

ACT 255

S.B. NO. 1674

A Bill for an Act Relating to Health.

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

SECTION 1. Section 453-2, Hawaii Revised Statutes, is amended by amending subsections (a) and (b) to read as follows:

“(a) Except as otherwise provided by law, no person shall practice medicine or surgery in the [State] state, either gratuitously or for pay, or [shall] offer to [se] practice[;] medicine or surgery in the state, or [shall] advertise or announce one’s self, either publicly or privately, as prepared or qualified to [se] practice[;] medicine or surgery in the state, or [shall] append the letters “Dr.” or “M.D.” to one’s name[;] with the intent [thereby] to imply that the [individual] person is a 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~~].

(b) Nothing herein shall:

- (1) Apply to so-called Christian Scientists [~~so long as they merely~~; provided that the Christian Scientists 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 armed forces or public health service engaged in the discharge of one’s official duty, nor to any practitioner of medicine and surgery from another state when in actual consultation, including [~~but not limited to~~;] in-person, mail, electronic, telephonic, fiber-optic, or other telemedicine consultation with a licensed physician of this State, if the physician from another state at the time of such consultation is licensed to practice in the state in which the physician resides; provided that:
 - (A) The physician from another state shall not open an office, or appoint a place to meet patients[;] in this State, or receive calls within the limits of the State[;] for the provision of care for a patient who is located in this State; [and]

- (B) The licensed physician of this State retains control and remains responsible for the provision of care for the patient~~[-];~~ who is located in this State; and ~~[provided further that the]~~
- (C) The laws and regulations relating to contagious diseases are not violated;
- (4) Prohibit services rendered by any person certified under part II of this chapter to provide emergency medical services, or any physician assistant, when the services are rendered under the direction and control of a physician licensed in this State except for final refraction resulting in a prescription for spectacles, contact lenses, or visual training as performed by an oculist or optometrist duly licensed by the State. The 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 a person certified under part II of this chapter to provide emergency medical services, or physician assistant, shall retain full professional and personal responsibility for any act which constitutes the practice of medicine when performed by such person or physician assistant; ~~[or]~~
- (5) Prohibit automatic external defibrillation by:
 - (A) Any first responder personnel certified by the department of health to provide automatic external defibrillation when it is rendered under the medical oversight of a physician licensed in this State; or
 - (B) Any person who successfully completes training under an automatic external defibrillator program administered by a physician. An “automatic external defibrillator program” means an appropriate training course that includes cardiopulmonary resuscitation and proficiency in the use of an automatic external defibrillator~~[-];~~ or
- (6) Prohibit a radiologist duly licensed to practice medicine and provide radiology services in another state from using telemedicine while located in this State to provide radiology services to a patient who is located in the state in which the radiologist is licensed. For the purposes of this paragraph:
 - “Radiologist” means a doctor of medicine or a doctor of osteopathy certified in radiology by the American Board of Radiology or the American Board of Osteopathy.
 - “Telemedicine” means the use of telecommunications services, as that term is defined in section 269-1, including real-time video conferencing-based communication, secure interactive and non-interactive web-based communication, and secure asynchronous information exchange, to transmit patient medical information, such as diagnostic-quality digital images and laboratory results for medical interpretation and diagnosis, and deliver health care services and information to parties separated by distance.”

SECTION 2. Section 466J-6, Hawaii Revised Statutes, is amended to read as follows:

“§466J-6 Persons exempted. (a) Any provision in this chapter to the contrary notwithstanding, a license shall not be required for ~~[licensed];~~

- (1) A licensed medical [practitioners] practitioner in radiology[-];
- (2) A licensed practitioner of nuclear medicine[-, licensed doctors];

- (3) A licensed doctor of dentistry[;];
- (4) A licensed dental [technicians,] technician;
- (5) A licensed dental [hygienists, and students] hygienist;
- (6) A student in an approved school for radiographers, radiation therapists, or nuclear medicine technologists, [and] or in [schools] a school of medicine, podiatry, dentistry, or a chiropractic[~~-, when the persons are~~] school; provided that the student is operating x-ray machines under the direct supervision of a licensed radiographer, licensed radiation therapist, licensed nuclear medicine technologist, or a qualified person pursuant to this chapter[-]; and
- (7) A radiologist duly licensed to practice medicine and radiology services in another state who uses telemedicine while located in this State to provide radiology services to a patient who is located in the state in which the radiologist is licensed. For the purposes of this paragraph:
“Radiologist” means a doctor of medicine or a doctor of osteopathy certified in radiology by the American Board of Radiology or the American Board of Osteopathy.
“Telemedicine” means the use of telecommunications services, as that term is defined in section 269-1, including real-time video conferencing-based communication, secure interactive and non-interactive web-based communication, and secure asynchronous information exchange, to transmit patient medical information, such as diagnostic-quality digital images and laboratory results for medical interpretation and diagnosis, and deliver health care services and information to parties separated by distance.

(b) The board may issue special temporary permits upon request to unlicensed radiographers working in shortage areas. ~~[After February 10, 1995, new special temporary permits shall not be issued by the board. After June 30, 1998, special temporary permits issued before February 10, 1995, shall not be renewed.]”~~

SECTION 3. Nothing herein shall be deemed to permit a radiologist without a license to practice medicine in Hawaii, wherever located, to provide services to a patient who is located in Hawaii.

SECTION 4. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 5. This Act shall take effect upon its approval.

(Approved July 5, 2007.)