

JAN 21 2010

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# A BILL FOR AN ACT

RELATING TO PRESCRIPTIVE RIGHTS.

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

1           SECTION 1. Chapter 453, Hawaii Revised Statutes, is  
2 amended by adding two new sections to be appropriately  
3 designated and to read as follows:

4           "§453-A Non-physician provider prescription drug  
5 formulary. (a) The Hawaii medical board shall establish,  
6 pursuant to chapter 91, a drug formulary advisory subcommittee  
7 for each non-physician health care practice whose licensed  
8 practitioners are granted prescriptive authority by law. The  
9 purpose of each subcommittee shall be to establish and publish a  
10 drug formulary for prescription, administration, or dispensing  
11 by non-physician health care providers who are granted  
12 prescriptive authority by law.

13           (b) There shall be established subcommittees representing:

14           (1) Naturopathic physicians;

15           (2) Advanced practice registered nurses with prescriptive  
16 authority;

17           (3) Pharmacists;



1        (4) Physician assistants; and

2        (5) Any other licensed profession that is granted  
3        prescriptive authority by law.

4        (c) Each subcommittee established pursuant to subsection  
5 (a) shall consist of:

6        (1) Five persons licensed as members of the profession  
7        represented by the subcommittee and appointed by the  
8        statutorily-designated governing body of the  
9        profession;

10       (2) One person appointed by the Hawaii medical board; and

11       (3) One person licensed as a pharmacist and appointed by  
12       the board of pharmacy.

13       (c) A drug formulary advisory subcommittee shall recommend  
14 the applicable formularies for each respective non-physician  
15 health care profession whose members are authorized by law to  
16 prescribe, administer, or dispense prescription drugs. The  
17 Hawaii medical board shall consider the recommendations of the  
18 drug formulary subcommittee in adopting a formulary for the  
19 respective health care profession. The drug formularies  
20 established pursuant to this section shall be adopted by the  
21 Hawaii medical board in accordance with chapter 91.



1           "453-B Physician assistant; prescriptive authority. A  
2 physician assistant shall be authorized to prescribe,  
3 administer, or dispense only those prescription drugs that are  
4 included on the physician assistant drug formulary established  
5 by the Hawaii medical board pursuant to section 453-A."

6           SECTION 2. Section 329-1, Hawaii Revised Statutes, is  
7 amended by amending the definition of "practitioner" to read as  
8 follows:

9           "Practitioner" means:

- 10           (1) A physician, dentist, veterinarian, scientific  
11           investigator, non-physician health care professional  
12           with prescriptive authority, or other person licensed  
13           and registered under section 329-32 to distribute,  
14           dispense, or conduct research with respect to a  
15           controlled substance in the course of professional  
16           practice or research in this State;
- 17           (2) An advanced practice registered nurse with  
18           prescriptive authority licensed and registered under  
19           section 329-32 to prescribe and administer controlled  
20           substances in the course of professional practice in  
21           this State; and



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

6           SECTION 3. Section 455-1, Hawaii Revised Statutes, is  
7 amended by amending the definition of "naturopathic formulary"  
8 to read as follows:

9            "\"Naturopathic formulary\" means vitamins, minerals, dietary  
10 supplements, botanical medicines, homeopathic medicines,  
11 hormones, and those legend drugs consistent with naturopathic  
12 medical practice[-] as established by the Hawaii medical board  
13 pursuant to section 453-A."

14           SECTION 4. Section 455-6, Hawaii Revised Statutes, is  
15 amended to read as follows:

16            "**§455-6 Powers and authority of the board.** In addition to  
17 any other powers and duties authorized by law, the board may:

- 18            (1) Adopt and use a seal to be affixed to all official  
19                    acts of the board;
- 20            (2) Adopt, amend, or repeal rules in accordance with  
21                    chapter 91 to carry out the purposes of this chapter;  
22                    provided that all rules shall be approved by the



1 governor and the director of commerce and consumer  
2 affairs; and provided further that the rules:

3 (A) May forbid acts or practices deemed by the board  
4 to be detrimental to the accomplishment of the  
5 purpose of this chapter;

6 (B) Shall establish standards of practice, care, and  
7 ethics; and

8 (C) Shall establish the education and training  
9 requirements for parenteral therapy and the  
10 standards to administer parenteral therapy, and  
11 establish examination standards and require the  
12 passage of an examination on minor office  
13 procedures, which standards and requirements  
14 shall take effect after December 31, 2009;

15 (3) Develop standards for licensure;

16 (4) Issue, renew, suspend, and revoke licenses and fine  
17 licensees;

18 (5) Investigate and conduct hearings regarding any  
19 violation of this chapter and any rules of the board;

20 (6) Maintain a record of its proceedings;

21 ~~[(7) Annually establish and publish a naturopathic~~  
22 ~~formulary that has been approved by the board for~~



1           ~~prescription, administration, or dispensing by~~  
2           ~~naturopathic physicians,] and~~  
3           (8) Do all things necessary to carry out the functions,  
4           powers, and duties set forth in this chapter."

5           SECTION 5. Section 455-11, Hawaii Revised Statutes, is  
6           amended by amending subsection (a) to read as follows:

7           "(a) In addition to any other actions authorized by law,  
8           the board shall have the power to deny, revoke, suspend, or  
9           refuse to renew any license to practice naturopathic medicine  
10          applied for or issued by the board in accordance with this  
11          chapter, and to fine or otherwise discipline a licensee for any  
12          cause authorized by law, including but not limited to the  
13          following:

- 14           (1) Procuring, or aiding or abetting in procuring, a  
15           criminal abortion;
- 16           (2) Employing any person to solicit patients;
- 17           (3) Obtaining a fee on the assurance that a manifestly  
18           incurable disease can be permanently cured;
- 19           (4) Betraying a patient's confidence;
- 20           (5) Making any untruthful and improbable statement in  
21           advertising one's naturopathic practice or business;
- 22           (6) False, fraudulent, or deceptive advertising;



- 1           (7) Being habituated to the excessive use of drugs or
- 2            alcohol; or being addicted to, dependent on, or an
- 3           habitual user of a narcotic, barbiturate, amphetamine,
- 4           hallucinogen, or other drug having similar effects;
- 5           (8) Practicing naturopathic medicine while the ability to
- 6           practice is impaired by alcohol, drug, physical
- 7           disability, or mental instability;
- 8           (9) Procuring a license through fraud, misrepresentation,
- 9           or deceit or knowingly permitting an unlicensed person
- 10          to perform activities requiring a license;
- 11          (10) Professional misconduct or gross carelessness or
- 12          manifest incapacity in the practice of naturopathic
- 13          medicine;
- 14          (11) Conduct or practice contrary to recognized standard of
- 15          ethics of the naturopathic profession;
- 16          (12) Using medical service or treatment which is
- 17          inappropriate or unnecessary;
- 18          (13) Submitting to or filing with the board any notice,
- 19          statement, or other document required under this
- 20          chapter which is false or untrue or contains any
- 21          material misstatement of fact;



- 1           (14) Failure to report to the board any disciplinary action  
2           taken against the licensee in another jurisdiction  
3           within thirty days after the disciplinary action  
4           becomes final;
- 5           (15) Using the title "physician" without clearly  
6           identifying oneself as being a naturopathic physician;
- 7           (16) Prescribing, administering, and dispensing  
8           naturopathic formulary that are not included in the  
9           formulary established by the [~~board under section~~  
10          455-6;] Hawaii medical board under section 453-A; and
- 11          (17) Violation of any provision of this chapter or rules  
12          adopted under this chapter."

13           SECTION 6. Section 457-8.6, Hawaii Revised Statutes, is  
14          amended to read as follows:

15           "**§457-8.6 Prescriptive authority for advanced practice**  
16          **registered nurses.** (a) The board shall grant prescriptive  
17          authority to qualified advanced practice registered nurses and  
18          shall designate the requirements for advanced nursing practice  
19          related to prescriptive authority. [~~The board shall determine~~  
20          ~~the exclusionary formulary for qualified advanced practice~~  
21          ~~registered nurses who are granted prescriptive authority.~~





1       ~~(b) The department of commerce and consumer affairs shall~~  
2 ~~establish a joint formulary advisory committee composed of:~~

3       ~~(1) Two persons licensed as advanced practice registered~~  
4       ~~nurses and appointed by the board;~~

5       ~~(2) Two persons licensed in medicine by the Hawaii medical~~  
6       ~~board and appointed by the Hawaii medical board;~~

7       ~~(3) Three persons licensed as pharmacists and appointed by~~  
8       ~~the board of pharmacy;~~

9       ~~(4) One representative of the University of Hawaii John A.~~  
10       ~~Burns school of medicine appointed by the dean of the~~  
11       ~~University of Hawaii John A. Burns school of medicine;~~  
12       ~~and~~

13       ~~(5) One representative from a school of nursing with an~~  
14       ~~advanced practice registered nurse program.~~

15 ~~The joint formulary advisory committee shall recommend the~~  
16 ~~applicable formulary for persons recognized under this section.~~

17 ~~The board shall consider the recommendations of the joint~~  
18 ~~formulary advisory committee in adopting the formulary.] The~~  
19 appropriate working relationship with licensed physicians shall  
20 be reflected in rules adopted by the board in accordance with  
21 chapter 91.



1           ~~[(e)]~~ (b) The board shall establish nursing requirements  
2 for education, experience, and national certification pursuant  
3 to rules adopted in accordance with chapter 91.

4           ~~[(d)]~~ (c) Advanced practice registered nurses shall be  
5 considered qualified if they have met the requirements of  
6 section 457-8.5(a), and have met the advanced pharmacology  
7 requirements for initial prescriptive authority pursuant to  
8 rules adopted by the board. Only qualified advanced practice  
9 registered nurses authorized to diagnose, prescribe, and  
10 institute therapy or referrals of patients to health care  
11 agencies, health care providers, and community resources and,  
12 only as appropriate, to the practice specialty in which the  
13 advanced practice nurse is qualified, may:

- 14           (1) Prescribe, procure, administer, and dispense over the  
15 counter and legend drugs, and controlled substances  
16 pursuant to this chapter and to chapter 329; provided  
17 that an advanced practice registered nurse shall not  
18 request, receive, or sign for professional controlled  
19 substance samples;
- 20           (2) Prescribe, order, and dispense medical devices and  
21 equipment; and



1 (3) Plan and initiate a therapeutic regimen that includes  
 2 nutritional, diagnostic, and supportive services  
 3 including home health care, hospice, and physical and  
 4 occupational therapy."

5 SECTION 7. In codifying the new sections added by section  
 6 1 of this Act, the revisor of statutes shall substitute  
 7 appropriate section numbers for the letters used in designating  
 8 the new sections in this Act.

9 SECTION 8. Statutory material to be repealed is bracketed  
 10 and stricken. New statutory material is underscored.

11 SECTION 9. This Act shall take effect on July 1, 2010.

12

INTRODUCED BY: John Doe M.D.

*Will Egan*

*Mark Hill*



**Report Title:**

Prescription Drug Formulary for Non-physician Health  
Care Practitioners

**Description:**

Directs the Hawaii medical board to establish practice-specific subcommittees to establish prescription drug formularies for non-physician health care providers with prescriptive authority. Repeals the authority of the board of nursing and the board of naturopathic medicine to establish formularies for those professions.

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

