7) The power to change one's mind about being sterilized
- 14 at any time before the procedure is performed.

15 To assure the adequacy of the ward's informed assent, evidence
16 shall be presented showing that the ward received appropriate
17 counseling from the ~~[physician]~~ health care provider who will
18 perform the sterilization and at least one other qualified
19 independent counselor such as a social worker with a master's
20 degree, ~~[a clinical nurse specialist, or]~~ an advanced practice
21 registered nurse, a licensed psychologist, or a psychiatrist.



1 The counseling shall cover the benefits or advantages to
2 sterilization and conversely the losses and disadvantages of
3 sterilization including the feelings, values, and lifestyle
4 changes attendant with sterilization.

5 Persons who attest in court as to the soundness of informed
6 assent shall comment on and assess the ward's understanding of
7 each issue and shall comment on and assess the degree to which
8 the prospective patient expresses an uncoerced willingness to
9 accept each risk and consequence. Any reservations or
10 resistance expressed or otherwise evidenced by the prospective
11 patient shall be disclosed to the court."

12 SECTION 194. Section 560:5-612, Hawaii Revised Statutes,
13 is amended to read as follows:

14 "**§560:5-612 No liability arising from sterilization;**
15 **exception.** No [~~physician~~] health care provider or hospital, nor
16 the State or its agents, or any other person acting in
17 accordance with this part shall be liable to anyone, either
18 civilly or criminally, for having performed or authorized the
19 performance of the individual sterilization, except for
20 liability of the health care provider or hospital [~~or physician~~]



1 caused by the negligent performance of the sterilization, in
2 accordance with laws covering such negligence."

3 PART IX

4 SECTION 195. The purpose of this part is to repeal the
5 obsolete Hawaii health corps, which was established in 2012 but
6 never operational due to lack of funding.

7 SECTION 196. Chapter 309H, Hawaii Revised Statutes, is
8 repealed.

9 PART X

10 SECTION 197. Sections 88-74, 88-192, 286-4.1, 321-43, 324-
11 21, 325-16.5, 325-18, 325-51, 325-52, 325-71, 325-72, 325-74,
12 325-75, 325-103, 350-1.6, 440-8.5, 440-9, 440-12, 440-13, 440-
13 21, 440-32, 440E-4, 440E-8, 440E-9, 440E-18, 451A-14.1, Hawaii
14 Revised Statutes, are amended by substituting the word
15 "qualified health care provider" "qualified health care
16 provider's", or "qualified health care providers" wherever the
17 word "physician" "physician's", or "physicians" appears, as the
18 context requires.

19 PART XI

20 SECTION 198. If any provision of this Act, or the
21 application thereof to any person or circumstance, is held



1 invalid, the invalidity does not affect other provisions or
2 applications of the Act that can be given effect without the
3 invalid provision or application, and to this end the provisions
4 of this Act are severable.

5 SECTION 199. Statutory material to be repealed is
6 bracketed and stricken. New statutory material is underscored.

7 SECTION 200. This Act shall take effect on January 30,
8 2050; provided that sections 2 to 197 shall take effect on
9 July 1, 2028; provided further that the amendments made to
10 sections 346-59.1, 431:10A-116.3, 432:1-601.5, and 432D-23.5,
11 Hawaii Revised Statutes, by sections 112, 147, 165, and 177 of
12 this Act, respectively, shall not be repealed when those
13 sections are reenacted on December 31, 2027, pursuant to section
14 8 of Act 107, Session Laws of Hawaii 2023, as amended by section
15 1 of Act 217, Session Laws of Hawaii 2025.

16



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. Effective 1/30/2050. Implementation effective 7/1/2028. (SD1)

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

