

ACT 293

H.B. NO. 1575

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 broadening the scope of practice for physician assistants can help address the State's shortage of licensed physicians. In 2021, the annual report on findings from the Hawaii Physician Workforce Assessment Project found that Hawaii has an unmet need for over seven hundred full-time doctors. The islands of Maui and Hawaii face the most severe shortages, each lacking more than forty per cent of the needed health care providers. By contrast, the number of licensed physician assistants has grown by one hundred five per cent on the island of Hawaii, one hundred fourteen per cent on the island of Kauai, and thirty-five per cent on the island of Maui.

The legislature recognizes that physician assistants are highly trained and nationally certified health care workers who already provide a wide range of services. They routinely take medical histories, perform medical examinations, order and interpret laboratory tests, diagnose illnesses, develop and manage treatment plans, prescribe medications, and assist in surgery. Research has shown that hospitalized patients receiving care from physician assistants have shorter stays, fewer infections, and fewer readmissions. The legislature finds that physician assistants are capable of providing additional care services to help ease the State's shortage of licensed physicians and that the scope of practice for physician assistants should be determined at the practice level.

The legislature also finds that changes are needed to the medical records review process for physician assistants. Act 181, Session Laws of Hawaii 2019, authorized the physicians or physicians' groups supervising physician assistants to develop their own, practice-specific requirements for medical record reviews. This has helped to ease the administrative burden on supervising physicians without compromising patient care. However, supervising physicians or physicians' groups are currently required to review all prescriptions for controlled substances that are provided by a physician assistant.

Accordingly, the purpose of this Act is to:

- (1) Improve patients' quality of care and access to care services, especially in rural and underserved areas, by broadening the scope of practice for physician assistants in the State; and
- (2) Continue streamlining the medical records review process for physician assistants by requiring a sampling of medical records, rather than all medical records, to be reviewed when physician assistants prescribe controlled substances.

SECTION 2. Section 291-51, Hawaii Revised Statutes, is amended as follows:

1. By amending the definition of "certificate of disability" to read:
 "'Certificate of disability" means a medical statement issued by a licensed practicing physician, physician assistant, or advanced practice registered nurse [which] that verifies that a person is disabled, limited, or impaired in the ability to walk."

2. By amending the definition of "person with a disability" to read:
 "'Person with a disability" means a person with a disability that limits or impairs the ability to walk, and who, as determined by a licensed practicing physician, physician assistant, or an advanced practice registered nurse:

- (1) Cannot walk two hundred feet without stopping to rest, and who has been diagnosed with:
 - (A) An arthritic, neurological, orthopedic, renal, vascular, or oncological condition;
 - (B) Lung disease to such an extent that the person's forced (respiratory) expiratory volume for one second, when measured by spirometry, is less than one liter, or the arterial oxygen tension is less than sixty mm/hg on room air at rest; or
 - (C) A cardiac condition to the extent that the person's functional limitations are classified in severity as Class III or Class IV according to the standards set by the American Heart Association; and
- (2) Because of a condition identified in paragraph (1):
 - (A) Cannot walk two hundred feet under the person's own power without stopping to rest;
 - (B) Cannot walk without the use of, or assistance from, a brace, cane, crutch, another person, prosthetic device, wheelchair, or other assistive device; or
 - (C) Uses portable oxygen."

SECTION 3. Section 291-51.4, Hawaii Revised Statutes, is amended to read as follows:

"§291-51.4 Fraudulent verification of an applicant as a person with a disability; penalty. A physician, physician assistant, or advanced practice registered nurse who fraudulently verifies that an applicant is a person with a disability to enable the person to represent to the issuing agency that the person is qualified to obtain a disability parking permit shall be guilty of a petty misdemeanor. Each fraudulent verification shall constitute a separate offense."

SECTION 4. Section 327K-1, Hawaii Revised Statutes, is amended by amending the definition of "patient's provider" to read as follows:

"'Patient's provider" means a physician licensed pursuant to chapter 453, a physician assistant licensed pursuant to chapter 453, or an advanced practice registered nurse licensed pursuant to chapter 457 who has examined the patient."

SECTION 5. Section 327K-3, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) No physician, physician assistant, advanced practice registered nurse, health care professional, nurse’s aide, hospice provider, home care provider, including private duty and medicare home health providers, emergency medical services provider, adult residential care home operator, skilled nursing facility operator, hospital, or person employed by or under contract with a hospital shall be subject to criminal prosecution, civil liability, or be deemed to have engaged in unprofessional conduct for:

- (1) Carrying out in good faith, a decision regarding treatment orders, including cardiopulmonary resuscitation by or on behalf of a patient pursuant to orders in a form and in compliance with the standards and procedures set forth in this chapter; or
- (2) Providing cardiopulmonary resuscitation to a patient for whom an order not to resuscitate has been issued on a form; provided that the person reasonably and in good faith:
 - (A) Was unaware of the issuance of an order not to resuscitate; or
 - (B) Believed that any consent to treatment orders, including the order not to resuscitate, had been revoked or canceled.”

SECTION 6. Section 329-38, Hawaii Revised Statutes, is amended by amending subsection (i) to read as follows:

“(i) Prescriptions for controlled substances shall be issued only as follows:

- (1) All prescriptions for controlled substances shall originate from within the State and be dated as of, and signed on, the day when the prescriptions were issued and shall contain:
 - (A) The first and last name and address of the patient; and
 - (B) The drug name, strength, dosage form, quantity prescribed, and directions for use. Where a prescription is for gamma hydroxybutyric acid, methadone, or buprenorphine, the practitioner shall record as part of the directions for use, the medical need of the patient for the prescription.

Except for electronic prescriptions, controlled substance prescriptions shall be no larger than eight and one-half inches by eleven inches and no smaller than three inches by four inches. A practitioner may sign a prescription in the same manner as the practitioner would sign a check or legal document (e.g., J.H. Smith or John H. Smith) and shall use both words and figures (e.g., alphabetically and numerically as indications of quantity, such as five (5)), to indicate the amount of controlled substance to be dispensed. Where an electronic prescription is permitted, either words or figures (e.g., alphabetically or numerically as indications of quantity, such as five or 5), to indicate the amount of controlled substance to be dispensed shall be acceptable. Where an oral order or electronic prescription is not permitted, prescriptions shall be written with ink or indelible pencil or typed, shall be manually signed by the practitioner, and shall include the name, address, telephone number, and registration number of the practitioner. The prescriptions may be prepared by a secretary or agent for the signature of the practitioner, but the prescribing practitioner shall be responsible in case the prescription does not conform in all essential respects to this chapter and any rules adopted pursuant to this chapter. In receiving an oral prescription from a practitioner, a pharmacist shall promptly reduce the

oral prescription to writing, which shall include the following information: the drug name, strength, dosage form, quantity prescribed in figures only, and directions for use; the date the oral prescription was received; the full name, Drug Enforcement Administration registration number, and oral code number of the practitioner; and the name and address of the person for whom the controlled substance was prescribed or the name of the owner of the animal for which the controlled substance was prescribed.

A corresponding liability shall rest upon a pharmacist who fills a prescription not prepared in the form prescribed by this section. A pharmacist may add a patient's missing address or change a patient's address on all controlled substance prescriptions after verifying the patient's identification and noting the identification number on the back of the prescription document on file. The pharmacist shall not make changes to the patient's name, the controlled substance being prescribed, the quantity of the prescription, the practitioner's Drug Enforcement Administration number, the practitioner's name, the practitioner's electronic signature, or the practitioner's signature;

- (2) An intern, resident, or foreign-trained physician, or a physician on the staff of a Department of Veterans Affairs facility or other facility serving veterans, exempted from registration under this chapter, shall include on all prescriptions issued by the physician:
 - (A) The registration number of the hospital or other institution; and
 - (B) The special internal code number assigned to the physician by the hospital or other institution in lieu of the registration number of the practitioner required by this section.

The hospital or other institution shall forward a copy of this special internal code number list to the department as often as necessary to update the department with any additions or deletions. Failure to comply with this paragraph shall result in the suspension of that facility's privilege to fill controlled substance prescriptions at pharmacies outside of the hospital or other institution. Each written prescription shall have the name of the physician stamped, typed, or hand-printed on it, as well as the signature of the physician;

- (3) An official exempted from registration shall include on all prescriptions issued by the official:
 - (A) The official's branch of service or agency (e.g., "U.S. Army" or "Public Health Service"); and
 - (B) The official's service identification number, in lieu of the registration number of the practitioner required by this section. The service identification number for a Public Health Service employee shall be the employee's social security or other government issued identification number.

Each prescription shall have the name of the officer stamped, typed, or handprinted on it, as well as the signature of the officer; and

- (4) A physician assistant registered to prescribe controlled substances under the authorization of a supervising physician shall include on all controlled substance prescriptions issued:
 - (A) The Drug Enforcement Administration registration number of the supervising physician; and
 - (B) The Drug Enforcement Administration registration number of the physician assistant.

Each written controlled substance prescription issued shall include the printed, stamped, typed, or hand-printed name, address, and phone number of both the supervising physician and physician assistant, and shall be signed by the physician assistant. ~~[The medical record of each written controlled substance prescription issued by a physician assistant shall be reviewed and initialed by the physician assistant's supervising physician within seven working days.]~~"

SECTION 7. Section 338-9, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) In preparing a certificate of death or fetal death the person in charge of the disposition of the body shall:

- (1) Obtain and enter on the certificate the personal data and other information pertaining to the deceased person required by the department from the person best qualified to supply them;
- (2) Present the certificate of death to the physician, physician assistant, or advanced practice registered nurse last in attendance upon the deceased, or to the coroner's physician, who shall thereupon certify the cause of death to the physician's, physician assistant's, or advanced practice registered nurse's best knowledge and belief, or present the certificate of fetal death to the physician, physician assistant, advanced practice registered nurse, midwife, or other person in attendance at the fetal death, who shall certify the fetal death and such medical data pertaining thereto as can be furnished; provided that fetal deaths of less than twenty-four weeks or intentional terminations of pregnancy performed in accordance with section 453-16 may be certified by a nurse or other employee based upon the physician's records; and
- (3) Notify immediately the appropriate local agent, if the death occurred without medical attendance, or if the physician, physician assistant, or advanced practice registered nurse last in attendance fails to sign the death certificate. In such event the local agent shall inform the local health officer, and refer the case to the local health officer for immediate investigation and certification of the cause of death prior to issuing a permit for burial, or other disposition of the body. When the local health officer is not a physician or when there is no such officer, the local agent may complete the certificate on the basis of information received from relatives of the deceased or others having knowledge of the facts.

If the circumstances of the case suggest that the death or fetal death was caused by other than natural causes, the local agent shall refer the case to the coroner for investigation and certification."

SECTION 8. Section 338-17.7, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) The department of health shall establish, in the following circumstances, a new certificate of birth for a person born in this State who already has a birth certificate filed with the department and who is referred to below as the "birth registrant":

- (1) Upon receipt of an affidavit of paternity, a court order establishing paternity, or a certificate of marriage establishing the marriage of the natural parents to each other, together with a request from the birth registrant, or the birth registrant's parent or other person having legal custody of the birth registrant, that a new birth certifi-

cate be prepared because previously recorded information has been altered pursuant to law;

- (2) Upon receipt of a certified copy of a final order, judgment, or decree of a court of competent jurisdiction that determined the nonexistence of a parent and child relationship between a person identified as a parent on the birth certificate on file and the birth registrant;
- (3) Upon receipt of a certified copy of a final adoption decree, or of an abstract of the decree, pursuant to sections 338-20 and 578-14;
- (4) Upon receipt of an affidavit from a United States licensed physician or physician assistant attesting that:
 - (A) The physician or physician assistant has a bona fide [~~physician-patient~~] provider-patient relationship with the birth registrant;
 - (B) The physician or physician assistant has treated and evaluated the birth registrant and has reviewed and evaluated the birth registrant's medical history;
 - (C) The birth registrant has had appropriate clinical treatment for gender transition to the new gender and has completed the transition to the new gender; and
 - (D) The new gender does not align with the sex designation on the birth registrant's birth certificate; or
- (5) Upon request of a law enforcement agency certifying that a new birth certificate showing different information would provide for the safety of the birth registrant; provided that the new birth certificate shall contain information requested by the law enforcement agency, shall be assigned a new number and filed accordingly, and shall not substitute for the birth registrant's original birth certificate, which shall remain in place."

SECTION 9. Section 392-26, Hawaii Revised Statutes, is amended as follows:

1. By amending subsection (a) to read:

"(a) An individual shall be ineligible to receive temporary disability benefits with respect to any period during which the individual is not under the care of a person duly licensed to practice medicine, surgery, dentistry, chiropractic, osteopathy, or naturopathic medicine, a physician assistant, or an advanced practice registered nurse, who shall certify, in the form and manner specified by rule of the director, the disability of the claimant, the probable duration of the disability, and such other medical facts within the person's knowledge as required by rule."

2. By amending subsection (c) to read:

"(c) The proof of disability duly certified by a person licensed to practice medicine, surgery, dentistry, chiropractic, osteopathy, or naturopathic medicine, a physician assistant, or an advanced practice registered nurse, or an authorized or accredited practitioner of any group that depends for healing upon prayer or other spiritual means shall be submitted by the certifying person to the disabled employee within seven working days after the date on which the employee was examined and found disabled. If the certifying person fails to submit the required proof within seven working days, the director, upon notification by the insurer, may levy a penalty of \$25 for each delinquent certification where the certifying person fails to show good cause for the person's failure to file on time."

SECTION 10. Section 453-5.3, Hawaii Revised Statutes, is amended by amending subsection (g) to read as follows:

- "(g) For medical records of patients seen by physician assistants:

- (1) Each physician assistant and supervising physician, osteopathic physician, or group of physicians shall establish written guidelines for the review of medical records as appropriate to the specific practice. These guidelines shall be kept in the office of the practice setting in which either the physician assistant or supervising physician, osteopathic physician, or group of ~~[[physicians]]~~ practices, and shall be made available to the Hawaii medical board and the regulated industries complaints office or its designees;
- (2) The supervising physician, osteopathic physician, or group of physicians shall review medical records as required by this subsection; provided that:
 - (A) When supervising a physician assistant with less than one year of practice experience as a licensed physician assistant, the supervising physician, osteopathic physician, or group of physicians shall:
 - (i) For the first six months of supervision, review fifty per cent of the medical records within thirty days of the patient visit; ~~and~~
 - (ii) For the next six months of supervision, review twenty-five per cent of the medical records within thirty days of the patient visit~~[-]; and~~
 - (iii) For physician assistants who issue controlled substance prescriptions, at least fifty per cent of the records reviewed under clause (i) or (ii) shall include controlled substance prescriptions; provided further that if the number of records that include controlled substance prescriptions amounts to less than fifty per cent of the records in clause (i) or (ii), the supervising physician, osteopathic physician, or group of physicians shall review as many controlled substance prescriptions as are available.

The board may, on a case-by-case basis, require physician assistants ~~[that] who~~ begin in a new practice specialty with less than one year of full-time practice experience in the specialty to comply with this ~~[subparagraph;] clause; and~~
 - (B) When supervising a physician assistant with more than one year of practice experience as a licensed physician assistant, the supervising physician, osteopathic physician, or group of physicians shall:
 - (i) Establish a process for the regular review of a sample of medical records of patients seen by the physician assistant~~[-]~~, including a sample of controlled substance records, if available; and
 - (ii) For at least thirty minutes each month, perform an audit and review of the medical records; and
- (3) Notwithstanding paragraph (2), a supervising physician, osteopathic physician, or group of physicians may require additional supervisory requirements at any time for patient safety.”

SECTION 11. Section 453-5.5, Hawaii Revised Statutes, is amended to read as follows:

“~~[[§453-5.5]]~~ 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[-];
and
- (10) Orders for occupational therapy and plans of care."

SECTION 12. Section 461-1, Hawaii Revised Statutes, is amended by amending the definition of "practice of pharmacy" to read as follows:

"Practice of pharmacy" means:

- (1) The interpretation and evaluation of prescription orders; the compounding, dispensing, and labeling of drugs and devices (except labeling by a manufacturer, packer, or distributor of nonprescription drugs and commercially legend drugs and devices); the participation in drug selection and drug utilization reviews; the proper and safe storage of drugs and devices and the maintenance of proper records therefor; the responsibility for advising when necessary or where regulated, of therapeutic values, content, hazards, and use of drugs and devices; and the interpretation and evaluation of prescription orders to adjust the supply dispensed for purposes of medication synchronization pursuant to section 431:10A-606, 432:1-621, or 432D-30;
- (2) Performing the following procedures or functions as part of the care provided by and in concurrence with a "health care facility" and "health care service" as defined in section 323D-2[-]; or a "pharmacy"; or a licensed physician ~~[or]~~, a licensed physician assistant, or a licensed advanced practice registered nurse with prescriptive authority[-]; or a "managed care plan" as defined in section 432E-1, in accordance with policies, procedures, or protocols developed collaboratively by health professionals, including physicians and surgeons, pharmacists, physician assistants, and registered nurses, and for which a pharmacist has received appropriate training required by these policies, procedures, or protocols:
 - (A) Ordering or performing routine drug therapy related patient assessment procedures;
 - (B) Ordering drug therapy related laboratory tests;
 - (C) Initiating emergency contraception oral drug therapy in accordance with a written collaborative agreement approved by the board, between a licensed physician, physician assistant, or advanced practice registered nurse with prescriptive authority and a pharmacist who has received appropriate training that includes programs approved by the Accreditation Council for Pharmacy Education (ACPE), curriculum-based programs from an ACPE-accredited college of pharmacy, state or local

- health department programs, or programs recognized by the board of pharmacy;
- (D) Administering drugs orally, topically, by intranasal delivery, or by injection, pursuant to the order of the patient's licensed physician, physician assistant, or advanced practice registered nurse with prescriptive authority, by a pharmacist having appropriate training that includes programs approved by the ACPE, curriculum-based programs from an ACPE-accredited college of pharmacy, state or local health department programs, or programs recognized by the board of pharmacy;
 - (E) Administering:
 - (i) Immunizations orally, by injection, or by intranasal delivery, to persons eighteen years of age or older by a pharmacist having appropriate training that includes programs approved by the ACPE, curriculum-based programs from an ACPE-accredited college of pharmacy, state or local health department programs, or programs recognized by the board of pharmacy;
 - (ii) Vaccines to persons between fourteen and seventeen years of age pursuant to section 461-11.4; and
 - (iii) Human papillomavirus, Tdap (tetanus, diphtheria, pertussis), meningococcal, and influenza vaccines to persons between eleven and seventeen years of age pursuant to section 461-11.4;
 - (F) As authorized by the written instructions of a licensed physician, physician assistant, or advanced practice registered nurse with prescriptive authority, initiating or adjusting the drug regimen of a patient pursuant to an order or authorization made by the patient's licensed physician, physician assistant, or advanced practice registered nurse with prescriptive authority and related to the condition for which the patient has been seen by the licensed physician, physician assistant, or advanced practice registered nurse with prescriptive authority; provided that the pharmacist shall issue written notification to the patient's licensed physician, physician assistant, or advanced practice registered nurse with prescriptive authority or enter the appropriate information in an electronic patient record system shared by the licensed physician, physician assistant, or advanced practice registered nurse with prescriptive authority, within twenty-four hours;
 - (G) Transmitting a valid prescription to another pharmacist for the purpose of filling or dispensing;
 - (H) Providing consultation, information, or education to patients and health care professionals based on the pharmacist's training and for which no other licensure is required; or
 - (I) Prescribing and dispensing an opioid antagonist pursuant to section 461-11.8;
- (3) The offering or performing of those acts, services, operations, or transactions necessary in the conduct, operation, management, and control of pharmacy; and
 - (4) Prescribing and dispensing contraceptive supplies pursuant to section 461-11.6."

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SECTION 13. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

SECTION 14. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 15. This Act shall take effect on July 1, 2022; provided that the amendments made to section 329-38(i), Hawaii Revised Statutes, by section 6 of this Act shall not be repealed when that section is reenacted on June 30, 2023, pursuant to section 6 of Act 66, Session Laws of Hawaii 2017.

(Approved July 12, 2022.)