

ACT 27

S.B. NO. 729

A Bill for an Act Relating to Advanced Practice Registered Nurses.

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

SECTION 1. The legislature finds that in Hawaii, advanced practice registered nurses are recognized as primary care providers and should be permitted to practice to the full extent of their education and training. In recognition of this, Act 232, Session Laws of Hawaii 2013, added advanced practice registered nurses to the list of mental health professionals qualified to diagnose mental illness under section 334-59, Hawaii Revised Statutes, relating to emergency hospitalization. However, the legislature further finds that references to advanced practice registered nurses were added only to certain provisions of section 334-59, Hawaii Revised Statutes. Additional amendments relating to advanced practice registered nurses under section 334-59, Hawaii Revised Statutes, are therefore necessary for consistency.

The legislature additionally finds that advanced practice registered nurses are fully qualified to determine a patient's mental health status and whether the person poses a safety risk and should be authorized to do so under the State's involuntary hospitalization statutes. Amendments relating to advanced practice registered nurses under sections 334-60.3 and 334-60.5, Hawaii Revised Statutes, are therefore necessary.

Accordingly, the purpose of this Act is to clarify the role of advanced practice registered nurses in sections of the Hawaii Revised Statutes relating to emergency hospital admission and involuntary hospitalization.

SECTION 2. Section 334-59, Hawaii Revised Statutes, is amended by amending subsections (a) to (d) to read as follows:

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

- (1) If a law enforcement officer has reason to believe that a person is imminently dangerous to self or others, 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, the person shall be transported by ambulance or other suitable means, to a licensed psychiatric facility for further evaluation and possible emergency hospitalization. A law enforcement officer may also take into custody and transport to any facility designated by the director any person threatening or attempting suicide, or may take into custody and transport to any designated mental health program, any person subject to an assisted community treatment order, issued pursuant to part VIII of this chapter, for further evaluation and possible emergency hospitalization. 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, advanced practice registered nurse, or psychologist at the facility, or to a licensed psychiatrist at a designated mental health program.
- (2) Upon written or oral application of any licensed physician, advanced practice registered nurse, 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 or is imminently dangerous to self or others and in need of care or treatment, or both, giving the findings upon which the conclusion is based, and directing that a law enforcement 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, advanced practice registered nurse, 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; 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, an advanced practice registered nurse, or physician assistant may administer treatment as is medically necessary, for the person's safe transportation. A licensed psychologist may administer treatment as is psychologically necessary.

(b) Emergency examination. A patient who is delivered for emergency examination and treatment to a facility designated by the director shall be examined by a licensed physician or advanced practice registered nurse without unnecessary delay, and may be given such treatment as is indicated by good medical practice. A psychiatrist or psychologist may further examine the patient to diagnose the presence or absence of a mental disorder, assess the risk that the patient may be dangerous to self or others, and assess whether or not the patient needs to be hospitalized.

(c) Release from emergency examination. If the physician or advanced practice registered nurse who performs the emergency examination, in consultation with a psychologist if applicable, concludes that the patient need not be hospitalized, the patient shall be discharged immediately unless the patient is under criminal charges, in which case the patient shall be returned to the custody of a law enforcement officer.

(d) Emergency hospitalization. If the physician, advanced practice registered nurse, or [the] psychologist who performs the emergency examination has reason to believe that the patient is:

- (1) Mentally ill or suffering from substance abuse;
- (2) Imminently dangerous to self or others; and
- (3) In need of care or treatment, or both;

the physician, advanced practice registered nurse, or [the] psychologist may direct that the patient be hospitalized on an emergency basis or cause the patient to be transferred to another psychiatric facility for emergency hospitalization, or both. The patient shall have the right immediately upon admission to telephone the patient's guardian or a family member including a reciprocal beneficiary, or an adult friend and an attorney. If the patient declines to exercise that right, the staff of the facility shall inform the adult patient of the right to waive notification to the family including a reciprocal beneficiary, and shall make reasonable efforts to ensure that the patient's guardian or family including a reciprocal beneficiary, is notified of the emergency admission but the patient's family including a reciprocal beneficiary, need not be notified if the patient is an adult and requests that there be no notification. The patient shall be allowed to confer with an attorney in private."

SECTION 3. Section 334-60.3, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) Any person may file a petition alleging that a person located in the county meets the criteria for commitment to a psychiatric facility. The petition shall be executed subject to the penalties of perjury but need not be sworn to before a notary public. The attorney general, the attorney general's deputy, special deputy, or appointee designated to present the case shall assist the petitioner to

state the substance of the petition in plain and simple language. The petition may be accompanied by a certificate of the licensed physician, advanced practice registered nurse, or psychologist who has examined the person within two days before submission of the petition, unless the person whose commitment is sought has refused to submit to medical or psychological examination, in which case the fact of refusal shall be alleged in the petition. The certificate shall set forth the signs and symptoms relied upon by the physician, advanced practice registered nurse, or psychologist to determine the person is in need of care or treatment, or both, and whether or not the person is capable of realizing and making a rational decision with respect to the person's need for treatment. If the petitioner believes that further evaluation is necessary before commitment, the petitioner may request such further evaluation."

SECTION 4. Section 334-60.5, Hawaii Revised Statutes, is amended by amending subsection (g) to read as follows:

"(g) No individual may be found to require treatment in a psychiatric facility unless at least one physician, advanced practice registered nurse, or psychologist who has personally examined the individual testifies in person at the hearing. This testimony may be waived by the subject of the petition. If the subject of the petition has refused to be examined by a licensed physician, advanced practice registered nurse, or psychologist, the subject may be examined by a court-appointed licensed physician, advanced practice registered nurse, or psychologist. If the subject refuses and there is sufficient evidence to believe that the allegations of the petition are true, the court may make a temporary order committing the subject to a psychiatric facility for a period of not more than five days for the purpose of a diagnostic examination and evaluation. The subject's refusal shall be treated as a denial that the subject is mentally ill or suffering from substance abuse. Nothing in this section, however, shall limit the individual's privilege against self-incrimination."

SECTION 5. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 6. This Act shall take effect upon its approval; provided that the amendments made to section 334-59, Hawaii Revised Statutes, by section 2 of this Act shall not be repealed when section 334-59, Hawaii Revised Statutes, is reenacted on July 1, 2020, pursuant to section 24 of Act 221, Session Laws of Hawaii 2013.

(Approved May 1, 2015.)