

ACT 151

S.B. NO. 1142

A Bill for an Act Relating to Physician Assistants.

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

SECTION 1. The legislature finds that certain statutes regarding physician assistants are outdated or obsolete. Currently, certain Hawaii statutes omit physician assistants from the definition of health care professionals who may provide care, be indemnified, or sign forms. The legislature further finds that physician assistants provide a wide variety of health care services to the people in this State. Amending certain statutes to authorize increased participation by licensed physician assistants in certain procedures and under certain circumstances will enable improved access to health care services, expedite the processing of paperwork, and provide optimal care at the initial point of access for Hawaii patients, especially in rural and underserved areas.

The purpose of this Act is to improve patient access to medical care by clarifying the procedure and circumstances under which licensed physician assistants may provide services, and by allowing them to render emergency care services with limited liability pursuant to Good Samaritan laws.

SECTION 2. Chapter 453, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§453- Physician assistant; authority to sign documents. Any physician assistant who holds a current, valid, and permanent license to practice medicine pursuant to this chapter, and who is under the supervision of a licensed physician or osteopathic physician, shall have the authority to sign the following documents:

- (1) Certification of psychiatric medical condition of the parents of a child applicant for aid from the temporary assistance for needy families program;
- (2) Evaluation forms for Hansen’s disease patients;
- (3) Orders for physical therapy and plans of care;
- (4) Pharmacist orders to assist in monitoring and management of anti-coagulation anemia and atrial fibrillation;
- (5) Orders for speech therapy and plans of care;
- (6) Applications for bracelets indicating compassionate care only;
- (7) Admissions applications for foster homes;
- (8) Dietary consultations forms; and
- (9) Medicaid application forms for nursing care facility admission.”

SECTION 3. Section 11-117, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Any candidate may withdraw not later than 4:30 p.m. on the day immediately following the close of filing for any reason and may withdraw after the close of filing up to 4:30 p.m. on the twentieth day prior to an election for reasons of ill health. When a candidate withdraws for ill health, the candidate shall give notice in writing to the chief election officer if the candidate was seeking a congressional or state office, or the candidate shall give notice in writing to the county clerk if the candidate was seeking a county office. The notice shall be accompanied by a statement from a licensed physician or physician assistant indicating that such ill health may endanger the candidate’s life.”

SECTION 4. Section 286-107, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) Any person who holds a category (1), (2), or (3) license issued under this part who is unable to appear in person before the examiner of drivers to apply for a renewal of the driver’s license, may, if the person is not disqualified from renewing the license under subsection (a) except as provided under subsection (h), apply for a renewal by mail. The applicant’s request to have the license renewed by mail must be received by the examiner of drivers within ninety days after the expiration of the license or it shall be treated as an application for reactivation of an expired license under section 286-107.5. The examiner of drivers shall, upon receipt of the request, furnish the applicant with all necessary forms and instructions. An application for renewal made pursuant to this subsection shall be accompanied by a statement from a licensed physician or physician assistant certifying that the applicant was examined by the licensed physician or physician assistant not more than six months prior to the expiration date of the applicant’s license and that the applicant was found by ~~[such]~~ the examination to have met the physical requirements established by the state director of transportation for the renewal of licenses. The application for renewal shall also be accompanied by:

- (1) A notarized statement of the applicant certifying that the applicant does not possess any valid license to operate the same or similar category or categories of motor vehicles, issued by another licensing authority (unless ~~[such]~~ the license is concurrently surrendered); and
- (2) Such other information as may be required by the examiner of drivers that is reasonably necessary to confirm the identity of the applicant and the applicant’s fitness to continue to operate a motor vehicle.”

SECTION 5. Section 291-11.6, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

- “(c) No person shall be guilty of violating this section if:
- (1) The person is in a motor vehicle which is not required to be equipped with a seat belt assembly under any federal motor vehicle safety standard unless the vehicle is in fact equipped with a seat belt assembly;
 - (2) The person not restrained by a seat belt assembly is in a vehicle in which the number of persons exceeds the number of seat belt assemblies available in the vehicle or the number of seat belt assemblies originally installed in the vehicle, whichever is greater; provided that all available seat belt assemblies are being used to restrain passengers;

- (3) The person not restrained by a seat belt assembly has a condition which prevents appropriate restraint by the seat belt assembly; provided ~~[such]~~ the condition is duly certified by a physician or a physician assistant who shall state the nature of the condition, as well as the reason ~~[such]~~ the restraint is inappropriate;
- (4) The person not restrained by a seat belt assembly is operating a taxicab or other motor vehicle ~~[utilized]~~ used in performing a bona fide metered taxicab service which is regulated under chapter 269 or by county ordinance and is carrying passengers in the vehicle in the course of performing taxicab services; or
- (5) Otherwise exempted by rules adopted by the department of transportation pursuant to chapter 91.”

SECTION 6. Section 291E-12, Hawaii Revised Statutes, is amended to read as follows:

“~~[[§291E-12]]~~ **Persons qualified to take blood specimen.** No person, other than a physician, physician assistant, registered nurse, or phlebotomist deemed qualified by the director of a clinical laboratory that is licensed by the State, or person licensed in a clinical laboratory occupation under section 321-13, may withdraw blood for the purpose of determining the alcohol concentration or drug content therein. This limitation shall not apply to the taking of a breath or urine specimen.”

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

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

SECTION 8. Section 302A-1155, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) A child may enter school provisionally upon submitting written documentation from a licensed physician, physician assistant, advanced practice registered nurse, or an authorized representative of the department of health stating that the child is in the process of receiving the required immunizations. Further documentation showing that the required immunizations have been completed shall be submitted to the appropriate school official no later than three months after the child first entered the school. If all of the required immunizations cannot be completed within three months due to the length of the minimum intervals between doses of a particular vaccine required by the department of health, provisional admission may be extended so long as the child’s parent or guardian provides documentation that appointments for required immunizations have been made and that progress toward completing the immunizations continues in accordance with the requirements of the department of health.”

SECTION 9. Section 302A-1156, Hawaii Revised Statutes, is amended to read as follows:

“~~[[§302A-1156]]~~ **Exemptions.** A child may be exempted from the required immunizations:

- (1) If a licensed physician or physician assistant certifies that the physical condition of the child is such that immunizations would endanger the child’s life or health; or
- (2) If any parent, custodian, guardian, or any other person in loco parentis to a child objects to immunization in writing on the grounds that the immunization conflicts with that person’s bona fide religious tenets and practices. Upon showing the appropriate school official satisfactory evidence of the exemption, no certificate or other evidence of immunization shall be required for entry into school.”

SECTION 10. Section 302A-1164, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

- “(b) The student’s parent or guardian shall provide the department with:
- (1) Written authorization for the self-administration of medication or the emergency administration of glucagon;
 - (2) In the case of self-administration of medication, written certification from the student’s physician or physician assistant stating that the student:
 - (A) Has asthma, anaphylaxis, or another potentially life-threatening illness; and
 - (B) Is capable of, and has been instructed in, the proper method of self-administration of medication; and
 - (3) In the case of emergency administration of glucagon to a student with diabetes, written certification from the student’s physician or physician assistant stating that the student has ~~[physician’s]~~ medical orders that glucagon may be administered by a volunteer.”

SECTION 11. Section 321-23.3, Hawaii Revised Statutes, is amended to read as follows:

“~~[[§321-23.3]]~~ **Volunteer emergency medical disaster response personnel.** (a) All volunteer emergency medical disaster response personnel including:

- (1) Physicians;
- (2) Psychologists;
- (3) Nurses;
- (4) Emergency medical technicians;
- (5) Social workers; ~~[and]~~
- (6) Mobile intensive care technicians; and
- (7) Physician assistants

licensed in the State, or employed by a health care facility, while engaged in the emergency response to a mass casualty event or disaster condition, including participation during periods of mass casualty and disaster management training, shall be deemed state employees or county employees, as the case may be, and shall have the powers, duties, rights, and privileges of such in the performance of their duties as prescribed by or under the authority of the governor or a county.

(b) For the purposes of this section, any physician or physician assistant licensed in the State having privileges and credentials at public or private health care facilities licensed in the State, shall be deemed as having credentials with

the same medical staff privileges at other hospitals for the purpose of rendering professional medical care under a mass casualty or disaster condition.

(c) In the case of injury or death arising out of and in the performance of duty pursuant to this section, including duty performed during periods of training, all volunteer emergency medical disaster response personnel and their dependents shall be entitled to all of the benefits provided in chapter 386, including medical services and supplies. In the case of injury or death, no public official shall be excluded from coverage of chapter 386. Benefits shall be based on average weekly wages set forth in section 386-51, or based on earnings from the usual employment of the person, or based on earnings at the rate of \$20 a week, whichever is most favorable to the claimant. Nothing in this section shall adversely affect the right of any person to receive any benefits or compensation under any act of Congress.

(d) Except in cases of wilful misconduct, the State, any county, or any volunteer emergency medical disaster response personnel engaged in the emergency response to a mass casualty event or disaster condition pursuant to this section (including volunteers whose services are accepted by any authorized person), shall not be liable for the death of or injury to persons, or for damage to property, as a result of any act or omission in the course of rendering professional medical care under a mass casualty event or disaster condition. No act or omission shall be imputed to the owner of any vehicle by reason of ownership thereof; provided that nothing in this section shall preclude recovery by any person for injury or damage sustained from the operation of any vehicle that may be insured under section 41D-8 to the extent of the insurance. Unless specifically provided, insurance effected under section 41D-8 shall not include coverage of such risk during a disaster emergency period.

(e) A physician assistant licensed in this State or licensed or authorized to practice in any other United States jurisdiction, or who is credentialed as a physician assistant by a federal employer who is responding to a need for medical care created by a public emergency or a state or local disaster, may provide medical care that the physician assistant is authorized to provide without physician supervision, pursuant to chapter 453, or with appropriate physician supervision that is available; provided that:

- (1) Any physician who supervises a physician assistant providing medical care in response to a public emergency or state or local disaster shall not be required to meet the requirements set forth in chapter 453 for a supervising physician; and
- (2) No physician who supervises a physician assistant voluntarily and gratuitously providing emergency care pursuant to this subsection shall be liable for civil damages for any personal injuries which result from acts or omissions by the physician assistant providing emergency care.

(e) (f) For the purposes of this section:

“Disaster condition” means a sudden catastrophic event that overwhelms natural order and causes loss of property or life and exceeds or disrupts the capabilities of available medical resources to receive and provide medical care within a community.

“Mass casualty event” means a number of casualties generated more or less simultaneously, that exceeds the ability to provide usual medical care including but not limited to an airplane crash, collapsed building, bombing, or hurricane.”

SECTION 12. Section 325-33, Hawaii Revised Statutes, is amended to read as follows:

“§325-33 Performance of vaccination and immunization. Vaccinations or immunizations required of any person under this chapter shall be performed by duly licensed physicians or paramedical personnel under their direction, advanced practice registered nurses, physician assistants, or by authorized representatives of the department of health. A record of the immunization shall be maintained by the physician, physician assistant, or advanced practice registered nurse and shall be available to the department of education for school entry requirements and the department of health.”

SECTION 13. Section 325-34, Hawaii Revised Statutes, is amended to read as follows:

“§325-34 Exemptions. Section 325-32 shall be construed not to require the vaccination or immunization of any person for three months after a duly licensed physician, physician assistant, or an authorized representative of the department of health has signed two copies of a certificate stating the name and address of the person and that because of a stated cause the health of the person would be endangered by the vaccination or immunization, and has forwarded the original copy of the certificate to the person or, if the person is a minor or under guardianship, to the person’s parent or guardian, and has forwarded the duplicate copy of the certificate to the department for its files.

No person shall be subjected to vaccination, revaccination or immunization, who shall in writing object thereto on the grounds that the requirements are not in accordance with the religious tenets of an established church of which the person is a member or adherent, or, if the person is a minor or under guardianship, whose parent or guardian shall in writing object thereto on such grounds, but no objection shall be recognized when, in the opinion of the director of health, there is danger of an epidemic from any communicable disease.”

SECTION 14. Section 327C-1, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Except as provided in subsection (b), a person shall be considered dead if, in the announced opinion of a physician licensed under part I of chapter 453, [~~physician and surgeon licensed under chapter 460,~~] physician excepted from licensure by section 453-2(b)(3), physician assistant licensed under chapter 453, or registered nurse licensed under chapter 457, 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.”

SECTION 15. Section 334-59, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Initiation of proceedings. An emergency admission may be initiated as follows:

- (1) If a police officer has reason to believe that a person is imminently dangerous to self or others, or is gravely disabled, or is obviously ill, the officer shall call for assistance from the mental health emergency workers designated by the director. Upon determination by the mental health emergency workers that the person is imminently dangerous to self or others, or is gravely disabled, or is obviously ill, the person shall be transported by ambulance or other suitable means, to a licensed psychiatric facility for further evaluation and possible emergency hospitalization. A police officer may also take into custody and transport to any facility designated by the direc-

for any person threatening or attempting suicide. The officer shall make application for the examination, observation, and diagnosis of the person in custody. The application shall state or shall be accompanied by a statement of the circumstances under which the person was taken into custody and the reasons therefor which shall be transmitted with the person to a physician or psychologist at the facility.

- (2) Upon written or oral application of any licensed physician, psychologist, attorney, member of the clergy, health or social service professional, or any state or county employee in the course of employment, a judge may issue an ex parte order orally, but shall reduce the order to writing by the close of the next court day following the application, stating that there is probable cause to believe the person is mentally ill or suffering from substance abuse, is imminently dangerous to self or others, or is gravely disabled, or is obviously ill, and in need of care or treatment, or both, giving the findings on which the conclusion is based, and directing that a police officer or other suitable individual take the person into custody and deliver the person to the nearest facility designated by the director for emergency examination and treatment. The ex parte order shall be made a part of the patient's clinical record. If the application is oral, the person making the application shall reduce the application to writing and shall submit the same by noon of the next court day to the judge who issued the oral ex parte order. The written application shall be executed subject to the penalties of perjury but need not be sworn to before a notary public.
- (3) Any licensed physician, physician assistant, or psychologist who has examined a person and has reason to believe the person is:
 - (A) Mentally ill or suffering from substance abuse;
 - (B) Imminently dangerous to self or others, or is gravely disabled, or is obviously ill; and
 - (C) In need of care or treatment;
 may direct transportation, by ambulance or other suitable means, to a licensed psychiatric facility for further evaluation and possible emergency hospitalization. A licensed physician or physician assistant may administer [sueh] treatment as is medically necessary, for the person's safe transportation. A licensed psychologist may administer [sueh] treatment as is psychologically necessary."

SECTION 16. Section 346-352, Hawaii Revised Statutes, is amended to read as follows:

“§346-352 Preauthorization exemption for certain physicians[-] and physician assistants. Any physician or physician assistant licensed in this State who treats a medicaid recipient patient suffering from the human immunodeficiency virus, acquired immune deficiency syndrome, or hepatitis C, or who is a patient in need of transplant immunosuppressives, may prescribe any medications approved by the United States Food and Drug Administration and that are eligible pursuant to the Omnibus Budget Reconciliation Rebates Act and necessary to treat the condition, without having to comply with the requirements of any preauthorization procedure established by any other provision of this chapter.”

SECTION 17. Section 347-13, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) Every physically handicapped person shall have the right to use a life jacket or other flotation device in a public swimming pool; provided that:

- (1) The handicapped person suffers from a physical disability or condition which requires the use of a life jacket or other flotation device; and
- (2) The handicapped person obtains a statement signed by a licensed physician or physician assistant attesting to the handicapped person’s need to use a life jacket or other flotation device.”

SECTION 18. Section 431:10A-115.5, Hawaii Revised Statutes, is amended by amending subsection (e) to read as follows:

“(e) For the purposes of this section, “child health supervision services” means physician-delivered, physician-supervised, physician assistant-delivered, or nurse-delivered services as defined by section 457-2 (“registered nurse”) which shall include as the minimum benefit coverage for services delivered at intervals and scope stated in this section.”

SECTION 19. Section 453-14, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Every physician, osteopathic physician, physician assistant, and surgeon attending or treating a case of knife wound, bullet wound, gunshot wound, powder burn, or any injury that would seriously maim, produce death, or has rendered the injured person unconscious, caused by the use of violence or sustained in a suspicious or unusual manner or in motor vehicle collisions resulting in serious injury or death, or, whenever the case is treated in a hospital, clinic, or other institution, the manager, superintendent, or person in charge thereof, shall report the case or provide requested information to the chief of police of the county within which the person was attended or treated, giving the name of the injured person, description of the nature, type, and extent of the injury, together with other pertinent information that may be of use to the chief of police. As used herein, the term “chief of police” means the chief of police of each county and any of the chief’s authorized subordinates.”

SECTION 20. Section 466J-6, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Any provision in this chapter to the contrary notwithstanding, a license shall not be required for:

- (1) A licensed medical practitioner in radiology;
- (2) A licensed practitioner of nuclear medicine;
- (3) A licensed physician assistant;
- ~~(3)~~ (4) A licensed doctor of dentistry;
- ~~(4)~~ (5) A licensed dental technician;
- ~~(5)~~ (6) A licensed dental hygienist;
- ~~(6)~~ (7) A student in an approved school for radiographers, radiation therapists, or nuclear medicine technologists, or in a school of medicine, podiatry, dentistry, or a chiropractic 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)~~ (8) 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.”

SECTION 21. Section 587-23, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Any child health professional or paraprofessional, physician licensed or authorized to practice medicine in this State, licensed physician assistant, registered nurse or licensed practical nurse, hospital or similar institution’s personnel engaged in the admission, examination, care, or treatment of patients, medical examiner, coroner, social worker, or police officer, who has before the person a child whom the person reasonably believes has been harmed, shall make every good faith effort to take or cause to be taken color photographs of the areas of trauma visible on the child. If medically indicated, ~~[such]~~ the person may take or cause to be taken x-rays of the child or cause a radiological or other diagnostic examination to be performed on the child.”

SECTION 22. Section 612-4, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) A prospective juror is disqualified to serve as a juror if the prospective juror:

- (1) Is incapable, by reason of the prospective juror’s disability, of rendering satisfactory jury service; but a prospective juror claiming this disqualification may be required to submit a physician’s or physician assistant’s certificate as to the disability, and the certifying physician or physician assistant is subject to inquiry by the court at its discretion;
- (2) Has been convicted of a felony in a state or federal court and not pardoned; or
- (3) Fails to meet the qualifications in subsection (a).”

SECTION 23. Section 663-1.5, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) Any physician or physician assistant licensed to practice under the laws of this State or any other state who in good faith renders emergency medical care in a hospital to a person, who is in immediate danger of loss of life, without remuneration or expectation of remuneration, shall not be liable for any civil damages, if the physician or physician assistant exercises that standard of care expected of similar physicians or physician assistants under similar circumstances. Any physician who supervises a physician assistant providing emergency medical care pursuant to this section shall not be required to meet the requirements set forth in chapter 453 regarding supervising physicians.”

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SECTION 24. Section 663-1.5, Hawaii Revised Statutes, is amended by amending subsections (f) and (g) to read as follows:

“(f) Any physician or physician assistant who administers an automated external defibrillator program without remuneration or expectation of remuneration shall not be liable for any civil damages resulting from any act or omission involving the use of an automated external defibrillator, except as may result from the physician’s or physician assistant’s gross negligence or wanton acts or omissions.

(g) This section shall not relieve any person, physician, physician assistant, or employer of:

- (1) Any other duty imposed by law regarding the designation and training of persons or employees;
- (2) Any other duty imposed by provisions regarding the maintenance of equipment to be used for resuscitation; or
- (3) Liability for any damages resulting from gross negligence, or wanton acts or omissions.”

SECTION 25. Section 671-1, Hawaii Revised Statutes, is amended by amending the definition of “health care provider” to read as follows:

- “(1) “Health care provider” means a physician [~~or~~, surgeon, or physician assistant licensed under chapter 453, [~~a physician and surgeon licensed under chapter 460;~~] a podiatrist licensed under chapter 463E, a health care facility as defined in section 323D-2, and the employees of any of them. Health care provider shall not mean any nursing institution or nursing service conducted by and for those who rely upon treatment by spiritual means through prayer alone, or employees of [~~such~~] the institution or service.”

SECTION 26. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun, before its effective date.

SECTION 27. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.¹

SECTION 28. This Act shall take effect upon approval.

(Approved June 25, 2009.)

Note

1. Edited pursuant to HRS §23G-16.5.