A BILL FOR AN ACT

RELATING TO PHYSICIAN ASSISTANTS.

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

PART I

SECTION 1. Section 329-1, Hawaii Revised Statutes, is amended as follows:

1. By amending the definition of "dispense" to read:

"Dispense" means to deliver a controlled substance to an ultimate user or research subject by or pursuant to the lawful order of a practitioner, including the administering of a practitioner's controlled substances, and packaging, labeling, or compounding necessary to prepare the substance for that delivery. A controlled substance is dispensed when:

(1) It is compounded, prepared, labeled, and packaged pursuant to the lawful order of a practitioner by a licensed pharmacist acting in the usual course of the licensed pharmacist's professional practice and who is either registered individually or employed in a registered pharmacy or by a registered institutional practitioner, for delivery to the ultimate user;
2. It is compounded, prepared, labeled and packaged for
delivery to the ultimate user by a practitioner acting
in the usual course of the practitioner's professional
practice;

(3) It is prepared, labeled, and packaged pursuant to the
lawful order of a practitioner by a registered health
care professional acting as an agent of the
practitioner for delivery to the ultimate user by the
practitioner; or

(4) It is prepackaged by a pharmacist for use in an
emergency facility for delivery to the ultimate user
by a licensed or registered health care professional
[pursuant to the order of a physician]."

2. By amending the definition of "physician assistant" to
read:

"Physician assistant" means a person licensed under
section 453-5.3[, who is registered under this chapter to
administer, prescribe, or dispense a controlled substance under
the authority and supervision of a physician registered under
section 329-33, but who is not authorized to request, receive,
or sign for professional controlled substance samples]."
3. By amending the definition of "physician-patient relationship" to read:

"Physician-patient relationship" or "physician assistant-patient relationship" means the collaborative relationship between physicians or physician assistants and their patients. To establish this relationship, the treating physician, the physician assistant, or the physician's or physician assistant's designated member of the health care team, at a minimum shall:

(1) Personally perform a face-to-face history and physical examination of the patient that is appropriate to the specialty training and experience of the physician, physician assistant, or the designated member of the physician's or physician assistant's health care team, make a diagnosis and formulate a therapeutic plan, or personally treat a specific injury or condition;

(2) Discuss with the patient the diagnosis or treatment, including the benefits of other treatment options; and

(3) Ensure the availability of appropriate follow-up care."

4. By amending the definition of "practitioner" to read:

"Practitioner" means:
(1) A physician, physician assistant, dentist, veterinarian, scientific investigator, or other person licensed and registered under section 329-32 to distribute, dispense, or conduct research with respect to a controlled substance in the course of professional practice or research in this State;

(2) An advanced practice registered nurse with prescriptive authority licensed and registered under section 329-32 to prescribe and administer controlled substances in the course of professional practice in this State; and

(3) A pharmacy, hospital, or other institution licensed, registered, or otherwise permitted to distribute, dispense, conduct research with respect to or to administer a controlled substance in the course of professional practice or research in this State."

5. By repealing the definition of "supervising physician":

[""Supervising physician" means a physician licensed to practice medicine in the State and registered under section 329-33, who supervises a physician assistant and retains full professional and legal responsibility for the performance of the

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supervised physician assistant and the care and treatment of the patient.

SECTION 2. Section 329-38, Hawaii Revised Statutes, is amended as follows:

1. By amending subsections (h) and (i) to read:

"(h) The effectiveness of a prescription for the purposes of this section shall be determined as follows:

(1) A prescription for a controlled substance shall be issued for a legitimate medical purpose by an individual practitioner acting in the usual course of the practitioner's professional practice. The responsibility for the proper prescribing and dispensing of controlled substances shall be upon the prescribing practitioner, but a corresponding responsibility shall rest with the pharmacist who fills the prescription. An order purporting to be a prescription issued not in the usual course of professional treatment or for legitimate and authorized research shall not be deemed a prescription within the meaning and intent of this section, and the person who knowingly fills such a purported
prescription, as well as the person who issues the
prescription, shall be subject to the penalties
provided for violations of this chapter;

(2) A prescription may not be issued to allow an
individual practitioner to obtain controlled
substances for supplying the individual practitioner
for the purpose of general dispensing to patients;

(3) A prescription may not be issued for "medically
managed withdrawal", also known as "detoxification
treatment" or "maintenance treatment", unless the
prescription is for a schedule III, IV, or V narcotic
drug approved by the Food and Drug Administration
specifically for use in maintenance or detoxification
treatment and the practitioner is in compliance with
title 21 Code of Federal Regulations section 1301.28,
the registration requirements of section 329-32(e),
and any other federal or state regulatory standards
relating to treatment qualification, security,
records, and unsupervised use of drugs;

(4) A practitioner may administer or dispense directly
(but not prescribe) a narcotic drug listed in any
schedule to a narcotic dependent person for the
purpose of maintenance or detoxification treatment if
the practitioner meets both of the following
conditions:

(A) The practitioner is separately registered with
the Drug Enforcement Administration as a narcotic
treatment program; and

(B) The practitioner is in compliance with Drug
Enforcement Administration regulations regarding
treatment qualifications, security, records, and
unsupervised use of the drugs pursuant to this
chapter;

(5) Nothing in this section shall prohibit a physician or
physician assistant who is not specifically registered
to conduct a narcotic treatment program from
administering (but not prescribing) narcotic drugs to
a person for the purpose of relieving acute withdrawal
symptoms when necessary while arrangements are being
made for referral for treatment. Not more than one
day's medication may be administered to the person or
for the person's use at one time. Such emergency
treatment may be carried out for not more than three

days and may not be renewed or extended;

(6) This section is not intended to impose any limitations

on a physician, physician assistant, or authorized

hospital staff to administer or dispense narcotic

drugs in a hospital to maintain or detoxify a person

as an incidental adjunct to medical or surgical

treatment of conditions other than addiction, or to

administer or dispense narcotic drugs to persons with

intractable pain in which no relief or cure is

possible or none has been found after reasonable

efforts;

(7) A practitioner may administer or dispense (including

prescribe) any schedule III, IV, or V narcotic drug

approved by the Food and Drug Administration

specifically for use in maintenance or detoxification

treatment to a narcotic dependent person if the

practitioner complies with the requirements of title

21 Code of Federal Regulations section 1301.28, the

registration and any other requirements of section

329-32(e), and any other federal or state regulatory
standards relating to treatment qualification, security, records, and unsupervised use of drugs;

(8) An individual practitioner shall not prescribe or dispense a substance included in schedule II, III, IV, or V for that individual practitioner's personal use, except in a medical emergency; and

(9) A pharmacist shall not dispense a substance included in schedule II, III, IV, or V for the pharmacist's personal use.

(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 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 United States-trained physician or
physician assistant 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 appropriate health care professional:

(A) The registration number of the hospital or other
institution; and

(B) The special internal code number assigned to the
physician or physician assistant 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 or physician assistant stamped, typed, or hand-printed on it, as well as the signature of the physician or physician assistant;

(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] licensed to prescribe controlled substances [under the authorization of a supervising physician] shall include the federal Drug Enforcement Administration registration number of the physician assistant 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 handprinted name, address, and phone number of [both the supervising physician and] the 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.)

2. By amending subsection (1) to read:

"(1) A prescription for a schedule II controlled substance may be transmitted by the practitioner or the practitioner's agent to a pharmacy by facsimile equipment; provided that the original written, signed prescription is presented to the pharmacist for review prior to the actual dispensing of the controlled substance, except as noted in subsections (m), (n), and (o). The original prescription shall be maintained in accordance with section 329-36. A prescription for a schedule III, IV, or V controlled substance may be transmitted by the practitioner or the practitioner's agent to a pharmacy by facsimile; provided that:

(1) The information shall be communicated only between the prescribing practitioner or the prescriber's authorized agent and the pharmacy of the patient's
choice. The original prescription shall be maintained
by the practitioner in accordance with section 329-36;

(2) The information shall be communicated in a
retrievable, recognizable format acceptable to the
intended recipient and shall include the physician's
or physician assistant's oral code designation and the
name of the recipient pharmacy;

(3) No electronic system, software, or other intervening
mechanism or party shall alter the practitioner's
prescription, order entry, selection, or intended
selection without the practitioner's approval on a per
prescription per order basis. Facsimile prescription
information shall not be altered by any system,
software, or other intervening mechanism or party
prior to receipt by the intended pharmacy;

(4) The prescription information processing system shall
provide for confidentiality safeguards required by
federal or state law; and

(5) Prescribing practitioners and pharmacists shall
exercise prudent and professional judgment regarding
the accuracy, validity, and authenticity of any
facsimile prescription information. The facsimile
shall serve as the original written prescription for
purposes of this section and shall be maintained in
accordance with section 329-36."

PART II

SECTION 3. Chapter 453, Hawaii Revised Statutes, is
amended by adding six new sections to part I to be appropriately
designated and to read as follows:

"§453- Definitions. As used in this chapter, unless
the context requires otherwise:

"Advanced directives" means a document that includes but is
not limited to orders to not resuscitate, physician orders for
life-sustaining treatment, organ and tissue donation, durable
power of attorney for health care, health care power of
attorney, and living wills.

"Collaborating physician" means a physician or medical
facility licensed in the State who has entered into a practice
agreement with a physician assistant pursuant to this chapter.

"Distant site" means the location of the physician or
physician assistant delivering services through telemedicine at
the time the services are provided.
"Durable medical equipment" means but is not limited to air-fluidized beds and other support surfaces, blood sugar monitors, blood sugar test strips, canes, commode chairs, continuous passive motion machines, continuous positive airway pressure devices and accessories, crutches, enteral nutrition supplies and equipment, glucose control solutions, hospital beds, hyperbaric oxygen therapy, infusion pumps and supplies, lancet devices and lancets, nebulizers and nebulizer medications, oxygen equipment and related accessories, patient lifts, suction pumps, traction equipment, walkers, wheelchairs, and scooters.

"Hawaii medical board" or "board" means the state board whose duty it shall be to examine all applicants for a license to practice medicine or surgery.

"Legend drug" or "prescription drug" means any drug that is approved by the United States Food and Drug Administration and that is required by federal or state law to be dispensed to the public only by prescription of a licensed physician, physician assistant, or other licensed provider.
"National Commission on Certification of Physician Assistants" means the United States' certifying organization for physician assistants.

"Originating site" means the location where the patient is present, whether or not accompanied by a health care provider, at the time services are provided by a physician or physician assistant through telemedicine; provided that the location includes but is not limited to a physician's office, a hospital, a health care facility, a hospice facility, a nursing home, an ambulatory facility, a patient's home, and any other non-medical environment including pharmacies, school-based health centers, university-based health centers, or the work locations of the patient.

"Osteopathic medicine" means the utilization of full methods of diagnosis and treatment in physical health, mental health, and disease, including the prescribing and administering any drugs or biologicals, operative surgery, obstetrics, or radiological or other electromagnetic emissions, while placing special emphasis on the interrelation of the neuro-musculoskeletal system to all other body systems and the amelioration of disturbed structure-function relationships by
the clinical application of the osteopathic diagnosis and
therapeutic skills for the maintenance of health and treatment
of disease.

"Optimal team practice" means physician assistants' ability
to consult with a physician or other qualified medical
professional, as indicated by the patient's condition and the
standard of care, and in accordance with the physician
assistant's training, experience, and current competencies.

"Physician assistant" means a healthcare professional who
meets qualifications and is licensed to practice medicine
pursuant to this chapter.

"Practice agreement" means a written agreement between a
collaborating physician or medical facility and a physician
assistant.

"Radiologist" means a doctor of medicine or a doctor of
osteopathy certified in radiology by the American Board of
Radiology or the American Board of Osteopathy.

"Telemedicine" means the use of telecommunications
services, as that term is defined in sections 269-1, and
includes but is not limited to voice, real-time video
conferencing-based communication, secure interactive and non-
interactive web-based communication, and secure asynchronous information exchange to transmit patient medical information, such as diagnostic-quality digital images and laboratory results for medical interpretation and diagnosis, for the purposes of delivering enhanced health care services and information while a patient is at an originating site and the physician or physician assistant is evaluating a patient at a distant site or treating a patient separated by distance from the physician or physician assistants. "Telemedicine" shall include "telehealth".

§453- Physician assistant; scope of practice. (a) A physician assistant may provide any legal medical service for which the physician assistant is prepared by education, training, and experience, and is competent to perform.

(b) A physician assistant shall:

(1) Take full responsibility for the patient care they provide;

(2) Be included in other relevant areas of law, including but not limited to:

(A) Laws that grant patient-provider immunity from testifying about confidential information;
(B) Mandates to report child and elder abuse and certain types of injuries, such as wounds from firearms;

(C) Provisions allowing the formation of professional corporations by related healthcare professionals; and

(D) Mandates that promote health wellness and practice standards; provided that laws that govern specific medical technology shall be authorized for use by appropriately trained physician assistants; and

(3) Subscribe to the concept of optimal team practice and collaborate with, consult with, and refer to physicians and other members of the health care team at the practice level as indicated by the patient's condition and the standard of care; provided that optimal team practice is applicable to all physician assistants, regardless of specialty or experience.

(c) A physician assistant may:

(1) Exercise autonomy in medical decision-making;

(2) Obtain informed consent;
(3) Provide services in healthcare facilities or programs including but not limited to physicians' offices, hospitals, hospice facilities, nursing homes, ambulatory facilities, assisted living facilities, medical clinics, behavioral or mental facilities, medical organizations, health care centers, and school-based or college-based services;

(4) Supervise, delegate and assign therapeutic and diagnostic measures to licensed or unlicensed personnel;

(5) Certify the health or disability of a patient as required by any local, state, or federal program; and

(6) Authenticate any document with their signature, certification, stamp, verification, affidavit, or endorsement if it may be so authenticated by the signature, certification, stamp, verification, affidavit, or endorsement of a physician.

(d) Medical and surgical services provided by a physician assistant include but are not limited to:

(1) Obtaining and performing comprehensive health histories and physical examinations;
(2) Evaluating, diagnosing, managing, and providing medical treatment;

(3) Ordering, performing, and interpreting diagnostic studies and therapeutic procedures;

(4) Educating patients on health promotion and disease prevention;

(5) Providing consultation upon request; and

(6) Writing medical orders.

§453- Physician assistant; disasters; emergency field response; volunteering. A physician assistant shall be allowed to provide medical care in disaster and emergency situations that occur outside of their place of employment. This exemption shall include a physician assistant who is a federal employee or licensed in another state. A physician assistant shall be granted immunity pursuant to section 663-1.5 to the same extent as other health professionals. A physician assistant who is volunteering without compensation or remuneration shall be permitted to provide medical care as indicated by the patient's condition and the standard of care, and in accordance with the physician assistant's education, training, and experience.

State law shall not require a specific relationship between a
physician assistant, physician, or any other entity in order for a physician assistant to volunteer in any situation pursuant to this section.

§453- Physician assistant; continuing medical education requirements. (a) To be eligible for license renewal, a physician assistant must provide evidence of completion of a minimum of forty continuing medical education credits during the renewal period.

(b) Recertification by the National Commission on Certification of Physician Assistants is not required for license renewal.

§453- Physician assistant; controlled substances. A physician assistant may prescribe, order, administer, and dispense legend drugs and schedule II, III, IV, or V controlled substances consistent with the physician assistant's scope of practice; provided that:

(1) The physician assistant shall have an active federal Drug Enforcement Administration registration number that is valid for the handling of that controlled substance and that is on file with the board;
(2) A physician assistant registered to prescribe controlled substances shall include the federal Drug Enforcement Administration registration number of the physician assistant on all controlled substance prescriptions;

(3) Each written controlled substance prescription issued by the physician assistant shall include the printed, stamped, typed, or hand-printed name, address, and phone number of the physician assistant and shall be signed by the physician assistant; and

(4) All prescriptions shall comply with applicable state and federal laws.

§453- Physician assistant; non-discrimination. (a) Notwithstanding any provision to the contrary a physician assistant shall be included in any state program that provides for educational loan repayment for medical personnel.

(b) A physician assistant shall be reimbursed by any insurer licensed in this State at the same rate as physicians, nurse practitioners, and advanced practice registered nurses. Reimbursements shall be paid directly to the physician assistant or the employer of the physician assistant."
SECTION 4. Section 453-1, Hawaii Revised Statutes, is amended to read as follows:

"§453-1 Practice of medicine defined. (a) For the purposes of this chapter the practice of medicine by a physician, a physician assistant, or an osteopathic physician includes the use of drugs and medicines, water, electricity, hypnotism, osteopathic medicine, or any means or method, or any agent, either tangible or intangible, for the treatment of disease in the human subject; provided that when a duly licensed physician or osteopathic physician pronounces a person affected with any disease hopeless and beyond recovery and gives a written certificate to that effect to the person affected or the person's attendant nothing herein shall forbid any person from giving or furnishing any remedial agent or measure when so requested by or on behalf of the affected person.

(b) Collaboration among physicians and physician assistants shall be continuous, but shall not be construed to require the physical presence of the physician at the time and place that services are rendered or that a physician is liable for any care rendered by a physician assistant. Collaborating
physicians shall be considered a resource that strengthens the
physician-physician assistant team approach to patient care.

(c) A practice or facility may establish terms of an
agreement of collaboration to define the manner and degree of
collaboration that is appropriate in rendering patient care at
the practice or facility level.

(d) This section shall not amend or repeal the law
respecting the treatment of those affected with Hansen's
disease.

[For purposes of this chapter, "osteopathic medicine" means
the utilization of full methods of diagnosis and treatment in
physical and mental health and disease, including the
prescribing and administration of drugs and biologics of all
kinds, operative surgery, obstetrics, radiological, and other
electromagnetic emissions, and placing special emphasis on the
interrelation of the neuro-musculoskeletal system to all other
body systems, and the amelioration of disturbed structure-
function relationships by the clinical application of the
osteopathic diagnosis and therapeutic skills for the maintenance
of health and treatment of disease.]"
SECTION 5. Section 453-1.3, Hawaii Revised Statutes, is amended to read as follows:

"§453-1.3 Practice of telehealth. (a) Subject to section 453-2(b), nothing in this section shall preclude any physician or physician assistant acting within the scope of the physician's or physician assistant's license to practice from practicing telehealth as defined in this section.

(b) Telemedicine services shall include a documented patient evaluation, including history and a discussion of physical symptoms adequate to establish a diagnosis and to identify underlying conditions or contraindications to the treatment recommended or provided.

(c) Treatment recommendations made via telemedicine, including issuing a prescription via electronic means, shall be held to the same standards of appropriate practice as those in traditional physician-patient or physician assistant-patient settings that do not include a face-to-face visit but in which prescribing is appropriate, including on-call telephone encounters and encounters for which a follow-up visit is arranged. Issuing a prescription based solely on an online questionnaire is not treatment for the purposes of this section.
and does not constitute an acceptable standard of care. For the purposes of prescribing opiates or any other schedule II drugs or certifying a patient for the medical use of cannabis, a physician-patient or physician assistant-patient relationship shall only be established after an in-person consultation between the prescribing physician or physician assistant and the patient.

(d) All medical reports resulting from telehealth services are part of a patient's health record and shall be made available to the patient. Patient medical records shall be maintained in compliance with all applicable state and federal requirements including privacy requirements.

(e) A physician or physician assistant shall not use telemedicine to establish a physician-patient relationship or physician assistant-patient with a patient in this State without a license to practice medicine in Hawaii.

(f) A physician-patient or physician assistant-patient relationship may be established via telemedicine if the patient is referred to the provider by another health care provider who has conducted an in-person consultation and has provided all pertinent patient
information to the telehealth provider. Once a provider-patient relationship is established, a patient or physician, or physician assistant licensed in this State may use telemedicine for any purpose, including consultation with a medical provider licensed in another state, authorized by this section or as otherwise provided by law.

(g) The physician-patient or physician assistant-patient relationship prerequisite under this section shall not apply to telemedicine consultations for emergency department services.

(h) Reimbursement for behavioral health services provided through telemedicine shall be equivalent to reimbursement for the same services provided via face-to-face contact between a health care provider and a patient.

(i) Services provided by telemedicine pursuant to this chapter shall be consistent with all federal and state privacy, security, and confidentiality laws.

[j] For the purposes of this section:

"Distant site" means the location of the physician delivering services through telehealth at the time the services are provided.
"Originating site" means the location where the patient is located, whether accompanied or not by a health-care provider, at the time services are provided by a physician through telehealth, including but not limited to a physician's office, hospital, health-care facility, a patient's home, and other non-medical environments such as school-based health centers, university-based health centers, or the work location of a patient.

"Telehealth" means the use of telecommunications as that term is defined in section 269-1, to encompass four modalities: store-and-forward technologies, remote monitoring, live consultation, and mobile health, and which shall include but not be limited to real-time video-conferencing-based communication, secure interactive and non-interactive web-based communication, and secure asynchronous information exchange, to transmit patient medical information, including diagnostic-quality digital images and laboratory results for medical interpretation and diagnosis, for the purposes of delivering enhanced health care services and information while a patient is at an originating site and the physician is at a distant site.
SECTION 6. Section 453-1.5, Hawaii Revised Statutes, is amended to read as follows:

"§453-1.5 Pain management guidelines. The Hawaii medical board may establish guidelines for physicians or osteopathic physicians or physician assistants with respect to patients' pain management. The guidelines shall apply to all patients with severe acute pain or severe chronic pain, regardless of the patient's prior or current chemical dependency or addiction, and may include standards and procedures for chemically dependent individuals."

SECTION 7. Section 453-2, Hawaii Revised Statutes, is amended as follows:

1. By amending the title to read:

"§453-2 License required for physicians; exceptions."

2. By amending subsection (b) to read:

"(b) Nothing herein shall:

(1) Apply to so-called Christian Scientists; provided that the Christian Scientists practice the religious tenets
of their church without pretending a knowledge of
medicine or surgery;

(2) Prohibit service in the case of emergency or the
domestic administration of family remedies;

(3) Apply to any commissioned medical officer in the
United States armed forces or public health service
engaged in the discharge of one's official duty,
including a commissioned medical officer employed by
the United States Department of Defense, while
providing direct telehealth support or services to
neighbor island beneficiaries within a Hawaii National
Guard armory on the island of Kauai, Hawaii, Molokai,
or Maui; provided that the commissioned medical
officer employed by the United States Department of
Defense is credentialed by Tripler Army Medical
Center;

(4) Apply to any practitioner of medicine and surgery from
another state when in actual consultation, including
in-person, mail, electronic, telephonic, fiber-optic,
or other telehealth consultation with a licensed
physician or osteopathic physician of this State, if
the physician or osteopathic physician from another state at the time of consultation is licensed to practice in the state in which the physician or osteopathic physician resides; provided that:

(A) The physician or osteopathic physician from another state shall not open an office, or appoint a place to meet patients in this State, or receive calls within the limits of the State for the provision of care for a patient who is located in this State;

(B) The licensed physician or osteopathic physician of this State retains control and remains responsible for the provision of care for the patient who is located in this State; and

(C) The laws and rules relating to contagious diseases are not violated;

(5) Prohibit services rendered by any person certified under part II of this chapter to provide emergency medical services, or any physician assistant, when the services are rendered under the direction and control of a physician or osteopathic physician licensed in
this State except for final refraction resulting in a
prescription for spectacles, contact lenses, or visual
training as performed by an oculist or optometrist
duly licensed by the State. The direction and control
shall not be construed in every case to require the
personal presence of the supervising and controlling
physician or osteopathic physician. Any physician or
osteopathic physician who employs or directs a person
certified under part II of this chapter to provide
emergency medical services, or a physician assistant,
shall retain full professional and personal
responsibility for any act that constitutes the
practice of medicine when performed by the certified
person or physician assistant;

(6) Prohibit automated external defibrillation by:

(A) Any first responder personnel certified by the
department of health to provide automated
external defibrillation when it is rendered under
the medical oversight of a physician or
osteopathic physician licensed in this State; or
(B) Any person acting in accordance with section 663-1.5(e); or

(7) Prohibit a radiologist duly licensed to practice medicine and provide radiology services in another state from using [telehealth] telemedicine while located in this State to provide radiology services to a patient who is located in the state in which the radiologist is licensed. [For the purposes of this paragraph:

"Distant site" means the location of the radiologist delivering services through telehealth at the time the services are provided.

"Originating site" means the location where the patient is located, whether accompanied or not by a health-care provider, at the time services are provided by a radiologist through telehealth, including but not limited to a radiologist's or health care provider's office, hospital, health-care facility, a patient's home, and other non-medical environments such as school-based health centers,
university-based health centers, or the work location of a patient.

"Radiologist" means a doctor of medicine or a doctor of osteopathy certified in radiology by the American Board of Radiology or the American Board of Osteopathy.

"Telehealth" means the use of telecommunications, as that term is defined in section 269.1, to encompass four modalities: store and forward technologies, remote monitoring, live consultation, and mobile health; and which shall include but not be limited to real-time video conferencing-based communication, secure interactive and non-interactive web-based communication, and secure asynchronous information exchange, to transmit patient medical information, including diagnostic quality digital images and laboratory results for medical interpretation and diagnosis, for the purpose of delivering enhanced health care services and information while a patient is at an originating site and the radiologist is at a distant site. Standard
telephone contacts, facsimile transmissions, or e-mail texts, in combination or by themselves, do not constitute a telehealth service for the purposes of this paragraph."

SECTION 8. Section 453-3.2, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) The board may issue an educational teaching license to a physician [or], osteopathic physician, or physician assistant who is not licensed in this State and who is invited by the chief of service of a clinical department of a hospital to provide and promote professional education for students, interns, residents, fellows, doctors of medicine, [and] doctors of osteopathic medicine, and physician assistants in this State. In no case shall an educational teaching license issued hereunder be valid for more than a period of twelve months from the date of issuance of the license."

SECTION 9. Section 453-3.5, Hawaii Revised Statutes, is amended by amending subsections (a) and (b) to read as follows:

"(a) The board may issue a limited and temporary license to a physician [or], osteopathic physician, or physician assistant to maintain patient services for the purpose of
substituting for another physician [or osteopathic physician], or physician assistant licensed in this State to enable specialized training at an out-of-state fully accredited medical teaching institution; provided that the out-of-state physician [or osteopathic physician, or physician assistant]:

1. Is board certified by the American Board of Medical Specialties [or Bureau of Osteopathic Specialties, or National Commission on Certification of Physician Assistants] in the subspecialty in which the Hawaii physician [or osteopathic physician, or physician assistant] is seeking training;

2. Is a member of the teaching faculty of the accredited medical teaching institution;

3. Has an unrestricted license in another state;

4. Has been invited by the chief of a clinical department of a hospital; and

5. Has been examined and approved by the hospital's credential process.

The limited and temporary license issued under this section shall expire upon notification of the board by the Hawaii-licensed physician [or osteopathic physician, or physician assistant]...
assistant that the physician, osteopathic physician, or physician assistant has resumed the physician's, osteopathic physician's, or physician assistant's practice in this State. Licenses and extensions of licenses issued under this section to an individual shall not be valid for more than nine months during any consecutive twenty-four month period.

(b) The chief of the clinical department in which the out-of-state physician, osteopathic physician, or physician assistant will practice shall submit a letter to the board that shall include, without limitation, the following:

(1) Identification and documentation of unrestricted license for the applicant for the specialty training license;

(2) A statement that the hospital is sponsoring the applicant, and shall be responsible for monitoring the individual physician, osteopathic physician, or physician assistant during the period of the temporary license;

(3) Verification of the start and end dates for the requested temporary license; and
(4) Verification that the chief of the clinical department
is a licensed physician, osteopathic physician, or physician assistant of
this State."

SECTION 10. Section 453-5, Hawaii Revised Statutes, is amended to read as follows:

"§453-5 Hawaii medical board; appointment, removal, qualifications. (a) For the purpose of carrying out this chapter, the governor shall appoint a Hawaii medical board whose duty it shall be to examine all applicants for license to practice medicine or surgery. [As used in this chapter, "board" means the Hawaii medical board.

The board shall consist of eleven persons, seven of whom shall be physicians or surgeons licensed under the laws of the State, two of whom shall be osteopathic physicians licensed under the laws of the State, and two of whom shall be lay members appointed from the public at large. Of the nine members who are physicians, surgeons, or osteopathic physicians, at least five shall be appointed from the city and county of Honolulu and at least one shall be appointed from each of the other counties. Medical societies in the various counties may conduct elections periodically but no less frequently than every
two years to determine nominees for the board to be submitted to
the governor. In making appointments, the governor may consider
recommendations submitted by the medical societies and the
public at large. Each member shall serve until a successor is
appointed and qualified.]

(b) The board shall consist of thirteen persons including:

(1) Seven physicians or surgeons;

(2) Two osteopathic physicians;

(3) Two physician assistants; and

(4) Two lay members appointed from the public at large;

provided that all members under paragraphs (1), (2), and (3)
shall be licensed under this chapter.

(c) Of the nine members of the board who are physicians,
surgeons, or osteopathic physicians, no fewer than:

(1) Five shall be appointed who reside in the city and
county of Honolulu;

(2) One shall be appointed who resides in the counties of
Hawaii, Kauai, and Maui, respectively; and

(3) Two shall have experience with physician assistant
practice regardless of their residence.
(d) Medical societies in the counties of Hawaii, Kauai, and Maui, and in the city and county of Honolulu, may conduct periodic elections no less than every two years to determine nominees to the board, to be submitted to the governor. In making appointments, the governor shall consider recommendations submitted by the medical societies and the public. Each member shall serve until a qualified successor is appointed.

(e) The department shall employ, not subject to chapter 76, an executive secretary to administer the board's activities and an employee to administer the medical inquiry and conciliation panels established under chapter 671. The employee responsible for administration of the medical inquiry and conciliation panels shall have no duties in administration of the board's activities."

SECTION 11. Section 453-5.3, Hawaii Revised Statutes, is amended to read as follows:

"§453-5.3 Physician assistant; licensure required. (a) The Hawaii medical board shall require each person practicing medicine [under the supervision of a physician or osteopathic physician], other than a person licensed under section 453-3, to be licensed as a physician assistant. A person who is trained
to do only a very limited number of diagnostic or therapeutic
procedures under the direction of a physician or osteopathic
physician shall not be deemed a practitioner of medicine or
osteopathy and therefore does not require licensure under this
section.

(b) The board shall establish medical educational and
training standards with which a person applying for licensure as
a physician assistant shall comply. The standards shall be at
least equal to recognized national education and training
standards for physician assistants.

(c) Upon satisfactory proof of compliance with the
required medical educational and training standards, the board
may grant state licensure [to a person who has been granted
certification based] upon passage of a national certifying
examination [and who holds a current certificate from the]
administered by a national certifying entity approved by the
board.

(d) The board shall approve temporary licensure of an
applicant under this section. The applicant shall have graduated
from a board-approved training program within twelve months of
the date of application and never taken a national certifying
examination approved by the board but otherwise meets the
requirements of this section. The applicant shall file a
complete application with the board and pay all required fees.
If the applicant fails to apply for, or to take, the first
examination scheduled by the board following the issuance of the
temporary license, fails to pass the examination, or fails to
receive licensure, all privileges under this section shall
automatically cease upon written notification sent to the
applicant by the board. A temporary license shall be issued
only once to each person.

(e) Prior to practicing under temporary licensure, holders
of temporary licenses shall notify the board in writing of any
and all supervising physicians or osteopathic physicians under
whom they will be performing services.

(f) The board shall establish the degree of supervision
required by the supervising physician or osteopathic physician
when a physician assistant performs a service within the
practice of medicine. A physician or osteopathic physician who
does not supervise a physician assistant's services at the
degree required by the board shall be deemed to have engaged in
professional misconduct.
(d) Any license of a physician assistant may be denied, not renewed, revoked, limited, or suspended under section 453-8.

(e) The board shall establish the application procedure, medical educational and training standards, examination requirement, if any, [and degrees of supervision] by rule.

(f) Every person holding a license under this section shall apply for renewal with the board no later than January 31 of each even-numbered year and pay a renewal fee. Failure to apply for renewal shall constitute a [forfeiture] lapse of the license that may only be restored upon written application for restoration and payment to the board of a restoration fee. Proof of the initial certification by the National Commission on Certification of Physician Assistants shall not be required for license renewal. Proof of continuing medical education shall be required for license renewal.

(g) A category of inactive licensure shall be available for a physician assistant who is not actively practicing in the State; provided that the physician assistant's inactive practice is unrelated to disciplinary action or impairment issues.
Notification to reactivate a license that has been inactive for no more than two years shall require only written notification to the board.

[(h)] A license that has been forfeited [for one renewal term] shall be automatically terminated and cannot be restored. A new application for licensure shall be required.

(i) A licensed physician assistant authorized to practice in the State shall conspicuously display on the licensee's clothing a nameplate identifying the physician assistant as a "Physician Assistant-Certified", which shall be worn at the licensee's customary place of employment.

(j) A licensed physician assistant shall place at the location of employment a conspicuous sign at least five inches by eight inches in size informing the public that documents verifying the licensed physician assistant's education and a copy of the current collaborative plan are on file with the board or employer, and shall be made available for inspection upon request."

SECTION 12. Section 453-5.5, Hawaii Revised Statutes, is amended to read as follows:
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 anticoagulation 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;
(10) Prescriptions for hospice care;

(11) Prescriptions for schedule II through V drugs, including legend drugs;

(12) Handicapped parking permits;

(13) Workers' compensation claim forms;

(14) No fault insurance claim forms;

(15) Prescriptions for diabetic shoes and other diabetic devices;

(16) Durable medical equipment;

(17) Physician order for life-sustaining treatment;

(18) Federal Jones Act claim forms;

(19) Advanced directives; and

(20) Death certificates."

SECTION 13. Section 453-6, Hawaii Revised Statutes, is amended by amending subsections (d) and (e) to read as follows:

"(d) Failure to renew, pay the renewal fee, and, in the case of audited physicians, osteopathic physicians, or surgeons, provide documentation of compliance shall constitute a [forfeiture] lapse of license, which may be restored only upon the submission of written application therefor, payment to the board of a restoration fee, and, in the case of audited
physicians, osteopathic physicians, [and] surgeons, and
physician assistants documentation of compliance.

(e) A license that has [been forfeited] lapsed for one
renewal term shall be automatically terminated and cannot be
restored[., and a]. A new application for licensure shall be
required."

SECTION 14. Section 453-7.5, Hawaii Revised Statutes, is
amended by amending subsection (a) to read as follows:

"(a) The department of commerce and consumer affairs shall
review each complaint, inquiry, and information, as applicable,
received under sections 92-17, 329-44, 453-8.7, 663-1.7, and
671-5. The department shall investigate the complaint, inquiry,
or information if it appears that the physician [or]
osteopathic physician, or physician assistant who is the subject
of the complaint, inquiry, or information has violated this
chapter. If the department determines that the physician [or]
osteopathic physician, or physician assistant has violated this
chapter, the department shall present the results of its
investigation to the Hawaii medical board for appropriate
disciplinary proceedings."
SECTION 15. Section 453-8, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) In addition to any other actions authorized by law, any license to practice medicine and surgery may be revoked, limited, or suspended by the board at any time in a proceeding before the board, or may be denied, for any cause authorized by law, including but not limited to the following:

(1) Procuring, or aiding or abetting in procuring, a criminal abortion;

(2) Employing any person to solicit patients for one's self;

(3) Engaging in false, fraudulent, or deceptive advertising, including but not limited to:

(A) Making excessive claims of expertise in one or more medical specialty fields;

(B) Assuring a permanent cure for an incurable disease; or

(C) Making any untruthful and improbable statement in advertising one's medical or surgical practice or business;
(4) Being habituated to the excessive use of drugs or alcohol; or being addicted to, dependent on, or a habitual user of a narcotic, barbiturate, amphetamine, hallucinogen, or other drug having similar effects;

(5) Practicing medicine while the ability to practice is impaired by alcohol, drugs, physical disability, or mental instability;

(6) Procuring a license through fraud, misrepresentation, or deceit, or knowingly permitting an unlicensed person to perform activities requiring a license;

(7) Professional misconduct, hazardous negligence causing bodily injury to another, or manifest incapacity in the practice of medicine or surgery;

(8) Incompetence or multiple instances of negligence, including but not limited to the consistent use of medical service, which is inappropriate or unnecessary;

(9) Conduct or practice contrary to recognized standards of ethics of the medical profession as adopted by the Hawaii Medical Association, the American Medical Association, the Hawaii Association of Osteopathic
Physicians and Surgeons, or the American Osteopathic Association;

(10) Violation of the conditions or limitations upon which a limited or temporary license is issued;

(11) Revocation, suspension, or other disciplinary action by another state or federal agency of a license, certificate, or medical privilege;

(12) Conviction, whether by nolo contendere or otherwise, of a penal offense substantially related to the qualifications, functions, or duties of a physician or osteopathic physician, notwithstanding any statutory provision to the contrary;

(13) Violation of chapter 329, the uniform controlled substances act, or any rule adopted thereunder except as provided in section 329-122;

(14) Failure to report to the board, in writing, any disciplinary decision issued against the licensee or the applicant in another jurisdiction within thirty days after the disciplinary decision is issued; [or]

(15) Submitting to or filing with the board any notice, statement, or other document required under this
chapter, which is false or untrue or contains any
material misstatement or omission of fact [\(\rightarrow\)];
(16) Conviction of a crime involving moral turpitude, a
felony, or a crime arising out of the practice of
medicine, including advertising of medical business
that is intended to or has a tendency to deceive the
public;
(17) Abandonment of a patient;
(18) Promotion of the sale of drugs, devices, appliances,
or goods or services provided for a patient in a
manner that exploits the patient for the financial
gain of the medical practitioner;
(19) Immoral conduct of a medical practitioner in the
practice of medicine;
(20) Wilfully making and filing false reports or records;
(21) Wilful omission to file or record, or wilfully
impeding or obstructing a filing or recording, or
inducing another person to omit to file or record
medical or other reports as required by law;
(22) Accepting payments from a clinical or bioanalytical laboratory in return for ordering individual tests or test series for patients;

(23) Practicing with an unlicensed physician or physician assistant or aiding or abetting any unlicensed person in the practice of medicine;

(24) Offering, undertaking or agreeing to cure or treat a disease by a secret method, procedure, treatment, or medicine;

(25) Professional or mental incompetence;

(26) Surrender, revocation, suspension, limitation of privilege based on:

(A) Quality of care provided;

(B) Any other disciplinary action against a license or authorization to practice in another state or jurisdiction; or

(C) Membership with any medical staff or in any medical professional association or society while under disciplinary investigation by any authority or body for acts or conduct similar to acts or
1 conduct that would constitute grounds for action
2 pursuant to this chapter;
3 (27) Any adverse judgment, settlement, or award arising
4 from a medical liability claim related to acts or
5 conduct that would constitute grounds for action as
6 stated in this chapter;
7 (28) Failure to furnish the board, the administrator,
8 investigator, or representatives information legally
9 requested by the board;
10 (29) Medical malpractice;
11 (30) Sexual contact between a medical practitioner and
12 patient during the existence of the practitioner-
13 patient relationship; or
14 (31) Providing services to a person who is making a claim
15 as a result of a personal injury, and who charges or
16 collects from the person any amount in excess of the
17 reimbursement to the practitioner by the insurer as a
18 condition of providing or continuing to provide
19 services or treatment."
20 SECTION 16. Section 453-8.1, Hawaii Revised Statutes, is
21 amended to read as follows:

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§453-8.1 Voluntary limitation of license. A physician, osteopathic physician, [or] surgeon, or physician assistant may request, in writing, that the board limit the individual's license to practice. The board may grant the request and may impose conditions on the limited license. The board shall determine whether and when the limitation shall be removed."

SECTION 17. Section 453-8.2, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) In addition to any other actions authorized by law, in disciplining a licensee in a proceeding held in conformity with chapter 91, the board may impose one or more of the following sanctions:

(1) Place the licensee on probation, including conditions of probation as requiring observation of the licensee by an appropriate group or society of licensed physicians, osteopathic physicians, [or] surgeons, or physician assistants;

(2) Suspend the license;

(3) Revoke the license;

(4) Limit the license by restricting the fields of practice in which the licensee may engage;
(5) Fine the licensee, including assessment against the
licensee of the costs of the disciplinary proceedings.
Any fine imposed by the board after a hearing in
accordance with chapter 91 shall be not less than $500
and not more than $5,000 for each violation, exclusive
of the costs of the disciplinary proceedings;
(6) Require further education or training, or require
proof of performance competency; or
(7) Censure or reprimand."

SECTION 18. Section 453-8.7, Hawaii Revised Statutes, is
amended to read as follows:

"§453-8.7 Reporting requirements. (a) Every physician
[or], osteopathic physician, surgeon, or physician assistant
licensed pursuant to this chapter who does not possess
professional liability insurance shall report any settlement or
arbitration award of a claim or action for damages for death or
personal injury caused by negligence, error, or omission in
practice, or the unauthorized rendering of professional
services. The report shall be submitted to the department of
commerce and consumer affairs within thirty days after any
written settlement agreement has been reduced to writing and
signed by all the parties thereto or thirty days after service of the arbitration award on the parties.

(b) Failure of a physician [er], osteopathic physician, surgeon, or physician assistant to comply with the provisions of this section is an offense punishable by a fine of not less than $100 for the first offense, $250 to $500 for the second offense, and $500 to $1,000 for subsequent offenses.

(c) The clerks of the respective courts of this State shall report to the department any judgment or other determination of the court [which] that adjudges or finds that a physician [er], osteopathic physician, surgeon, or physician assistant is liable criminally or civilly for any death or personal injury caused by the physician's [er], osteopathic physician's, surgeon's, or physician assistant's professional negligence, error, or omission in the practice of the physician's [er], osteopathic physician's, surgeon's, or physician assistant's profession, or rendering of unauthorized professional services. The report shall be submitted to the department within ten days after the judgment is entered by the court.
(d) The department shall prescribe forms for the submission of reports as required by this section."

SECTION 19. Section 453-10, Hawaii Revised Statutes, is amended to read as follows:

"§453-10 Witnesses in such proceeding. In any proceeding the board may subpoena, administer oaths to, and examine witnesses on any relevant matter in the proceeding. The board may subpoena physicians, osteopathic physicians, [or] surgeons, or physician assistants as specialists, on the recommendation of the appropriate specialist society. The board may order a mental, physical, or medical competency examination to determine the capacity or ability of a licensee to continue to practice medicine or surgery and order appropriate specialist societies to conduct examinations. The person whose license is sought in the proceeding to be revoked, limited, or suspended shall be entitled to require the board or any member thereof to subpoena and to administer oaths to any witness who may be able to present evidence relevant in the proceeding, and shall be entitled to examine any witness in the proceeding. The circuit court of the circuit in which the proceeding is held may enforce
by proper proceeding the attendance and testimony of witnesses in the proceeding."

SECTION 20. Section 453-14, Hawaii Revised Statutes, is amended by amending its title to read as follows:

"§453-14 Duty of physician, osteopathic physician, surgeon, physician assistant, hospital, clinic, etc., to report wounds."

SECTION 21. Section 453-5.4, Hawaii Revised Statutes, is repealed.

["§453-5.4 Physician assistant advisory committee. There shall be a physician assistant advisory committee under the Hawaii medical board consisting solely of persons licensed under section 453-5.3. The committee shall review all complaints and requests relating to physician assistants, and review and recommend revisions of the physician assistant regulations.

The chairperson of the committee shall be the representative for the committee members to the Hawaii medical board for the purpose of providing input to the board from the physician assistant's perspective on issues and concerns, including complaints and requests, regarding physician
assistants. The chairperson shall not be a member of the Hawaii medical board to avoid conflict of interests.

PART III

SECTION 22. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

SECTION 23. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 24. This Act shall take effect upon its approval; provided that the amendment made to section 329-38, Hawaii Revised Statutes, by this Act shall not be repealed when that section is reenacted on June 30, 2023, by section 6 of Act 66, Session Laws of Hawaii 2017.

INTRODUCED BY: Richard Lague

JAN 2 4 2019
Report Title:
Physician Assistants; Hawaii Medical Board; Telehealth; Telemedicine

Description:
Expands the scope of practice of licensed physician assistants in the State.

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