



Healthcare Provider Barriers to Practice Law Review

A task group of the Hawai'i State Center for Nursing

September 2023

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Task Group Members

Profession	Representatives
Advanced Practice Registered Nurse	Rick Ramirez, APRN, ENP Miki Miura, APRN, FNP Bradley Kuo, APRN, FNP & PMHNP Annette Manant, APRN, CNM
Physician	Marc Alexander (Exec Director of HMA) Elizabeth Ignacio, MD
Physician Assistant	Scott Denny, PA
Pharmacy	Corrie Sanders, PharmD
Psychology	Alex Lichton, Ph.D.
Hawai‘i Board of Nursing	Chelsea Fukunaga
Hawai‘i State Center for Nursing	Rhoberta Haley, Ph.D., RN, Advisory Board Vice Chair Linda Beechinor, APRN, DNP, Advisory Board Member Laura Reichhardt, APRN, AGPCNP-BC, Director Amy Ono, JD, Staff

Background

Purpose

This task group, which is a group of interprofessional healthcare providers, will review healthcare-related Hawaii Revised Statutes (HRS) as compared to each profession's own scope of practice as established in state law (i.e. practice acts) to assess and recommend if HRS amendments are needed in order to improve access to care. Additionally, this group will develop a communication plan about what the scopes of practice are for each profession and how the removal of certain barriers may improve access to healthcare, statewide (examples may include case studies, citation of literature/research findings, etc.). The intended outcome is to lead to statute revision to align healthcare-related HRS with established scope of practice for recognized healthcare providers in Hawai'i. The intended effect of these statute changes is to improve access to healthcare provided by highly trained, qualified and safe licensed healthcare professionals for Hawai'i residents.

Related Legislative Resolutions

In 2021 and 2022, the Hawai'i State House of Representatives introduced resolutions with the purpose of these measures included convening a working group to determine the gaps in access to health care and the scope of care of advanced practice registered nurses as well as to conduct an analysis regarding the scopes of practice for advanced practice registered nurses and physician assistants. In addition, the working group proposed under H.R. 99 included broad representation that included psychology, medicine, employers of healthcare providers, and educational programs of healthcare professionals.

The House Resolutions all passed. The Concurrent Resolutions did not get Senate agreement.

- [H.R. 99](#) (adopted), [H.C.R. 123](#), SLH 2021
- [H.R. 100](#) (adopted), [H.C.R. 124](#), SLH 2021
- [H.R. 139](#) (adopted), [H.C.R. 139](#), SLH 2022
- [H.R. 107](#) (adopted), [H.C.R. 100](#), SLH 2023

Timeline of Activities

Formation of Task Group

June 2022

- Acquired list of Hawai'i Revised Statutes that include terms including "physician", "doctor", "advanced practice registered nurse", "APRN", "nurse practitioner", and "psychiatrist".
- Created a list of representatives from healthcare professions with assessing, diagnosing, prescribing, or dispensing authority, as well as the Hawaii Board of Nursing, Hawaii State Rural Health Association, and employers.

Process for Task Group Work

December 2022 - September 2023

- Invited representatives to engage in the first meeting.
- Drafted and approved purpose statement.
- Established monthly meetings.
- Established criteria for review of statutes
 - Statutes will be reviewed relative to each profession’s scope of practice.
 - Task group members comment whether or not changes should be recommended, or if further examination on the statute is needed based on their own practice’s scope of practice.
 - Using a consensus model of voting, the task group members make one single recommendation as to whether or not amendments should be pursued, or if further examination on the statute is needed based on their own practice’s scope of practice.
 - Example: If three professions are included in a statute as enacted, and two professions, upon reviewing their own scope of practice authority recommend that their profession is authorized by scope of practice to engage in that act, the group will consider possible recommendations (below) and by consensus, select one recommendation for that statute.
 - Insert each additional profession’s name in the statute to include their profession and align the statute with the profession’s established scope of practice authority.
 - Change the terminology in the statute to neutral language (i.e., “provider”, “prescriber”) so that any profession with a scope of practice established by state law can engage in such practice.
 - Change the terminology in the statute to neutral language (i.e., “provider”, “prescriber”) so that any profession with a scope of practice established by state law can engage in such practice and create a definition of the neutral term to clarify who this neutral term refers to.
 - If consensus cannot be met, if there is poor understanding of what the law is intended to do, or if there are statutes that comprise parts, chapters, or titles that require full consideration, the task group recommends further research, discussion, or conversation.
 - Provide summary comments on recommendations
- Engaged in individual statute review.

Summary of Work-To-Date

As of September 08, 2023, 180 of the 528 (34.09%) of identified statutes have been reviewed (Table 1).

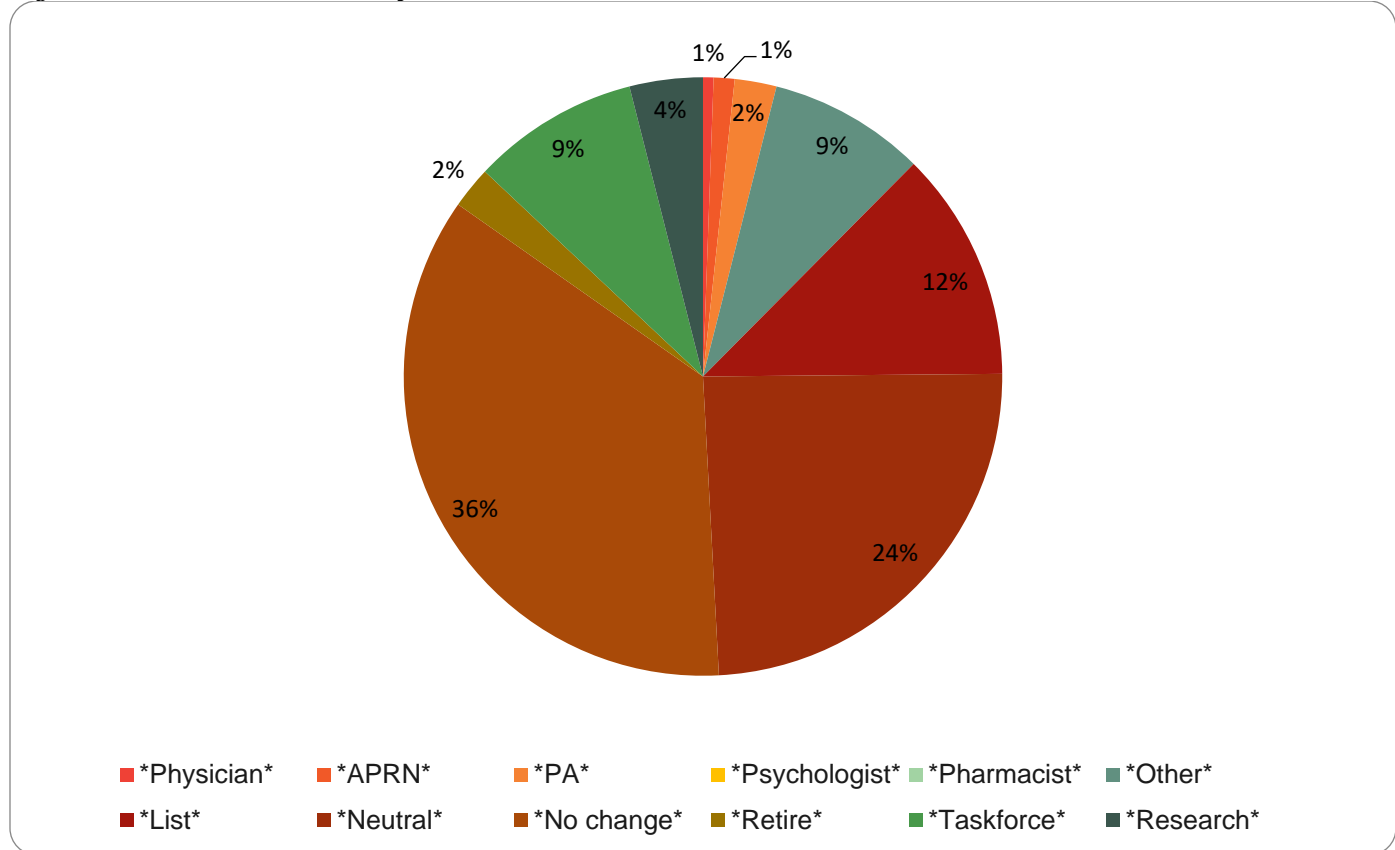
Table 1: Statutes Reviewed to Date

HRS	Count	Percent
HRS Reviewed	180	34.09%
HRS recommended to be amended	82	50.56%
Total HRS	528	

Of the recommendations reviewed, the most frequent recommended changes (35.6%) was no change. The next most frequent recommendation was to amend the statute’s language to adopt “provider neutral language” (24.3%), followed by inserting additional professions into the list of professions named in the statute (12.4%), or creating a task force to address the entire part or chapter of the HRS

due to complexity of the statute’s subject matter (9.0%). “Other” recommendations (8.5%) include revising definitions or clarifying inconsistencies within the statute itself, for example, and the smallest representation of recommendations include researching more about the topic, adding in single professions, and retiring the statute altogether (Figure 1)¹.

Figure 1: Recommendations of Statutes Reviewed



Next Steps and Request for Support

The “Living” Google document² continues to be reviewed by Task Group members with a goal of completing the record review by the end of 2024.

The Healthcare Provider Barriers to Practice Law Review Task Group respectfully seeks legislative collaboration with this initiative that was inspired by resolutions adopted by the Hawai‘i House of Representatives. While the Task Group is composed of health professional practice subject matter experts and clinicians, the Task Group recognizes that federal laws, other statutes, and state government administrators all influence state law. In addition, the volume and scope of the review completed by the Task Group, thus far, includes recommendations to amend 91 Hawai‘i Revised Statutes.

¹ Hawai‘i State Center for Nursing. (2023). HRS Review Worksheet 09 08 2023 fixed record.pdf. Accessed at: https://drive.google.com/file/d/1Zuu-bGy4IL0_y4pUG7ObiX7AXmgGDkyV/view?usp=drive_link

² Hawai‘i State Center for Nursing. (2023). HRS Review Worksheet 09 08 2023. Accessed at: https://drive.google.com/file/d/1Zuu-bGy4IL0_y4pUG7ObiX7AXmgGDkyV/view?usp=drive_link

The Task Group therefore respectfully seeks the assistance of the Hawai‘i State Legislature with:

1. The legislative drafting of these recommendations,
2. Communicating the recommendations to relevant and potentially impacted state departments,
3. Vetting and holding conversation with relevant and potentially impacted state departments, stakeholders, and the Task Group, and
4. Determining the best approach to introduce these recommendations to the Legislature for consideration.

Considerations

Practice authority for the interprofessional team of healthcare providers is a consequential matter: healthcare supports the health of a community, it supports life, maintains wellness, and is a critical aspect of managing debility, disability and death. It is a critical function of humanity.

Today in Hawai‘i, there are many types of healthcare providers. This Task Group was limited in representation for only advanced practice registered nurses, physicians, pharmacists, physician assistants, and psychologists, and therefore does not represent other types of healthcare professionals who may be licensed or unlicensed. Considering that, there was an emphasis to imagine a time in which each resident of Hawai‘i can choose the health care provider of their choice, and that healthcare provider is enabled, through their education, training, certification, licensure (as applicable), and law, to provide safe, quality, timely, and appropriate care. With this in our minds, our effort was to make recommendations that would maintain safety, while also allowing access to care, even for professions that may not have been represented on the task force but have scopes of practice that are established in law that is relevant and applicable to the laws reviewed.

Secondly, this working group identified that there are many instances where a list of eligible providers is established in law, but there seems not to be a standard list or definition of health care provider, prescriber, or health care professional. While it may not be practical to standardize the definition, it also makes for widespread variance across the Hawai‘i Revised Statutes that can make practicing within the law while endeavoring to provide quality care to patients quite confusing.

Third, this work required trust building. Therefore, the task group used a consensus model of decision making. If no consensus was reached, the recommendation was to defer by way of researching the topic more at a later date or creating a task group specifically for the part or chapter. Oftentimes the recommendation to research a statute further was because of lack of awareness or understanding about the statute itself, not lack of consensus about professional scope of practice. This type of deferred recommendation making occurred just over 13% of the time. In addition, each Task Group member brought their own experience, as well as their understanding of the profession they represented. However, no one Task Group member committed to speaking for the entirety of their profession, and the Task Group recognizes that there is no homogeneity within professions. While the Task Group was able to find consensus for the vast majority of the statutes reviewed today, we recognize that there may be differing opinions and additional considerations.

Fourth, it is well documented in Hawai‘i, nationally, and internationally that some professions still question other professions. Creating a unanimous consensus on practice scope, professional authority, and clinical practice is not the goal of this Task Group. Instead, this Task Group explored each represented profession’s established scope of practice and compared how other statutes outside of that scope of practice help or hinder access to care. By not endeavoring to explore each profession’s scope of practice change opportunities (i.e. comparing to national standards), but instead using it as the

constant variable in our analysis, we were able to explore the constellation of statutes that expound on established scope of practice for the represented professions.

Using this logic, it can be concluded that when the constellation of Hawai'i Revised Statutes inhibit the functions and practice established by each profession's practice act, and when definitions for the same terms are varied, access to care is restricted. While 50.56% of statutes have recommendations for some amendments, over 1:3 statutes support health care professionals working to the fullest extent of their education and training as allowed by their practice act.

Conclusion

The Healthcare Provider Barriers to Practice Law Review Task Group respectfully determined that there are statutes outside of the scope of practice acts of the represented professions that restrict access to care by prohibiting actions established within healthcare professions' practice acts.

The Task Group finds that, over the review of 180 statutes, 35% have no recommended change, 50.56% have some recommended change to existing statute. The most common recommendation was to amend the language to use "provider neutral" language to support access to care. The Healthcare Provider Barriers to Practice Law Review Task Group recommends that 82 Hawai'i Revised Statutes be reviewed in the 2024 Legislative Session by the Hawai'i State Legislature with the goal of improved access to healthcare for the people of Hawai'i.

The Task Group will continue to review the remaining statutes, with a goal to complete the review by the end of the calendar year in 2024. The Task Group thanks the Hawai'i Legislature for recognizing this important topic and framing the need for focused inquiry.