

# HSCFN APRN COMMITTEE

## LAWS EXCLUDING APRNS

State Law impacted	Federal law In conflict	Other state law In conflict	Problem	Plan of Action	Result
DOH State Licensing Section – State regulations only					
Chapter 89			<b>Developmental Disabilities Domiciliary Homes(DDDOM)</b> – 5 or less residents who are Developmentally Disabled and the operator does not require any medical background; service plans are developed by resident Case Manager;	Request review of all regulations and update to be commensurate with current regulations relating to authority of APRNs	
Chapter 90			<b>Assisted Living Facilities (ALF)</b> – individual units for individuals to age in place, who are independent initially and then may require additional care services. requires nursing assessment and development of service plans and in some instances care plans, medication administration done through nursing delegation		
Chapter 92			<b>Therapeutic Living Programs (TLP)</b> – new rules in process, however, there are facilities currently licensed (many for children/youth) – for settings from 8 or more residents with mental health issues; medications may be administered to residents through delegation or by “making meds available” (staff observations of residents taking meds on own)		
Chapter 98			<b>Special Treatment Facilities (STF)</b> – new rules in process, however facilities are currently licensed for some children/youth but majority for adults with mental health issues; again meds administered similar to Chap 92		

State Law impacted	Federal law In conflict	Other state law In conflict	Problem	Plan of Action	Result
DOH Medicare Section: State and Federal regulations apply					
Chapter 91	CMS Hospice		New rules in process for State Licensure. However there are Hospice Agencies who are operating and are Certified to receive Medicare/Medicaid reimbursement (and need to adhere to federal requirements) – so there are at home or in-patient hospice settings.		
Chapter 93	CMS Hospital		<p><b>Broad Service Hospitals (also includes Freestanding Birthing Facilities)</b> – this is State Licensure only for the Acute hospitals. Hospitals are able to receive M/M reimbursement if they are accredited and meet all CMS requirements – so they need to meet federal as well as State Licensing requirements. As Chap 93 is old – there is no reference to APRN as this time. the following is language from the regs :</p> <p>11-93-31</p>	<p>Amend: “All patients admitted to a hospital shall be under the general care of a physician member of the medical staff. Individuals admitted by a nonphysician member of the medical staff who has been granted admitting privileges will have a qualified physician who is a member of the medical staff designated to be responsible for the general medical evaluation and medical care of the patient in accordance with requirements of the governing board. (d) The hospital shall not permit interns, residents, fellows, graduates of foreign medical schools or medical students in an approved training program</p>	

State Law impacted	Federal law In conflict	Other state law In conflict	Problem	Plan of Action	Result
				to perform a service for which a license is required by the State of Hawaii unless they are at the time licensed or under the direct control and direct supervision of a licensed physician or a medical staff member of the same profession.”	
11-93-1			“Drug Dispensing”, no mention of APRN No definition of APRN, including Midwife		
11-93-4			Anesthesia: No mention of CRNA		
11-93-14			No mention of APRN		
11-93-22 (3)			Revise wording. “Review and evaluate clinical activities” equals physician supervision of practice.		
11-93-22 (C):			No APRNs have admitting and PCP rights under Act 169		
11-93-24			No mention of APRN		
11-93-28 C			No wording for APRN prescriptive authority		
11-93-29 (D): (3), (6)			No APRN		
Chapter 94(94.1)	Yes, conflicts and supercedes state law CFR 42		<b>Skilled Nursing/Intermediate Care Facilities (Nursing Facilities)</b> – does reference APRN however, Valisa would like the wording to be consistent with federal language – both S/F requirements apply Reimbursement issue at Kaiser only?	Lobby CMS; Senator Grassley; Pat DeLeon Facility can request a waiver for now. Provision in the rules: “With respect to a particular facility, a specific rule may be waived for a period of one	

State Law impacted	Federal law In conflict	Other state law In conflict	Problem	Plan of Action	Result
				year at the discretion of the director.”	
Chapter 96	CMS Ambulatory Surgical Centers		<b>Freestanding Adult Day Health Centers (ADHC)</b> apply to those ADHC that stand alone and not part of 94(94.1) do not reference APRN – all orders shall be signed by physician. State licensure only.		
Chapter 97	CMS Home Health Agencies		<b>Home Health Agencies (HHA)</b> – APRN is not referenced in rules. Establishment and review plan of treatment The rules may change in 2012 if legislation introduced by Senators Susan Collins (R-Maine) and Kent Conrad (D-North Dakota) and by Representatives Greg Walden (R-Oregon) and Allyson Schwartz (D-Pennsylvania) is passed. The bills, S. 227 and HR 2267, called the "Home Health Care Planning Improvement Act of 2011," authorize nurse practitioners, clinical nurse specialists, certified nurse midwives, and physician assistants to order home health services in the Medicare program. The bills will change the language of 42 U.S.C. 1395f(a), 42 U.S.C. 1395n(a), 42 U.S.C. 1395x(m), 42 U.S.C. 1395x(o)(2), and 42 U.S.C. 1395fff from physician-only language to language authorizing a nurse practitioner, clinical nurse specialist, nurse midwife, or physician assistant to order home healthcare services, and authorizing payment to home health agencies when the order is in place.	<b>Amend:</b> (1) A home health agency shall establish policies and procedures for assuring that services and items to be provided are specified under the plan of treatment established and regularly reviewed by the physician who is responsible for the use of the patient.  (2) The original plan of treatment shall be signed by the physician responsible for the patient and incorporated into the patient’s medical record.  (3) The total plan shall be reviewed by the attending physician, in consultation with the agency’s professional personnel at such intervals as the severity of the patient’s condition may	

State Law impacted	Federal law In conflict	Other state law In conflict	Problem	Plan of Action	Result
				<p>require, but not less than once every two months.</p> <p>(4) The professional staff shall bring to the attention of the patient's physician changes in the patient's condition which may indicate the need for altering the treatment plan or for the termination of service.</p> <p>(5) Only the attending physician shall terminate services. Upon termination of services, the physician shall prepare a discharge summary which includes reasons for termination of services, condition upon discharge and a summary of the course of the patient's illness.</p> <p>(6) Original orders of a physician and all changes in orders for the administration of dangerous drugs and narcotics shall be signed by the attending physician and incorporated into the patient's medical record.</p> <p>(7) All other changes in</p>	

State Law impacted	Federal law In conflict	Other state law In conflict	Problem	Plan of Action	Result
				<p>orders shall be either signed by the physician or by the professional nurse of the home health agency, if such changes are received verbally by the nurse.</p> <p>(8) When verbal orders are received by the professional nurse or other professional disciplines they shall be signed by the physician within a reasonable period of time.</p>	
HRS, Chapter 321.14.8			<b>Home Care Agency, licensing</b> – “establishes home care agencies” however no rules have been promulgated as yet.	HAH working on the rules, so there’s time to work with them to insert APRN role and appropriate language	
Chapter 99	CMS Intermediate Care Facility for the Mentally Retarded Community		<b>Intermediate Care Facilities for the Mentally Retarded</b> – S/F requirements apply. As the State requirements are old – does not reference APRN role.		
DCCA HRS 431:10C-103.5,			<b>Motor Vehicle Insurance</b> (ambiguous) (a) Personal injury protection benefits, with respect to any accidental harm, means all appropriate and reasonable treatment and expenses necessarily incurred as a result of the accidental harm and which are substantially comparable to the requirements		

State Law impacted	Federal law In conflict	Other state law In conflict	Problem	Plan of Action	Result
			<p>for prepaid health care plans, including medical, hospital, surgical, professional, nursing, advanced practice nursing recognized pursuant to chapter 457, dental, optometric, naturopathic medicine, chiropractic, ambulance, prosthetic services, medical equipment and supplies, products and accommodations furnished, x-ray, psychiatric, physical therapy pursuant to prescription by a medical doctor, occupational therapy, rehabilitation, and therapeutic massage by a licensed massage therapist when prescribed by a medical doctor.</p>		
<p>Dept of Labor HRS 386-21</p>			<p><b>Work Comp</b> (b) Whenever medical care is needed, the injured employee may select any physician or surgeon who is practicing on the island where the injury was incurred to render medical care. If the services of a specialist are indicated, the employee may select any physician or surgeon practicing in the State. The director may authorize the selection of a specialist practicing outside the State where no comparable medical attendance within the State is available. Upon procuring the services of a physician or surgeon, the injured employee shall give proper notice of the employee's selection to the employer within a reasonable time after the beginning of the treatment. If for any reason during the period when medical care is needed, the employee wishes to change to another physician or surgeon, the employee may do so in accordance with rules prescribed by the director. If the employee is unable to select a physician or surgeon and the emergency nature of the injury requires immediate</p>		

State Law impacted	Federal law In conflict	Other state law In conflict	Problem	Plan of Action	Result
			<p>medical attendance, or if the employee does not desire to select a physician or surgeon and so advises the employer, the employer shall select the physician or surgeon. The selection, however, shall not deprive the employee of the employee's right of subsequently selecting a physician or surgeon for continuance of needed medical care.</p>		
DOH HRS 338-9			<p><b>Death Certificates</b></p> <p>(a) The person in charge of the disposition of the body shall file with the department of health in Honolulu or with the local agent of the department of health in the district in which the death or fetal death occurred, or a dead body was found, a certificate of death or fetal death within three days after the occurrence, except that reports of intentional terminations of pregnancy performed in accordance with section 453-16 may be deferred for up to one month.</p> <p>(b) In preparing a certificate of death or fetal death the person in charge of the disposition of the body shall:</p> <p>(1) Obtain and enter on the certificate the personal data and other information pertaining to the deceased person required by the department from the person best qualified to supply them;</p> <p>(2) Present the certificate of death to the physician last in attendance upon the deceased, or to the coroner's physician, who shall thereupon certify the cause of death to the physician's best knowledge and belief, or present the certificate of fetal death to the physician, midwife, or other person in attendance at the fetal death, who shall certify the fetal death and such medical data</p>		

State Law impacted	Federal law In conflict	Other state law In conflict	Problem	Plan of Action	Result
			<p>pertaining thereto as can be furnished; provided that fetal deaths of less than twenty-four weeks or intentional terminations of pregnancy performed in accordance with section 453-16 may be certified by a nurse or other employee based upon the physician's records; and</p> <p>(3) Notify immediately the appropriate local agent, if the death occurred without medical attendance, or if the physician last in attendance fails to sign the death certificate.</p>		
DCCA HAR 16-11-3			<p><b>Physical Therapy (this may have been amended)</b></p> <p>§16-110-3 When referrals required. (a) Treatment of a person by a licensed physical therapist is prohibited unless the person has been referred to the licensed physical therapist for treatment by a <i>physician licensed pursuant to chapter 453, HRS; osteopathic physician licensed pursuant to chapter 460, HRS; dentist licensed pursuant to chapter 448, HRS; chiropractor licensed pursuant to chapter 442, HRS; naturopath licensed pursuant to chapter 455, HRS; optometrist licensed pursuant to chapter 459, HRS; or podiatrist licensed pursuant to chapter 463E, HRS.</i></p>		
DCCA HRS 461-1			<p><b>Pharmacist Orders</b></p> <p>(2) Performing the following procedures or functions as part of the care provided by and in concurrence with a "health care facility" and "health care service" as defined in section 323D-2, or a "pharmacy" or a licensed physician, or a "managed care plan" as defined in section 432E-1, in accordance with policies, procedures, or protocols developed</p>		

State Law impacted	Federal law In conflict	Other state law In conflict	Problem	Plan of Action	Result
			<p>collaboratively by health professionals, including physicians and surgeons, pharmacists, and registered nurses, and for which a pharmacist has received appropriate training required by these policies, procedures, or protocols:  (F) As authorized by a <i>licensed physician's written instructions</i>, initiating or adjusting the drug regimen of a patient pursuant to an order or authorization made by the patient's <i>licensed physician</i> and related to the condition for which the patient has been seen by the <i>licensed physician</i>; provided that the pharmacist shall issue written notification to the patient's <i>licensed physician</i> or enter the appropriate information in an electronic patient record system shared by the licensed physician, within twenty-four hours;  "Licensed physician" means a physician licensed by the board of medical examiners pursuant to chapter 453 or 460</p>		
HRS 321-23.6			<p><b>Compassionate Care Only Bracelet application</b>  (a) The department shall adopt rules for emergency medical services which shall include:  (1) Uniform methods of rapidly identifying an adult person who:  (A) Has been certified in a written "comfort care only" document by the <i>person's physician</i> to be a terminally ill patient of that physician; and  (B) Has certified in the same written "comfort care only" document that the person directs emergency medical services personnel, first responder personnel, and health care</p>		

State Law impacted	Federal law In conflict	Other state law In conflict	Problem	Plan of Action	Result
			<p>providers not to administer chest compressions, rescue breathing, electric shocks, or medication, or all of these, given to restart the heart if the person's breathing or heart stops, and directs that the person is to receive care for comfort only, including oxygen, airway suctioning, splinting of fractures, pain medicine, and other measures required for comfort; and</p> <p>(C) Has been prescribed by a <i>physician</i> a "comfort care only" identifying bracelet or necklace;</p> <p>(2) The written document containing both certifications must be signed by the patient with the terminal condition, by the <i>patient's physician</i>, and by any one other adult person who personally knows the patient;</p>		
DHS 17-892.1  DHS 17-1625  DHS 17-1627  DHS 17-895  DHS 17-896  DHS 17-1417  DHS 17-1440			<b>Licensing of Group Child Care Centers and Group Child Care Homes</b>  <b>Licensing of Foster Family Homes for Children</b>  <b>Licensing of Child Caring Institutions</b>  <b>Licensing of Infant Toddler Child Care Centers</b>  <b>Licensing of Before and After School Child Care Facilities</b>  <b>Adult Day Care Centers</b>  <b>Home and Community Based Services for Elderly Foster Family Community Care</b>	<b>Need for DHS to review all of their regulations relating to children and adults to address authority of APRN commensurate with current applicable regulations</b>	

State Law impacted	Federal law In conflict	Other state law In conflict	Problem	Plan of Action	Result
DHS 17-1454  DHS 17-1439			<p><b>Homes</b></p> <p><b>Regulations of Home and Community based Case Management Agencies and Community Care Foster Family Homes</b></p> <p><b>Home and Community Based Services for the Developmentally Disabled/Mentally Retarded</b></p>		
DCAB HRS 291-51 & HAR 11-219-4-5			<p><b>Handicap Parking Passes</b></p> <p><b>"Certificate of disability"</b> means a medical statement issued by a <i>licensed practicing physician</i>, which verifies that a person is disabled, limited, or impaired in the ability to walk.</p> <p><b>HAR §11-219-4 Definitions.</b> As used in this chapter, unless the context clearly indicates otherwise:</p> <p>"Certificate of disability" means a form designed by the state disability and communication access board, and signed by a <i>licensed practicing physician</i> who certifies that the person is a person with a disability as defined in this section. ...</p> <p>"<i>Licensed practicing physician</i>" means a doctor of medicine, naturopathy, osteopathy, or podiatry duly licensed and authorized to practice in the State of Hawaii in accordance with chapters 453, 455, 460, and 463E, HRS. ...</p> <p>"Special license plates" means license plates issued to a person whose disability is expected to last for at least four years as certified by a <i>licensed practicing physician</i>. The license plates shall display the International Symbol of Access in a color that</p>		

State Law impacted	Federal law In conflict	Other state law In conflict	Problem	Plan of Action	Result
			<p>contrasts to the background, and in the same size as the letters and numbers on the plates.</p> <p><b>§11-219-5</b> Processing of the parking permit application. The following provisions shall govern the application process for removable windshield placards, temporary removable windshield placards, special license plates, and identification cards to "persons with disabilities":</p> <p>(1) In order to be considered for issuance of a parking permit (removable windshield placard, temporary removable windshield placard, or special license plates) and identification card, the applicant shall submit a completed application to the issuing agency. The application form shall be approved by the disability and communication access board and provided to the applicant by the issuing agency. The certificate of disability section of the form shall be completed by a <i>licensed practicing physician</i>. The certification of <i>the licensed practicing physician</i> shall be valid for no more than sixty days prior to submitting the application.</p>		
HRS 621			Related to potential juror exclusion due to disability certification		
HRS 346-352			Related to prior authorizations	SB 1453 Task force to study Prior authorization establishing statewide standardization of prescription drug prior authorization process. Testimony in favor of mandating waiver rather	

State Law impacted	Federal law In conflict	Other state law In conflict	Problem	Plan of Action	Result
				than task force . Passed out of HLTH with amendments; then passed out of CPC unamended 3/23/11 Next House Finance No change (as of 3/29/11)	
HRS 347-13			Related to life jackets		
HRS 302A-1156			Exemption from childhood immunizations		
HRS 327E-5			<b>POLST</b> (physician orders for life sustaining treatment)		
DHS <u>Medicaid/QUEST</u>			The PT and/or OT provider has written documentation that the therapy is ordered or prescribed by a licensed physician.		