

ACT 57

S.B. NO. 2163

A Bill for an Act Relating to the Practice of Nursing.

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

SECTION 1. The legislature finds that it is in the interest of the health, safety, and welfare of the citizens of the State that the practice of nursing be subject to regulation and controls to assure that nurses at all levels are qualified and competent and that only qualified persons are permitted to engage in the practice of nursing. The legislature further finds that the practice of nursing, as defined in this Act, merits the confidence of the public. The legislature recognizes that the practice of nursing is continually evolving in response to changes within the health care system.

SECTION 2. Chapter 457, Hawaii Revised Statutes, is amended by adding six new sections to be appropriately designated and to read as follows:

“§457- Practice of nursing. (a) Nursing is a scientific process founded on a body of professional knowledge. It is a learned profession based on an understanding of the human condition across the lifespan of a client and the relationship of a client with others and within the environment. It is also an art dedicated to caring for others. The practice of nursing means assisting clients in attaining or maintaining optimal health, implementing a strategy of care to ac-

comply with defined goals within the context of a client-centered health care plan, and evaluating responses to nursing care and treatment. Nursing is a dynamic discipline that is continually evolving to include more sophisticated knowledge, technologies, and client care activities. Nursing applies evidence-based practice to promote optimal client outcomes.

(b) The scope of nursing practices established in this chapter and by the rules of the board shall serve as general guidelines and are not intended to address the appropriateness of the use of specific procedures in any particular work setting or to grant permission to implement specific procedures in any particular work setting.

§457- Application of National Council of State Boards of Nursing Model Nursing Practice Act and Model Nursing Administrative Rules. (a) In accordance with chapter 91, the board shall adopt the provisions of the NCSBN Model Nursing Practice Act and Model Nursing Administrative Rules relating to the scope and standards of nursing practice for registered nurses, licensed practical nurses, and advanced practice registered nurses and shall adopt any subsequent modifications adopted by the Delegate Assembly of the NCSBN; provided that the board shall not be required to adopt rules or provisions that the board finds are inappropriate or inapplicable.

(b) If the board finds that any rule or provision of the NCSBN is inappropriate or inapplicable, the board shall state clearly in the record of the board's proceedings the board's rationale for rejecting or modifying the NCSBN's model rules.

(c) The NCSBN shall have no legal authority over the board and shall have no legal authority or powers of oversight of the board in the exercise of its powers and duties authorized by law.

§457- Registered nurse. Practice as a registered nurse means the full scope of nursing, regardless of compensation or personal profit, that incorporates caring for all clients in all settings and is guided by the scope of practice authorized by this chapter, the rules of the board, and nursing standards established or recognized by the board including but not limited to:

- (1) The National Council of State Boards of Nursing Model Nursing Practice Act, Article II, Scope of Nursing Practice, Section 2; and
- (2) The National Council of State Boards of Nursing Model Nursing Administrative Rules, Chapter Two, Standards of Nursing Practice, Sections 2.2.2 through 2.2.6;

provided that NCSBN shall have no legal authority over the board and shall have no legal authority or powers of oversight of the board in the exercise of its powers and duties authorized by law.

§457- Licensed practical nurse. Practice as a licensed practical nurse means the directed scope of nursing practice, regardless of compensation or personal profit, that takes place under the direction of a registered nurse, advanced practice registered nurse, licensed physician, or other health care provider authorized by the State, and is guided by the scope of practice authorized by this chapter, the rules of the board, and nursing standards established or recognized by the board including but not limited to:

- (1) The National Council of State Boards of Nursing Model Nursing Practice Act, Article II, Scope of Nursing Practice, Section 3; and
- (2) The National Council of State Boards of Nursing Model Nursing Administrative Rules, Chapter Two, Standards of Nursing Practice, Sections 2.3.1 through 2.3.3;

provided that NCSBN shall have no legal authority over the board and shall have no legal authority or powers of oversight of the board in the exercise of its powers and duties authorized by law.

§457- Advanced practice registered nurse. (a) Practice as an advanced practice registered nurse means the scope of nursing in a category approved by the board, regardless of compensation or personal profit, and includes the registered nurse scope of practice. The scope of an advanced practice registered nurse includes but is not limited to advanced assessment and the diagnosis, prescription, selection, and administration of therapeutic measures including over the counter drugs, legend drugs, and controlled substances within the advanced practice registered nurse's role and specialty-appropriate education and certification.

(b) The advanced practice registered nurse's scope of practice supersedes the registered nurse's scope of practice. Advanced practice registered nurses shall practice within standards established or recognized by the board and be guided by the scope of practice authorized by this chapter, the rules of the board, and nursing standards established or recognized by the board including but not limited to:

- (1) The National Council of State Boards of Nursing Model Nursing Practice Act, Article II, Scope of Nursing Practice, Section 4; and
- (2) The National Council of State Boards of Nursing Model Nursing Administrative Rules, Chapter Two, Standards of Nursing Practice, Section 2.4.1;

provided that NCSBN shall have no legal authority over the board and shall have no legal authority or powers of oversight of the board in the exercise of its powers and duties authorized by law.

(c) An advanced practice registered nurse shall comply with the requirements of this chapter; recognize limits of the advanced practice registered nurse's knowledge and experience and planning for the management of situations that exceed the scope of authorized practice; and consult with or refer clients to other health care providers, as appropriate.

§457- Delegation. (a) A registered nurse may delegate nursing care tasks, functions, and activities to unlicensed assistive personnel in a manner that is appropriate to the level of knowledge and skill of the unlicensed assistive personnel; provided that the delegation of tasks, functions, and activities complies with applicable federal and state laws; and provided further that the practice-pervasive functions of assessment, evaluation, and nursing judgment shall not be delegated.

(b) The delegating nurse is responsible for individually assessing the patient and the situational circumstances and for ascertaining the competence of the delegatee before delegating any task, function, or activity. The delegating nurse shall supervise, monitor, evaluate, and follow-up on instructions to a delegatee after delegating any task, function, or activity. The delegatee shall assume liability for accepting the delegation and for the delegatee's own actions in carrying out the delegated task, function, or activity.

(c) When delegating a task, function, or activity, a delegating nurse shall use the NCSBN delegation decision-making process as a model for decision-making. The delegating nurse shall consider and carefully analyze:

- (1) Patient needs and circumstances;
- (2) Qualifications of the proposed delegatee;
- (3) The nature of the delegating nurse's delegation authority set forth in this chapter;

- (4) The delegating nurse's personal competence in the area of nursing relevant to the task, function, or activity to be delegated; and
- (5) The protocols contained in NCSBN documents, including but not limited to: Five Rights of Delegation, Delegation-Decision Making Tree, and The Continuum of Care Framework."

SECTION 3. Section 329-1, Hawaii Revised Statutes, is amended by amending the definition of "advanced practice registered nurse with prescriptive authority" to read as follows:

"Advanced practice registered nurse with prescriptive authority" means a person licensed under section 457-8.6 who is registered under this chapter to administer or prescribe a controlled substance~~[-]; provided that an advanced practice registered nurse with prescriptive authority shall not be authorized to request, receive, or sign for professional controlled substance samples.~~"

SECTION 4. Section 329-121, Hawaii Revised Statutes, is amended by amending the definition of "physician" to read as follows:

"Physician" means a person who is licensed to practice [~~medicine or osteopathic medicine~~] under chapter 453 and is licensed with authority to prescribe drugs and is registered under section 329-32. "Physician" does not include physician's assistant or advanced practice registered nurse with prescriptive authority as described in section 453-5.3 or [~~an advanced practice registered nurse with prescriptive authority as described in section~~] 457-8.6."

SECTION 5. Section 457-2, Hawaii Revised Statutes, is amended to read as follows:

"**§457-2 Definitions.** (a) As used in this chapter unless the content otherwise requires:

"Advanced practice registered nurse" means a registered nurse who has met the qualifications for advanced practice registered nurse set forth in this chapter and through rules of the board, which shall include educational requirements.

"Board" means the state board of nursing.

"NCSBN" means the National Council of State Boards of Nursing.

"Nurse" means a person licensed under this chapter or a person who holds a license under the laws of another state or territory of the United States that is equivalent to a license under this chapter.

"Telehealth" means the use of electronic information and telecommunication technologies to support long-distance clinical health care, patient and professional health-related education, public health and health administration, to the extent that it relates to nursing.

"The practice of nursing as a licensed practical nurse" means the performance of those acts commensurate with the required educational preparation and demonstrated competency of the individual, whereby the individual shall be accountable and responsible to the consumer for the quality of nursing care rendered. The foregoing may include, but shall not be limited to~~[-];~~ implementation of basic nursing procedures in the plan of care; ~~or~~ observing and caring for individuals at all levels of the health spectrum, giving counsel and acting to safeguard life and health and functioning as a part of the health care team, under the direction of a dentist, [~~medical doctor or osteopath,~~] physician, osteopathic physician, registered nurse, or podiatrist licensed in accordance with chapter 448, 453, 457, or 463E; ~~or~~ administration of treatment and medication

as prescribed; ~~or~~ promotion of health maintenance of individuals, families, or groups; or teaching and supervision of auxiliary personnel.

“The practice of nursing as a registered nurse” means the performance of professional services commensurate with the educational preparation and demonstrated competency of the individual having specialized knowledge, judgment, and skill based on the principles of the biological, physical, behavioral, and sociological sciences and nursing theory, whereby the individual shall be accountable and responsible to the consumer for the quality of nursing care rendered. The foregoing may include~~;~~ but shall not be limited to~~;~~ observation, assessment, development, implementation, and evaluation of a plan of care, health counseling, supervision and teaching of other personnel, and teaching of individuals, families, and groups in any stage of health or illness; ~~or~~ administration, supervision, coordination, delegation, and evaluation of nursing practice; ~~or provisions~~ provision of health care to the patient in collaboration with other members of the health care team as autonomous health care professionals providing the nursing component of health care; or ~~utilization~~ use of reasonable judgment in carrying out prescribed medical orders of a licensed dentist, ~~medical doctor or osteopath;~~ physician, osteopathic physician, or podiatrist licensed in accordance with chapter 448, 453, or 463E or the orders of an advanced practice registered nurse recognized in accordance with this chapter.

(b) Definitions applicable to this chapter shall also include those used in the NCSBN Model Nursing Practice Act and the Model Nursing Administrative Rules unless the context otherwise requires. Where a definition in the NCSBN Model Nursing Practice Act or Model Nursing Administrative Rules conflicts with a definition in chapter 457 or 436B, the definitions contained in chapter 457 or 436B and the rules of the board shall apply.”

SECTION 6. Section 457-8.6, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

“(d) Advanced practice registered nurses shall be considered qualified if they have met the requirements of section 457-8.5(a), and have met the advanced pharmacology requirements for initial prescriptive authority pursuant to rules adopted by the board. Only qualified advanced practice registered nurses authorized to diagnose, prescribe, and institute therapy or referrals of patients to health care agencies, health care providers, and community resources and, only as appropriate, to the practice specialty in which the advanced practice nurse is qualified, may:

- (1) Prescribe~~;~~ ~~procure;~~ and administer~~;~~ ~~and dispense~~ over the counter and legend drugs, and controlled substances pursuant to this chapter and to chapter 329; provided that an advanced practice registered nurse shall not request, receive, or sign for professional controlled substance samples;
- (2) Prescribe, order, and dispense medical devices and equipment; and
- (3) Plan and initiate a therapeutic regimen that includes nutritional, diagnostic, and supportive services including home health care, hospice, and physical and occupational therapy.”

SECTION 7. Title 16, chapter 89C, Hawaii Administrative Rules, shall be repealed upon the state board of nursing’s adoption of rules relating to advanced practice registered nurse prescriptive authority; provided that section 16-89C-10, Hawaii Administrative Rules, relating to collegial working relationship and all other references to collegial working relationship in title 16, chapter 89C, Hawaii Administrative Rules, shall be repealed upon the effective date of this Act.

SECTION 8. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.¹

SECTION 9. This Act shall take effect upon its approval.

(Approved April 24, 2010.)

Note

1. Edited pursuant to HRS §23G-16.5.