

OFFICE OF THE GOVERNOR
STATE OF HAWAII

**SEVENTH PROCLAMATION
RELATING TO WILDFIRES**

By the authority vested in me by the Constitution and laws of the State of Hawai'i, in order to provide relief for disaster damages, losses, and suffering, and to protect the health, safety, and welfare of the people, I, JOSH GREEN, M.D., Governor of the State of Hawai'i, hereby determine, designate and proclaim as follows:

WHEREAS, on August 8, 2023, Acting Governor Sylvia Luke issued the Proclamation Relating to Wildfires and declared a state of emergency to exist in the counties of Maui and Hawai'i;

WHEREAS, on August 9, 2023, after wildfires spread considerably and burned a number of structures in and around Lāhainā, Acting Governor Sylvia Luke issued the Second Proclamation Relating to Wildfires, which extended the emergency declaration to the entire State;

WHEREAS, also on August 9, 2023, Acting Governor Sylvia Luke issued the Third Proclamation Relating to Wildfires;

WHEREAS, on August 10, 2023, I issued the Fourth Proclamation Relating to Wildfires;

WHEREAS, on August 13, 2023, I issued the Fifth Proclamation Relating to Wildfires;

WHEREAS, on August 19, 2023, I issued the Sixth Proclamation Relating to Wildfires;

WHEREAS, these fires have burned thousands of acres, cut off communications, and forced closure of roads and schools, and evacuations in the Kohala Ranch and Kula areas;

WHEREAS, the fires have caused significant loss of life and property in Maui County, thousands of people are without adequate shelter, and the town of Lāhainā has been destroyed;

WHEREAS, it is necessary to supplement the sixth proclamation to ensure a continued and effective statewide response to the wildfire emergency;

WHEREAS, the Legislature of the State of Hawai'i has appropriated from the general revenues of the State monies as may be necessary for expenditure by or under the direction of the Governor for the immediate relief of the conditions created by the emergency;

WHEREAS, in expending such monies, the Governor may allot any portion to any agency, office, or employee of the State or to any county for the most expeditious and efficient relief of the conditions created by the emergency;

WHEREAS, pursuant to sections 127A-14 and 127A-16, Hawaii Revised Statutes (HRS), the Governor may determine whether an emergency or disaster has occurred, or whether there is an imminent danger or threat of an emergency or disaster and authorize actions under chapter 127A, HRS, and the expenditure of funds thereunder;

WHEREAS, pursuant to section 127A-13(a)(3), HRS, the Governor may suspend any law that impedes or tends to impede or is detrimental to the expeditious and efficient execution of, or that conflicts with, emergency functions, including laws specifically made applicable to emergency personnel;

WHEREAS, pursuant to section 127A-13(a)(2), HRS, the Governor may relieve hardships and inequities, or obstructions to the public health, safety, and welfare found by the Governor to exist in the laws and to result from the operation of federal programs or measures taken under chapter 127A, HRS, by suspending laws, in whole or in part, or by alleviating the provisions of laws on such terms and conditions as the Governor may impose;

WHEREAS, section 127A-9, HRS, provides immunity from civil liability for certain entities and individuals while engaging in emergency management functions, including volunteers whose services are accepted by authorized persons, except in cases of wilful misconduct, gross negligence, or recklessness; and

NOW, THEREFORE, I, JOSH GREEN, M.D., Governor of the State of Hawai'i, hereby determine that an emergency or disaster contemplated by section 127A-14, HRS, is occurring in the State of Hawai'i, and do hereby authorize and invoke the following emergency provisions which are expressly invoked, if not already in effect upon this declaration of an emergency:

I. Essential Travel Only to West Maui Through October 7, 2023

Nonessential travel to West Maui is strongly discouraged through October 7, 2023. This guidance will be discontinued October 8, 2023. I order all affected State agencies to assist as needed.

II. Invocation of Laws

Section 121-30, HRS, and I hereby authorize the Adjutant General to activate such units of the Hawai'i National Guard as may be necessary to assist and aid civilian authorities in disaster relief and in averting any imminent public danger and threat and to ensure the compliance with the civil laws of the State of Hawai'i.

Sections 127A-12 and 127A-13, HRS, in order for county and State agencies to provide emergency relief and engage in emergency management functions as defined in section 127A-2, HRS, as a result of and in response to this event.

Section 127A-13(a)(1), HRS, and determine that disaster-generated debris on private property in impacted areas constitutes an immediate threat to life, public health, and safety, and to the economic recovery of the community at large.

Sections 127A-13(a)(8), 127A-25, and 127A-29, HRS. I hereby order that making any unsolicited offer to an owner of real property located in the areas encompassed by United States Postal ZIP codes 96761, 96767, and 96790 on the island of Maui to purchase or otherwise acquire any interest in the real property is prohibited. I further prescribe and adopt this order as a rule having the force and effect of law under section 127A-25. Any person who intentionally, knowingly, or recklessly makes an unsolicited offer to an owner of real property located in in the areas encompassed by United States Postal ZIP codes 96761, 96767, and 96790 on the island of Maui to purchase or otherwise acquire any interest in the real property shall be guilty of a misdemeanor and upon conviction, the person shall be fined no more than \$5,000, imprisoned no more than one year, or both. The foregoing notwithstanding, it shall be an affirmative defense to prosecution if the property owner to whom the offer was made was not impacted by this wildfire emergency. For purposes of this order, "person" means any individual, partnership, corporation, limited liability company, association, or other group or entity, however organized. "Unsolicited" means not asked for or requested.

Sections 127A-3, 127A-12(a)(5), 127A-13(a)(5), and 127A-13(a)(6), HRS, and the Director of Hawai'i Emergency Management and the Administrator of Emergency Management are directed to take appropriate actions to direct or control, as may be necessary for emergency management:

- a. Alerts, warnings, notifications, and activations;
- b. Warnings and signals for alerts and any type or warning device, system, or method to be used in connection therewith;
- c. Partial or full mobilization of State personnel in advance of or in response to an actual emergency or disaster;
- d. The conduct of civilians and the movement and cessation of movement of pedestrians and vehicular traffic during, before, and after alerts, emergencies, or disasters;
- e. Shut off water mains, gas mains, electric power connections, or suspension of other services; and
- f. Mandatory evacuation of the civilian population.

Section 127A-12(b)(13), HRS, requiring each public utility, or any person owning, controlling, or operating a critical infrastructure, to protect and safeguard its or the person's property, or to provide for the protection and safeguarding thereof, and provide for the protection and safeguarding of all critical infrastructure and key resources; provided that without prejudice to the generality of the foregoing two clauses, the protecting or safeguarding may include the regulation or prohibition of public entry thereon, or the permission of the entry upon terms and conditions as I may prescribe.

Section 127A-12(b)(16), HRS, directing all State agencies and officers to cooperate and extend their services, materials, and facilities as may be required to assist in emergency response efforts.

Section 127A-16, HRS, by activating the Major Disaster Fund.

Section 127A-30, HRS, **rental or sale of essential commodities during a state of emergency; prohibition against price increases**. For the island of Maui, I hereby invoke the prohibition against price increases only for the following essential commodities: (1) food; (2) water; (3) dairy and non-dairy milk; (4) ice; (5) essential childcare products including diapers, wipes, and infant formula; (6) over-the-counter

medicines including non-steroidal anti-inflammatory drugs, and first aid and wound care products; (7) hygiene products including toothpaste, feminine hygiene products, hand soap and sanitizer, tissue, toilet paper, and face masks; (8) durable medical equipment including wheelchairs, crutches, and walkers; (9) liquified petroleum gas products including propane and butane; (10) sales and rentals of motor vehicles; (11) repair of motor vehicles, as defined in section 437B-1, HRS; (12) rentals for the purpose of storing personal property in a self-service storage facility, as defined in part III, chapter 507, HRS; (13) pet food and pet supplies; and (14) rentals of residential dwellings. Prices for these essential commodities may not exceed regular prices that were in effect as of August 9, 2023, when Section 127A-30 was invoked in the Second Proclamation Relating to Wildfires, unless authorized by law or this Proclamation. Any additional operating expenses incurred by the seller or landlord, and which can be documented, may be passed on to the consumer or tenant. In the case of a residential dwelling unit, if rent increases are contained in a written instrument that was signed by the tenant prior to August 9, 2023, the increases may take place pursuant to the written instrument. For the island of Maui, this prohibition against certain price increases shall be effective for the entire duration of this Seventh Proclamation Relating to Wildfires.

Section 201B-9, HRS. Upon the request of the Board of the Hawai'i Tourism Authority, I hereby declare that a tourism emergency exists in the State. I further authorize the Hawai'i Tourism Authority, in coordination with the Department of Budget and Finance, to use monies in the Tourism Emergency Special Fund to respond to the emergency and provide relief under section 201B-10, HRS.

Rules Relating to Immunities for Health Care Practices, as set forth in Exhibit A.

III. Suspension of Laws

The following specific provisions of law are suspended, as allowed by federal law, pursuant to sections 127A-12(b)(8) and 127A-13(a)(3), HRS, to the extent that the law impedes or tends to impede or be detrimental to the expeditious and efficient execution of, or to conflict with, emergency functions, including laws which by this chapter specifically are made applicable to emergency personnel:

Chapter 6E, HRS, **historic preservation**, only to the extent necessary to allow for emergency demolition and removal of wildfire-generated debris. Any work performed

under this limited suspension shall be subject to cultural, historic, and archaeological monitoring as appropriate. I also order State agencies and personnel, to the extent allowed by law and in consultation with the State Historic Preservation Division, to protect and preserve items of historic or cultural significance to the town and historic character of Lāhainā regardless of age, including but not limited to, business signs and other landmarks.

Section 37-41, HRS, **appropriations to revert to state treasury; exceptions**, to the extent that appropriations lapse at the end of the fiscal year prior to completion of the emergency actions.

Section 37-74(d), HRS, **program execution**, except for sub-sections 37-74(d)(2) and 37-74(d)(3), HRS, and any such transfers or changes considered to be authorized transfers or changes for purposes of section 34-74(d)(1) for legislative reporting requirements, to the extent that legislative authorization would likely delay appropriation transfers or changes between programs to provide necessary funding to complete the emergency actions.

Section 40-66, HRS, **lapsing of appropriations**, to the extent that the timing of the procurement of the construction of the emergency permanent repairs may occur the fiscal year following the original emergency proclamation.

Chapter 46, HRS, **county organization and administration, provisions applicable to all counties, general provisions**, to the extent necessary to respond to the emergency.

Chapter 76, HRS, **civil service law**, to the extent necessary to respond to the emergency.

Chapter 89, HRS, **collective bargaining in public employment**, to the extent that compliance with this chapter is detrimental to the expeditious and efficient execution of employment actions relating to the emergency.

Chapter 89C, HRS, **public officers and employees excluded from collective bargaining**, to the extent that compliance with this chapter requires additional time detrimental to the expeditious and efficient execution of emergency actions.

Chapter 91, HRS, **administrative procedure**, to the extent that any deadlines may be waived or suspended for any emergency rules that are required for the

expeditious provision of housing, housing assistance programs, transportation, relocation assistance, supportive services or programs.

Chapter 92, HRS, **public agency meetings and records**, as follows: section 92-3.7(a), to suspend the physical location requirement for Maui-based boards; section 92-15, for boards with Maui-based members, to suspend the quorum requirements, and to the extent the absence of Maui-based members would prevent a board from meeting them, the voting requirements under section 92-4(a) (executive meetings); section 92-9(b), for Maui-based boards, to suspend the deadline for posting minutes; and section 92-3.1(a), for limited meetings of any board related to the emergency, suspend the requirement for the board's vote and concurrence by the Office of Information Practices.

Section 103-2, HRS, **general fund**, to the extent that compliance results in any additional delays.

Section 103-53, HRS, **contracts with the State or counties; tax clearances, assignments**, only to the extent necessary to waive the Internal Revenue Service (IRS) tax clearance requirement.

Section 103-55, HRS, **wages, hours, and working conditions of employees of contractors performing services**, to the extent that compliance results in any additional delays.

Chapter 103D, HRS, **Hawaii public procurement code**, to the extent that compliance results in any additional delays involved in meeting procurement requirements for selecting contractors in a timely manner to respond to emergency situations.

Chapter 103F, HRS, **purchases of health and human services**, to the extent that compliance results in any additional delays involved in meeting procurement requirements for selecting contractors in a timely manner to respond to emergency situations.

Chapter 104, HRS, **wages and hours of employees on public works**, and implementing administrative rules, to the extent that compliance with this chapter requires additional time detrimental to the expeditious and efficient execution of emergency actions.

Sections 105-1 to 105-10, HRS, **use of government vehicles, limitations**, to the extent that compliance with this chapter requires additional time detrimental to the expeditious and efficient execution of emergency actions.

Section 127A-16(a)(2), HRS, **major disaster fund**, only to the extent necessary to suspend the \$10,000,000 limit on expenditures for a single emergency or disaster.

Section 127A-25(c), HRS, **rules and orders**, to the extent the requirement to publish rules adopted pursuant to chapter 127A, HRS, in a newspaper of general circulation in the State shall be suspended inasmuch as the posting of such rules on the applicable state or county government website or by other means of official announcement as provided by this section brings the rules' content to the attention of the general public.

Section 127A-30, HRS, **rental or sale of essential commodities during a state of emergency; prohibition against price increases**, except for the prohibition against certain price increases on the island of Maui as described in section II, above. The automatic, statewide invocation of this provision is not needed for this emergency.

Section 127A-30(a)(2), HRS, **rental or sale of essential commodities during a state of emergency; prohibition against price increases**, is further suspended only to the extent that it would permit the termination of any tenancy for a residential dwelling unit on the island of Maui for a breach of a material term of a rental agreement or lease resulting from a failure to pay all or any portion of the rent or lease, maintenance fees, utility charges, taxes or other fees required by the rental agreement or lease. The prohibition against certain price increases, including the prohibition against rental increases on the island of Maui, remains in full force and effect as described in section II, above. Additionally, section 521-68, HRS, **landlord's remedies for failure to pay rent** and section 521-71, HRS, **termination of tenancy; landlord's remedies for holdover tenants** and chapter 666, **landlord and tenant**, are suspended to the extent necessary to prohibit the commencement, continuation, or prosecution of an action, to terminate any tenancy for a residential dwelling unit on the island of Maui, for failure to pay all or any portion of the rent, maintenance fees, utility charges, taxes or other fees required for the residential dwelling unit.

Chapter 171, HRS, **public lands, management and disposition of**, to the extent necessary to respond to the emergency.

Chapter 180, HRS, **soil and water conservation districts**, to the extent necessary to respond to the emergency.

Chapter 180C, HRS, **soil erosion and sediment control**, to the extent necessary to respond to the emergency.

Chapter 183, HRS, **forest reserves, water development, zoning**, to the extent necessary to respond to the emergency.

Chapter 183C, HRS, **conservation district**, to the extent necessary to respond to the emergency.

Chapter 183D, HRS, **wildlife**, to the extent necessary to respond to the emergency.

Chapter 184, HRS, **state parks and recreation areas**, to the extent necessary to respond to the emergency.

Chapter 187A, HRS, **aquatic resources**, to the extent necessary to respond to the emergency.

Chapter 195, HRS, **natural area reserves system**, to the extent necessary to respond to the emergency.

Chapter 195D, HRS, **conservation of aquatic life, wildlife, and land plants**, to the extent necessary to respond to the emergency.

Chapter 200, HRS, **ocean recreation and coastal areas programs**, to the extent necessary to respond to the emergency.

Chapter 205, HRS, **land use commission**, to the extent necessary to respond to the emergency.

Chapter 205A, HRS, **coastal zone management**, to the extent necessary to respond to the emergency.

Chapter 269, HRS, **public utilities commission**, to the extent necessary to respond to the emergency during the emergency period.

Chapter 271, HRS, **motor carrier law**, to the extent necessary to respond to the emergency during the emergency period.

Chapter 271G, HRS, **Hawaii water carrier act**, to the extent necessary to respond to the emergency during the emergency period.

Section 321-11, HRS, **subjects of health rules, generally**, and title 11, chapter 22, Hawaii Administrative Rules (HAR), **mortuaries, cemeteries, embalmers, undertakers, and mortuary authorities**, only to the extent necessary to extend the time that a dead human body must be embalmed, cremated, or buried, on the island of Maui from within 30 hours after death to the later of: 30 days after death or 30 days after release from the custody of the coroner, medical examiner, county, or county physician.

Chapter 328, HRS, **food, drugs, and cosmetics**, to the extent necessary to allow a pharmacist to refill active, prescriptions for persons directly impacted by the wildfire emergency if the pharmacist is unable to readily obtain refill authorization from the prescriber, and to dispense without a prescription the drug Paxlovid (nirmatrelvir co-packaged with ritonavir) to persons in the County of Maui in only those instances where sufficient information is available to allow the pharmacist to assess patient renal and hepatic function and the potential for drug interaction, and it is unnecessary to modify the patient's other medications to avoid potential drug interaction, provided that: (1) the pharmacist may only dispense up to a maximum 30-day supply (5-day supply only for Paxlovid); (2) the prescription is not for a substance listed in schedules II-V appearing in chapter 329, HRS; (3) the medication is essential to the maintenance of life or to the continuation of therapy in a chronic condition; (4) in the pharmacist's professional judgment, the interruption of therapy might reasonably produce undesirable health consequences or may cause physical or mental discomfort; (5) any dispensed prescription drug bears a label with the information otherwise required by law, including but not limited to section 328-16, HRS; and (6) the dispensing pharmacist complies with section 328-17.7, HRS, and notifies the prescriber of the emergency dispensing as soon as practicable after such dispensing.

Section 329-38(i)(1), HRS, **prescriptions**, to the extent necessary to waive the requirement that a prescription for controlled substances originate from within the State when prescribed to treat mental, behavioral, neurodevelopmental, or substance-related or addictive disorders.

Section 329-40(b)(7), HRS, **methadone treatment programs**, to the extent necessary to allow the medical director or other program physician of a Maui methadone treatment program to dispense the maximum number of take-home dosages of methadone permitted by federal law to patients who are directly affected by the wildfire emergency during the emergency period, in lieu of the 14-day limit.

Section 329-41(a)(8), HRS, **prohibited acts**, to the extent necessary to allow, subject to any federal regulation, a practitioner who is not physically located in the State to facilitate the issuance or distribution of a written prescription or to issue an oral prescription for a controlled substance for a patient, currently in State, who is directly affected by the wildfire emergency during the emergency period.

Section 329-32, HRS, **registration requirements**, to the extent necessary to allow an out-of-state physician or advanced practice registered nurse with a current and active license, and who holds a current United States Drug Enforcement Administration (DEA) registration in at least one state, to administer, prescribe, dispense, or store a controlled substance, on the island of Maui without a current Hawaii controlled substance registration; provided that they have never had their professional vocational license or their authority to work with controlled substances revoked or suspended and are hired by a State or county agency or entity, or by a hospital, including related clinics and rehabilitation hospitals, nursing home, hospice, pharmacy, clinical laboratory, or other health care entity. This suspension is contingent on the out-of-state physician or advanced practice registered nurse receiving federal authority from the DEA to administer, prescribe, dispense, or store a controlled substance in Hawaii beforehand and complying with any further instruction from the State Narcotics Enforcement Division (NED).

Chapter 342B, HRS, **air pollution**, to the extent necessary to respond to the emergency, and implementing rules including HAR sections 11-60.1-52 and -53, to the extent necessary to suspend permits and to disallow open burning and agricultural burning on the Islands of Hawai'i and Maui.

Chapter 342D, HRS, **water pollution**, to the extent necessary to respond to the emergency, and implementing rules including but not limited to HAR chapters 11-53, 11-54, 11-55, 11-56, and 11-62 to support emergency management functions.

Chapter 342E, HRS, **non-point source pollution management and control**, to the extent necessary to support emergency management functions.

Chapter 342F, HRS, **noise pollution**, to the extent necessary to respond to the emergency.

Chapter 342G, HRS, **integrated solid waste management**, to the extent necessary to perform emergency response during the emergency period.

Chapter 342H, HRS, **solid waste pollution**, to the extent necessary to respond to the emergency, and implementing rules including HAR section 11-58.1 to allow expedited waste management including but not limited to collection, removal, transport, recycling, and disposal activities.

Chapter 342J, HRS, **hazardous waste**, to the extent necessary to respond to the emergency, and implementing rules including HAR sections 11-260.1-279.1 to allow expedited waste management including but not limited to collection, removal, transport, recycling, and disposal activities.

Chapter 342L, HRS, **underground storage tanks**, and implementing rules including HAR section 11-280.1, to the extent necessary to respond to the emergency.

Chapter 343, HRS, **environmental impact statements**, to the extent necessary to respond to the emergency.

Chapter 451J, **marriage and family therapists**, to the extent necessary to allow an out-of-state marriage and family therapists with a current and active license, or those previously licensed pursuant to Chapter 451J, HRS, but who are no longer current and active, to practice statewide without a Hawai'i license; provided that they have never had their license revoked or suspended and are hired by a State or county agency or facility, or by a hospital, including related clinics and rehabilitation hospitals, nursing home, hospice, pharmacy, or clinical laboratory, or other health care entity.

Section 451J-5, HRS, **prohibited acts**, and section 451J-7, HRS, **application for licensure**, to the extent necessary to waive the licensure and accompanying requirements so as to enable out-of-state marriage and family therapists with a current and active license, to engage in telehealth practices with Hawai'i patients without an in-person consultation or a prior existing provider-patient relationship, provided that they

have never had their license revoked or suspended and are subject to the same conditions, limitations, or restrictions as in their home jurisdiction.

Chapter 453, HRS, **medicine and surgery**, and Chapters 16-85, HAR, **medical examiners**, to the extent necessary to allow out-of-state physicians, osteopathic physicians, emergency medical service personnel, and physician assistants with a current and active license, or those previously licensed pursuant to Chapter 453, HRS, but who are no longer current and active, to practice statewide without a Hawai'i license; provided that they have never had their license revoked or suspended and are hired by a State or county agency or facility, or hospital, including related clinics and rehabilitation hospitals, nursing home, hospice, pharmacy, or clinical laboratory, or other health care entity.

Section 453-1.3, HRS, **practice of telehealth**, to the extent necessary to allow individuals currently and actively licensed pursuant to Chapter 453, HRS, to engage in telehealth without an in-person consultation or a prior existing physician-patient relationship; and to the extent necessary to enable out-of-state physicians, osteopathic physicians, and physician assistants with a current and active license, or those who were previously licensed pursuant to Chapter 453, HRS, but who are no longer current and active, to engage in telehealth in Hawai'i without a license, in-person consultation, or prior existing physician-patient relationship, provided that they have never had their license revoked or suspended and are subject to the same conditions, limitations, or restrictions as in their home jurisdiction.

Section 453D-5, HRS, **prohibited acts**, and 453D-7, HRS, **application for licensure as a mental health counselor**, to the extent necessary to allow out-of-state licensed mental health counselors with a current and active license, or those previously licensed pursuant to Chapter 453D, HRS, but are no longer current and active, to practice statewide without a Hawai'i license; provided that they have never had their license revoked or suspended and are hired by a State or county agency or facility, or by a hospital, including related clinics and rehabilitation hospitals, nursing home, hospice, pharmacy, or clinical laboratory, or other health care entity.

Section 453D-5, HRS, **prohibited acts**, and section 453D-7, HRS, **application for licensure as a mental health counselor**, to the extent necessary to waive the

licensure and accompanying requirements so as to enable out-of-state mental health counselors to engage in telehealth practices with Hawai'i patients without an in-person consultation or a prior existing provider-patient relationship, provided that they have never had their license revoked or suspended and are subject to the same conditions, limitations, or restrictions as in their home jurisdiction.

Chapter 457, HRS, **nurses**, and chapter 16-89, HAR, **nurses**, to the extent necessary to allow out-of-state licensed practical nurses, registered nurses, advanced practice registered nurses and advanced practice registered nurses with prescriptive authority with a current and active license, or those previously licensed pursuant to Chapter 457, HRS, but who are no longer current and active, to practice statewide without a Hawai'i license; provided that they have never had their license revoked or suspended and are hired by a State or county agency or facility, or by a hospital, including related clinics and rehabilitation hospitals, nursing home, hospice, pharmacy, or clinical laboratory, or other health care entity.

Section 461-7, HRS, **temporary license**, section 461-8.5, HRS, **reciprocity**, section 16-95-18, HAR, **license or permit required**, section 16-95-22.5, HAR, **application and requirements for pharmacist license by reciprocity** and section 16-95-23, HAR, **temporary license**, to the extent necessary to allow out-of-state pharmacists to engage in the practice of pharmacy in the State and under this emergency proclamation, provided that: 1) their license is not revoked or suspended by any jurisdiction in which they hold a license; and 2) they are working in a pharmacy, mobile pharmacy in the State that shares common ownership with at least one currently licensed pharmacy in good standing in the State.

Section 461-9(a), HRS, **pharmacists in charge; pharmacy personnel**, and section 16-95-79(a), HAR, **supervision by a registered pharmacist**, and 16-95-80(a), HAR, **physical presence of a registered pharmacist**, to the extent necessary to allow out-of-state pharmacists actively licensed in another state to engage in the practice of pharmacy pursuant to Chapter 461, HRS, to receive and review prescriptions by remote data entry and counsel patients regarding the same, provided that: 1) their license is not revoked or suspended in any jurisdiction in which they hold a license; and 2) they are working for a pharmacy, mobile pharmacy or temporary pharmacy in the State that

shares common ownership with at least one currently licensed pharmacy in good standing in the State.

Section 461-14, HRS, **permits for operation of pharmacy** and section 16-95-26, HAR, **pharmacy permit**, to the extent necessary to establish and operate mobile or temporary pharmacies, provided that the following conditions are met:

- (1) The mobile or temporary pharmacy meets all applicable federal requirements;
- (2) The mobile or temporary pharmacy shares common ownership with at least one currently licensed pharmacy in good standing in the State;
- (3) The mobile or temporary pharmacy retains records of dispensing and complies with the requirements under section 16-95-93, HAR, **records of dispensing**, section 329-36, HRS, **records of registrants**, section 329-38, HRS, **prescriptions**, section 329-41(a)(6), HRS, **prohibited acts B-penalties**, section 329-101, HRS, **reporting of dispensation of controlled substances; electronic prescription accountability system; requirements; penalty**, and section 23-200-12, HAR, **records of controlled substances**;
- (4) The mobile or temporary pharmacy is under the control and management of a licensed pharmacist who is on the premises while prescriptions are being dispensed;
- (5) Reasonable security measures are taken to safeguard the drug supply maintained in the mobile or temporary pharmacy and pursuant to section 23-200-11, HAR, **inspections of establishments of registrants**; and
- (6) The mobile or temporary pharmacy ceases the provision of services within 48 hours following the termination of the declared emergency.

Section 461-15(7), HRS, **miscellaneous permits**, and section 16-95-18, HAR, **license or permit required**, and section 16-95-31, HAR, **miscellaneous permit**, to the extent necessary to allow an out-of-state pharmacy or entity to engage in the practice of pharmacy by distributing, shipping, mailing, or delivering prescription drugs or devices to or on the island of Maui; provided that they have never had their license revoked or suspended by any jurisdiction in which they hold a license.

Section 463-10.5, HRS, **Guards; registration, instruction, training, testing, and continuing education required; renewal of registration**, to the extent necessary to allow out-of-state licensed guards with a current and active license, or those previously licensed pursuant to Chapter 463, HRS, but who are no longer current and active, to engage in the business of guarding statewide without a Hawai'i license; provided that they have never had their license revoked or suspended, have not been convicted of a felony within the last five years, and are hired by a Hawai'i licensed guard agency whose license is current, active, and in good standing.

Section 464-4, HRS, **public works required to be supervised by certain professionals**, to the extent necessary to respond to the emergency.

Chapter 465, HRS, **psychologists**, and Chapter 16-98, HAR, **psychologists**, to the extent necessary to allow out-of-state psychologists with a current and active license, or those previously licensed pursuant to Chapter 465, HRS, but who are no longer current and active, to practice statewide without a Hawai'i license; provided that they have never had their license revoked or suspended and are hired by a State or county agency or facility, or by a hospital, including related clinics and rehabilitation hospitals, nursing home, hospice, pharmacy, or clinical laboratory, or other health care entity.

Section 465-2, HRS, **license required**, and section 465-15, HRS, **prohibited acts; penalties**, to the extent necessary to waive the licensure and accompanying requirements so as to enable out-of-state psychologists licensed to engage in telehealth practices with Hawai'i patients without an in-person consultation or a prior existing provider-patient relationship, provided that they have never had their license revoked or suspended and are subject to the same conditions, limitations, or restrictions as in their home jurisdiction.

Chapter 466D, **respiratory therapists**, to the extent necessary to allow an out-of-state respiratory therapist with a current and active license, or those previously licensed pursuant to Chapter 466D, HRS, but who are no longer current and active, to practice statewide without a Hawai'i license; provided that they have never had their license revoked or suspended and are hired by a State or county agency or facility, or by a hospital, including related clinics and rehabilitation hospitals, nursing home, hospice, pharmacy, or clinical laboratory, or other health care entity.

Section 466J-4, HRS, **licenses required**, section 466J-5, HRS, **radiographers, radiation therapists, and nuclear medicine technologists, qualifications and licenses**, section 11-44-3, HAR, **licenses required**, section 11-44-4, HAR, **application for license**, and section 11-44-5, HAR, **minimum eligibility requirements for license**, to the extent necessary to allow an out-of-state radiographer, radiation therapist, or nuclear medicine technologist, with a current and active registration or certification in good standing with the American Registry of Radiologic Technologists (ARRT) in radiography, radiation therapy technology, or nuclear medicine technology or with the Nuclear Medicine Technology Certification Board (NMTCB) in nuclear medicine technology, or those previously licensed pursuant to Chapter 466J, HRS, but who are no longer current and active, to practice statewide without a Hawai'i license; provided that they have never had their license revoked or suspended and are hired by a state or county agency or other health care entity that possesses a current and valid radiation facility license. Facilities are required to submit to the Radiologic Technology Board the following information for individuals performing radiologic technology under this exemption: full name; ARRT, NMTCB or previous license number; and a photocopy of the current ARRT or NMTCB credential card.

Chapter 467E, **social workers**, to the extent necessary to allow an out-of-state clinical social worker with a current and active license, or those previously licensed pursuant to Chapter 467E, HRS, but who are no longer current and active, to practice statewide without a Hawai'i license; provided that they have never had their license revoked or suspended and are hired by a State or county agency or facility, or by a hospital, including related clinics and rehabilitation hospitals, nursing home, hospice, pharmacy, or clinical laboratory, or other health care entity.

Section 467E-5, HRS, **license required**, and section 467E-13, HRS, **prohibited acts; penalties**, to the extent necessary to waive the licensure and accompanying requirements so as to enable out-of-state social workers to engage in telehealth practices with Hawai'i patients without an in-person consultation or a prior existing provider-patient relationship, provided that they have never had their license revoked or suspended and are subject to the same conditions, limitations, or restrictions as in their home jurisdiction.

Section 572-6(a), **application; license; limitations**, to the extent necessary to allow a person applying for a marriage license on the island of Maui to appear via videoconferencing.

Section 16-95-26(b)(1), HAR, **pharmacy permit**, to the extent necessary to reopen existing pharmacy locations in areas impacted by the wildfire emergency without a sink with hot and cold water and sewage outlet, provided that: 1) reasonable alternative sources for water and sanitation are established; and 2) all other requirements under section 16-95-26 are met.

Section 16-95-84, HAR, **transfer of prescriptions**, to the extent necessary to allow a pharmacy or pharmacist whose principal place of business or professional practice is directly impacted by wildfire on the island of Maui to transfer prescription information for the purpose of initial fill or refill dispensing.

Section 23-200-10, HAR, only to the extent necessary to (1) allow registrants whose principal place of business or professional practice is directly impacted by wildfire to relocate controlled substances to another healthcare facility so long as the registrant inventories the relocated substances, segregates the stock of controlled substances, and keeps the substances secure; and (2) allow licensed Hawai'i registrants who may respond to the emergency on the islands of Hawai'i or Maui from another island to prescribe, administer, dispense, or store a controlled substance without the need for a separate controlled substance registration. This suspension is conditioned on the registrant informing the State NED beforehand and complying with any further instruction from NED.

IV. Severability

If any provision of this Proclamation is rendered or declared illegal for any reason, or shall be invalid or unenforceable, such provision shall be modified or deleted, and the remainder of this Proclamation and the application of such provision to other persons or circumstances shall not be affected thereby but shall be enforced to the greatest extent permitted by applicable law.

V. Enforcement

No provision of this Proclamation, or any rule or regulation hereunder, shall be construed as authorizing any private right of action to enforce any requirement of this

Proclamation, or of any rule or regulation. Unless the Governor, Director of Emergency Management, or their designee issues an express order to a non-judicial public officer, no provision of this Proclamation, or any rule or regulation hereunder, shall be construed as imposing any ministerial duty upon any non-judicial public officer and shall not bind the officer to any specific course of action or planning in response to the emergency or interfere with the officer's authority to utilize his or her discretion.

I FURTHER DECLARE that this proclamation supersedes the August 19, 2023, Sixth Proclamation Relating to Wildfires. The disaster emergency relief period shall commence immediately and continue through November 6, 2023, unless terminated or superseded by separate proclamation, whichever shall occur first. Notwithstanding the termination of a disaster emergency relief period, any contracts, agreements, procurements, programs, or employment of personnel entered into, started, amended, or continued by reason of the provisions of the proclamation relating to this emergency shall continue in full force and effect.

Done this 8th day of September 2023



JOSH GREEN, M.D.,
Governor of Hawai'i

APPROVED:



ANNE E. LOPEZ,
Attorney General, State of Hawai'i

RULES RELATING TO
IMMUNITIES FOR HEALTH CARE PRACTICES

- §1 Purpose and Authority
- §2 Definitions
- §3 Health Care Response to Emergency
- §4 Immunity of Health Care Facilities
- §5 Immunity of Health Care Professionals
- §6 Immunity of Health Care Volunteers
- §7 Miscellaneous

§1 Purpose and Authority. These rules are adopted pursuant to section 127A-9, 12, 13, 25, 29, and 31, Hawaii Revised Statutes (HRS), to respond to this wildfire emergency and have the full force and effect of law. The following rules are necessary to enable the healthcare system in Hawai'i to continue to function at acceptable levels of service for patients during a time when health care professionals are in short supply.

§2 Definitions. For the purpose of these rules, the following definitions apply:

"Health care facility" means any program, institution, site whether fixed or mobile, building, or agency, or portion thereof, private or public, other than federal facilities or services, whether organized for profit or not, used, operated, or designed to provide medical diagnosis, treatment, nursing, rehabilitative, or preventive care to any person or persons. The term includes but is not limited to facilities licensed or certified by DOH pursuant to section 321-11(10), HRS, and others providing similarly organized services regardless of nomenclature, and any state government-operated site providing health care services established for the purpose of responding to this wildfire emergency.

"Health care professional" means marriage and family therapists licensed pursuant to chapter 451J, physicians and surgeons and others licensed pursuant to chapter 453, mental health counselors licensed pursuant to chapter 453D, psychologists licensed pursuant to chapter 465, nurses licensed pursuant to chapter 457, respiratory therapists licensed pursuant to chapter 466D, radiographers, radiation therapists, and nuclear medicine technologists licensed pursuant to chapter 466J, social workers licensed pursuant to chapter 467E, and pharmacists licensed pursuant to

chapter 461 who: (i) are providing health care services at a health care facility in response to this wildfire emergency and are authorized to do so; or (ii) are working under the direction of the Hawai'i Emergency Management Agency (HIEMA) or Hawai'i Department of Health (HDOH) pursuant to any Governor's emergency proclamation or executive order related to this emergency (collectively, "emergency proclamations").

"Health care volunteer" means all volunteers or medical, nursing, social work, pharmacy, or respiratory therapist students who do not have licensure who: (i) are providing services, assistance, or support at a health care facility in response to the wildfire emergency and are authorized to do so; or (ii) are working under the direction of HIEMA or HDOH pursuant to the Governor's emergency proclamations.

§3 Health Care Response to Wildfire Emergency. Health care facilities, health care professionals, and health care volunteers shall render assistance in support of the State's response to the wildfire emergency. For health care facilities, "rendering assistance" in support of the State's response includes cancelling or postponing elective surgeries and procedures as each facility determines to be appropriate under the circumstances presented by the wildfire emergency if elective surgeries or procedures are performed at the health care facility. In addition, for health care facilities, "rendering assistance" in support of the State's response must include measures such as increasing the number of beds, preserving personal protective equipment, or taking necessary steps to prepare to treat patients in need of care because of the emergency. For health care professionals, "rendering assistance" in support of the State's response means providing health care services at a health care facility in response to the wildfire emergency, or working under the direction of HIEMA or HDOH pursuant to the Governor's emergency proclamations. For health care volunteers, "rendering assistance" in support of the State's response means providing services, assistance, or support at a health care facility in response to the wildfire emergency, or working under the direction of HIEMA or HDOH pursuant to the emergency proclamations.

§4 Immunity of Health Care Facilities. Health care facilities that in good faith comply completely with all

state and federal orders regarding this emergency, shall be immune from civil liability for any death or injury to persons, or property damage alleged to have been caused by any act or omission by the health care facility, which death of or injury to persons, or property damage occurred at a time when the health care facility was rendering assistance to the State by providing health care services in response to the wildfire emergency, unless it is established that such death or injury to persons, or property damage was caused by willful misconduct, gross negligence, or recklessness of the health care facility.

§5 Immunity of Health Care Professionals. Health care professionals who in good faith comply completely with all state and federal orders regarding the wildfire emergency, shall be immune from civil liability for any death or injury to persons, or property damage alleged to have been caused by any act or omission by the health care professional, which death of or injury to persons, or property damage occurred at a time when the health care professional was rendering assistance to the State by providing health care services in response to the wildfire emergency, unless it is established that such death or injury to persons, or property damage was caused by willful misconduct, gross negligence, or recklessness of the health care professional.

§6 Immunity of Health Care Volunteers. Any health care volunteer who in good faith complies completely with all state and federal orders regarding the wildfire emergency, shall be immune from civil liability for any death of or injury to persons, or property damage alleged to have been caused by any act or omission by the health care volunteer at a time when the health care volunteer was rendering assistance to the State by providing services, assistance, or support in response to the wildfire emergency, unless it is established that such death of or injury to persons, or property damage was caused by the willful misconduct, gross negligence, or recklessness of the health care volunteer.

§7 Miscellaneous. (a) Nothing in these rules shall be construed to preempt or limit any applicable immunity from civil liability available to any health care facility, health care professional, or health care volunteer.

(b) If any provision of these rules is held invalid by any court of competent jurisdiction, this invalidity does not affect any other provision, which can be given effect

without the invalid provision or application. To achieve this purpose, the provisions of this rule are declared to be severable.

(c) The provisions of these rules shall take effect nunc pro tunc to August 8, 2023, and shall remain in effect for the emergency period, unless terminated by separate proclamation, whichever shall occur first.