

ACT 144

H.B. NO. 2038-86

A Bill for an Act Relating to Medicine and Surgery.

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

SECTION 1. Section 453-5.3, Hawaii Revised Statutes, is amended to read as follows:

“~~[]§453-5.3[]~~ **Physician assistant; certification required.** (a) The board of medical examiners shall require each person practicing medicine under the supervision of a physician to be certified as a physician assistant. A person who is trained to do only a very limited number of diagnostic or therapeutic procedures under the direction of a physician shall not be deemed a practitioner of medicine and therefore does not require certification under this section.

(b) The board shall establish medical educational and training standards with which a person applying for certification as a physician assistant shall comply. The standard shall be at least equal to recognized national education and training standards for physician assistants.

(c) Upon satisfactory proof of compliance with the required medical educational and training standards, the board may grant certification to the person upon the person's satisfactory completion of a national certifying examination approved by the board.

(d) The board shall approve temporary certification of an applicant under this section if the applicant has never taken a national certifying examination approved by the board but otherwise meets the requirements of this section, has filed a complete application with the board, and has paid all required fees. If the applicant fails to apply for, or to take, the next succeeding examination or fails to pass the examination or fails to receive a certificate, all privileges under this section shall automatically cease upon written notification sent to the applicant by the board. A temporary certificate may be issued only once to each person.

(e) Prior to practicing under temporary certification, holders of temporary certificates shall notify the board in writing of any and all supervising physicians under whom they will be performing services.

~~[(d)]~~ (f) The board shall establish the degree of supervision required by the supervising physician when a physician assistant performs a service within

the practice of medicine. A physician who does not supervise a physician assistant's services at the degree required by the board shall be deemed to have engaged in professional misconduct.

(e) (g) The certification of a physician assistant shall be subject to revocation, limitation, or suspension under section 453-8.

(f) (h) The board shall establish the application procedure, medical, educational, and training standards, examination requirement, if any, and degrees of supervision by rule."

SECTION 2. Section 453-8, Hawaii Revised Statutes, is amended to read as follows:

"§453-8 Revocation, limitation,¹ [or] suspension, or denial of licenses.

(a) Any license to practice medicine and surgery may be revoked, limited, or suspended by the board of medical examiners at any time in a proceeding before the board, or may be denied, for any one or more of the following acts or conditions on the part of the holder of such license[:] or the applicant therefor:

- (1) Procuring, or aiding or abetting in procuring, a criminal abortion;
- (2) Employing any person to solicit patients for one's self;
- (3) Engaging in false, fraudulent, or deceptive advertising, including, but not limited to:
 - (A) Making excessive claims of expertise in one or more medical specialty fields;
 - (B) Assuring a permanent cure for an incurable disease; or
 - (C) Making any untruthful and improbable statement in advertising one's medical or surgical practice or business;
- (4) Being habituated to the excessive use of drugs or alcohol; or being addicted to, dependent on, or an habitual user of a narcotic, barbiturate, amphetamine, hallucinogen, or other drug having similar effects;
- (5) Practicing medicine while the ability to practice is impaired by alcohol, drugs, physical disability, or mental instability;
- (6) Procuring a license through fraud, misrepresentation, or deceit or knowingly permitting an unlicensed person to perform activities requiring a license;
- (7) Professional misconduct or gross carelessness or manifest incapacity in the practice of medicine or surgery;
- (8) Negligence or incompetence, including, but not limited to, the consistent use of medical service which is inappropriate or unnecessary;
- (9) Conduct or practice contrary to recognized standards of ethics of the medical profession as adopted by the Hawaii Medical Association or the American Medical Association;
- (10) Violation of the conditions or limitations upon which a limited or temporary license is issued;
- (11) Revocation, suspension, or other disciplinary action by another state of a license or certificate for reasons as provided in this section;
- (12) Conviction, whether by nolo contendere or otherwise, of a penal offense substantially related to the qualifications, functions, or duties of a physician, notwithstanding any statutory provision to the contrary;
- (13) Violation of chapter 329, uniform controlled substance act, or any [regulation promulgated] rule adopted thereunder; [or]

- (14) Failure to report to the board, in writing, any disciplinary [action taken] decision issued against the licensee or the applicant in another jurisdiction[.] within thirty days after the disciplinary decision is issued; or
- (15) Submitting to or filing with the board any notice, statement, or other document required under this chapter, which is false or untrue or contains any material misstatement or omission of fact.
- (b) If any license is revoked, limited, [or] suspended, or denied by the board for any act or condition listed in this section, the board shall notify the holder of, or the applicant for, the license in writing of the revocation, limitation, [or] suspension[.], or denial. Any license to practice medicine and surgery which has been revoked under this section may be restored by the board.”

SECTION 3. Section 453-8.2, Hawaii Revised Statutes, is amended to read as follows:

“**§453-8.2 Disciplinary action.** (a) In disciplining a licensee in a proceeding under section 453-9, the board may impose one or more of the following actions:

- (1) Place the licensee on probation, including such conditions of probation as requiring observation of the licensee by an appropriate group or society of licensed physicians or surgeons.
 - (2) Suspend the license.
 - (3) Revoke the license.
 - (4) Limit the license by restricting the fields of practice in which the licensee may engage.
 - (5) Fine the licensee, including assessment against the licensee of the costs of the disciplinary proceedings. Any fine imposed by the board after a hearing in accordance with chapter 91 shall be not less than \$500 and not more than \$5,000 for each violation, exclusive of the costs of the disciplinary proceedings.
 - (6) Temporarily suspend the license for not more than thirty days without a hearing, when the board finds the practice of the licensee probably constitutes an immediate and grave danger to the public.
 - (7) Require further education or training or require proof of performance competency.
- (b) Unless otherwise expressly provided, the actions, remedies, or penalties provided by this chapter are cumulative to each other and to the actions, remedies, or penalties available under all other laws of this State.”

SECTION 4. Section 453-9, Hawaii Revised Statutes, is amended to read as follows:

“**§453-9 Hearing; procedure.** In any proceeding before the board of medical examiners for the revocation, limitation, or suspension of a license to practice medicine and surgery for any act or condition listed in section 453-8, the person whose license is sought to be revoked, limited, or suspended shall be given notice and opportunity for hearing in conformity with chapter 91.

Any applicant whose application for a license to practice medicine and surgery has been denied shall be given notice and the opportunity for a hearing pursuant to chapter 91.”

SECTION 5. Section 453-32.5, Hawaii Revised Statutes, is amended to read as follows:

“[[]§453-32.5[]] **Temporary certification.** The board shall approve temporary certification of an applicant under section 453-32 if the applicant has [not] never taken the written and practical examination of the National Registry of Emergency Medical Technicians for that level of practice but otherwise meets the requirements of section [453-32(1).] 453-32, has filed a complete application with the board, and has paid all required fees.

[The temporary certification shall be valid until the results are issued by the board for the written and practical examination immediately following the date of temporary certification, unless sooner revoked for good cause.]

If the applicant fails to apply for, or to take, the next succeeding examination or fails to pass the examination or fails to receive a certificate, all privileges under this section shall automatically cease upon written notification sent to the applicant by the board. A temporary certificate for each level of practice may be issued only once to each person.

Prior to practicing under temporary certification, applicants shall notify the board in writing of any and all employers under whom they will be performing services.”

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

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

(Approved May 12, 1986.)

Note

1. Comma should be underscored.