

JAN 17 2014

A BILL FOR AN ACT

RELATING TO ADVANCED PRACTICE REGISTERED NURSES.

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

1 SECTION 1. The legislature finds that advanced practice
2 registered nurses provide a wide variety of health care services
3 to people in Hawaii. The legislature further finds that section
4 323-3, Hawaii Revised Statutes, requires each hospital within
5 the State to allow advanced practice registered nurses to
6 practice within the full scope of the practice, including as
7 primary care providers. Advanced practice registered nurses are
8 also recognized as participating primary health care providers
9 for insurance purposes under the State's insurance code.

10 However, the legislature also finds that certain sections
11 within the Hawaii Revised Statutes omit advanced practice
12 registered nurses from the definitions or designations of health
13 care entities who may provide health care, prescribe drugs, or
14 sign forms. These outdated or obsolete statutes need to be
15 amended to authorize increased participation by advanced
16 practice registered nurses and recognize appropriately trained
17 advanced practice registered nurses as primary care providers.

18 Authorizing increased participation by advanced practice



1 registered nurses in certain circumstances, especially with
2 regard to global signature authority, will enable improved
3 access to health care services, expedite the processing of
4 paperwork, and provide optimal care at the initial point of
5 access for Hawaii patients, especially in rural and underserved
6 areas.

7 The purpose of this Act is to improve patient access to
8 medical care by clarifying the circumstances under which
9 advanced practice registered nurses may practice their
10 profession to the fullest extent of their training and
11 education.

12 SECTION 2. Section 246-31, Hawaii Revised Statutes, is
13 amended by amending subsection (b) to read as follows:

14 "(b) Any person who is totally disabled, as defined in
15 section 235-1, so long as the person is totally disabled, shall
16 be exempt from real property taxes on all real property owned by
17 the person up to, but not exceeding, a taxable value of \$15,000.
18 The disability shall be certified to by a physician or
19 osteopathic physician licensed under chapter 453 [~~or 460, or~~
20 ~~both,~~] or by an advanced practice registered nurse licensed
21 under chapter 457, on forms prescribed by the department of
22 taxation."



1 SECTION 3. Section 286-107, Hawaii Revised Statutes, is
2 amended by amending subsection (c) to read as follows:

3 "(c) Any person who holds a category (1), (2), or (3)
4 license issued under this part who is unable to appear in person
5 before the examiner of drivers to apply for a renewal of the
6 driver's license, may, if the person is not disqualified from
7 renewing the license under subsection (a) except as provided
8 under subsection (h), apply for a renewal by mail. The
9 applicant's request to have the license renewed by mail must be
10 received by the examiner of drivers within ninety days after the
11 expiration of the license or it shall be treated as an
12 application for reactivation of an expired license under section
13 286-107.5. The examiner of drivers shall, upon receipt of the
14 request, furnish the applicant with all necessary forms and
15 instructions. An application for renewal made pursuant to this
16 subsection shall be accompanied by a statement from a licensed
17 physician [~~or~~], physician assistant, or advanced practice
18 registered nurse certifying that the applicant was examined by
19 the licensed physician [~~or~~], physician assistant, or advanced
20 practice registered nurse not more than six months prior to the
21 expiration date of the applicant's license and that the
22 applicant was found by the examination to have met the physical



1 requirements established by the state director of transportation
2 for the renewal of licenses. The application for renewal shall
3 also be accompanied by:

- 4 (1) A notarized statement of the applicant certifying that
5 the applicant does not possess any valid license to
6 operate the same or similar category or categories of
7 motor vehicles, issued by another licensing authority
8 (unless the license is concurrently surrendered); and
9 (2) Such other information as may be required by the
10 examiner of drivers that is reasonably necessary to
11 confirm the identity of the applicant and the
12 applicant's fitness to continue to operate a motor
13 vehicle."

14 SECTION 4. Section 291-11.6, Hawaii Revised Statutes, is
15 amended by amending subsection (c) to read as follows:

16 "(c) No person shall be guilty of violating this section
17 if:

- 18 (1) The person is in a motor vehicle [~~which~~] that is not
19 required to be equipped with a seat belt assembly
20 under any federal motor vehicle safety standard unless
21 the vehicle is in fact equipped with a seat belt
22 assembly;



- 1 (2) The person not restrained by a seat belt assembly is
2 in a vehicle in which the number of persons exceeds
3 the number of seat belt assemblies available in the
4 vehicle or the number of seat belt assemblies
5 originally installed in the vehicle, whichever is
6 greater; provided that all available seat belt
7 assemblies are being used to restrain passengers;
- 8 (3) The person not restrained by a seat belt assembly has
9 a condition [~~which~~] that prevents appropriate
10 restraint by the seat belt assembly; provided the
11 condition is duly certified by a physician [~~or~~], a
12 physician assistant, or an advanced practice
13 registered nurse who shall state the nature of the
14 condition, as well as the reason the restraint is
15 inappropriate;
- 16 (4) The person not restrained by a seat belt assembly is
17 operating a taxicab or other motor vehicle used in
18 performing a bona fide metered taxicab service which
19 is regulated under chapter 269 or by county ordinance
20 and is carrying passengers in the vehicle in the
21 course of performing taxicab services; or



1 (5) Otherwise exempted by rules adopted by the department
2 of transportation pursuant to chapter 91."

3 SECTION 5. Section 291-51, Hawaii Revised Statutes, is
4 amended by amending the definition of "certificate of
5 disability" to read as follows:

6 ""Certificate of disability" means a medical statement
7 issued by a licensed practicing physician[7] or advanced
8 practice registered nurse which verifies that a person is
9 disabled, limited, or impaired in the ability to walk."

10 SECTION 6. Section 291-51.4, Hawaii Revised Statutes, is
11 amended to read as follows:

12 "[+]§291-51.4[+] **Fraudulent verification of an applicant**
13 **as a person with a disability; penalty.** A physician or advanced
14 practice registered nurse who fraudulently verifies that an
15 applicant is a person with a disability to enable the person to
16 represent to the issuing agency that the person is qualified to
17 obtain a removable windshield placard, temporary removable
18 windshield placard, or special license plates shall be guilty of
19 a petty misdemeanor. Each fraudulent verification shall
20 constitute a separate offense."

21 SECTION 7. Section 302A-1156, Hawaii Revised Statutes, is
22 amended to read as follows:



1 **"§302A-1156 Exemptions.** A child may be exempted from the
2 required immunizations:

3 (1) If a licensed physician [~~or~~], physician assistant, or
4 advanced practice registered nurse certifies that the
5 physical condition of the child is such that
6 immunizations would endanger the child's life or
7 health; or

8 (2) If any parent, custodian, guardian, or any other
9 person in loco parentis to a child objects to
10 immunization in writing on the grounds that the
11 immunization conflicts with that person's bona fide
12 religious tenets and practices. Upon showing the
13 appropriate school official satisfactory evidence of
14 the exemption, no certificate or other evidence of
15 immunization shall be required for entry into school."

16 SECTION 8. Section 325-34, Hawaii Revised Statutes, is
17 amended to read as follows:

18 **"§325-34 Exemptions.** Section 325-32 shall be construed
19 not to require the vaccination or immunization of any person for
20 three months after a duly licensed physician, physician
21 assistant, advanced practice registered nurse, or an authorized
22 representative of the department of health has signed two copies



1 of a certificate stating the name and address of the person and
2 that because of a stated cause the health of the person would be
3 endangered by the vaccination or immunization, and has forwarded
4 the original copy of the certificate to the person or, if the
5 person is a minor or under guardianship, to the person's parent
6 or guardian, and has forwarded the duplicate copy of the
7 certificate to the department for its files.

8 No person shall be subjected to vaccination, revaccination
9 or immunization, who shall in writing object thereto on the
10 grounds that the requirements are not in accordance with the
11 religious tenets of an established church of which the person is
12 a member or adherent, or, if the person is a minor or under
13 guardianship, whose parent or guardian shall in writing object
14 thereto on such grounds, but no objection shall be recognized
15 when, in the opinion of the director of health, there is danger
16 of an epidemic from any communicable disease."

17 SECTION 9. Section 347-13, Hawaii Revised Statutes, is
18 amended by amending subsection (c) to read as follows:

19 "(c) Every disabled person shall have the right to use a
20 life jacket or other flotation device in a public swimming pool;
21 provided that:



1 (1) The person suffers from a physical disability or
2 condition that requires the use of a life jacket or
3 other flotation device; and

4 (2) The person obtains a statement signed by a licensed
5 physician ~~[or]~~, physician assistant, or advanced
6 practice registered nurse attesting to the person's
7 need to use a life jacket or other flotation device."

8 SECTION 10. Section 431:10H-217, Hawaii Revised Statutes,
9 is amended to read as follows:

10 "[~~f~~]§431:10H-217[~~f~~] **Disclosure; benefit triggers.**

11 Activities of daily living and cognitive impairment shall be
12 used to measure an insured's need for long-term care and shall
13 be described in the policy or certificate in a separate
14 paragraph and shall be labeled "Eligibility for the Payment of
15 Benefits". Any additional benefit triggers shall also be
16 explained in this section. If these benefit triggers differ for
17 different benefits, explanation of the trigger shall accompany
18 each benefit description. If an attending physician, advanced
19 practice registered nurse, or other specified person ~~[must]~~ is
20 required to certify a certain level of functional dependency in
21 order to be eligible for benefits, this ~~[toe]~~ requirement shall
22 be specified."



1 SECTION 11. Section 431:13-103, Hawaii Revised Statutes,
2 is amended by amending subsection (a) to read as follows:

3 "(a) The following are defined as unfair methods of
4 competition and unfair or deceptive acts or practices in the
5 business of insurance:

6 (1) Misrepresentations and false advertising of insurance
7 policies. Making, issuing, circulating, or causing to
8 be made, issued, or circulated, any estimate,
9 illustration, circular, statement, sales presentation,
10 omission, or comparison which:

11 (A) Misrepresents the benefits, advantages,
12 conditions, or terms of any insurance policy;

13 (B) Misrepresents the dividends or share of the
14 surplus to be received on any insurance policy;

15 (C) Makes any false or misleading statement as to the
16 dividends or share of surplus previously paid on
17 any insurance policy;

18 (D) Is misleading or is a misrepresentation as to the
19 financial condition of any insurer, or as to the
20 legal reserve system upon which any life insurer
21 operates;



1 (E) Uses any name or title of any insurance policy or
2 class of insurance policies misrepresenting the
3 true nature thereof;

4 (F) Is a misrepresentation for the purpose of
5 inducing or tending to induce the lapse,
6 forfeiture, exchange, conversion, or surrender of
7 any insurance policy;

8 (G) Is a misrepresentation for the purpose of
9 effecting a pledge or assignment of or effecting
10 a loan against any insurance policy;

11 (H) Misrepresents any insurance policy as being
12 shares of stock;

13 (I) Publishes or advertises the assets of any insurer
14 without publishing or advertising with equal
15 conspicuousness the liabilities of the insurer,
16 both as shown by its last annual statement; or

17 (J) Publishes or advertises the capital of any
18 insurer without stating specifically the amount
19 of paid-in and subscribed capital;

20 (2) False information and advertising generally. Making,
21 publishing, disseminating, circulating, or placing
22 before the public, or causing, directly or indirectly,



1 to be made, published, disseminated, circulated, or
2 placed before the public, in a newspaper, magazine, or
3 other publication, or in the form of a notice,
4 circular, pamphlet, letter, or poster, or over any
5 radio or television station, or in any other way, an
6 advertisement, announcement, or statement containing
7 any assertion, representation, or statement with
8 respect to the business of insurance or with respect
9 to any person in the conduct of the person's insurance
10 business, which is untrue, deceptive, or misleading;

11 (3) Defamation. Making, publishing, disseminating, or
12 circulating, directly or indirectly, or aiding,
13 abetting, or encouraging the making, publishing,
14 disseminating, or circulating of any oral or written
15 statement or any pamphlet, circular, article, or
16 literature which is false, or maliciously critical of
17 or derogatory to the financial condition of an
18 insurer, and which is calculated to injure any person
19 engaged in the business of insurance;

20 (4) Boycott, coercion, and intimidation.

21 (A) Entering into any agreement to commit, or by any
22 action committing, any act of boycott, coercion,



1 or intimidation resulting in or tending to result
2 in unreasonable restraint of, or monopoly in, the
3 business of insurance; or

4 (B) Entering into any agreement on the condition,
5 agreement, or understanding that a policy will
6 not be issued or renewed unless the prospective
7 insured contracts for another class or an
8 additional policy of the same class of insurance
9 with the same insurer;

10 (5) False financial statements.

11 (A) Knowingly filing with any supervisory or other
12 public official, or knowingly making, publishing,
13 disseminating, circulating, or delivering to any
14 person, or placing before the public, or
15 knowingly causing, directly or indirectly, to be
16 made, published, disseminated, circulated,
17 delivered to any person, or placed before the
18 public, any false statement of a material fact as
19 to the financial condition of an insurer; or

20 (B) Knowingly making any false entry of a material
21 fact in any book, report, or statement of any
22 insurer with intent to deceive any agent or



1 examiner lawfully appointed to examine into its
2 condition or into any of its affairs, or any
3 public official to whom the insurer is required
4 by law to report, or who has authority by law to
5 examine into its condition or into any of its
6 affairs, or, with like intent, knowingly omitting
7 to make a true entry of any material fact
8 pertaining to the business of the insurer in any
9 book, report, or statement of the insurer;

10 (6) Stock operations and advisory board contracts.
11 Issuing or delivering or permitting agents, officers,
12 or employees to issue or deliver, agency company stock
13 or other capital stock, or benefit certificates or
14 shares in any common-law corporation, or securities or
15 any special or advisory board contracts or other
16 contracts of any kind promising returns and profits as
17 an inducement to insurance;

18 (7) Unfair discrimination.
19 (A) Making or permitting any unfair discrimination
20 between individuals of the same class and equal
21 expectation of life in the rates charged for any
22 policy of life insurance or annuity contract or



1 in the dividends or other benefits payable
2 thereon, or in any other of the terms and
3 conditions of the contract;

4 (B) Making or permitting any unfair discrimination in
5 favor of particular individuals or persons, or
6 between insureds or subjects of insurance having
7 substantially like insuring, risk, and exposure
8 factors, or expense elements, in the terms or
9 conditions of any insurance contract, or in the
10 rate or amount of premium charge therefor, or in
11 the benefits payable or in any other rights or
12 privilege accruing thereunder;

13 (C) Making or permitting any unfair discrimination
14 between individuals or risks of the same class
15 and of essentially the same hazards by refusing
16 to issue, refusing to renew, canceling, or
17 limiting the amount of insurance coverage on a
18 property or casualty risk because of the
19 geographic location of the risk, unless:

20 (i) The refusal, cancellation, or limitation is
21 for a business purpose which is not a mere
22 pretext for unfair discrimination; or



- 1 (ii) The refusal, cancellation, or limitation is
- 2 required by law or regulatory mandate;
- 3 (D) Making or permitting any unfair discrimination
- 4 between individuals or risks of the same class
- 5 and of essentially the same hazards by refusing
- 6 to issue, refusing to renew, canceling, or
- 7 limiting the amount of insurance coverage on a
- 8 residential property risk, or the personal
- 9 property contained therein, because of the age of
- 10 the residential property, unless:
- 11 (i) The refusal, cancellation, or limitation is
- 12 for a business purpose which is not a mere
- 13 pretext for unfair discrimination; or
- 14 (ii) The refusal, cancellation, or limitation is
- 15 required by law or regulatory mandate;
- 16 (E) Refusing to insure, refusing to continue to
- 17 insure, or limiting the amount of coverage
- 18 available to an individual because of the sex or
- 19 marital status of the individual; however,
- 20 nothing in this subsection shall prohibit an
- 21 insurer from taking marital status into account



1 for the purpose of defining persons eligible for
2 dependent benefits;

3 (F) Terminating or modifying coverage, or refusing to
4 issue or renew any property or casualty policy or
5 contract of insurance solely because the
6 applicant or insured or any employee of either is
7 mentally or physically impaired; provided that
8 this subparagraph shall not apply to accident and
9 health or sickness insurance sold by a casualty
10 insurer; provided further that this subparagraph
11 shall not be interpreted to modify any other
12 provision of law relating to the termination,
13 modification, issuance, or renewal of any
14 insurance policy or contract;

15 (G) Refusing to insure, refusing to continue to
16 insure, or limiting the amount of coverage
17 available to an individual based solely upon the
18 individual's having taken a human
19 immunodeficiency virus (HIV) test prior to
20 applying for insurance; or

21 (H) Refusing to insure, refusing to continue to
22 insure, or limiting the amount of coverage



1 available to an individual because the individual
2 refuses to consent to the release of information
3 which is confidential as provided in section 325-
4 101; provided that nothing in this subparagraph
5 shall prohibit an insurer from obtaining and
6 using the results of a test satisfying the
7 requirements of the commissioner, which was taken
8 with the consent of an applicant for insurance;
9 provided further that any applicant for insurance
10 who is tested for HIV infection shall be afforded
11 the opportunity to obtain the test results,
12 within a reasonable time after being tested, and
13 that the confidentiality of the test results
14 shall be maintained as provided by section
15 325-101;

16 (8) Rebates. Except as otherwise expressly provided by
17 law:

18 (A) Knowingly permitting or offering to make or
19 making any contract of insurance, or agreement as
20 to the contract other than as plainly expressed
21 in the contract, or paying or allowing, or giving
22 or offering to pay, allow, or give, directly or



1 indirectly, as inducement to the insurance, any
2 rebate of premiums payable on the contract, or
3 any special favor or advantage in the dividends
4 or other benefits, or any valuable consideration
5 or inducement not specified in the contract; or

6 (B) Giving, selling, or purchasing, or offering to
7 give, sell, or purchase as inducement to the
8 insurance or in connection therewith, any stocks,
9 bonds, or other securities of any insurance
10 company or other corporation, association, or
11 partnership, or any dividends or profits accrued
12 thereon, or anything of value not specified in
13 the contract;

14 (9) Nothing in paragraph (7) or (8) shall be construed as
15 including within the definition of discrimination or
16 rebates any of the following practices:

17 (A) In the case of any life insurance policy or
18 annuity contract, paying bonuses to policyholders
19 or otherwise abating their premiums in whole or
20 in part out of surplus accumulated from
21 nonparticipating insurance; provided that any
22 bonus or abatement of premiums shall be fair and



- 1 equitable to policyholders and in the best
2 interests of the insurer and its policyholders;
- 3 (B) In the case of life insurance policies issued on
4 the industrial debit plan, making allowance to
5 policyholders who have continuously for a
6 specified period made premium payments directly
7 to an office of the insurer in an amount which
8 fairly represents the saving in collection
9 expense;
- 10 (C) Readjustment of the rate of premium for a group
11 insurance policy based on the loss or expense
12 experience thereunder, at the end of the first or
13 any subsequent policy year of insurance
14 thereunder, which may be made retroactive only
15 for the policy year; and
- 16 (D) In the case of any contract of insurance, the
17 distribution of savings, earnings, or surplus
18 equitably among a class of policyholders, all in
19 accordance with this article;
- 20 (10) Refusing to provide or limiting coverage available to
21 an individual because the individual may have a third-
22 party claim for recovery of damages; provided that:



- 1 (A) Where damages are recovered by judgment or
2 settlement of a third-party claim, reimbursement
3 of past benefits paid shall be allowed pursuant
4 to section 663-10;
- 5 (B) This paragraph shall not apply to entities
6 licensed under chapter 386 or 431:10C; and
- 7 (C) For entities licensed under chapter 432 or 432D:
8 (i) It shall not be a violation of this section
9 to refuse to provide or limit coverage
10 available to an individual because the
11 entity determines that the individual
12 reasonably appears to have coverage
13 available under chapter 386 or 431:10C; and
14 (ii) Payment of claims to an individual who may
15 have a third-party claim for recovery of
16 damages may be conditioned upon the
17 individual first signing and submitting to
18 the entity documents to secure the lien and
19 reimbursement rights of the entity and
20 providing information reasonably related to
21 the entity's investigation of its liability
22 for coverage.



1 Any individual who knows or reasonably should
2 know that the individual may have a third-party
3 claim for recovery of damages and who fails to
4 provide timely notice of the potential claim to
5 the entity, shall be deemed to have waived the
6 prohibition of this paragraph against refusal or
7 limitation of coverage. "Third-party claim" for
8 purposes of this paragraph means any tort claim
9 for monetary recovery or damages that the
10 individual has against any person, entity, or
11 insurer, other than the entity licensed under
12 chapter 432 or 432D;

- 13 (11) Unfair claim settlement practices. Committing or
14 performing with such frequency as to indicate a
15 general business practice any of the following:
- 16 (A) Misrepresenting pertinent facts or insurance
17 policy provisions relating to coverages at issue;
 - 18 (B) With respect to claims arising under its
19 policies, failing to respond with reasonable
20 promptness, in no case more than fifteen working
21 days, to communications received from:
 - 22 (i) The insurer's policyholder;



1 (ii) Any other persons, including the
2 commissioner; or

3 (iii) The insurer of a person involved in an
4 incident in which the insurer's policyholder
5 is also involved.

6 The response shall be more than an acknowledgment
7 that such person's communication has been
8 received, and shall adequately address the
9 concerns stated in the communication;

10 (C) Failing to adopt and implement reasonable
11 standards for the prompt investigation of claims
12 arising under insurance policies;

13 (D) Refusing to pay claims without conducting a
14 reasonable investigation based upon all available
15 information;

16 (E) Failing to affirm or deny coverage of claims
17 within a reasonable time after proof of loss
18 statements have been completed;

19 (F) Failing to offer payment within thirty calendar
20 days of affirmation of liability, if the amount
21 of the claim has been determined and is not in
22 dispute;



- 1 (G) Failing to provide the insured, or when
2 applicable the insured's beneficiary, with a
3 reasonable written explanation for any delay, on
4 every claim remaining unresolved for thirty
5 calendar days from the date it was reported;
- 6 (H) Not attempting in good faith to effectuate
7 prompt, fair, and equitable settlements of claims
8 in which liability has become reasonably clear;
- 9 (I) Compelling insureds to institute litigation to
10 recover amounts due under an insurance policy by
11 offering substantially less than the amounts
12 ultimately recovered in actions brought by the
13 insureds;
- 14 (J) Attempting to settle a claim for less than the
15 amount to which a reasonable person would have
16 believed the person was entitled by reference to
17 written or printed advertising material
18 accompanying or made part of an application;
- 19 (K) Attempting to settle claims on the basis of an
20 application which was altered without notice,
21 knowledge, or consent of the insured;



- 1 (L) Making claims payments to insureds or
2 beneficiaries not accompanied by a statement
3 setting forth the coverage under which the
4 payments are being made;
- 5 (M) Making known to insureds or claimants a policy of
6 appealing from arbitration awards in favor of
7 insureds or claimants for the purpose of
8 compelling them to accept settlements or
9 compromises less than the amount awarded in
10 arbitration;
- 11 (N) Delaying the investigation or payment of claims
12 by requiring an insured, claimant, or the
13 physician or advanced practice registered nurse
14 of either to submit a preliminary claim report
15 and then requiring the subsequent submission of
16 formal proof of loss forms, both of which
17 submissions contain substantially the same
18 information;
- 19 (O) Failing to promptly settle claims, where
20 liability has become reasonably clear, under one
21 portion of the insurance policy coverage to



1 influence settlements under other portions of the
2 insurance policy coverage;

3 (P) Failing to promptly provide a reasonable
4 explanation of the basis in the insurance policy
5 in relation to the facts or applicable law for
6 denial of a claim or for the offer of a
7 compromise settlement; and

8 (Q) Indicating to the insured on any payment draft,
9 check, or in any accompanying letter that the
10 payment is "final" or is "a release" of any claim
11 if additional benefits relating to the claim are
12 probable under coverages afforded by the policy;
13 unless the policy limit has been paid or there is
14 a bona fide dispute over either the coverage or
15 the amount payable under the policy;

16 (12) Failure to maintain complaint handling procedures.
17 Failure of any insurer to maintain a complete record
18 of all the complaints which it has received since the
19 date of its last examination under section 431:2-302.
20 This record shall indicate the total number of
21 complaints, their classification by line of insurance,
22 the nature of each complaint, the disposition of these



1 complaints, and the time it took to process each
2 complaint. For purposes of this section, "complaint"
3 means any written communication primarily expressing a
4 grievance;

5 (13) Misrepresentation in insurance applications. Making
6 false or fraudulent statements or representations on
7 or relative to an application for an insurance policy,
8 for the purpose of obtaining a fee, commission, money,
9 or other benefit from any insurer, producer, or
10 individual; and

11 (14) Failure to obtain information. Failure of any
12 insurance producer, or an insurer where no producer is
13 involved, to comply with section 431:10D-623(a), (b),
14 or (c) by making reasonable efforts to obtain
15 information about a consumer before making a
16 recommendation to the consumer to purchase or exchange
17 an annuity."

18 SECTION 12. Section 432E-36, Hawaii Revised Statutes, is
19 amended as follows:

20 1. By amending subsection (b) to read:

21 "(b) An enrollee or the enrollee's appointed
22 representative may make an oral request for an expedited



1 external review of the adverse action if the enrollee's treating
2 physician or advanced practice registered nurse certifies, in
3 writing, that the health care service or treatment that is the
4 subject of the request would be significantly less effective if
5 not promptly initiated. A written request for an expedited
6 external review pursuant to this subsection shall include, and
7 oral request shall be promptly followed by, a certification
8 signed by the enrollee's treating physician or treating advanced
9 practice registered nurse and the authorization for release and
10 disclosures required by section 432E-33. Upon receipt of all
11 items required by this subsection, the commissioner shall
12 immediately notify the health carrier."

13 2. By amending subsection (g) to read:

14 "(g) Except for a request for an expedited external review
15 made pursuant to subsection (b), within three business days
16 after the date of receipt of the request, the commissioner shall
17 notify the health carrier that the enrollee has requested an
18 expedited external review pursuant to this section. Within five
19 business days following the date of receipt of notice, the
20 health carrier shall determine whether:

21 (1) The individual is or was an enrollee in the health
22 benefit plan at the time the health care service or



1 treatment was recommended or requested or, in the case
2 of a retrospective review, was an enrollee in the
3 health benefit plan at the time the health care
4 service or treatment was provided;

5 (2) The recommended or requested health care service or
6 treatment that is the subject of the adverse action:

7 (A) Would be a covered benefit under the enrollee's
8 health benefit plan but for the health carrier's
9 determination that the service or treatment is
10 experimental or investigational for the
11 enrollee's particular medical condition; and

12 (B) Is not explicitly listed as an excluded benefit
13 under the enrollee's health benefit plan;

14 (3) The enrollee's treating physician or treating advanced
15 practice registered nurse has certified in writing
16 that:

17 (A) Standard health care services or treatments have
18 not been effective in improving the condition of
19 the enrollee;

20 (B) Standard health care services or treatments are
21 not medically appropriate for the enrollee; or



1 (C) There is no available standard health care
2 service or treatment covered by the health
3 carrier that is more beneficial than the health
4 care service or treatment that is the subject of
5 the adverse action;

6 (4) The enrollee's treating physician[+] or treating
7 advanced practice registered nurse:

8 (A) Has recommended a health care service or
9 treatment that the physician or advanced practice
10 registered nurse certifies, in writing, is likely
11 to be more beneficial to the enrollee, in the
12 physician's or advanced practice registered
13 nurse's opinion, than any available standard
14 health care services or treatments; or

15 (B) Who is a licensed, board certified or board
16 eligible physician qualified to practice in the
17 area of medicine appropriate to treat the
18 enrollee's condition, has certified in writing
19 that scientifically valid studies using accepted
20 protocols demonstrate that the health care
21 service or treatment that is the subject of the
22 adverse action is likely to be more beneficial to



1 the enrollee than any available standard health
2 care services or treatments;

3 (5) The enrollee has exhausted the health carrier's
4 internal appeals process or the enrollee is not
5 required to exhaust the health carrier's internal
6 appeals process pursuant to section 432E-33(b); and

7 (6) The enrollee has provided all the information and
8 forms required by the commissioner that are necessary
9 to process an external review, including the release
10 form and disclosure of conflict of interest
11 information as provided under section 432E-5."

12 SECTION 13. Section 435E-41, Hawaii Revised Statutes, is
13 amended to read as follows:

14 "**§435E-41 Unfair methods of competition and deceptive acts**
15 **or practices.** The following are unfair methods of competition
16 and deceptive acts or practices with respect to cooperative
17 corporations or interindemnity arrangements under this chapter:

18 (1) Making any false or misleading statement as to, or
19 issuing, circulating, or causing to be made, issued,
20 or circulated, any estimate, illustration, circular,
21 or statement misrepresenting the terms of any
22 interindemnity arrangement or the benefits or



1 advantages promised thereby, or making any misleading
2 representation or any misrepresentation as to the
3 financial condition of an interindemnity arrangement,
4 or making any misrepresentation to any participating
5 member for the purpose of inducing or tending to
6 induce the member to lapse, forfeit, or surrender his
7 or her rights to indemnification under the
8 interindemnity arrangement. It shall be a false or
9 misleading statement to state or represent that a
10 cooperative corporation or interindemnity arrangement
11 is or constitutes "insurance" or an "insurance
12 company" or an "insurance policy".

- 13 (2) Making or disseminating or causing to be made or
14 disseminated before the public in this State, in any
15 newspaper or other publication, or any advertising
16 device, or by public outcry or proclamation, or in any
17 other manner or means whatsoever, any statement
18 containing any assertion, representation, or statement
19 with respect to such cooperative corporations or
20 interindemnity arrangements, or with respect to any
21 person in the conduct of such cooperative corporations
22 or interindemnity arrangements, which is untrue,



1 deceptive, or misleading, and which is known, or which
2 by the exercise of reasonable care should be known, to
3 be untrue, deceptive, or misleading. It shall be a
4 false or misleading statement to state or represent
5 that a cooperative corporation or interindemnity
6 arrangement is or constitutes "insurance" or an
7 "insurance company" or an "insurance policy".

8 (3) Entering into any agreement to commit, or by any
9 concerted action committing, any act of boycott,
10 coercion, or intimidation resulting in or tending to
11 result in an unreasonable restraint of, or monopoly
12 in, such cooperative corporations or interindemnity
13 arrangements.

14 (4) Filing with any supervisory or other public official,
15 or making, publishing, disseminating, circulating, or
16 delivering to any person, or placing before the
17 public, or causing directly or indirectly, to be made,
18 published, disseminated, circulated, or delivered to
19 any person, or placed before the public any false
20 statement of financial conditions of such a
21 cooperative corporation or interindemnity arrangement
22 with intent to deceive.



1 (5) Making any false entry in any book, report, or
2 statement of such a cooperative corporation or
3 interindemnity arrangement with intent to deceive any
4 agent or examiner lawfully appointed to examine into
5 its condition or into any of its affairs, or any
6 public official to whom such a cooperative corporation
7 or interindemnity arrangement is required by law to
8 report or who has authority by law to examine into its
9 conditions or into any of its affairs, or, with like
10 intent, wilfully omitting to make a true entry of any
11 material fact pertaining to a cooperative corporation
12 or interindemnity arrangement in any book, report, or
13 statement of a cooperative corporation or
14 interindemnity arrangement.

15 (6) Making or disseminating, or causing to be made or
16 disseminated, before the public in this State, in any
17 newspaper or other publication, or any other
18 advertising device, or by public outcry or
19 proclamation, or in any other manner or means
20 whatever, whether directly or by implication, any
21 statement that such a cooperative corporation or



1 interindemnity arrangement is insured against
2 insolvency, or otherwise protected by law.

3 (7) Knowingly committing or performing with such frequency
4 as to indicate a general business practice any of the
5 following unfair claims settlement practices:

6 (A) Misrepresenting to claimants pertinent facts or
7 provisions relating to any coverage at issue.

8 (B) Failing to acknowledge and act promptly upon
9 communications with respect to claims arising
10 under such interindemnity arrangements.

11 (C) Failing to adopt and implement reasonable
12 standards for the prompt investigation and
13 processing of claims arising under such
14 interindemnity arrangement.

15 (D) Failing to affirm or deny coverage of claims
16 within a reasonable time after proof of claim
17 requirements have been completed and submitted by
18 the participating member.

19 (E) Not attempting in good faith to effectuate
20 prompt, fair, and equitable settlements of claims
21 in which liability has become reasonably clear.



1 (F) Compelling participating members to institute
2 litigation to recover amounts due under an
3 interindemnity arrangement by offering
4 substantially less than the amounts ultimately
5 recovered in actions brought by such
6 participating members when such participating
7 members have made claims under such
8 interindemnity arrangements for amounts
9 reasonably similar to the amounts ultimately
10 recovered.

11 (G) Attempting to settle a claim by a participating
12 member for less than the amount to which a
13 reasonable person would have believed he or she
14 was entitled by reference to written or printed
15 advertising material accompanying or made part of
16 an application for membership in such an
17 interindemnity arrangement.

18 (H) Attempting to settle claims on the basis of an
19 interindemnity arrangement which was altered
20 without notice to the participating member.



- 1 (I) Failing, after payment of a claim, to inform
2 participating members, upon request by them, of
3 the coverage under which payment has been made.
- 4 (J) Making known to claimants a practice of such
5 cooperative corporation or interindemnity
6 arrangement of appealing from arbitration awards
7 in favor of claimants for the purpose of
8 compelling them to accept settlements or
9 compromises less than the amount awarded in
10 arbitration.
- 11 (K) Delaying the investigation or payment of claims
12 by requiring a claimant, or ~~[his or her]~~ the
13 claimant's physician[7] or advanced practice
14 registered nurse, to submit a preliminary claim
15 report, and then requiring the subsequent
16 submission of formal proof of loss forms, both of
17 which submissions contain substantially the same
18 information.
- 19 (L) Failing to settle claims promptly, where
20 liability has become apparent, under one portion
21 of an interindemnity arrangement in order to



1 influence settlements under other portions of the
2 interindemnity arrangement.

3 (M) Failing to provide promptly a reasonable
4 explanation of the basis relied on in the
5 interindemnity arrangement, in relation to the
6 facts of applicable law, or the denial of a claim
7 or for the offer of a compromise settlement.

8 (N) Directly advising a claimant not to obtain the
9 services of an attorney.

10 (O) Misleading a claimant as to the applicable
11 statute of limitations."

12 SECTION 14. Section 457-8.8, Hawaii Revised Statutes, is
13 amended to read as follows:

14 "[~~f~~]**§457-8.8 Advanced practice registered nurses; global**
15 **signature authority.**[~~]~~~~(a)~~ Notwithstanding any other law to
16 the contrary, advanced practice registered nurses shall be
17 authorized to sign, certify, or endorse all documents relating
18 to health care within their scope of practice provided for their
19 patients, including workers' compensation verification
20 documents, verification and evaluation forms of the department
21 of human services and department of education, verification and
22 authorization forms of the department of health, and physical



1 examination forms; provided that nothing in this section shall
2 be construed to expand the scope of practice of advanced
3 practice registered nurses.

4 ~~[(b) This section shall not apply to a certificate of~~
5 ~~disability that may be used to obtain parking privileges for~~
6 ~~disabled persons pursuant to part III of chapter 291.]"~~

7 SECTION 15. Section 612-4, Hawaii Revised Statutes, is
8 amended by amending subsection (b) to read as follows:

9 "(b) A prospective juror is disqualified to serve as a
10 juror if the prospective juror:

11 (1) Is incapable, by reason of the prospective juror's
12 disability, of rendering satisfactory jury service;
13 but a prospective juror claiming this disqualification
14 may be required to submit a physician's ~~[or]~~,
15 physician assistant's, or advanced practice registered
16 nurse's certificate as to the disability, and the
17 certifying physician ~~[or]~~, physician assistant, or
18 advanced practice registered nurse is subject to
19 inquiry by the court at its discretion;

20 (2) Has been convicted of a felony in a state or federal
21 court and not pardoned; or

22 (3) Fails to meet the qualifications in subsection (a)."



1 SECTION 16. This Act does not affect rights and duties
2 that matured, penalties that were incurred, and proceedings that
3 were begun before its effective date.

4 SECTION 17. Statutory material to be repealed is bracketed
5 and stricken. New statutory material is underscored.

6 SECTION 18. This Act shall take effect upon its approval.
7

INTRODUCED BY: Randy D. Baker

McDonald Jr

[Signature]

[Signature]
Will Egan

David Y. Lee
Clarence W. Fishburn

Gov. R.

[Signature]



S.B. NO. 2492

Report Title:

Advanced Practice Registered Nurse; Scope of Practice

Description:

Amends various sections of the Hawaii Revised Statutes to enable advanced practice registered nurses to practice to the fullest extent of their training and education.

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

