

ACT 88

H.B. NO. 912

A Bill for an Act Relating to Nursing.

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

SECTION 1. The legislature finds that advanced practice registered nurses are primary care providers who may practice to the full scope of practice allowed under chapter 457, Hawaii Revised Statutes. The legislature further finds that, as licensed health care practitioners, advanced practice registered nurses are qualified to provide primary medical care services to adolescents and fulfill a vital role in caring for patients' current and future health needs. The legislature additionally finds that removing barriers to practice for advanced practice registered nurses will result in improved access to safe, timely, quality health care for the people of Hawaii.

The purpose of this Act is to allow advanced practice registered nurses, who hold a national certification in a psychiatric specialty, to offer care and services, similar to those offered by physicians and other health care service providers, to minors and patients in assisted community treatment.

SECTION 2. Section 334-121, Hawaii Revised Statutes, is amended to read as follows:

“§334-121 Criteria for assisted community treatment. A person may be ordered to obtain assisted community treatment if the family court finds that:

- (1) The person is mentally ill or suffering from substance abuse; ~~and~~
- (2) The person is unlikely to live safely in the community without available supervision based on the professional opinion of a psychiatrist; ~~and~~ or advanced practice registered nurse with prescriptive

- authority and who holds an accredited national certification in an advanced practice registered nurse psychiatric specialization;
- (3) The person, at some time in the past: (A) has received inpatient hospital treatment for mental illness or substance abuse or (B) has been found to be imminently dangerous to self or others, as a result of mental illness or substance abuse; ~~and~~
 - (4) The person, based on the person's treatment history and current condition, is now in need of treatment in order to prevent a relapse or deterioration which would predictably result in the person becoming imminently dangerous to self or others; ~~and~~
 - (5) The person has a history of a lack of adherence to treatment for mental illness or substance abuse, and the person's current mental status or the nature of the person's disorder limits or negates the person's ability to make an informed decision to voluntarily seek or comply with recommended treatment; ~~and~~
 - (6) The assisted community treatment is medically appropriate, and in the person's medical interests; and
 - (7) Considering less intrusive alternatives, assisted community treatment is essential to prevent the danger posed by the person."

SECTION 3. Section 334-122, Hawaii Revised Statutes, is amended by adding a new definition to be appropriately inserted and to read as follows:

"Advanced practice registered nurse" means a registered nurse licensed to practice in this State who:

- (1) Has met the qualifications set forth in chapter 457 and this part;
- (2) Because of advanced education and specialized clinical training, is authorized to assess, screen, diagnose, order, utilize, or perform medical, therapeutic, preventive, or corrective measures;
- (3) Holds an accredited national certification in an advanced practice registered nurse psychiatric specialization; and
- (4) Holds prescriptive authority pursuant to section 457-8.6."

SECTION 4. Section 334-123, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) The petition may be accompanied by a certificate of a licensed psychiatrist or advanced practice registered nurse with prescriptive authority and who holds an accredited national certification in an advanced practice registered nurse psychiatric specialization who has examined the subject of the petition within twenty calendar days prior to the filing of the petition. For purposes of the petition, an examination shall be considered valid so long as the licensed psychiatrist or advanced practice registered nurse with prescriptive authority and who holds an accredited national certification in an advanced practice registered nurse psychiatric specialization has obtained enough information from the subject of the petition to reach a diagnosis of the subject of the petition, and to express a professional opinion concerning the same, even if the subject of the petition is not fully cooperative."

SECTION 5. Section 334-126, Hawaii Revised Statutes, is amended by amending subsection (h) to read as follows:

"(h) No subject of the petition shall be ordered to receive assisted community treatment unless at least one psychiatrist or advanced practice registered nurse with prescriptive authority and who holds an accredited national certification in an advanced practice registered nurse psychiatric specialization testifies in person at the hearing who has personally assessed the subject, within a

reasonable time before the filing of the petition up to the time when the psychiatrist or advanced practice registered nurse with prescriptive authority and who holds an accredited national certification in an advanced practice registered nurse psychiatric specialization provides oral testimony at court. The [psychiatrist's] testimony of the psychiatrist or advanced practice registered nurse with prescriptive authority and who holds an accredited national certification in an advanced practice registered nurse psychiatric specialization shall state the facts which support the allegation that the subject meets all the criteria for assisted community treatment, provide a written treatment plan, which shall include non-mental health treatment if appropriate, provide the rationale for the recommended treatment, and identify the designated mental health program responsible for the coordination of care.

If the recommended assisted community treatment includes medication, the [psychiatrist's] testimony of the psychiatrist or advanced practice registered nurse with prescriptive authority and who holds an accredited national certification in an advanced practice registered nurse psychiatric specialization shall describe the types or classes of medication which should be authorized, and describe the physical and mental beneficial and detrimental effects of such medication."

SECTION 6. Section 334-127, Hawaii Revised Statutes, is amended by amending subsections (b) and (c) to read as follows:

"(b) If after hearing all relevant evidence, including the results of any diagnostic examination ordered by the family court, the family court finds that the criteria for assisted community treatment under section 334-121(1) have been met beyond a reasonable doubt and that the criteria under section 334-121(2) to 334-121(7) have been met by clear and convincing evidence, the family court shall order the subject to obtain assisted community treatment for a period of not more than one year. The written treatment plan submitted pursuant to section 334-126(h) shall be attached to the order and made a part of the order.

If the family court finds by clear and convincing evidence that the beneficial mental and physical effects of recommended medication outweigh the detrimental mental and physical effects, if any, the order may authorize types or classes of medication to be included in treatment at the discretion of the treating psychiatrist[-] or advanced practice registered nurse with prescriptive authority and who holds an accredited national certification in an advanced practice registered nurse psychiatric specialization.

The court order shall also state who should receive notice of intent to discharge early in the event that the treating psychiatrist or advanced practice registered nurse with prescriptive authority and who holds an accredited national certification in an advanced practice registered nurse psychiatric specialization determines, prior to the end of the court ordered period of treatment, that the subject should be discharged early from assisted community treatment.

(c) The family court shall also designate on the order the treating psychiatrist or advanced practice registered nurse with prescriptive authority and who holds an accredited national certification in an advanced practice registered nurse psychiatric specialization who is to be responsible for the management and supervision of the subject's treatment, or shall assign an administrator of a designated mental health program to, in turn, designate the treating psychiatrist or advanced practice registered nurse with prescriptive authority and who holds an accredited national certification in an advanced practice registered nurse psychiatric specialization during the treatment period without court approval, and may designate either a publicly employed psychiatrist[-] or advanced practice registered nurse with prescriptive authority and who holds an accredited national

certification in an advanced practice registered nurse psychiatric specialization, or a private psychiatrist[;] or advanced practice registered nurse with prescriptive authority and who holds an accredited national certification in an advanced practice registered nurse psychiatric specialization; provided that the private psychiatrist or advanced practice registered nurse with prescriptive authority and who holds an accredited national certification in an advanced practice registered nurse psychiatric specialization shall agree to the designation. The order for assisted community treatment shall be subject to the Health Care Privacy Harmonization Act, [chapter 323B].”

SECTION 7. Section 334-129, Hawaii Revised Statutes, is amended as follows:

1. By amending subsection (a) to read:

“(a) A treating psychiatrist or advanced practice registered nurse with prescriptive authority and who holds an accredited national certification in an advanced practice registered nurse psychiatric specialization may prescribe or administer to the subject of the order reasonable and appropriate medication or medications, if specifically authorized by the court order, and treatment which is consistent with accepted medical standards and the family court order, including the written treatment plan submitted pursuant to section 334-126(h).”

2. By amending subsection (d) to read:

“(d) The designated mental health program’s treating psychiatrist or advanced practice registered nurse with prescriptive authority and who holds an accredited national certification in an advanced practice registered nurse psychiatric specialization or [psychiatrist’s] designee of the psychiatrist or advanced practice registered nurse with prescriptive authority and who holds an accredited national certification in an advanced practice registered nurse psychiatric specialization shall make all reasonable efforts to solicit the subject’s compliance with the prescribed treatment. If the subject fails or refuses to comply after the efforts to solicit compliance, the treating psychiatrist or advanced practice registered nurse with prescriptive authority and who holds an accredited national certification in an advanced practice registered nurse psychiatric specialization shall assess whether the subject of the order meets criteria for admission to a psychiatric facility under part IV of this chapter, and proceed with the admission pursuant to section 334-59(a)(2) or (3); provided that the refusal of treatment shall not, by itself, constitute a basis for involuntary hospitalization.”

SECTION 8. Section 334-131, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) When the treating psychiatrist or advanced practice registered nurse with prescriptive authority and who holds an accredited national certification in an advanced practice registered nurse psychiatric specialization contemplates discharge for a subject of the order because of expiration of the court order or because the subject of the order is no longer a proper subject for assisted community treatment, as determined by the criteria in section 334-121, the treating psychiatrist or advanced practice registered nurse with prescriptive authority and who holds an accredited national certification in an advanced practice registered nurse psychiatric specialization shall provide notice of intent to discharge.”

SECTION 9. Section 577-29, Hawaii Revised Statutes, is amended by amending subsection (f) to read as follows:

“(f) As used in this section:

“Licensed mental health professional” means any of the following:

- (1) A person licensed as a mental health counselor pursuant to chapter 453D;
- (2) A person licensed as a marriage and family therapist pursuant to chapter 451J;
- (3) A clinical social worker licensed pursuant to chapter 467E;
- (4) A person licensed as a psychologist pursuant to chapter 465; [or]
- (5) A board certified, or board eligible, licensed psychiatrist[-]; or
- (6) An advanced practice registered nurse licensed pursuant to chapter 457 who holds an accredited national certification in an advanced practice registered nurse psychiatric specialization.

“Mental health treatment or counseling services” means the provision of outpatient mental health treatment or counseling by a licensed mental health professional.”

SECTION 10. Section 577A-2, Hawaii Revised Statutes, is amended to read as follows:

“§577A-2 Consent valid. The consent to the provision of medical care and services by public and private hospitals or public and private clinics, or the performance of medical care and services by a physician licensed to practice medicine[.] or advanced practice registered nurse as defined in section 457-2.7, when executed by a female minor who is or professes to be pregnant, or by a minor who is or professes to be afflicted with a venereal disease, or a minor seeking family planning services shall be valid and binding as if the minor had achieved his or her majority as the case may be; that is, a female minor who is, or professes to be pregnant, or a minor who is, or professes to be afflicted with a venereal disease, or a minor seeking family planning services shall be deemed to have, and shall have the same legal capacity to act, and the same legal obligations with regard to the giving of such consent to such hospitals and such clinics or medical care and services to be provided by a physician licensed to practice medicine[.] or advanced practice registered nurse as defined in section 457-2.7, as a person of full legal age and capacity, the infancy of the minor and any contrary provisions of law notwithstanding, and such consent shall not be subject to later disaffirmance by reason of such minority; and the consent of no other person or persons (including, but not limited to a spouse, parent, custodian, or guardian) shall be necessary in order to authorize such hospitals or such clinics or medical care and services provided by a physician licensed to practice medicine[.] or advanced practice registered nurse as defined in section 457-2.7, to such a minor.”

SECTION 11. Section 577A-3, Hawaii Revised Statutes, is amended to read as follows:

“§577A-3 Providing information. Public and private hospitals, or public and private clinics or physicians licensed to practice medicine or advanced practice registered nurses as defined in section 457-2.7 may, at the discretion of the treating physician[.] or advanced practice registered nurse, inform the spouse, parent, custodian, or guardian of any minor patient of the provision of medical care and services to the minor or disclose any information pertaining to such care and services after consulting with the minor patient to whom such medical care and services have been provided under this chapter.

If the minor patient is not diagnosed as being pregnant or afflicted with venereal disease, such information as well as the application for diagnosis may be disclosed, at the discretion of the treating physician or advanced practice registered nurse after consulting with the minor patient.”

SECTION 12. Section 577A-4, Hawaii Revised Statutes, is amended to read as follows:

“§577A-4 Financial responsibility; counseling. (a) If a minor consents to receive medical care and services, the spouse, parent, custodian, or guardian of the minor patient shall not be liable for the legal obligations resulting from the furnishing of medical care and services provided by the public and private hospital, ~~[or]~~ public and private clinic or physician licensed to practice medicine~~[-]~~, or advanced practice registered nurse as defined in section 457-2.7. A minor who consents to the provision of medical care and services under this section shall assume financial responsibility for the costs of such medical care and services. Any other law to the contrary notwithstanding, no spouse, parent, custodian, or guardian whose consent has not been obtained or who has no prior knowledge that the minor has consented to the provision of such medical care and services shall be liable for the costs incurred by virtue of the minor’s consent.

(b) Medical care and services shall include individual counseling for each minor patient by a physician licensed to practice medicine~~[-]~~ or advanced practice registered nurse as defined in section 457-2.7. Such counseling shall seek to open the lines of communication between parent and child.”

SECTION 13. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 14. This Act shall take effect upon its approval.

(Approved July 5, 2017.)