
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 across the State. The legislature further finds that
4 existing law requires each hospital within the State to allow
5 advanced practice registered nurses to practice at the hospital
6 within the full scope of their authorized practice, including
7 practice as primary care providers. Advanced practice
8 registered nurses are also recognized as participating primary
9 care providers for insurance purposes under the State's
10 insurance code.

11 The legislature also finds that, despite these facts,
12 certain sections of existing law have not been amended to
13 include advanced practice registered nurses in areas concerning
14 disability determinations for purposes of income tax laws and
15 mental health directives. Accordingly, these statutes should be
16 expanded to authorize increased participation by advanced
17 practice registered nurses and recognize appropriately trained



1 advanced practice registered nurses as the primary care
2 providers that they are. Authorizing increased participation by
3 advanced practice registered nurses in certain circumstances
4 will further enable improved access to health care services,
5 expedite the processing of paperwork, and provide optimal care
6 at the initial point of access for Hawaii patients, especially
7 in rural and medically underserved areas.

8 The purpose of this Act is to improve patient access to
9 medical care and services by:

- 10 (1) Authorizing advanced practice registered nurses to
11 certify whether a person is totally disabled under the
12 income tax code;
- 13 (2) Adding advanced practice registered nurses as primary
14 providers in advance mental health care directives;
15 and
- 16 (3) Authorizing advanced practice registered nurses to
17 make capacity determinations for purposes of advance
18 mental health care directives.

19 SECTION 2. Section 235-1, Hawaii Revised Statutes, is
20 amended by amending the definition of "person totally disabled"
21 to read as follows:



1 ""Person totally disabled" means a person who is totally
2 and permanently disabled, either physically or mentally, which
3 results in the person's inability to engage in any substantial
4 gainful business or occupation.

5 The disability shall be certified to by a:

- 6 (1) Physician or osteopathic physician licensed under
7 chapter 453[+] or an advanced practice registered
8 nurse licensed under chapter 457;
- 9 (2) Qualified out-of-state physician or advanced practice
10 registered nurse who is currently licensed to practice
11 in the state in which the physician or advanced
12 practice registered nurse resides; or
- 13 (3) Commissioned medical officer in the United States
14 Army, Navy, Marine Corps, or Public Health Service,
15 engaged in the discharge of the officer's official
16 duty.

17 Certification shall be on forms prescribed by the department of
18 taxation."

19 SECTION 3. Section 327G-2, Hawaii Revised Statutes, is
20 amended as follows:



1 1. By adding a new definition to be appropriately inserted
2 and to read:

3 ""Advanced practice registered nurse" means a person
4 licensed as an advanced practice registered nurse pursuant to
5 chapter 457."

6 2. By amending the definition of "primary physician" to
7 read:

8 ""Primary [~~physician~~] provider" means a physician or
9 advanced practice registered nurse designated by a principal or
10 the principal's agent or guardian to have primary responsibility
11 for the principal's health care, including mental health care
12 or, in the absence of a designation or if the designated
13 physician or advanced practice registered nurse is not
14 reasonably available, a physician or advanced practice
15 registered nurse who undertakes the responsibility."

16 3. By amending the definition of "supervising health care
17 provider" to read:

18 ""Supervising health care provider" means the primary
19 [~~physician~~] provider or the [~~physician's~~] primary provider's
20 designee, or the health care provider or the provider's designee



1 who has undertaken primary responsibility for a principal's
2 health care, that includes mental health care."

3 SECTION 4. Section 327G-7, Hawaii Revised Statutes, is
4 amended by amending subsections (d) and (e) to read as follows:

5 "(d) For the purposes of this chapter, the determination
6 that a principal lacks capacity shall be made by the supervising
7 health care provider who is a physician or an advanced practice
8 registered nurse and one other physician, advanced practice
9 registered nurse, or licensed psychologist after both have
10 conducted an examination of the principal. Upon examination and
11 a joint determination that the principal lacks capacity, the
12 supervising health care provider shall promptly note the
13 determination in the principal's medical record, including the
14 facts and professional opinions that form the basis of the
15 determination, and shall promptly notify the agent that the
16 principal lacks capacity and that the advance mental health care
17 directive has been invoked.

18 (e) The determination that a principal has recovered
19 capacity shall be made by the supervising health care provider
20 who is a physician[-] or an advanced practice registered nurse.
21 The supervising health care provider shall promptly note the



1 recovery of capacity in the principal's medical record, and
2 shall promptly notify the agent that the principal has recovered
3 capacity."

4 SECTION 5. Section 327G-10, Hawaii Revised Statutes, is
5 amended by amending subsection (e) to read as follows:

6 "(e) A physician [~~or~~], a licensed psychologist, or an
7 advanced practice registered nurse, who in good faith determines
8 that the principal has or lacks capacity in accordance with this
9 chapter to decide whether to invoke an advance mental health
10 care directive, is not subject to criminal prosecution, civil
11 liability, or professional disciplinary action for making and
12 acting upon that determination."

13 SECTION 6. Statutory material to be repealed is bracketed
14 and stricken. New statutory material is underscored.

15 SECTION 7. This Act shall take effect upon its approval.

16

INTRODUCED BY: _____



JAN 25 2023



H.B. NO. 1451

Report Title:

Advanced Practice Registered Nurses; Persons Totally Disabled;
Tax Code; Primary Providers; Capacity; Advance Mental Health
Care Directives

Description:

Authorizes advanced practice registered nurses to certify whether a person is totally disabled under the income tax code. Adds advanced practice registered nurses as primary providers in advance mental health care directives. Authorizes advanced practice registered nurses to make capacity determinations for purposes of advance mental health care directives.

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