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# A BILL FOR AN ACT

RELATING TO PHYSICIAN ASSISTANTS.

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

1 PART I

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

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

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

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



1 (2) It is compounded, prepared, labeled and packaged for  
2 delivery to the ultimate user by a practitioner acting  
3 in the usual course of the practitioner's professional  
4 practice;

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

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

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

16 ""Physician assistant" means a person licensed under  
17 section 453-5.3 [~~, who is registered under this chapter to~~  
18 ~~administer, prescribe, or dispense a controlled substance under~~  
19 ~~the authority and supervision of a physician registered under~~  
20 ~~section 329-33, but who is not authorized to request, receive,~~  
21 ~~or sign for professional controlled substance samples]~~."



1           3. By amending the definition of "physician-patient  
2 relationship" to read:

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

- 9           (1) Personally perform a face-to-face history and physical  
10 examination of the patient that is appropriate to the  
11 specialty training and experience of the physician,  
12 physician assistant, or the designated member of the  
13 physician's or physician assistant's health care team,  
14 make a diagnosis and formulate a therapeutic plan, or  
15 personally treat a specific injury or condition;
- 16           (2) Discuss with the patient the diagnosis or treatment,  
17 including the benefits of other treatment options; and
- 18           (3) Ensure the availability of appropriate follow-up  
19 care."

20           4. By amending the definition of "practitioner" to read:  
21           "Practitioner" means:



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

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

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

17 5. By repealing the definition of "supervising physician":  
18 [~~"Supervising physician" means a physician licensed to~~  
19 ~~practice medicine in the State and registered under section 329-~~  
20 ~~33, who supervises a physician assistant and retains full~~  
21 ~~professional and legal responsibility for the performance of the~~



1 ~~supervised physician assistant and the care and treatment of the~~  
2 ~~patient." ]~~

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

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

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

8 (1) A prescription for a controlled substance shall be  
9 issued for a legitimate medical purpose by an  
10 individual practitioner acting in the usual course of  
11 the practitioner's professional practice. The  
12 responsibility for the proper prescribing and  
13 dispensing of controlled substances shall be upon the  
14 prescribing practitioner, but a corresponding  
15 responsibility shall rest with the pharmacist who  
16 fills the prescription. An order purporting to be a  
17 prescription issued not in the usual course of  
18 professional treatment or for legitimate and  
19 authorized research shall not be deemed a prescription  
20 within the meaning and intent of this section, and the  
21 person who knowingly fills such a purported



1 prescription, as well as the person who issues the  
2 prescription, shall be subject to the penalties  
3 provided for violations of this chapter;

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

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

20 (4) A practitioner may administer or dispense directly  
21 (but not prescribe) a narcotic drug listed in any



1 schedule to a narcotic dependent person for the  
2 purpose of maintenance or detoxification treatment if  
3 the practitioner meets both of the following  
4 conditions:

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

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

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



1 treatment may be carried out for not more than three  
2 days and may not be renewed or extended;

3 (6) This section is not intended to impose any limitations  
4 on a physician, physician assistant, or authorized  
5 hospital staff to administer or dispense narcotic  
6 drugs in a hospital to maintain or detoxify a person  
7 as an incidental adjunct to medical or surgical  
8 treatment of conditions other than addiction, or to  
9 administer or dispense narcotic drugs to persons with  
10 intractable pain in which no relief or cure is  
11 possible or none has been found after reasonable  
12 efforts;

13 (7) A practitioner may administer or dispense (including  
14 prescribe) any schedule III, IV, or V narcotic drug  
15 approved by the Food and Drug Administration  
16 specifically for use in maintenance or detoxification  
17 treatment to a narcotic dependent person if the  
18 practitioner complies with the requirements of title  
19 21 Code of Federal Regulations section 1301.28, the  
20 registration and any other requirements of section  
21 329-32(e), and any other federal or state regulatory





- 1 standards relating to treatment qualification,  
2 security, records, and unsupervised use of drugs;
- 3 (8) An individual practitioner shall not prescribe or  
4 dispense a substance included in schedule II, III, IV,  
5 or V for that individual practitioner's personal use,  
6 except in a medical emergency; and
- 7 (9) A pharmacist shall not dispense a substance included  
8 in schedule II, III, IV, or V for the pharmacist's  
9 personal use.
- 10 (i) Prescriptions for controlled substances shall be  
11 issued only as follows:
- 12 (1) All prescriptions for controlled substances shall  
13 originate from within the State and be dated as of,  
14 and signed on, the day when the prescriptions were  
15 issued and shall contain:
- 16 (A) The first and last name and address of the  
17 patient; and
- 18 (B) The drug name, strength, dosage form, quantity  
19 prescribed, and directions for use. Where a  
20 prescription is for gamma hydroxybutyric acid,  
21 methadone, or buprenorphine, the practitioner



1           shall record as part of the directions for use,  
2           the medical need of the patient for the  
3           prescription.

4           Except for electronic prescriptions, controlled  
5           substance prescriptions shall be no larger than eight  
6           and one-half inches by eleven inches and no smaller  
7           than three inches by four inches. A practitioner may  
8           sign a prescription in the same manner as the  
9           practitioner would sign a check or legal document  
10          (e.g., J.H. Smith or John H. Smith) and shall use both  
11          words and figures (e.g., alphabetically and  
12          numerically as indications of quantity, such as five  
13          (5)), to indicate the amount of controlled substance  
14          to be dispensed. Where an oral order or electronic  
15          prescription is not permitted, prescriptions shall be  
16          written with ink or indelible pencil or typed, shall  
17          be manually signed by the practitioner, and shall  
18          include the name, address, telephone number, and  
19          registration number of the practitioner. The  
20          prescriptions may be prepared by a secretary or agent  
21          for the signature of the practitioner, but the



1           prescribing practitioner shall be responsible in case  
2           the prescription does not conform in all essential  
3           respects to this chapter and any rules adopted  
4           pursuant to this chapter. In receiving an oral  
5           prescription from a practitioner, a pharmacist shall  
6           promptly reduce the oral prescription to writing,  
7           which shall include the following information: the  
8           drug name, strength, dosage form, quantity prescribed  
9           in figures only, and directions for use; the date the  
10          oral prescription was received; the full name, Drug  
11          Enforcement Administration registration number, and  
12          oral code number of the practitioner; and the name and  
13          address of the person for whom the controlled  
14          substance was prescribed or the name of the owner of  
15          the animal for which the controlled substance was  
16          prescribed.

17                 A corresponding liability shall rest upon a  
18          pharmacist who fills a prescription not prepared in  
19          the form prescribed by this section. A pharmacist may  
20          add a patient's missing address or change a patient's  
21          address on all controlled substance prescriptions



1 after verifying the patient's identification and  
2 noting the identification number on the back of the  
3 prescription document on file. The pharmacist shall  
4 not make changes to the patient's name, the controlled  
5 substance being prescribed, the quantity of the  
6 prescription, the practitioner's Drug Enforcement  
7 Administration number, the practitioner's name, the  
8 practitioner's electronic signature, or the  
9 practitioner's signature;

10 (2) An intern, resident, or foreign-trained physician, or  
11 a ~~[physician]~~ United States-trained physician or  
12 physician assistant on the staff of a Department of  
13 Veterans Affairs facility or other facility serving  
14 veterans, exempted from registration under this  
15 chapter, shall include on all prescriptions issued by  
16 the ~~[physician+]~~ appropriate health care professional:

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

19 (B) The special internal code number assigned to the  
20 physician or physician assistant by the hospital  
21 or other institution in lieu of the registration



1                    number of the practitioner required by this  
2                    section.

3                    The hospital or other institution shall forward a copy  
4                    of this special internal code number list to the  
5                    department as often as necessary to update the  
6                    department with any additions or deletions. Failure  
7                    to comply with this paragraph shall result in the  
8                    suspension of that facility's privilege to fill  
9                    controlled substance prescriptions at pharmacies  
10                   outside of the hospital or other institution. Each  
11                   written prescription shall have the name of the  
12                   physician or physician assistant stamped, typed, or  
13                   hand-printed on it, as well as the signature of the  
14                   physician or physician assistant;

15                   (3) An official exempted from registration shall include  
16                   on all prescriptions issued by the official:

17                   (A) The official's branch of service or agency (e.g.,  
18                   "U.S. Army" or "Public Health Service"); and

19                   (B) The official's service identification number, in  
20                   lieu of the registration number of the  
21                   practitioner required by this section. The



1 service identification number for a Public Health  
2 Service employee shall be the employee's social  
3 security or other government issued  
4 identification number.

5 Each prescription shall have the name of the officer  
6 stamped, typed, or handprinted on it, as well as the  
7 signature of the officer; and

8 (4) A physician assistant [~~registered~~] licensed to  
9 prescribe controlled substances [~~under the~~  
10 ~~authorization of a supervising physician~~] shall  
11 include the federal Drug Enforcement Administration  
12 registration number of the physician assistant on all  
13 controlled substance prescriptions issued[+]

14 ~~(A) The Drug Enforcement Administration registration~~  
15 ~~number of the supervising physician; and~~

16 ~~(B) The Drug Enforcement Administration registration~~  
17 ~~number of the physician assistant].~~

18 Each written controlled substance prescription issued  
19 shall include the printed, stamped, typed, or hand-  
20 printed name, address, and phone number of [~~both the~~  
21 ~~supervising physician and~~] the physician assistant,



1 and shall be signed by the physician assistant. [The  
2 ~~medical record of each written controlled substance~~  
3 ~~prescription issued by a physician assistant shall be~~  
4 ~~reviewed and initialed by the physician assistant's~~  
5 ~~supervising physician within seven working days.] "~~

6 2. By amending subsection (1) to read:

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

18 (1) The information shall be communicated only between the  
19 prescribing practitioner or the prescriber's  
20 authorized agent and the pharmacy of the patient's



- 1 choice. The original prescription shall be maintained  
2 by the practitioner in accordance with section 329-36;
- 3 (2) The information shall be communicated in a  
4 retrievable, recognizable format acceptable to the  
5 intended recipient and shall include the physician's  
6 or physician assistant's oral code designation and the  
7 name of the recipient pharmacy;
- 8 (3) No electronic system, software, or other intervening  
9 mechanism or party shall alter the practitioner's  
10 prescription, order entry, selection, or intended  
11 selection without the practitioner's approval on a per  
12 prescription per order basis. Facsimile prescription  
13 information shall not be altered by any system,  
14 software, or other intervening mechanism or party  
15 prior to receipt by the intended pharmacy;
- 16 (4) The prescription information processing system shall  
17 provide for confidentiality safeguards required by  
18 federal or state law; and
- 19 (5) Prescribing practitioners and pharmacists shall  
20 exercise prudent and professional judgment regarding  
21 the accuracy, validity, and authenticity of any





1 facsimile prescription information. The facsimile  
2 shall serve as the original written prescription for  
3 purposes of this section and shall be maintained in  
4 accordance with section 329-36."

5 PART II

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

9 "§453- Definitions. As used in this chapter, unless  
10 the context requires otherwise:

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

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

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



1       "Durable medical equipment" means but is not limited to  
2 air-fluidized beds and other support surfaces, blood sugar  
3 monitors, blood sugar test strips, canes, commode chairs,  
4 continuous passive motion machines, continuous positive airway  
5 pressure devices and accessories, crutches, enteral nutrition  
6 supplies and equipment, glucose control solutions, hospital  
7 beds, hyperbaric oxygen therapy, infusion pumps and supplies,  
8 lancet devices and lancets, nebulizers and nebulizer  
9 medications, oxygen equipment and related accessories, patient  
10 lifts, suction pumps, traction equipment, walkers, wheelchairs,  
11 and scooters.

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

15       "Legend drug" or "prescription drug" means any drug that is  
16 approved by the United States Food and Drug Administration and  
17 that is required by federal or state law to be dispensed to the  
18 public only by prescription of a licensed physician, physician  
19 assistant, or other licensed provider.



1       "National Commission on Certification of Physician  
2 Assistants" means the United States' certifying organization for  
3 physician assistants.

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

14       "Osteopathic medicine" means the utilization of full  
15 methods of diagnosis and treatment in physical health, mental  
16 health, and disease, including the prescribing and administering  
17 any drugs or biologicals, operative surgery, obstetrics, or  
18 radiological or other electromagnetic emissions, while placing  
19 special emphasis on the interrelation of the neuro-  
20 musculoskeletal system to all other body systems and the  
21 amelioration of disturbed structure-function relationships by



1 the clinical application of the osteopathic diagnosis and  
2 therapeutic skills for the maintenance of health and treatment  
3 of disease.

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

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

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

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

18 "Telemedicine" means the use of telecommunications  
19 services, as that term is defined in sections 269-1, and  
20 includes but is not limited to voice, real-time video  
21 conferencing-based communication, secure interactive and non-



1 interactive web-based communication, and secure asynchronous  
2 information exchange to transmit patient medical information,  
3 such as diagnostic-quality digital images and laboratory results  
4 for medical interpretation and diagnosis, for the purposes of  
5 delivering enhanced health care services and information while a  
6 patient is at an originating site and the physician or physician  
7 assistant is evaluating a patient at a distant site or treating  
8 a patient separated by distance from the physician or physician  
9 assistants. "Telemedicine" shall include "telehealth".

10 §453- Physician assistant; scope of practice. (a) A  
11 physician assistant may provide any legal medical service for  
12 which the physician assistant is prepared by education,  
13 training, and experience, and is competent to perform.

14 (b) A physician assistant shall:

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

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

19 (A) Laws that grant patient-provider immunity from  
20 testifying about confidential information;



1           (B) Mandates to report child and elder abuse and  
2                           certain types of injuries, such as wounds from  
3                           firearms;

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

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

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

19           (c) A physician assistant may:

20           (1) Exercise autonomy in medical decision-making;

21           (2) Obtain informed consent;



- 1        (3) Provide services in healthcare facilities or programs  
2        including but not limited to physicians' offices,  
3        hospitals, hospice facilities, nursing homes,  
4        ambulatory facilities, assisted living facilities,  
5        medical clinics, behavioral or mental facilities,  
6        medical organizations, health care centers, and  
7        school-based or college-based services;
- 8        (4) Supervise, delegate and assign therapeutic and  
9        diagnostic measures to licensed or unlicensed  
10       personnel;
- 11       (5) Certify the health or disability of a patient as  
12       required by any local, state, or federal program; and
- 13       (6) Authenticate any document with their signature,  
14       certification, stamp, verification, affidavit, or  
15       endorsement if it may be so authenticated by the  
16       signature, certification, stamp, verification,  
17       affidavit, or endorsement of a physician.
- 18       (d) Medical and surgical services provided by a physician  
19       assistant include but are not limited to:
- 20       (1) Obtaining and performing comprehensive health  
21       histories and physical examinations;



- 1           (2) Evaluating, diagnosing, managing, and providing  
2           medical treatment;
- 3           (3) Ordering, performing, and interpreting diagnostic  
4           studies and therapeutic procedures;
- 5           (4) Educating patients on health promotion and disease  
6           prevention;
- 7           (5) Providing consultation upon request; and
- 8           (6) Writing medical orders.
- 9           **§453-     Physician assistant; disasters; emergency field**  
10 **response; volunteering.** A physician assistant shall be allowed  
11 to provide medical care in disaster and emergency situations  
12 that occur outside of their place of employment. This exemption  
13 shall include a physician assistant who is a federal employee or  
14 licensed in another state. A physician assistant shall be  
15 granted immunity pursuant to section 663-1.5 to the same extent  
16 as other health professionals. A physician assistant who is  
17 volunteering without compensation or remuneration shall be  
18 permitted to provide medical care as indicated by the patient's  
19 condition and the standard of care, and in accordance with the  
20 physician assistant's education, training, and experience.  
21 State law shall not require a specific relationship between a





1 physician assistant, physician, or any other entity in order for  
2 a physician assistant to volunteer in any situation pursuant to  
3 this section.

4 §453- Physician assistant; continuing medical education  
5 requirements. (a) To be eligible for license renewal, a  
6 physician assistant must provide evidence of completion of a  
7 minimum of forty continuing medical education credits during the  
8 renewal period.

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

12 §453- Physician assistant; controlled substances. A  
13 physician assistant may prescribe, order, administer, and  
14 dispense legend drugs and schedule II, III, IV, or V controlled  
15 substances consistent with the physician assistant's scope of  
16 practice; provided that:

17 (1) The physician assistant shall have an active federal  
18 Drug Enforcement Administration registration number  
19 that is valid for the handling of that controlled  
20 substance and that is on file with the board;



- 1        (2) A physician assistant registered to prescribe  
2                    controlled substances shall include the federal Drug  
3                    Enforcement Administration registration number of the  
4                    physician assistant on all controlled substance  
5                    prescriptions;
- 6        (3) Each written controlled substance prescription issued  
7                    by the physician assistant shall include the printed,  
8                    stamped, typed, or hand-printed name, address, and  
9                    phone number of the physician assistant and shall be  
10                   signed by the physician assistant; and
- 11        (4) All prescriptions shall comply with applicable state  
12                   and federal laws.

13        **§453- Physician assistant; non-discrimination.** (a)  
14        Notwithstanding any provision to the contrary a physician  
15        assistant shall be included in any state program that provides  
16        for educational loan repayment for medical personnel.

17        (b) A physician assistant shall be reimbursed by any  
18        insurer licensed in this State at the same rate as physicians,  
19        nurse practitioners, and advanced practice registered nurses.  
20        Reimbursements shall be paid directly to the physician assistant  
21        or the employer of the physician assistant."



1 SECTION 4. Section 453-1, Hawaii Revised Statutes, is  
2 amended to read as follows:

3 "§453-1 Practice of medicine defined. (a) For the  
4 purposes of this chapter the practice of medicine by a  
5 physician, a physician assistant, or an osteopathic physician  
6 includes the use of drugs and medicines, water, electricity,  
7 hypnotism, osteopathic medicine, or any means or method, or any  
8 agent, either tangible or intangible, for the treatment of  
9 disease in the human subject; provided that when a duly licensed  
10 physician or osteopathic physician pronounces a person affected  
11 with any disease hopeless and beyond recovery and gives a  
12 written certificate to that effect to the person affected or the  
13 person's attendant nothing herein shall forbid any person from  
14 giving or furnishing any remedial agent or measure when so  
15 requested by or on behalf of the affected person.

16 (b) Collaboration among physicians and physician  
17 assistants shall be continuous, but shall not be construed to  
18 require the physical presence of the physician at the time and  
19 place that services are rendered or that a physician is liable  
20 for any care rendered by a physician assistant. Collaborating



1 physicians shall be considered a resource that strengthens the  
2 physician-physician assistant team approach to patient care.

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

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

10 ~~[For purposes of this chapter, "osteopathic medicine" means~~  
11 ~~the utilization of full methods of diagnosis and treatment in~~  
12 ~~physical and mental health and disease, including the~~  
13 ~~prescribing and administration of drugs and biologicals of all~~  
14 ~~kinds, operative surgery, obstetrics, radiological, and other~~  
15 ~~electromagnetic emissions, and placing special emphasis on the~~  
16 ~~interrelation of the neuro-musculoskeletal system to all other~~  
17 ~~body systems, and the amelioration of disturbed structure-~~  
18 ~~function relationships by the clinical application of the~~  
19 ~~osteopathic diagnosis and therapeutic skills for the maintenance~~  
20 ~~of health and treatment of disease.] "~~



1 SECTION 5. Section 453-1.3, Hawaii Revised Statutes, is  
2 amended to read as follows:

3 "§453-1.3 Practice of telehealth. (a) Subject to section  
4 453-2(b), nothing in this section shall preclude any physician  
5 or physician assistant acting within the scope of the  
6 physician's or physician assistant's license to practice from  
7 practicing telehealth as defined in this section.

8 (b) [~~Telehealth~~] Telemedicine services shall include a  
9 documented patient evaluation, including history and a  
10 discussion of physical symptoms adequate to establish a  
11 diagnosis and to identify underlying conditions or  
12 contraindications to the treatment recommended or provided.

13 (c) Treatment recommendations made via [~~telehealth~~]  
14 telemedicine, including issuing a prescription via electronic  
15 means, shall be held to the same standards of appropriate  
16 practice as those in traditional physician-patient or physician  
17 assistant-patient settings that do not include a face-to-face  
18 visit but in which prescribing is appropriate, including on-call  
19 telephone encounters and encounters for which a follow-up visit  
20 is arranged. Issuing a prescription based solely on an online  
21 questionnaire is not treatment for the purposes of this section



1 and does not constitute an acceptable standard of care. For the  
2 purposes of prescribing opiates or any other schedule II drugs  
3 or certifying a patient for the medical use of cannabis, a  
4 physician-patient or physician assistant-patient relationship  
5 shall only be established after an in-person consultation  
6 between the prescribing physician or physician assistant and the  
7 patient.

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

13 (e) A physician or physician assistant shall not use  
14 [~~telehealth~~] telemedicine to establish a physician-patient  
15 relationship or physician assistant-patient with a patient in  
16 this State without a license to practice medicine in Hawaii.

17 (f) A physician-patient or physician assistant-patient  
18 relationship may be established via [~~telehealth~~] telemedicine if  
19 the patient is referred to the [~~telehealth~~] telemedicine  
20 provider by another health care provider who has conducted an  
21 in-person consultation and has provided all pertinent patient



1 information to the telehealth provider. Once a provider-patient  
 2 relationship is established, a patient ~~[or]~~, physician, or  
 3 physician assistant licensed in this State may use ~~[telehealth]~~  
 4 telemedicine for any purpose, including consultation with a  
 5 medical provider licensed in another state, authorized by this  
 6 section or as otherwise provided by law.

7 (g) The physician-patient or physician assistant-patient  
 8 relationship prerequisite under this section shall not apply to  
 9 ~~[telehealth]~~ telemedicine consultations for emergency department  
 10 services.

11 (h) Reimbursement for behavioral health services provided  
 12 through ~~[telehealth]~~ telemedicine shall be equivalent to  
 13 reimbursement for the same services provided via face-to-face  
 14 contact between a health care provider and a patient.

15 (i) Services provided by ~~[telehealth]~~ telemedicine  
 16 pursuant to this chapter shall be consistent with all federal  
 17 and state privacy, security, and confidentiality laws.

18 ~~[(j) For the purposes of this section:~~

19 ~~"Distant site" means the location of the physician~~  
 20 ~~delivering services through telehealth at the time the services~~  
 21 ~~are provided.~~



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

9       ~~"Telehealth" means the use of telecommunications as that~~  
10 ~~term is defined in section 269-1, to encompass four modalities:~~  
11 ~~store and forward technologies, remote monitoring, live~~  
12 ~~consultation, and mobile health; and which shall include but not~~  
13 ~~be limited to real-time video conferencing based communication,~~  
14 ~~secure interactive and non-interactive web based communication,~~  
15 ~~and secure asynchronous information exchange, to transmit~~  
16 ~~patient medical information, including diagnostic quality~~  
17 ~~digital images and laboratory results for medical interpretation~~  
18 ~~and diagnosis, for the purposes of: delivering enhanced health~~  
19 ~~care services and information while a patient is at an~~  
20 ~~originating site and the physician is at a distant site;~~





1 ~~establishing a physician patient relationship; evaluating a~~  
2 ~~patient; or treating a patient.] "~~

3 SECTION 6. Section 453-1.5, Hawaii Revised Statutes, is  
4 amended to read as follows:

5 "§453-1.5 Pain management guidelines. The Hawaii medical  
6 board may establish guidelines for physicians or osteopathic  
7 physicians or physician assistants with respect to patients'  
8 pain management. The guidelines shall apply to all patients  
9 with severe acute pain or severe chronic pain, regardless of the  
10 patient's prior or current chemical dependency or addiction, and  
11 may include standards and procedures for chemically dependent  
12 individuals."

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

15 1. By amending the title to read:

16 "§453-2 License required for physicians; exceptions."

17 2. By amending subsection (b) to read:

18 "(b) Nothing herein shall:

19 (1) Apply to so-called Christian Scientists; provided that

20 the Christian Scientists practice the religious tenets



- 1 of their church without pretending a knowledge of  
2 medicine or surgery;
- 3 (2) Prohibit service in the case of emergency or the  
4 domestic administration of family remedies;
- 5 (3) Apply to any commissioned medical officer in the  
6 United States armed forces or public health service  
7 engaged in the discharge of one's official duty,  
8 including a commissioned medical officer employed by  
9 the United States Department of Defense, while  
10 providing direct telehealth support or services to  
11 neighbor island beneficiaries within a Hawaii National  
12 Guard armory on the island of Kauai, Hawaii, Molokai,  
13 or Maui; provided that the commissioned medical  
14 officer employed by the United States Department of  
15 Defense is credentialed by Tripler Army Medical  
16 Center;
- 17 (4) Apply to any practitioner of medicine and surgery from  
18 another state when in actual consultation, including  
19 in-person, mail, electronic, telephonic, fiber-optic,  
20 or other telehealth consultation with a licensed  
21 physician or osteopathic physician of this State, if



1 the physician or osteopathic physician from another  
2 state at the time of consultation is licensed to  
3 practice in the state in which the physician or  
4 osteopathic physician resides; provided that:

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

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

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

17 (5) Prohibit services rendered by any person certified  
18 under part II of this chapter to provide emergency  
19 medical services, or any physician assistant, when the  
20 services are rendered under the direction and control  
21 of a physician or osteopathic physician licensed in



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

15          (6) Prohibit automated external defibrillation by:

16            (A) Any first responder personnel certified by the  
17            department of health to provide automated  
18            external defibrillation when it is rendered under  
19            the medical oversight of a physician or  
20            osteopathic physician licensed in this State; or



1 (B) Any person acting in accordance with section  
2 663-1.5(e); or  
3 (7) Prohibit a radiologist duly licensed to practice  
4 medicine and provide radiology services in another  
5 state from using ~~[telehealth]~~ telemedicine while  
6 located in this State to provide radiology services to  
7 a patient who is located in the state in which the  
8 radiologist is licensed. ~~[For the purposes of this~~  
9 ~~paragraph.~~

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

13 ~~"Originating site" means the location where the~~  
14 ~~patient is located, whether accompanied or not by a~~  
15 ~~health care provider, at the time services are~~  
16 ~~provided by a radiologist through telehealth,~~  
17 ~~including but not limited to a radiologist's or health~~  
18 ~~care provider's office, hospital, health care~~  
19 ~~facility, a patient's home, and other non-medical~~  
20 ~~environments such as school-based health centers,~~



1 ~~university based health centers, or the work location~~  
2 ~~of a patient.~~

3 ~~"Radiologist" means a doctor of medicine or a~~  
4 ~~doctor of osteopathy certified in radiology by the~~  
5 ~~American Board of Radiology or the American Board of~~  
6 ~~Osteopathy.~~

7 ~~"Telehealth" means the use of telecommunications,~~  
8 ~~as that term is defined in section 269-1, to~~  
9 ~~encompass four modalities: store and forward~~  
10 ~~technologies, remote monitoring, live consultation,~~  
11 ~~and mobile health; and which shall include but not be~~  
12 ~~limited to real time video conferencing based~~  
13 ~~communication, secure interactive and non-interactive~~  
14 ~~web based communication, and secure asynchronous~~  
15 ~~information exchange, to transmit patient medical~~  
16 ~~information, including diagnostic quality digital~~  
17 ~~images and laboratory results for medical~~  
18 ~~interpretation and diagnosis, for the purpose of~~  
19 ~~delivering enhanced health care services and~~  
20 ~~information while a patient is at an originating site~~  
21 ~~and the radiologist is at a distant site. Standard~~



1           ~~telephone contacts, facsimile transmissions, or e-mail~~  
2           ~~texts, in combination or by themselves, do not~~  
3           ~~constitute a telehealth service for the purposes of~~  
4           ~~this paragraph.] "~~

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

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

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

19           "(a) The board may issue a limited and temporary license  
20 to a physician [~~or~~], osteopathic physician, or physician  
21 assistant to maintain patient services for the purpose of



1 substituting for another physician [~~or~~], osteopathic physician,  
2 or physician assistant licensed in this State to enable  
3 specialized training at an out-of-state fully accredited medical  
4 teaching institution; provided that the out-of-state physician  
5 [~~or~~], osteopathic physician, or physician assistant:

6 (1) Is board certified by the American Board of Medical  
7 Specialties [~~or~~], Bureau of Osteopathic Specialties,  
8 or National Commission on Certification of Physician  
9 Assistants in the subspecialty in which the Hawaii  
10 physician [~~or~~], osteopathic physician, or physician  
11 assistant is seeking training;

12 (2) Is a member of the teaching faculty of the accredited  
13 medical teaching institution;

14 (3) Has an unrestricted license in another state;

15 (4) Has been invited by the chief of a clinical department  
16 of a hospital; and

17 (5) Has been examined and approved by the hospital's  
18 credential process.

19 The limited and temporary license issued under this section  
20 shall expire upon notification of the board by the Hawaii-  
21 licensed physician [~~or~~], osteopathic physician, or physician





1 assistant that the physician [øx], osteopathic physician, or  
2 physician assistant has resumed the physician's [øx],  
3 osteopathic physician's, or physician assistant's practice in  
4 this State. Licenses and extensions of licenses issued under  
5 this section to an individual shall not be valid for more than  
6 nine months during any consecutive twenty-four month period.

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

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

14 (2) A statement that the hospital is sponsoring the  
15 applicant, and shall be responsible for monitoring the  
16 individual physician [øx], osteopathic physician, or  
17 physician assistant during the period of the temporary  
18 license;

19 (3) Verification of the start and end dates for the  
20 requested temporary license; and



1           (4) Verification that the chief of the clinical department  
2           is a licensed physician [øx], osteopathic physician,  
3           or physician assistant of this State."

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

6           "**§453-5 Hawaii medical board; appointment, removal,**  
7 **qualifications.** (a) For the purpose of carrying out this  
8 chapter, the governor shall appoint a Hawaii medical board whose  
9 duty it shall be to examine all applicants for license to  
10 practice medicine or surgery. [~~As used in this chapter, "board"~~  
11 ~~means the Hawaii medical board.~~

12           ~~The board shall consist of eleven persons, seven of whom~~  
13 ~~shall be physicians or surgeons licensed under the laws of the~~  
14 ~~State, two of whom shall be osteopathic physicians licensed~~  
15 ~~under the laws of the State, and two of whom shall be lay~~  
16 ~~members appointed from the public at large. Of the nine members~~  
17 ~~who are physicians, surgeons, or osteopathic physicians, at~~  
18 ~~least five shall be appointed from the city and county of~~  
19 ~~Honolulu and at least one shall be appointed from each of the~~  
20 ~~other counties. Medical societies in the various counties may~~  
21 ~~conduct elections periodically but no less frequently than every~~



1 ~~two years to determine nominees for the board to be submitted to~~  
2 ~~the governor. In making appointments, the governor may consider~~  
3 ~~recommendations submitted by the medical societies and the~~  
4 ~~public at large. Each member shall serve until a successor is~~  
5 ~~appointed and qualified.]~~

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

7 (1) Seven physicians or surgeons;

8 (2) Two osteopathic physicians;

9 (3) Two physician assistants; and

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

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

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

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

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

19 (3) Two shall have experience with physician assistant  
20 practice regardless of their residence.



1        (d) Medical societies in the counties of Hawaii, Kauai,  
2 and Maui, and in the city and county of Honolulu, may conduct  
3 periodic elections no less than every two years to determine  
4 nominees to the board, to be submitted to the governor. In  
5 making appointments, the governor shall consider recommendations  
6 submitted by the medical societies and the public. Each member  
7 shall serve until a qualified successor is appointed.

8        [~~(b)~~] (e) The department shall employ, not subject to  
9 chapter 76, an executive secretary to administer the board's  
10 activities and an employee to administer the medical inquiry and  
11 conciliation panels established under chapter 671. The employee  
12 responsible for administration of the medical inquiry and  
13 conciliation panels shall have no duties in administration of  
14 the board's activities."

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

17        **"§453-5.3 Physician assistant; licensure required. (a)**  
18 The Hawaii medical board shall require each person practicing  
19 medicine [~~under the supervision of a physician or osteopathic~~  
20 ~~physician~~], other than a person licensed under section 453-3, to  
21 be licensed as a physician assistant. A person who is trained



1 to do only a very limited number of diagnostic or therapeutic  
2 procedures under the direction of a physician or osteopathic  
3 physician shall not be deemed a practitioner of medicine or  
4 osteopathy and therefore does not require licensure under this  
5 section.

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

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

18 [~~(d) The board shall approve temporary licensure of an~~  
19 ~~applicant under this section. The applicant shall have graduated~~  
20 ~~from a board approved training program within twelve months of~~  
21 ~~the date of application and never taken a national certifying~~



1 ~~examination approved by the board but otherwise meets the~~  
2 ~~requirements of this section. The applicant shall file a~~  
3 ~~complete application with the board and pay all required fees.~~  
4 ~~If the applicant fails to apply for, or to take, the first~~  
5 ~~examination scheduled by the board following the issuance of the~~  
6 ~~temporary license, fails to pass the examination, or fails to~~  
7 ~~receive licensure, all privileges under this section shall~~  
8 ~~automatically cease upon written notification sent to the~~  
9 ~~applicant by the board. A temporary license shall be issued~~  
10 ~~only once to each person.~~

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

15 ~~(f) The board shall establish the degree of supervision~~  
16 ~~required by the supervising physician or osteopathic physician~~  
17 ~~when a physician assistant performs a service within the~~  
18 ~~practice of medicine. A physician or osteopathic physician who~~  
19 ~~does not supervise a physician assistant's services at the~~  
20 ~~degree required by the board shall be deemed to have engaged in~~  
21 ~~professional misconduct.~~



1       ~~(g)~~ (d) Any license of a physician assistant may be  
2 denied, not renewed, revoked, limited, or suspended under  
3 section 453-8.

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

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

18       (g) A category of inactive licensure shall be available  
19 for a physician assistant who is not actively practicing in the  
20 State; provided that the physician assistant's inactive practice  
21 is unrelated to disciplinary action or impairment issues.



1 Notification to reactivate a license that has been inactive for  
2 no more than two years shall require only written notification  
3 to the board.

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

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

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

19 SECTION 12. Section 453-5.5, Hawaii Revised Statutes, is  
20 amended to read as follows:





1           " ~~[f]~~§453-5.5 ~~[f]~~ Physician assistant; authority to sign  
2 documents. Any physician assistant who holds a current, valid~~[,~~  
3 ~~and permanent]~~ license to practice medicine pursuant to this  
4 chapter~~[, and who is under the supervision of a licensed~~  
5 ~~physician or osteopathic physician,]~~ shall have the authority to  
6 sign the following documents:

- 7           (1) Certification of psychiatric medical condition of the  
8                 parents of a child applicant for aid from the  
9                 temporary assistance for needy families program;
- 10          (2) Evaluation forms for Hansen's disease patients;
- 11          (3) Orders for physical therapy and plans of care;
- 12          (4) Pharmacist orders to assist in monitoring and  
13                 management of anticoagulation anemia and atrial  
14                 fibrillation;
- 15          (5) Orders for speech therapy and plans of care;
- 16          (6) Applications for bracelets indicating compassionate  
17                 care only;
- 18          (7) Admissions applications for foster homes;
- 19          (8) Dietary consultations forms; ~~[and]~~
- 20          (9) Medicaid application forms for nursing care facility  
21                 admission~~[,]~~;



- 1        (10) Prescriptions for hospice care;
- 2        (11) Prescriptions for schedule II through V drugs,
- 3                including legend drugs;
- 4        (12) Handicapped parking permits;
- 5        (13) Workers' compensation claim forms;
- 6        (14) No fault insurance claim forms;
- 7        (15) Prescriptions for diabetic shoes and other diabetic
- 8                devices;
- 9        (16) Durable medical equipment;
- 10       (17) Physician order for life-sustaining treatment;
- 11       (18) Federal Jones Act claim forms;
- 12       (19) Advanced directives; and
- 13       (20) Death certificates."

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

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



1 physicians, osteopathic physicians, [~~and~~] surgeons, and  
2 physician assistants documentation of compliance.

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

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

9 "(a) The department of commerce and consumer affairs shall  
10 review each complaint, inquiry, and information, as applicable,  
11 received under sections 92-17, 329-44, 453-8.7, 663-1.7, and  
12 671-5. The department shall investigate the complaint, inquiry,  
13 or information if it appears that the physician [~~or~~],  
14 osteopathic physician, or physician assistant who is the subject  
15 of the complaint, inquiry, or information has violated this  
16 chapter. If the department determines that the physician [~~or~~],  
17 osteopathic physician, or physician assistant has violated this  
18 chapter, the department shall present the results of its  
19 investigation to the Hawaii medical board for appropriate  
20 disciplinary proceedings."



1 SECTION 15. Section 453-8, Hawaii Revised Statutes, is  
2 amended by amending subsection (a) to read as follows:

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

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

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

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

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

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

18 (C) Making any untruthful and improbable statement in  
19 advertising one's medical or surgical practice or  
20 business;



- 1           (4) Being habituated to the excessive use of drugs or  
2            alcohol; or being addicted to, dependent on, or a  
3            habitual user of a narcotic, barbiturate, amphetamine,  
4            hallucinogen, or other drug having similar effects;
- 5           (5) Practicing medicine while the ability to practice is  
6            impaired by alcohol, drugs, physical disability, or  
7            mental instability;
- 8           (6) Procuring a license through fraud, misrepresentation,  
9            or deceit, or knowingly permitting an unlicensed  
10           person to perform activities requiring a license;
- 11          (7) Professional misconduct, hazardous negligence causing  
12           bodily injury to another, or manifest incapacity in  
13           the practice of medicine or surgery;
- 14          (8) Incompetence or multiple instances of negligence,  
15           including but not limited to the consistent use of  
16           medical service, which is inappropriate or  
17           unnecessary;
- 18          (9) Conduct or practice contrary to recognized standards  
19           of ethics of the medical profession as adopted by the  
20           Hawaii Medical Association, the American Medical  
21           Association, the Hawaii Association of Osteopathic



- 1           Physicians and Surgeons, or the American Osteopathic  
2           Association;
- 3           (10) Violation of the conditions or limitations upon which  
4           a limited or temporary license is issued;
- 5           (11) Revocation, suspension, or other disciplinary action  
6           by another state or federal agency of a license,  
7           certificate, or medical privilege;
- 8           (12) Conviction, whether by nolo contendere or otherwise,  
9           of a penal offense substantially related to the  
10          qualifications, functions, or duties of a physician or  
11          osteopathic physician, notwithstanding any statutory  
12          provision to the contrary;
- 13          (13) Violation of chapter 329, the uniform controlled  
14          substances act, or any rule adopted thereunder except  
15          as provided in section 329-122;
- 16          (14) Failure to report to the board, in writing, any  
17          disciplinary decision issued against the licensee or  
18          the applicant in another jurisdiction within thirty  
19          days after the disciplinary decision is issued; [œ]
- 20          (15) Submitting to or filing with the board any notice,  
21          statement, or other document required under this



- 1 chapter, which is false or untrue or contains any  
2 material misstatement or omission of fact[-];
- 3 (16) Conviction of a crime involving moral turpitude, a  
4 felony, or a crime arising out of the practice of  
5 medicine, including advertising of medical business  
6 that is intended to or has a tendency to deceive the  
7 public;
- 8 (17) Abandonment of a patient;
- 9 (18) Promotion of the sale of drugs, devices, appliances,  
10 or goods or services provided for a patient in a  
11 manner that exploits the patient for the financial  
12 gain of the medical practitioner;
- 13 (19) Immoral conduct of a medical practitioner in the  
14 practice of medicine;
- 15 (20) Wilfully making and filing false reports or records;
- 16 (21) Wilful omission to file or record, or wilfully  
17 impeding or obstructing a filing or recording, or  
18 inducing another person to omit to file or record  
19 medical or other reports as required by law;



- 1        (22) Accepting payments from a clinical or bioanalytical
- 2                    laboratory in return for ordering individual tests or
- 3                    test series for patients;
- 4        (23) Practicing with an unlicensed physician or physician
- 5                    assistant or aiding or abetting any unlicensed person
- 6                    in the practice of medicine;
- 7        (24) Offering, undertaking or agreeing to cure or treat a
- 8                    disease by a secret method, procedure, treatment, or
- 9                    medicine;
- 10       (25) Professional or mental incompetence;
- 11       (26) Surrender, revocation, suspension, limitation of
- 12                    privilege based on:
- 13                    (A) Quality of care provided;
- 14                    (B) Any other disciplinary action against a license
- 15                    or authorization to practice in another state or
- 16                    jurisdiction; or
- 17                    (C) Membership with any medical staff or in any
- 18                    medical professional association or society while
- 19                    under disciplinary investigation by any authority
- 20                    or body for acts or conduct similar to acts or





- 1                   conduct that would constitute grounds for action  
2                   pursuant to this chapter;
- 3       (27) Any adverse judgment, settlement, or award arising  
4                   from a medical liability claim related to acts or  
5                   conduct that would constitute grounds for action as  
6                   stated in this chapter;
- 7       (28) Failure to furnish the board, the administrator,  
8                   investigator, or representatives information legally  
9                   requested by the board;
- 10       (29) Medical malpractice;
- 11       (30) Sexual contact between a medical practitioner and  
12                   patient during the existence of the practitioner-  
13                   patient relationship; or
- 14       (31) Providing services to a person who is making a claim  
15                   as a result of a personal injury, and who charges or  
16                   collects from the person any amount in excess of the  
17                   reimbursement to the practitioner by the insurer as a  
18                   condition of providing or continuing to provide  
19                   services or treatment."

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



1           "§453-8.1 Voluntary limitation of license. A physician,  
2 osteopathic physician, [~~or~~] surgeon, or physician assistant may  
3 request, in writing, that the board limit the individual's  
4 license to practice. The board may grant the request and may  
5 impose conditions on the limited license. The board shall  
6 determine whether and when the limitation shall be removed."

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

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

- 13           (1) Place the licensee on probation, including conditions  
14           of probation as requiring observation of the licensee  
15           by an appropriate group or society of licensed  
16           physicians, osteopathic physicians, [~~or~~] surgeons, or  
17           physician assistants;
- 18           (2) Suspend the license;
- 19           (3) Revoke the license;
- 20           (4) Limit the license by restricting the fields of  
21           practice in which the licensee may engage;



- 1           (5) Fine the licensee, including assessment against the
- 2           licensee of the costs of the disciplinary proceedings.
- 3           Any fine imposed by the board after a hearing in
- 4           accordance with chapter 91 shall be not less than \$500
- 5           and not more than \$5,000 for each violation, exclusive
- 6           of the costs of the disciplinary proceedings;
- 7           (6) Require further education or training, or require
- 8           proof of performance competency; or
- 9           (7) Censure or reprimand."

10           SECTION 18. Section 453-8.7, Hawaii Revised Statutes, is

11 amended to read as follows:

12           "**§453-8.7 Reporting requirements.** (a) Every physician

13 ~~[or]~~, osteopathic physician, surgeon, or physician assistant

14 licensed pursuant to this chapter who does not possess

15 professional liability insurance shall report any settlement or

16 arbitration award of a claim or action for damages for death or

17 personal injury caused by negligence, error, or omission in

18 practice, or the unauthorized rendering of professional

19 services. The report shall be submitted to the department of

20 commerce and consumer affairs within thirty days after any

21 written settlement agreement has been reduced to writing and



1 signed by all the parties thereto or thirty days after service  
2 of the arbitration award on the parties.

3 (b) Failure of a physician [~~e~~], osteopathic physician,  
4 surgeon, or physician assistant to comply with the provisions of  
5 this section is an offense punishable by a fine of not less than  
6 \$100 for the first offense, \$250 to \$500 for the second offense,  
7 and \$500 to \$1,000 for subsequent offenses.

8 (c) The clerks of the respective courts of this State  
9 shall report to the department any judgment or other  
10 determination of the court [~~, which~~] that adjudges or finds that  
11 a physician [~~e~~], osteopathic physician, surgeon, or physician  
12 assistant is liable criminally or civilly for any death or  
13 personal injury caused by the physician's [~~e~~], osteopathic  
14 physician's, surgeon's, or physician assistant's professional  
15 negligence, error, or omission in the practice of the  
16 physician's [~~e~~], osteopathic physician's, surgeon's, or  
17 physician assistant's profession, or rendering of unauthorized  
18 professional services. The report shall be submitted to the  
19 department within ten days after the judgment is entered by the  
20 court.



1 (d) The department shall prescribe forms for the  
2 submission of reports as required by this section."

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

5 "§453-10 **Witnesses in such proceeding.** In any proceeding  
6 the board may subpoena, administer oaths to, and examine  
7 witnesses on any relevant matter in the proceeding. The board  
8 may subpoena physicians, osteopathic physicians, [~~or~~] surgeons,  
9 or physician assistants as specialists, on the recommendation of  
10 the appropriate specialist society. The board may order a  
11 mental, physical, or medical competency examination to determine  
12 the capacity or ability of a licensee to continue to practice  
13 medicine or surgery and order appropriate specialist societies  
14 to conduct examinations. The person whose license is sought in  
15 the proceeding to be revoked, limited, or suspended shall be  
16 entitled to require the board or any member thereof to subpoena  
17 and to administer oaths to any witness who may be able to  
18 present evidence relevant in the proceeding, and shall be  
19 entitled to examine any witness in the proceeding. The circuit  
20 court of the circuit in which the proceeding is held may enforce



1 by proper proceeding the attendance and testimony of witnesses  
2 in the proceeding."

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

5 "§453-14 Duty of physician, osteopathic physician,  
6 surgeon, physician assistant, hospital, clinic, etc., to report  
7 wounds."

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

10 [~~§453-5.4 Physician assistant advisory committee. There~~  
11 ~~shall be a physician assistant advisory committee under the~~  
12 ~~Hawaii medical board consisting solely of persons licensed under~~  
13 ~~section 453-5.3. The committee shall review all complaints and~~  
14 ~~requests relating to physician assistants, and review and~~  
15 ~~recommend revisions of the physician assistant regulations.~~

16 ~~The chairperson of the committee shall be the~~  
17 ~~representative for the committee members to the Hawaii medical~~  
18 ~~board for the purpose of providing input to the board from the~~  
19 ~~physician assistant's perspective on issues and concerns,~~  
20 ~~including complaints and requests, regarding physician~~



1 ~~assistants. The chairperson shall not be a member of the Hawaii~~  
2 ~~medical board to avoid conflict of interests."]~~

3 PART III

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

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

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

14

INTRODUCED BY: Richard Lujan BR

JAN 24 2019



# H.B. NO. 1560

**Report Title:**

Physician Assistants; Hawaii Medical Board; Telehealth;  
Telemedicine

**Description:**

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

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

