

ACT 112

H.B. NO. 2444-82

A Bill for an Act Relating to Death.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 327C-1, Hawaii Revised Statutes, is amended to read:

“§327C-1 Determination of death. (a) Except as provided in subsection (b) of this section, a person shall be considered dead if, in the announced opinion of a physician licensed under part I of chapter 453[,] or chapter 460 or excepted from licensure by section 453-2(3), based on ordinary standards of current medical practice, the person has experienced irreversible cessation of spontaneous respiratory and circulatory functions. Death will have occurred at the time when the irreversible cessation of the functions first coincided.

(b) In the event that artificial means of support preclude a determination that respiratory and circulatory functions have ceased, a person shall be considered dead if, in the opinion of an attending physician licensed under part I of chapter 453[,] or chapter 460 or excepted from licensure by section 453-2(3) and of a consulting physician licensed under part I of chapter 453[,] or chapter 460 or excepted from licensure by section 453-2(3), based on ordinary standards of current medical practice, the person has experienced irreversible cessation of brain function. The opinions of the physicians shall be evidenced by signed statements. Death will have occurred at the time when the irreversible cessation of brain function first occurred. Death shall be pronounced before artificial means of support are withdrawn and before any vital organ is removed for purposes of transplantation.

(c) When a part of a donor is used for direct organ transplantation under chapter 327, and the donor's death is established by determining that the donor experienced irreversible cessation of brain function, the determination shall only be made under subsection (b) of this section. The determination of death in all other cases shall be made under subsection (a) of this section. The physicians making the determination of death shall not participate in the procedures for removing or transplanting a part, or in the care of any recipient.

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

(e) The director of health shall convene in every odd-numbered year, a committee which shall be composed of representatives of appropriate general and specialized medical professional organizations, licensed attorneys, and members of the public. The committee shall review medical practice, legal developments, and other appropriate matters to determine the continuing viability of this section, and shall submit a report of its findings and recommendations to the legislature, prior to the convening of the regular session held in each even-numbered year."

SECTION 2. Section 338-1(6), Hawaii Revised Statutes, is amended by amending the definition of "physician" to read:

"(6) "Physician" means a person [legally authorized] licensed to practice medicine[,] under part I chapter 453 or a practitioner of medicine or surgery excepted from licensure by section 453-2(3) or a person licensed to practice osteopathy[, or the science of naturopathy in the state.] under chapter 460."

SECTION 3. Section 442-17, Hawaii Revised Statutes, is amended to read:

"§442-17 Licensees, duties. Chiropractic licensees shall observe and be subject to all state and municipal regulations relating to all matters pertaining to public health [and shall execute all necessary death certificates,] and may execute disability and health certificates so long as the same are confined to physical conditions and ailments which they are by law authorized to treat, which certificates shall be accepted by all officials, authorities, and boards operating within the State who are officially concerned with the matters or subject covered by the certificates."

SECTION 4. Section 453-2, Hawaii Revised Statutes, is amended to read:

"§453-2 License required; exceptions. Except as otherwise provided by law, no person shall practice medicine or surgery in the State either gratuitously or for pay, or shall offer to so practice, or shall advertise or announce himself, either publicly or privately, as prepared or qualified to so practice, or shall append the letters "DR." or "M.D." to his name, with the intent thereby to imply that [[]he[]] is a [practioner] practitioner of medicine or surgery, without having a valid unrevoked license or a limited and temporary license, obtained from the board of medical examiners, in form and manner substantially as hereinafter set forth.

Nothing herein shall (1) apply to so-called Christian Scientists so long as they merely practice the religious tenets of their church without pretending a knowledge of medicine or surgery; (2) prohibit service in the case of emergency or the domestic administration of family remedies; (3) apply to any commissioned medical officer in the United States army, navy, marine corps, or public health service, engaged in the discharge of his official duty, nor to any practitioner of medicine and surgery from another state when in actual consultation with a licensed practitioner of this State if the practitioner from another state, at the time of such consultation, is licensed to practice in the state in which he resides; provided that the practitioner from another state shall not open an office, or appoint a place to meet patients, or receive calls within the limits of the State; and provided further that the laws and

regulations relating to contagious diseases are not violated; (4) prohibit services rendered by any physician-support personnel or any physician's assistant when such services are rendered under the direction and control of a physician licensed in this State, except for those specific functions and duties delegated by law to those persons licensed as optometrists under chapter 459. Such direction and control shall not be construed in every case to require the personal presence of the supervising and controlling physician. Any physician who employs or directs such support personnel and physician's assistant shall retain full professional and personal responsibility for any act which constitutes the practice of medicine when performed by such personnel or physician's assistant. The board of medical examiners shall, in conformity with chapter 91, promulgate rules and regulations regarding standards of medical education and training governing physician-support personnel and physician's assistant, such standards to equal but not be limited by existing national educational and training standards; and standards governing information to be given to patients as required by section 671-3. Any person who provides emergency medical services as a full or part-time employee of any emergency ambulance service shall be certified under part II."

SECTION 5. Section 455-8, Hawaii Revised Statutes, is amended to read:

"§455-8 License to practice; biennial registration. Licenses to practice naturopathy shall be issued by the board in such form as the board determines, to those who qualify according to this chapter. Naturopathy physicians licensed under this chapter shall observe and be subject to all state regulations relative to reporting births [and deaths] and all matters pertaining to the public health with equal rights and obligations as physicians, surgeons, and practitioners of other schools of medicine. Every person holding a license to practice in the State shall reregister with the state board of examiners in naturopathy on or before December 31 of each odd-numbered year and shall pay a reregistration fee of \$200. The failure to so reregister and pay the reregistration fee constitutes a forfeiture of license; provided that the license shall be reinstated upon written application therefor together with payment of all delinquent fees and the sum of \$75."

SECTION 6. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 7. This Act shall take effect upon its approval.

(Approved May 24, 1982.)