A BILL FOR AN ACT

RELATING TO HEALTH.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAI'I:

PART I

SECTION 1. The legislature finds that the State's shortage of physicians is a significant and challenging healthcare concern. According to the 2018 Annual Report on Findings from the Hawai'i Physician Workforce Assessment Report, the current physician shortage has increased from 769 in 2017 to 797 in 2018. The specialties most affected statewide include Primary Care, Infectious Disease, Colorectal Surgery, Neurological Surgery, and Pulmonary.

Additionally, the legislature finds that, according to the 2017 federal United States Census Bureau data, of Hawaii's 1.4 million residents, 17.8 per cent are sixty-five years old and older. As this population continues to age, its healthcare needs continue to increase.

Thus, to manage both the growing physician shortage and growing medical demands of the State's aging population, the legislature finds that a solution lies in the utilization of a
physician assistant as an effective and efficient method to deliver healthcare. Physician assistants are skilled healthcare providers trained to take medical histories, perform physical examinations, order and interpret laboratory tests, diagnose illness, develop and manage treatment plans for their patients, prescribe medications, and assist in surgery.

The intensive physician assistant program curriculum is modeled on the medical school curriculum. The typical physician assistant program is twenty-seven continuous months and begins with classroom instruction in basic medical sciences. This is followed by rotations in medical and surgical disciplines including family medicine, internal medicine, general surgery, pediatrics, obstetrics and gynecology, emergency medicine, and psychiatry. Physician assistant students complete at least two thousand hours of supervised clinical practice in various settings and locations by the time of graduation. Almost all physician assistant programs now award master’s degrees, and, by 2020, all programs must do so.

Physician assistants graduate from an accredited program and must pass a national certification exam to be licensed to practice medicine with collaboration of a licensed physician.
Physician assistants work in various clinical settings, locations, and specialties. Physician assistants can work off-site from their collaborating physician and the physician remains available via telecommunication.

Further, the legislature finds that as interprofessional healthcare team practice evolves and research repeatedly shows the quality and safety of physician assistant-provided care, a physician assistant's scope of practice can safely be determined at the practice level. Broadening physician assistants' scope of practice such that the scope is determined at the practice level, responds to the needs of the collaborating physician, facility, medical specialty, and patient population; thus, increasing efficiency and delivery of healthcare and lessening the administrative burden. Practice level specificity will allow more physicians and facilities to hire physician assistants without concern for restrictive state regulations. Physicians and surgeons who desire the extension of team-based physician assistant collaboration may in turn be attracted to practice in Hawaii by the increased physician assistant availability and reduced workload through physician assistant utilization.
The purposes of this Act are to:

(1) Clarify the scope and practice of physician assistants in the State;

(2) Amend the Hawaii medical board to include two physician assistants and clarify the powers of the board; and

(3) Make conforming amendments as to the scope and practice of physician assistants in the State.

PART II

SECTION 2. Chapter 453, Hawaii Revised Statutes, is amended by adding four new sections to part I to be appropriately designated and to read as follows:

"§453- Definitions. For the purposes of this chapter:

"Advanced directives" includes do not resuscitate orders, physician orders for life-sustaining treatment, organ and tissue donation, durable power of attorney for health care or health care power of attorney, or living will.

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

"Durable medical equipment" means equipment that:
(1) Is considered a selected product under the Centers for Medicare and Medicaid Services durable medical equipment, prosthetics, orthotics, and supplies competitive bidding program that can stand repeated use;

(2) Is primarily and customarily used to serve a medical purpose;

(3) Is generally not useful to a person in the absence of an illness or injury;

(4) Is appropriate for use in the home;

(5) Does not contain any prescription drug; and

(6) Is not considered to be a specialty item, equipment, or service.

"Distant site" means the location of the physician or physician assistant delivering services through telemedicine at the time the services are provided.

"Hawaii medical board" or "board" means the Hawaii medical board established pursuant to section 453-5.

"Legend drugs" means any drug falling within section 503(b)(1) of the federal Food, Drug and Cosmetic Act and which is required to be labeled with the statement "Rx only".
"National Commission on Certification of Physician Assistants" means the nonprofit organization established in 1974, or its successor organization, that provides certification programs to reflect standards for clinical knowledge, clinical reasoning, and other medical skills and professional behaviors required upon entry into practice and throughout the careers of physician assistants.

"Optimal team practice" means physician assistants have the 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.

"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 or physician assistant through telehealth, including but not limited to a physician's office, hospital, health care facility, hospice facility, nursing home, ambulatory facility, a patient's home, and other non-medical environments such as pharmacies, school-based health centers, university-based health centers, or the work locations of patient.
"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 biologicals 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.

"Physician assistant" means a health care professional who meets the qualifications defined in this chapter 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.
"Telehealth" as used in chapters 431, 432, and 432D, includes "telemedicine" as defined in this section. "Telemedicine" means the use of telecommunications services, as that term is defined in section 269-1, including voice communication, 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:

1. Delivering enhanced health care services and information while a patient is at an originating site and the physician is at a distant site;
2. Establishing a physician-patient relationship;
3. Evaluating a patient; or
4. Treating a patient.

§453- Physician assistant; scope of practice. (a)
Physician assistants may provide any legal medical service for which they have been prepared by their education, training, and experience and are competent to perform.
(b) Physician assistants may exercise autonomy in medical decision-making.

(c) Physician assistants shall be responsible for the patient care they provide.

(d) Physician assistants 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 as indicated by the patient's condition and the standard of care. The manner in which physician assistants and physicians work together shall be determined at the practice level.

(e) Medical and surgical services provided by physician assistants 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;
(6) Obtaining informed consent; and

(7) Writing medical orders.

(f) Physician assistants may 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 health facilities, medical organizations, health care centers, and school-based or college-based services.

(g) Physician assistants may supervise, delegate, and assign therapeutic and diagnostic measures to licensed or unlicensed personnel. Consistent with the scope of practice as previously described, physician assistants may certify the health or disability of a patient as required by any local, state, or federal program.

(h) Physician assistants may 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.
§453- Physician assistants in disasters; emergency field response and volunteering. Physician assistants shall be allowed to provide medical care in disaster and emergency situations that occur outside their place of employment and in this State. This exemption shall extend to physician assistants who are federal employees or licensed in other states. Physician assistants who are 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. No relationship between a physician assistant, physician, or any other entity shall be required in order for a physician assistant to volunteer in such situations.

§453- Physician assistants; prescriptive authority. A physician assistant may prescribe, order, administer, and dispense legend drugs and controlled substances in schedules II through V of chapter 329 consistent with the physician assistant's scope of practice; provided that:

(1) The physician assistant has an active federal Drug Enforcement Administration registration number. The federal Drug Enforcement Administration registration number
number must be valid for the handling of that controlled substance and shall be 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) The physician assistant is registered with the department of public safety pursuant to chapter 329;

(4) 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

(5) All prescriptions are in compliance with chapter 329."

SECTION 3. 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 [or], an osteopathic physician, or a physician assistant
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, or physician assistant 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 as requiring the physical presence of the physician at the time and place the services are rendered, or requiring that a physician be liable for the care rendered by a physician assistant. Collaborating physicians are considered a resource that strengthens the physician-physician assistant team approach to patient care.

(c) A physician 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 level 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 biologicals 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 4. Section 453-1.3, Hawaii Revised Statutes, is
amended to read as follows:

"§453-1.3 Practice of [telehealth] telemedicine. (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 license] their respective licenses to practice from practicing [telehealth as defined in this section -] telemedicine.

(b) [Telehealth] 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 [telehealth -] 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 controlled substances 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] telemedicine 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 [telehealth] telemedicine to establish a physician-patient or physician-assistant relationship with a patient in [this] the State without a license to practice medicine in [Hawaii] the State.

(f) A physician-patient or physician assistant-patient relationship may be established via [telehealth] telemedicine if the patient is referred to the [telehealth] telemedicine provider by another health care provider who has conducted an in-person consultation and has provided all pertinent patient information to the [telehealth] telemedicine provider. Once a provider-patient relationship is established, a patient or physician or physician assistant licensed in [this] the State
may use [telehealth] 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 [telehealth] telemedicine consultations for emergency department services.

(h) Reimbursement for behavioral health services provided through [telehealth] 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 [telehealth] 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; establishing a physician-patient relationship; evaluating a patient; or treating a patient."

SECTION 5. 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 6. Section 453-2, Hawaii Revised Statutes, is amended as follows:

1. By amending its title to read:

"§453-2 [License] Physician; license required; 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] telemedicine 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] telemedicine 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] the State, or receive calls within the limits of the State for the provision of care for a patient who is located in [this] the 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] the 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] the 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] the 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 telemedicine while located in the 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 7. Section 453-3.2, Hawaii Revised Statutes, is amended to read as follows:

"§453-3.2 Educational teaching license. (a) The board may issue an educational teaching license to a physician [or] osteopathic physician, or physician assistant who is not licensed in [this] the 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] the 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.

(b) To receive an educational teaching license, the applicant shall:

(1) Complete an application as prescribed by the board, which shall include a summary of the applicant's medical, educational, and professional background;

(2) Provide proof that the applicant is licensed as a physician [or] osteopathic physician, or physician
assistant in another state or country and the license is current and in good standing;

(3) Submit a letter with the application signed by the chief of service of a clinical department of a hospital attesting that the chief of service is a licensed physician or osteopathic physician of [this] the State and is requesting to sponsor and monitor the applicant while the person is engaged in educational or teaching activities for the hospital under an educational teaching license; and

(4) Pay all applicable fees.

(c) The holder of an educational teaching license shall not open or appoint a place to meet patients, or receive calls from patients relating to the practice of medicine, beyond the parameters of the hospital that is sponsoring and monitoring the licensee's activities.

(d) The holder of an educational teaching license shall obey all laws and rules of [this] the State."

SECTION 8. Section 453-3.5, Hawaii Revised Statutes, is amended to read as follows:
§453-3.5 Training replacement temporary license. (a)
The board may issue a limited and temporary license to [a] an out-of-state physician, osteopathic physician, or physician assistant to maintain patient services for the purpose of substituting for another physician, osteopathic physician, or physician assistant licensed in [this] the State to enable specialized training at an out-of-state fully accredited medical teaching institution; provided that the out-of-state physician, osteopathic physician, or physician assistant:

1. (1) (A) Is board certified by the American Board of Medical Specialties or Bureau of Osteopathic Specialties in the subspecialty in which the Hawaii physician or osteopathic physician is seeking training; or

2. (B) Is in compliance with the medical educational and training standards the board establishes for the purposes of training replacement physician assistants;

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

4. (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, osteopathic physician, or physician 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 or osteopathic physician of [this] the State.

(c) The holder of a specialty training license shall obey and be subject to all laws and rules of [this] the State."

SECTION 9. Section 453-4, Hawaii Revised Statutes, is amended by amending its title to read as follows:

"§453-4 [Qualifications] Physician; qualifications for examination and licensure."

SECTION 10. Section 453-5, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(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 thirteen 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, two of whom shall be physician assistants 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:

(1) Five shall be appointed from the city and county of Honolulu and at least one shall be appointed from each of the other counties; and

(2) Two shall have experience with the physician assistant practice.

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."

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 national certifying entity approved by the board.] administered by the National Commission on Certification of Physician Assistants.

(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.
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.

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.

Any license of a physician assistant may be denied, not renewed, revoked, limited, or suspended under section 453-8.

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

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 of the license that may only be restored upon written application for restoration and payment to the board of a restoration fee.

(g) The following shall apply to the license renewal:

(1) Proof of the initial National Commission on Certification of Physician Assistants certification shall not be required;

(2) Recertification by the National Commission on Certification of Physician Assistants shall not be required; and

(3) Forty credit hours of continuing medical education credits within every licensing biennium shall be required.

(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 category of inactive licensure shall be available to physician assistants who are not currently in active practice in the State unrelated to disciplinary action or impairment issues.

Notification to reactivate a license that is inactive for less
than twenty-four months shall require only written notification to the board.

(j) A licensed physician assistant shall conspicuously display on the licensee's clothing a nameplate identifying the physician assistant as a "Physician Assistant-Certified" or "PA-C" and shall wear the nameplate at the licensee's customary place of employment.

(k) A licensed physician assistant shall place at the location of employment a conspicuous sign at least five by eight inches stating that the licensed physician assistant's education and a copy of the current collaborative plan are on file with the board or employer, and available for inspection."

SECTION 12. 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[τ] and 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 controlled substances in schedules II through V and legend drugs;
(12) Certification of disability for parking for a disabled person;
(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) Jones Act claim forms;
(19) Advanced directives; and
(20) Death certificates."

SECTION 13. Section 453-6, Hawaii Revised Statutes, is amended by amending its title to read as follows:

"§453-6 [Fees] Physician; fees; expenses."

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) Practicing with an unlicensed physician or physician assistant, or aiding or abetting these unlicensed persons to engage in the practice of medicine;

(9) Abandoning a patient;
Immoral conduct of a medical practitioner in the practice of medicine;

Sexual contact between a medical practitioner and patient during the existence of the practitioner-patient relationship;

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

Mental incompetence;

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

Providing services to a person who is making a claim as a result of a personal injury, and charging or collecting any amount in excess of the reimbursement to the practitioner by the insurer as a condition of providing or continuing to provide services or treatment;

Promotion of the sale of drugs, devices, appliances, goods, or services provided for a patient in a manner
that exploits the patient for the financial gain of
the medical practitioner;

(17) Agreeing with clinical or bioanalytical laboratories
to accept payments from these laboratories for
individual tests or test series for patients;

(18) 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;

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

(20) Revocation, suspension, or other disciplinary
action [by]:

(A) By another state or federal agency of a license,
certificate, or medical privilege;

(B) By any medical staff or medical professional
association or society of membership in the
staff, association, or society; or

(C) Based on quality of care provided;
[21] Conviction, whether by nolo contendere or otherwise, of a penal offense [substantially]:

(A) Substantially related to the qualifications, functions, or duties of a physician or osteopathic physician, notwithstanding any statutory provision to the contrary;

(B) Involving moral turpitude;

(C) Graded as a felony; or

(D) Arising out of the practice of medicine;

[22] Any adverse judgment, settlement, or award arising from a medical liability claim related to acts or conduct that would constitute grounds for action as stated in this chapter;

[23] Medical malpractice;

[24] Violation of chapter 329, the uniform controlled substances act, or any rule adopted thereunder except as provided in section 329-122;

[25] 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]
Failure to furnish to the board, administrator, investigator, or representatives information legally requested by the board;

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.

Wilfully making and filing false reports or records; or

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."

SECTION 16. Section 453-8.1, Hawaii Revised Statutes, is amended to read as follows:

"§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, 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 [or], 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 adjudges or finds that a physician or osteopathic physician, surgeon, or physician assistant is liable criminally or civilly for any death or personal injury caused by the physician's, osteopathic physician's, surgeon's, or physician assistant's professional negligence, error, or omission in the practice of the physician's, 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 required by this section."
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 453-18, Hawaii Revised Statutes, is amended to read as follows:

"Pelvic examinations on anesthetized or unconscious female patients. A physician, osteopathic physician, surgeon, physician assistant, or student..."
participating in a course of instruction, residency program, or clinical training program shall not perform a pelvic examination on an anesthetized or unconscious female patient unless:

(1) The patient gives prior verbal or written informed consent to the pelvic examination;

(2) The performance of a pelvic examination is within the scope of care for the surgical procedure or diagnostic examination scheduled to be performed on the patient; or

(3) The patient is unconscious and the pelvic examination is required for diagnostic purposes."

PART III

SECTION 21. Section 291-51, Hawaii Revised Statutes, is amended by amending the definition of "certificate of disability" to read as follows:

"Certificate of disability" means a medical statement issued by a licensed practicing physician, advanced practice registered nurse, or physician assistant which verifies that a person is disabled, limited, or impaired in the ability to walk."
SECTION 22. 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 [en, advanced practice registered nurse, or physician assistant 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 removable windshield placard, temporary removable windshield placard, or special license plates shall be guilty of a petty misdemeanor. Each fraudulent verification shall constitute a separate offense."

SECTION 23. Section 329-1, Hawaii Revised Statutes, is amended by amending the definition of "physician assistant" to read as follows:

"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."
SECTION 24. Section 350-1.1, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) Notwithstanding any other state law concerning confidentiality to the contrary, the following persons who, in their professional or official capacity, have reason to believe that child abuse or neglect has occurred or that there exists a substantial risk that child abuse or neglect may occur in the reasonably foreseeable future, shall immediately report the matter orally to the department or to the police department:

(1) Any licensed or registered professional of the healing arts or any health-related occupation who examines, attends, treats, or provides other professional or specialized services, including but not limited to physicians, including physicians in training, psychologists, physician assistants, dentists, nurses, osteopathic physicians and surgeons, optometrists, chiropractors, podiatrists, pharmacists, and other health-related professionals;

(2) Employees or officers of any public or private school;

(3) Employees or officers of any public or private agency or institution, or other individuals, providing
social, medical, hospital, or mental health services, including financial assistance;

(4) Employees or officers of any law enforcement agency, including but not limited to the courts, police departments, department of public safety, correctional institutions, and parole or probation offices;

(5) Individual providers of child care, or employees or officers of any licensed or registered child care facility, foster home, or similar institution;

(6) Medical examiners or coroners; and

(7) Employees of any public or private agency providing recreational or sports activities."

PART IV

SECTION 25. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 26. This Act shall take effect on July 1, 2019.
Report Title:
Physician Assistants; Practice of Medicine

Description:
Clarifies the scope and practice of physician assistants in the State. Amends the Hawaii Medical Board to include two physician assistants. Expands bases to revoke or suspend a physician or surgeon's license. Makes conforming amendments.

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