

JAN 23 2015

A BILL FOR AN ACT

RELATING TO ADVANCED PRACTICE REGISTERED NURSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that in Hawaii, advanced
2 practice registered nurses are recognized as primary care
3 providers and should be permitted to practice to the full extent
4 of their education and training. In recognition of this, Act
5 232, Session Laws of Hawaii 2013, added advanced practice
6 registered nurses to the list of mental health professionals
7 qualified to diagnose mental illness under section 334-59,
8 Hawaii Revised Statutes, relating to emergency hospitalization.
9 However, the legislature further finds that references to
10 advanced practice registered nurses were added only to certain
11 provisions of section 334-59, Hawaii Revised Statutes.
12 Additional amendments relating to advanced practice registered
13 nurses under section 334-59, Hawaii Revised Statutes, are
14 therefore necessary for consistency.

15 The legislature additionally finds that advanced practice
16 registered nurses are fully qualified to determine a patient's
17 mental health status and whether the person poses a safety risk



1 and should be authorized to do so under the State's involuntary
2 hospitalization statutes. Amendments relating to advanced
3 practice registered nurses under sections 334-60.3 and 334-60.5,
4 Hawaii Revised Statutes, are therefore necessary.

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

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

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

13 (1) If a law enforcement officer has reason to believe
14 that a person is imminently dangerous to self or
15 others, the officer shall call for assistance from the
16 mental health emergency workers designated by the
17 director. Upon determination by the mental health
18 emergency workers that the person is imminently
19 dangerous to self or others, the person shall be
20 transported by ambulance or other suitable means, to a
21 licensed psychiatric facility for further evaluation



1 and possible emergency hospitalization. A law
2 enforcement officer may also take into custody and
3 transport to any facility designated by the director
4 any person threatening or attempting suicide, or may
5 take into custody and transport to any designated
6 mental health program, any person subject to an
7 assisted community treatment order, issued pursuant to
8 part VIII of this chapter, for further evaluation and
9 possible emergency hospitalization. The officer shall
10 make application for the examination, observation, and
11 diagnosis of the person in custody. The application
12 shall state or shall be accompanied by a statement of
13 the circumstances under which the person was taken
14 into custody and the reasons therefor which shall be
15 transmitted with the person to a physician, advanced
16 practice registered nurse, or psychologist at the
17 facility, or to a licensed psychiatrist at a
18 designated mental health program.

- 19 (2) Upon written or oral application of any licensed
20 physician, advanced practice registered nurse,
21 psychologist, attorney, member of the clergy, health



1 or social service professional, or any state or county
2 employee in the course of employment, a judge may
3 issue an ex parte order orally, but shall reduce the
4 order to writing by the close of the next court day
5 following the application, stating that there is
6 probable cause to believe the person is mentally ill
7 or suffering from substance abuse or is imminently
8 dangerous to self or others and in need of care or
9 treatment, or both, giving the findings upon which the
10 conclusion is based, and directing that a law
11 enforcement officer or other suitable individual take
12 the person into custody and deliver the person to the
13 nearest facility designated by the director for
14 emergency examination and treatment. The ex parte
15 order shall be made a part of the patient's clinical
16 record. If the application is oral, the person making
17 the application shall reduce the application to
18 writing and shall submit the same by noon of the next
19 court day to the judge who issued the oral ex parte
20 order. The written application shall be executed



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1 subject to the penalties of perjury but need not be
2 sworn to before a notary public.

3 (3) Any licensed physician, advanced practice registered
4 nurse, physician assistant, or psychologist who has
5 examined a person and has reason to believe the person
6 is:

7 (A) Mentally ill or suffering from substance abuse;

8 (B) Imminently dangerous to self or others; and

9 (C) In need of care or treatment;

10 may direct transportation, by ambulance or other
11 suitable means, to a licensed psychiatric facility for
12 further evaluation and possible emergency
13 hospitalization. A licensed physician, an advanced
14 practice registered nurse, or physician assistant may
15 administer treatment as is medically necessary, for
16 the person's safe transportation. A licensed
17 psychologist may administer treatment as is
18 psychologically necessary.

19 (b) Emergency examination. A patient who is delivered for
20 emergency examination and treatment to a facility designated by
21 the director shall be examined by a licensed physician or



1 advanced practice registered nurse without unnecessary delay,
2 and may be given such treatment as is indicated by good medical
3 practice. A psychiatrist or psychologist may further examine
4 the patient to diagnose the presence or absence of a mental
5 disorder, assess the risk that the patient may be dangerous to
6 self or others, and assess whether or not the patient needs to
7 be hospitalized.

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

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

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



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

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

20 "(a) Any person may file a petition alleging that a person
21 located in the county meets the criteria for commitment to a



1 psychiatric facility. The petition shall be executed subject to
2 the penalties of perjury but need not be sworn to before a
3 notary public. The attorney general, the attorney general's
4 deputy, special deputy, or appointee designated to present the
5 case shall assist the petitioner to state the substance of the
6 petition in plain and simple language. The petition may be
7 accompanied by a certificate of the licensed physician, advanced
8 practice registered nurse, or psychologist who has examined the
9 person within two days before submission of the petition, unless
10 the person whose commitment is sought has refused to submit to
11 medical or psychological examination, in which case the fact of
12 refusal shall be alleged in the petition. The certificate shall
13 set forth the signs and symptoms relied upon by the physician,
14 advanced practice registered nurse, or psychologist to determine
15 the person is in need of care or treatment, or both, and whether
16 or not the person is capable of realizing and making a rational
17 decision with respect to the person's need for treatment. If
18 the petitioner believes that further evaluation is necessary
19 before commitment, the petitioner may request such further
20 evaluation."



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

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



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

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

INTRODUCED BY:

[Handwritten signatures and names of sponsors:]

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Report Title:

Mental Health; Advanced Practice Registered Nurse; Emergency Hospitalization; Involuntary Treatment

Description:

Clarifies the role of advanced practice registered nurses in sections of the Hawaii Revised Statutes relating to emergency hospital admission and involuntary hospitalization.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

