
A BILL FOR AN ACT

RELATING TO HEALTH CARE.

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

1 SECTION 1. The legislature finds that the people of Hawai'i
2 have a long tradition of protecting an individual's right to
3 privacy and bodily autonomy independently of, and more broadly
4 than, the federal constitution. In 1970, the State became the
5 first state in the nation to legalize abortion with the
6 enactment of Act 1, Session Laws of Hawaii 1970. In 1978, the
7 1978 Hawaii State Constitutional Convention proposed, and the
8 electorate approved, an amendment to explicitly codify the right
9 to privacy in article I, section 6, of the Hawaii State
10 Constitution. In 2006, the legislature took one of its
11 constitutionally required affirmative steps to implement the
12 right to privacy by passing Act 35, Session Laws of Hawaii 2006,
13 which established that the State shall not deny or interfere
14 with a pregnant person's right to choose or obtain an abortion
15 of a nonviable fetus or an abortion that is necessary to protect
16 a pregnant person's life or health. Act 35 also removed the



1 outdated requirement that individuals who seek an abortion be a
2 Hawai'i resident for at least ninety days.

3 However, the legislature further finds that existing
4 developments in the legal landscape threaten the State's policy
5 to protect an individual's right to privacy and personal
6 autonomy over their body within state boundaries. In June 2022,
7 the Supreme Court of the United States held in *Dobbs v. Jackson*
8 *Women's Health Organization*, 142 S.Ct. 2228 (2022), that the
9 United States Constitution does not confer a right to an
10 abortion. *Dobbs* overrules *Roe v. Wade*, 410 U.S. 113 (1973), and
11 *Planned Parenthood of Southeastern Pennsylvania v. Casey*, 505
12 U.S. 833 (1992), and the nearly fifty years of federal precedent
13 regarding reproductive rights. The impact of *Dobbs* has resulted
14 in many states either banning or severely restricting access to
15 abortion. Additionally, some states are pursuing laws or
16 policies purporting to impose civil or criminal liability or
17 professional discipline in connection with the provision or
18 receipt of, or assistance with, reproductive health care
19 services outside of these states' borders.

20 It is the policy of this State that the rights of equality,
21 liberty, and privacy guaranteed under article I, sections 3, 5,



1 and 6, of the Hawaii State Constitution are fundamental rights
2 and that those rights include an individual's right to make
3 reproductive health care decisions about one's own body and to
4 decide whether to bear a child or obtain an abortion. Due to
5 the shifting legal landscape regarding the right to privacy and
6 an individual's bodily autonomy, the legislature finds it is
7 imperative to reiterate and bolster the State's policy to affirm
8 protection of these rights and freedoms within the state
9 boundaries. The previous governor initiated this process by
10 issuing Executive Order 22-5 on October 11, 2022, which outlined
11 the governor's policy to limit cooperation with other states in
12 investigations, proceedings, or warrants involving the provision
13 of reproductive health care services in the State, provided that
14 the provision of the reproductive health care service is legal
15 in the State. This Act codifies and expands on that policy.

16 Additionally, this Act is intended to maintain the
17 constitutional right to an abortion guaranteed by *Roe v. Wade*.
18 While the legal landscape has fundamentally changed, this Act
19 will amend the State's laws on abortion and reproductive rights
20 so that they are reasonably similar to those that have existed
21 for the past fifty years.



1 ~~government or an agency thereof, or in a clinic or~~
2 ~~physician's or osteopathic physician's office.~~

3 ~~(b) Abortion shall mean an operation to intentionally~~
4 ~~terminate the pregnancy of a nonviable fetus. The termination~~
5 ~~of a pregnancy of a viable fetus is not included in this~~
6 ~~section.~~

7 ~~(e)]~~ may provide abortion care. A licensed physician
8 assistant may provide medication or aspiration abortion care in
9 the first trimester of pregnancy.

10 ~~(b) The State shall not deny or interfere with [a female's~~
11 ~~right to choose or obtain an abortion of a nonviable fetus or an~~
12 ~~abortion that]~~ a pregnant person's right to choose to:

- 13 (1) Obtain an abortion; or
- 14 (2) Terminate a pregnancy if the termination is necessary
15 to protect the life or health of the [female.

16 ~~(d) Any person who knowingly violates subsection (a) shall~~
17 ~~be fined not more than \$1,000 or imprisoned not more than five~~
18 ~~years, or both.~~

19 ~~(e)]~~ pregnant person.



1 (c) Nothing in this section shall require any hospital or
2 any person to participate in an abortion nor shall any hospital
3 or any person be liable for a refusal.

4 (d) For purposes of this section:

5 "Abortion" means an intentional termination of the
6 pregnancy of a nonviable fetus.

7 "Nonviable fetus" means a fetus that does not have a
8 reasonable likelihood of sustained survival outside of the
9 uterus."

10 SECTION 3. Section 457-8.7, Hawaii Revised Statutes, is
11 amended to read as follows:

12 "[~~§~~457-8.7[~~]~~] **Advanced practice registered nurses;**
13 **abortions by medication or aspiration; [~~penalties;~~] refusal to**
14 **perform.** (a) Notwithstanding section 453-16 or any other law
15 to the contrary, an advanced practice registered nurse may
16 provide medication or aspiration abortion care in the first
17 trimester of pregnancy, so long as the advanced practice
18 registered nurse:

- 19 (1) Has prescriptive authority;
- 20 (2) Practices within the advanced practice registered
- 21 nurse's practice specialty; and



1 (3) Has a valid, unencumbered license obtained in
2 accordance with this chapter~~[, and~~

3 ~~(4) The aspiration abortion is performed in a hospital
4 licensed by the department of health or operated by
5 the federal government or an agency thereof, or in a
6 clinic or advance practice registered nurse's office.~~

7 ~~(b) Abortion shall mean an intentional termination of the
8 pregnancy of a nonviable fetus. The termination of a pregnancy
9 of a viable fetus is not included in this section].~~

10 ~~[(e)]~~ (b) The State shall not deny or interfere with [a
11 female's right to choose or obtain an abortion of a nonviable
12 fetus or an abortion that] a pregnant person's right to choose
13 to:

14 (1) Obtain an abortion; or

15 (2) Terminate a pregnancy if the termination is necessary
16 to protect the life or health of the [female.

17 ~~(d) Any person who knowingly violates subsection (a) shall
18 be fined no more than \$1,000 or imprisoned no more than five
19 years, or both.~~

20 ~~(e)]~~ pregnant person.



1 limited to services relating to pregnancy, contraception, or the
2 termination of a pregnancy.

3 § -2 **Disclosures prohibited.** (a) Except as provided in
4 rules 504, 504.1, and 505.5 of the Hawaii rules of evidence and
5 subsection (b) or as authorized under the Health Insurance
6 Portability and Accountability Act of 1996, P.L. 104-191, and
7 federal regulations promulgated thereunder, in any civil action
8 or any proceeding preliminary thereto or in any probate,
9 legislative, or administrative proceeding, no covered entity, as
10 defined in title 45 Code of Federal Regulations section 160.103,
11 or as the same as may be from time to time amended or modified,
12 shall disclose:

13 (1) Any communication made to the covered entity, or any
14 information obtained by the covered entity from a
15 patient or the conservator, guardian, or other
16 authorized legal representative of a patient relating
17 to reproductive health care services that are
18 permitted under the laws of the State; or

19 (2) Any information obtained by personal examination of a
20 patient relating to reproductive health care services
21 that are permitted under the laws of the State,



1 unless the patient or that patient's conservator, guardian, or
2 other authorized legal representative explicitly consents to the
3 disclosure in writing in the form of a release of protected
4 health information compliant with the federal Health Insurance
5 Portability and Accountability Act of 1996, P.L. 104-191, as
6 amended. A covered entity shall inform the patient or the
7 patient's conservator, guardian, or other authorized legal
8 representative of the patient's right to withhold the written
9 consent.

10 (b) Written consent of the patient or the patient's
11 conservator, guardian, or other authorized legal representative
12 shall not be required for the disclosure of the communication or
13 information:

14 (1) If the records relate to a patient who is a plaintiff
15 in a complaint pending before a court of competent
16 jurisdiction alleging health care negligence and a
17 request for records has been served on a named
18 defendant in that litigation;

19 (2) If the records are requested by a licensing authority,
20 as defined in section 436B-2, and the request is made
21 in connection with an investigation of a complaint to



1 the licensing authority and the records are related to
2 the complaint, unless the complaint is made solely on
3 the basis that the licensee, acting within the
4 licensee's scope of practice, provided reproductive
5 health care services that are lawful in this State;

6 (3) To the director of health for records of a patient of
7 a covered entity in connection with an investigation
8 of a complaint, if the records are related to the
9 complaint; or

10 (4) If child abuse, abuse of an individual who is sixty
11 years of age or older, abuse of an individual who is
12 physically disabled or incompetent, or abuse of an
13 individual with an intellectual disability is known or
14 in good faith suspected.

15 (c) Nothing in this section shall be construed to impede
16 the lawful sharing of medical records as permitted by state or
17 federal law or the rules of the court, except in the case of a
18 subpoena or warrant issued by a court, government agency, or
19 legislative body of another state commanding the production,
20 copying, or inspection of medical records relating to
21 reproductive health care services.



1 § -3 **Subpoenas; when allowed.** Notwithstanding sections
2 624-27 and 624D-3 or any other law to the contrary, no court or
3 clerk of a court shall order the issuance of a subpoena
4 requested by an officer, appointed according to the laws or
5 usages of another state or government, or by any court of the
6 United States or of another state or government, in connection
7 with an out-of-state or interstate investigation or proceeding
8 relating to reproductive health care services legally performed
9 in the State.

10 § -4 **Agencies prohibited from providing information or**
11 **expending resources.** (a) No agency, as defined in section
12 92F-3, or employee, appointee, officer, official, or any other
13 person acting on behalf of an agency shall provide any
14 information or expend or use time, money, facilities, property,
15 equipment, personnel, or other resources in furtherance of any
16 out-of-state or interstate investigation or proceeding seeking
17 to impose civil or criminal liability upon a person or entity
18 for:

- 19 (1) The provision, seeking, paying for, receipt of, or
20 inquiring about reproductive health care services that
21 are legal in the State; or



1 (2) Assisting any person or entity providing, seeking,
2 receiving, paying for, or responding to an inquiry
3 about reproductive health care services that are legal
4 in the State.

5 (b) This section shall not apply to any investigation or
6 proceeding where the conduct subject to potential liability
7 under the investigation or proceeding would be subject to
8 liability under the laws of this State if committed in this
9 State.

10 § -5 **Prohibition on state action.** The State shall not
11 penalize, prosecute, or otherwise take adverse action against an
12 individual based on the individual's actual, potential,
13 perceived, or alleged pregnancy outcomes. The State shall not
14 penalize, prosecute, or otherwise take adverse action against a
15 person for aiding or assisting a pregnant individual accessing
16 reproductive health care services in accordance with the laws of
17 the State and with the pregnant individual's voluntary consent.

18 § -6 **Denial of demands for surrender.** Notwithstanding
19 any provision of chapter 832 to the contrary, the governor shall
20 deny any demand made by the executive authority of any state for
21 the surrender of any person charged with a crime under the laws



1 of that state when the alleged crime involves the provision or
2 receipt of, paying for, or assistance with, reproductive health
3 care services, unless the acts forming the basis of the
4 prosecution would also constitute a criminal offense in this
5 State. This section shall not apply to demands made under
6 Article IV, section 2, of the United States Constitution.

7 **§ -7 Laws contrary to the public policy of this State.**

8 (a) A law of another state authorizing a civil action or
9 criminal prosecution based on any of the following is declared
10 to be contrary to the public policy of this State:

- 11 (1) Receiving, seeking, or paying for reproductive health
12 care services;
- 13 (2) Providing reproductive health care services;
- 14 (3) Engaging in conduct that assists or aids or abets the
15 provision or receipt of reproductive health care
16 services; or
- 17 (4) Attempting or intending to engage in or providing
18 material support for (or any other theory of
19 vicarious, attempt, joint, several or conspiracy
20 liability derived therefrom) conduct described in
21 paragraphs (1) to (3),



1 in accordance with the laws of this State.

2 (b) No law described in subsection (a) shall be applied to
3 a case or controversy heard in the courts of this State."

4 SECTION 5. Section 836-2, Hawaii Revised Statutes, is
5 amended to read as follows:

6 "§836-2 Summoning witness in this State to testify in
7 another state. If a judge of a court of record in any state
8 which by its laws has made provision for commanding persons
9 within that state to attend and testify in this State certifies
10 under the seal of [~~such~~] that court that there is a criminal
11 prosecution pending in [~~such~~] that court, or that a grand jury
12 investigation has commenced or is about to commence, that a
13 person [~~being within~~] in this State is a material witness in
14 [~~such~~] the prosecution[~~7~~] or grand jury investigation, and that
15 the person's presence will be required for a specified number of
16 days, upon presentation of [~~such~~] the certificate to any judge
17 of a court of record in this State in the judicial district in
18 which [~~such~~] the person is, [~~such~~] the judge shall fix a time
19 and place for a hearing, and shall make an order directing the
20 witness to appear at a time and place certain for the hearing.



1 If at a hearing the judge determines that the witness is
2 material and necessary, that it will not cause undue hardship to
3 the witness to be compelled to attend and testify in the
4 prosecution or a grand jury investigation in the other state,
5 and that the laws of the state in which the prosecution is
6 pending, or grand jury investigation has commenced or is about
7 to commence, and of any other state through which the witness
8 may be required to pass by ordinary course of travel, will give
9 to the witness protection from arrest and the service of civil
10 and criminal process, the judge shall issue a summons, with a
11 copy of the certificate attached, directing the witness to
12 attend and testify in the court where the prosecution is
13 pending, or where a grand jury investigation has commenced or is
14 about to commence at a time and place specified in the
15 summons[-], except that no judge shall issue a summons in a case
16 where prosecution is pending, or where a grand jury
17 investigation has commenced or is about to commence for a
18 criminal violation of a law of another state involving the
19 provision, paying for, receipt of, or assistance with
20 reproductive health care services as defined in section -1
21 unless the acts forming the basis of the prosecution or



1 investigation would also constitute an offense in this State.

2 In any [~~such~~] hearing, the certificate shall be prima facie
3 evidence of all the facts stated therein.

4 If [~~said~~] the certificate recommends that the witness be
5 taken into immediate custody and delivered to an officer of the
6 requesting state to assure the witness' attendance in the
7 requesting state, [~~such~~] the judge may, in lieu of notification
8 of the hearing, direct that [~~such~~] the witness be forthwith
9 brought before the judge for [~~said~~] the hearing; and the judge
10 at the hearing being satisfied of the desirability of [~~such~~] the
11 custody and delivery, for which determination the certificate
12 shall be prima facie proof of [~~such~~] the desirability may, in
13 lieu of issuing subpoena or summons, order that [~~said~~] the
14 witness be forthwith taken into custody and delivered to an
15 officer of the requesting state.

16 If the witness, who is summoned [~~as above provided,~~]
17 pursuant to this section, after being paid or tendered by some
18 properly authorized person a sum equivalent to the cost of
19 round-trip air fare to the place where the prosecution is
20 pending and \$30 for each day, that the witness is required to
21 travel and attend as a witness, fails without good cause to



1 attend and testify as directed in the summons, the witness shall
2 be punished in the manner provided for the punishment of any
3 witness who disobeys a summons issued from a court of record in
4 this State."

5 PART III

6 SECTION 6. Section 442-9, Hawaii Revised Statutes, is
7 amended by amending subsection (a) to read as follows:

8 "(a) In addition to any other actions authorized by law,
9 the board shall refuse to issue or may order any license issued
10 under this chapter to be revoked, suspended, limited,
11 restricted, or placed under probation at any time in a
12 proceeding before the board or fine a licensee for any cause
13 authorized by law, including but not limited to the following:

14 (1) Procuring or aiding or abetting in procuring [a
15 ~~criminal~~] an abortion[+] that is unlawful under the
16 laws of this State or that would be unlawful under the
17 laws of this State if performed within this State;

18 (2) Employing what is popularly known as a "capper" or
19 "steerer";

20 (3) Obtaining a fee on the assurance that a manifestly
21 incurable disease can be permanently cured;



- 1 (4) Wilfully betraying patient confidentiality;
- 2 (5) Making any untruthful statement in advertising one's
- 3 practice or business under this chapter;
- 4 (6) False, fraudulent, or deceptive advertising;
- 5 (7) Advertising directly or indirectly, or in substance
- 6 upon any card, sign, newspaper advertisement, or other
- 7 written or printed sign of advertisement that the
- 8 holder of a license or the licensee's employer or
- 9 employee will treat, cure, or attempt to treat or cure
- 10 any venereal disease, or will treat or cure, or
- 11 attempt to treat or cure, any person afflicted with
- 12 any sexual disease, lost manhood, sexual weakness, or
- 13 sexual disorder or any disease of the sexual organs;
- 14 (8) Being habitually intemperate;
- 15 (9) Habitually using any habit-forming drug, [~~such as~~
- 16 including opium, or any of its derivatives, morphine,
- 17 heroin, cocaine, or any other habit-forming drug;
- 18 (10) The advertising of any means whereby the monthly
- 19 periods of women can be regulated or the menses
- 20 reestablished if suppressed;



- 1 (11) Procuring a license through fraudulent
- 2 misrepresentation or deceit;
- 3 (12) Professional misconduct or gross carelessness or
- 4 manifest incapability in the practice of chiropractic;
- 5 (13) Violating section 453-2; and
- 6 (14) Knowingly recording, registering, or filing, or
- 7 offering for recordation, registration, or filing,
- 8 with the department of commerce and consumer affairs
- 9 any written statement [~~which~~] that has been falsely
- 10 made, completed, or altered, or in which a false entry
- 11 has been made, or [~~which~~] that contains a false
- 12 statement or false information."

13 SECTION 7. Section 453-8, Hawaii Revised Statutes, is
 14 amended by amending subsections (a), (b), and (c) to read as
 15 follows:

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



- 1 (1) Procuring, or aiding or abetting in procuring, [a
2 ~~criminal~~] an abortion[+] that is unlawful under the
3 laws of this State or that would be unlawful under the
4 laws of this State if performed within this State;
- 5 (2) Employing any person to solicit patients for one's
6 self;
- 7 (3) Engaging in false, fraudulent, or deceptive
8 advertising, including but not limited to:
 - 9 (A) Making excessive claims of expertise in one or
10 more medical specialty fields;
 - 11 (B) Assuring a permanent cure for an incurable
12 disease; or
 - 13 (C) Making any untruthful and improbable statement in
14 advertising one's medical or surgical practice or
15 business;
- 16 (4) Being habituated to the excessive use of drugs or
17 alcohol; or being addicted to, dependent on, or a
18 habitual user of a narcotic, barbiturate, amphetamine,
19 hallucinogen, or other drug having similar effects;



- 1 (5) Practicing medicine while the ability to practice is
2 impaired by alcohol, drugs, physical disability, or
3 mental instability;
- 4 (6) Procuring a license through fraud, misrepresentation,
5 or deceit, or knowingly permitting an unlicensed
6 person to perform activities requiring a license;
- 7 (7) Professional misconduct, hazardous negligence causing
8 bodily injury to another, or manifest incapacity in
9 the practice of medicine or surgery;
- 10 (8) Incompetence or multiple instances of negligence,
11 including but not limited to the consistent use of
12 medical service, which is inappropriate or
13 unnecessary;
- 14 (9) Conduct or practice contrary to recognized standards
15 of ethics of the medical profession as adopted by the
16 Hawaii Medical Association, the American Medical
17 Association, the Hawaii Association of Osteopathic
18 Physicians and Surgeons, or the American Osteopathic
19 Association;
- 20 (10) Violation of the conditions or limitations upon which
21 a limited or temporary license is issued;



- 1 (11) Revocation, suspension, or other disciplinary action
2 by another state or federal agency of a license,
3 certificate, or medical privilege[+], except when the
4 revocation, suspension, or other disciplinary action
5 was based on the provision or assistance in receipt or
6 provision of medical, surgical, pharmaceutical,
7 counseling, or referral services relating to the human
8 reproductive system, including but not limited to
9 services relating to pregnancy, contraception, or the
10 termination of a pregnancy, so long as the provision
11 or assistance in receipt or provision of the services
12 was in accordance with the laws of this State or would
13 have been in accordance with the laws of this State if
14 it occurred within this State;
- 15 (12) Conviction, whether by nolo contendere or otherwise,
16 of a penal offense substantially related to the
17 qualifications, functions, or duties of a physician or
18 osteopathic physician, notwithstanding any statutory
19 provision to the contrary[+], except when the
20 conviction was based on the provision or assistance in
21 receipt or provision of medical, surgical,



1 pharmaceutical, counseling, or referral services
2 relating to the human reproductive system, including
3 but not limited to services relating to pregnancy,
4 contraception, or the termination of a pregnancy, so
5 long as the provision or assistance in receipt or
6 provision of the services was in accordance with the
7 laws of this State or would have been in accordance
8 with the laws of this State if it occurred within this
9 State;

10 (13) Violation of chapter 329, the uniform controlled
11 substances act, or any rule adopted thereunder except
12 as provided in section 329-122;

13 (14) Failure to report to the board, in writing, any
14 disciplinary decision issued against the licensee or
15 the applicant in another jurisdiction within thirty
16 days after the disciplinary decision is issued; or

17 (15) Submitting to or filing with the board any notice,
18 statement, or other document required under this
19 chapter, which is false or untrue or contains any
20 material misstatement or omission of fact.



1 (b) If disciplinary action related to the practice of
2 medicine has been taken against the applicant by another state
3 or federal agency, or if the applicant reveals a physical or
4 mental condition that would constitute a violation under this
5 section, then the board may impose one or more of the following
6 requirements as a condition for licensure:

- 7 (1) Physical and mental evaluation of the applicant by a
8 licensed physician or osteopathic physician approved
9 by the board;
- 10 (2) Probation, including conditions of probation as
11 requiring observation of the licensee by an
12 appropriate group or society of licensed physicians,
13 osteopathic physicians, or surgeons;
- 14 (3) Limitation of the license by restricting the fields of
15 practice in which the licensee may engage;
- 16 (4) Further education or training or proof of performance
17 competency; and
- 18 (5) Limitation of the medical practice of the licensee in
19 any reasonable manner to assure the safety and welfare
20 of the consuming public[-];



1 provided that the board shall not impose as a condition for
2 licensure any of the requirements pursuant to this subsection if
3 the disciplinary action related to the practice of medicine
4 taken against the applicant was based on the provision or
5 assistance in receipt or provision of medical, surgical,
6 pharmaceutical, counseling, or referral services relating to the
7 human reproductive system, including but not limited to services
8 relating to pregnancy, contraception, or the termination of a
9 pregnancy, so long as the provision or assistance in receipt or
10 provision of the services was in accordance with the laws of
11 this State or would have been in accordance with the laws of
12 this State if it occurred within this State.

13 (c) Notwithstanding any other law to the contrary, the
14 board may deny a license to any applicant who has been
15 disciplined by another state or federal agency[-], except on the
16 basis of discipline for the provision or assistance in receipt
17 or provision of medical, surgical, pharmaceutical, counseling,
18 or referral services relating to the human reproductive system,
19 including but not limited to services relating to pregnancy,
20 contraception, or the termination of a pregnancy, so long as the
21 provision or assistance in receipt or provision of the services



1 was in accordance with the laws of this State or would have been
 2 in accordance with the laws of this State if it occurred within
 3 this State. Any final order of discipline taken pursuant to
 4 this subsection shall be a matter of public record."

5 SECTION 8. Section 453-8.6, Hawaii Revised Statutes, is
 6 amended as follows:

7 1. By amending subsection (a) to read:

8 "(a) Upon receipt of evidence of revocation, suspension,
 9 or other disciplinary action against a licensee by another state
 10 or federal agency, the board may issue an order imposing
 11 disciplinary action upon the licensee on the following
 12 conditions:

13 (1) The board shall serve the licensee with a proposed
 14 order imposing disciplinary action as required by
 15 chapter 91;

16 (2) The licensee shall have the right to request a hearing
 17 pursuant to chapter 91 to show cause why the action
 18 described in the proposed order should not be imposed;

19 (3) Any request for a hearing shall be made in writing and
 20 filed with the board within twenty days after mailing
 21 of the proposed order to the licensee; and



1 (4) If the licensee does not submit a written request for
2 a hearing within twenty days after mailing of the
3 proposed order, the board may issue a final order
4 imposing the disciplinary action described in the
5 proposed order[-];
6 provided that the board shall not issue an order imposing
7 disciplinary action upon the licensee if the revocation,
8 suspension, or other disciplinary action against a licensee by
9 another state was based on the provision or assistance in
10 receipt or provision of medical, surgical, pharmaceutical,
11 counseling, or referral services relating to the human
12 reproductive system, including but not limited to services
13 relating to pregnancy, contraception, or the termination of a
14 pregnancy, so long as the provision or assistance in receipt or
15 provision of the services was in accordance with the laws of
16 this State or would have been in accordance with the laws of
17 this State if it occurred within this State."

18 2. By amending subsection (c) to read:
19 "(c) A licensee against whom the board has issued a
20 proposed order under this section shall be prohibited from



1 practicing in this State until the board issues a final order
2 if:

3 (1) The licensee was the subject of disciplinary action by
4 another state[?], except where the disciplinary action
5 against the licensee by another state was based on the
6 provision or assistance in receipt or provision of
7 medical, surgical, pharmaceutical, counseling, or
8 referral services relating to the human reproductive
9 system, including but not limited to services relating
10 to pregnancy, contraception, or the termination of a
11 pregnancy, so long as the provision or assistance in
12 receipt or provision of the services was in accordance
13 with the laws of this State or would have been in
14 accordance with the laws of this State if it occurred
15 within this State; and

16 (2) The disciplinary action by another state prohibits the
17 licensee from practicing in that state."

18 SECTION 9. Section 455-11, Hawaii Revised Statutes, is
19 amended by amending subsection (a) to read as follows:

20 "(a) In addition to any other actions authorized by law,
21 the board shall have the power to deny, revoke, suspend, or



1 refuse to renew any license to practice naturopathic medicine
2 applied for or issued by the board in accordance with this
3 chapter, and to fine or otherwise discipline a licensee for any
4 cause authorized by law, including but not limited to the
5 following:

6 (1) Failing to meet or maintain the conditions and
7 requirements necessary to qualify for the issuance of
8 a license;

9 (2) Procuring, or aiding or abetting in procuring, [a
10 ~~criminal~~] an abortion[+] that is unlawful under the
11 laws of this State or that would be unlawful under the
12 laws of this State if performed within this State;

13 (3) Employing any person to solicit patients;

14 (4) Obtaining a fee on the assurance that a manifestly
15 incurable disease can be permanently cured;

16 (5) Betraying a patient's confidence;

17 (6) Making any untruthful and improbable statement in
18 advertising one's naturopathic practice or business;

19 (7) False, fraudulent, or deceptive advertising;

20 (8) Being habituated to the excessive use of drugs or
21 alcohol; or being addicted to, dependent on, or [an] a



- 1 habitual user of a narcotic, barbiturate, amphetamine,
2 hallucinogen, or other drug having similar effects;
- 3 (9) Practicing naturopathic medicine while the ability to
4 practice is impaired by alcohol, drug, physical
5 disability, or mental instability;
- 6 (10) Procuring a license through fraud, misrepresentation,
7 or deceit or knowingly permitting an unlicensed person
8 to perform activities requiring a license;
- 9 (11) Professional misconduct or gross carelessness or
10 manifest incapacity in the practice of naturopathic
11 medicine;
- 12 (12) Conduct or practice contrary to recognized standard of
13 ethics of the naturopathic profession;
- 14 (13) Using medical service or treatment [~~which~~] that is
15 inappropriate or unnecessary;
- 16 (14) Submitting to or filing with the board any notice,
17 statement, or other document required under this
18 chapter [~~which~~] that is false or untrue or contains
19 any material misstatement of fact, including any false
20 certification of compliance with the continuing
21 education requirement specified under section 455-8;



1 (15) Failure to report to the board any disciplinary action
 2 taken against the licensee in another jurisdiction
 3 within thirty days after the disciplinary action
 4 becomes final;

5 (16) Using the title "physician" without clearly
 6 identifying oneself as being a naturopathic physician;

7 (17) Prescribing, administering, and dispensing
 8 naturopathic formulary that are not included in the
 9 formulary established by the board under section 455-
 10 6; and

11 (18) Violation of any provision of this chapter or rules
 12 adopted under this chapter."

13 SECTION 10. Section 457-12, Hawaii Revised Statutes, is
 14 amended by amending subsections (a) and (b) to read as follows:

15 "(a) In addition to any other actions authorized by law,
 16 the board shall have the power to deny, revoke, limit, or
 17 suspend any license to practice nursing as a registered nurse or
 18 as a licensed practical nurse applied for or issued by the board
 19 in accordance with this chapter, and to fine or to otherwise
 20 discipline a licensee for any cause authorized by law, including
 21 but not limited to the following:



- 1 (1) Fraud or deceit in procuring or attempting to procure
2 a license to practice nursing as a registered nurse or
3 as a licensed practical nurse;
- 4 (2) Gross immorality;
- 5 (3) Unfitness or incompetence by reason of negligence,
6 habits, or other causes;
- 7 (4) Habitual intemperance, addiction to, or dependency on
8 alcohol or other habit-forming substances;
- 9 (5) Mental incompetence;
- 10 (6) Unprofessional conduct as defined by the board in
11 accordance with its own rules;
- 12 (7) Wilful or repeated violation of any of the provisions
13 of this chapter or any rule adopted by the board;
- 14 (8) Revocation, suspension, limitation, or other
15 disciplinary action by another state of a nursing
16 license[+], except when the revocation, suspension,
17 limitation, or other disciplinary action by another
18 state was based on the provision or assistance in
19 receipt or provision of medical, surgical,
20 pharmaceutical, counseling, or referral services
21 relating to the human reproductive system, including



1 but not limited to services relating to pregnancy,
 2 contraception, or the termination of a pregnancy, so
 3 long as the provision or assistance in receipt or
 4 provision of the services was in accordance with the
 5 laws of this State or would have been in accordance
 6 with the laws of this State if it occurred within this
 7 State;

8 (9) Conviction, whether by nolo contendere or otherwise,
 9 of a penal offense substantially related to the
 10 qualifications, functions, or duties of a nurse,
 11 notwithstanding any statutory provision to the
 12 contrary[+], except when the conviction was based on
 13 the provision or assistance in receipt or provision of
 14 medical, surgical, pharmaceutical, counseling, or
 15 referral services relating to the human reproductive
 16 system, including but not limited to services relating
 17 to pregnancy, contraception, or the termination of a
 18 pregnancy, so long as the provision or assistance in
 19 receipt or provision of the services was in accordance
 20 with the laws of this State or would have been in



1 accordance with the laws of this State if it occurred
2 within this State;

3 (10) Failure to report to the board any disciplinary action
4 taken against the licensee in another jurisdiction
5 within thirty days after the disciplinary action
6 becomes final;

7 (11) Submitting to or filing with the board any notice,
8 statement, or other document required under this
9 chapter, which is false or untrue or contains any
10 material misstatement of fact, including a false
11 attestation of compliance with continuing competency
12 requirements;

13 (12) Violation of the conditions or limitations upon which
14 any license is issued; or

15 (13) Violation of chapter 329, the uniform controlled
16 substances act, or any rule adopted thereunder except
17 as provided in section 329-122.

18 (b) Notwithstanding any other law to the contrary, the
19 board may deny a license to any applicant who has been
20 disciplined by another state[-], except on the basis of
21 discipline by another state for the provision or assistance in



1 receipt or provision of medical, surgical, pharmaceutical,
2 counseling, or referral services relating to the human
3 reproductive system, including but not limited to services
4 relating to pregnancy, contraception, or the termination of a
5 pregnancy, so long as the provision or assistance in receipt or
6 provision of the services was in accordance with the laws of
7 this State or would have been in accordance with the laws of
8 this State if it occurred within this State. Any final order
9 entered pursuant to this subsection shall be a matter of public
10 record."

11 SECTION 11. Section 457-12.5, Hawaii Revised Statutes, is
12 amended as follows:

13 1. By amending subsection (a) to read:

14 "(a) Upon receipt of evidence of revocation, suspension,
15 or other disciplinary action against a licensee in another
16 state, the board may issue an order imposing disciplinary action
17 upon the licensee on the following conditions:

18 (1) The board shall serve the licensee with a proposed
19 order imposing disciplinary action as required by
20 chapter 91;



1 (2) The licensee shall have the right to request a hearing
2 pursuant to chapter 91 to show cause why the action
3 described in the proposed order should not be imposed;

4 (3) Any request for a hearing shall be made in writing and
5 filed with the board within twenty days after mailing
6 of the proposed order to the licensee; and

7 (4) If the licensee does not submit a written request for
8 a hearing within twenty days after mailing of the
9 proposed order, the board shall issue a final order
10 imposing the disciplinary action described in the
11 proposed order[-];

12 provided that the board shall not issue an order imposing
13 disciplinary action upon the licensee if the revocation,
14 suspension, or other disciplinary action against a licensee by
15 another state was based on the provision or assistance in
16 receipt or provision of medical, surgical, pharmaceutical,
17 counseling, or referral services relating to the human
18 reproductive system, including but not limited to services
19 relating to pregnancy, contraception, or the termination of a
20 pregnancy, so long as the provision or assistance in receipt or
21 provision of the services was in accordance with the laws of



1 this State or would have been in accordance with the laws of
2 this State if it occurred within this State."

3 2. By amending subsection (c) to read:

4 "(c) A licensee against whom the board has issued a
5 proposed order under this section shall be prohibited from
6 practicing in this State until the board issues a final order
7 if:

8 (1) The licensee was the subject of disciplinary action
9 [~~in~~] by another state[+], except where the
10 disciplinary action against the licensee by another
11 state was based on the provision or assistance in
12 receipt or provision of medical, surgical,
13 pharmaceutical, counseling, or referral services
14 relating to the human reproductive system, including
15 but not limited to services relating to pregnancy,
16 contraception, or the termination of a pregnancy, so
17 long as the provision or assistance in receipt or
18 provision of the services was in accordance with the
19 laws of this State or would have been in accordance
20 with the laws of this State if it occurred within this
21 State; and



1 (2) The disciplinary action in the other state prohibits
2 the licensee from practicing in that state."

3 SECTION 12. Section 461-21.5, Hawaii Revised Statutes, is
4 amended as follows:

5 1. By amending subsection (a) to read:

6 "(a) Upon receipt of evidence of revocation, suspension,
7 or other disciplinary action against a licensee by another state
8 or federal agency, the board may issue an order imposing
9 disciplinary action upon the licensee on the following
10 conditions:

11 (1) The board shall serve the licensee with a proposed
12 order imposing disciplinary action as required by
13 chapter 91;

14 (2) The licensee shall have the right to request a hearing
15 pursuant to chapter 91 to show cause why the action
16 described in the proposed order should not be imposed;

17 (3) Any request for a hearing shall be made in writing and
18 filed with the board within twenty days after mailing
19 of the proposed order to the licensee; and

20 (4) If the licensee does not submit a written request for
21 a hearing within twenty days after mailing of the



1 proposed order, the board shall issue a final order
2 imposing the disciplinary action described in the
3 proposed order[-];
4 provided that the board shall not issue an order imposing
5 disciplinary action upon the licensee if the revocation,
6 suspension, or other disciplinary action against a licensee by
7 another state was based on the provision or assistance in
8 receipt or provision of medical, surgical, pharmaceutical,
9 counseling, or referral services relating to the human
10 reproductive system, including but not limited to services
11 relating to pregnancy, contraception, or the termination of a
12 pregnancy, so long as the provision or assistance in receipt or
13 provision of the services was in accordance with the laws of
14 this State or would have been in accordance with the laws of
15 this State if it occurred within this State."

16 2. By amending subsection (c) to read:

17 "(c) A licensee against whom the board has issued a
18 proposed order under this section shall be prohibited from
19 practicing in this State until the board issues a final order
20 if:



- 1 (1) The licensee was the subject of disciplinary action by
- 2 another state[→], except where the disciplinary action
- 3 against the licensee by another state was based on the
- 4 provision or assistance in receipt or provision of
- 5 medical, surgical, pharmaceutical, counseling, or
- 6 referral services relating to the human reproductive
- 7 system, including but not limited to services relating
- 8 to pregnancy, contraception, or the termination of a
- 9 pregnancy, so long as the provision or assistance in
- 10 receipt or provision of the services was in accordance
- 11 with the laws of this State or would have been in
- 12 accordance with the laws of this State if it occurred
- 13 within this State; and
- 14 (2) The disciplinary action by another state prohibits the
- 15 licensee from practicing in that state."

PART IV

17 SECTION 13. Chapter 636C, Hawaii Revised Statutes, is
 18 amended by adding a new section to be appropriately designated
 19 and to read as follows:

20 "§636C- Enforcement of foreign penal civil actions
 21 relating to protected reproductive health care services. (a)



1 No judgment or other order arising from a foreign penal civil
2 action or other penal law banning, restricting, burdening,
3 punishing, penalizing, or otherwise interfering with the
4 provision of protected reproductive health care services shall
5 be enforced in this State.

6 (b) As used in this section:

7 "Foreign penal civil action" means an action authorized by
8 the law of a state, or of any municipality or other governmental
9 entity within a state, other than this State, the essential
10 character and effect of which is to punish an offense against
11 the public justice of that state, municipality, or other
12 governmental entity.

13 "Protected reproductive health care services" means
14 medical, surgical, pharmaceutical, counseling, or referral
15 services relating to the human reproductive system, including
16 but not limited to services relating to pregnancy,
17 contraception, or termination of a pregnancy, that are protected
18 under the Hawaii State Constitution or otherwise lawful under
19 the laws of this State or that would be constitutionally
20 protected or otherwise lawful if performed within this State."

21 PART V



1 SECTION 14. Section 577A-1, Hawaii Revised Statutes, is
2 amended by amending the definition of "medical care and
3 services" to read as follows:

4 "Medical care and services" means the diagnosis,
5 examination, and administration of medication in the treatment
6 of venereal diseases, pregnancy, and family planning services.
7 [~~It shall not include surgery or any treatment to induce~~
8 ~~abortion.~~]"

9 PART VI

10 SECTION 15. If any provision of this Act, or the
11 application thereof to any person or circumstance, is held
12 invalid, the invalidity does not affect other provisions or
13 applications of the Act that can be given effect without the
14 invalid provision or application, and to this end the provisions
15 of this Act are severable.

16 SECTION 16. Statutory material to be repealed is bracketed
17 and stricken. New statutory material is underscored.

18 SECTION 17. This Act shall take effect upon its approval;
19 provided that the amendments made to section 457-12(a), Hawaii
20 Revised Statutes, by section 10 of this Act shall not be



- 1 repealed when that section is reenacted on June 30, 2023,
- 2 pursuant to section 6 of Act 66, Session Laws of Hawaii 2017.



Report Title:

Abortion; Physician Assistants; Consent by Minors; Reproductive Health Care Services; Disclosures; Subpoenas; Licensing Authorities; Disciplinary Action; Investigations; Proceedings

Description:

Allows licensed physician assistants to perform certain abortions. Repeals the requirement that abortions be performed at certain locations. Clarifies that the State shall not deny or interfere with a pregnant person's right to choose to (1) obtain an abortion or (2) if necessary to protect the life or health of the patient terminate the pregnancy. Defines "abortion" and "nonviable fetus". Prohibits a covered entity from disclosing information relating to reproductive health care services. Prohibits the issuance of a subpoena in connection with an out-of-state or interstate proceeding relating to reproductive health care services legally performed in the State. Prohibits agencies from providing information or expending resources in the furtherance of out-of-state or interstate investigations or proceedings relating to reproductive health care services. Prohibits the State from taking adverse action based on pregnancy outcomes or for aiding or assisting a pregnant individual with accessing reproductive health care services. Requires the Governor to deny any demand for surrender of a person charged with a crime involving reproductive health care services unless the conduct constitutes a crime in the State or is made under Article IV, section 2, of the U.S. Constitution. Enumerates laws contrary to public policy and prohibits their application. Prohibits the issuance of a summons for persons to testify in another state with regard to lawful reproductive health care services. Clarifies under various licensing statutes that the provision or assistance in receipt or provision of certain services related to the human reproductive system cannot form a basis for disciplinary action. Prohibits the enforcement of a judgment or order arising from a foreign penal civil action or other penal law with respect to reproductive health care services. Amends the definition of "medical care and services" so that a minor may consent to receive abortion care without any other person's consent. (SD2)

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

