
A BILL FOR AN ACT

RELATING TO PSYCHOLOGISTS.

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

1 SECTION 1. The legislature finds that persons living in
2 the rural areas of our state have inadequate access to mental
3 health treatment services, and would receive little or no mental
4 health care if not for the federally qualified health centers
5 located in these areas. Patients of these centers include the
6 uninsured, the poor, other Pacific Islanders, and the homeless
7 (thirty-six per cent, fifty-six per cent, seven per cent, and
8 five per cent, respectively). Sixty per cent of the patients of
9 federally qualified health centers in rural areas are native
10 Hawaiians. Both in Hawaii, and when compared to indigenous and
11 minority populations in the United States, native Hawaiians have
12 the highest rate of untreated medical and psychological
13 illnesses.

14 There are psychiatrists on the staff of only three of the
15 thirteen federally qualified health centers in Hawaii. As
16 licensed physicians, these psychiatrists have the ability to
17 provide psychopharmacological care to their patients. There
18 were also 9.71 psychologists working in nine of these centers,



1 but currently, the scope of practice of a licensed psychologist
2 does not include prescribing medications. However, some of
3 these psychologists do provide psychopharmacological care in
4 active collaboration with primary care physicians as a result of
5 the native Hawaiian psychology training program.

6 Since 2000, fourteen psychologists in Hawaii, all native to
7 Hawaii, have received psychopharmacological training through the
8 Tripler Army Medical Center, native Hawaiian psychology training
9 program. These psychologists now provide mental health therapy
10 combined with psychopharmacological care within collaborative
11 relationships with primary care physicians at seven federally
12 qualified health centers at Bay Clinic, Hana, Molokai, Kauai,
13 Waianae, Kalihi-Palama, and Waimanalo, and at two native
14 Hawaiian health care system clinics on Kauai and Molokai.

15 To date, psychologists trained under the native Hawaiian
16 psychology training program have provided combined therapy and
17 psychopharmacological care to thousands of native Hawaiians and
18 other ethnic minorities. For example, in 2004, psychologists at
19 the Waianae coast comprehensive health center completed
20 approximately three thousand eight hundred forty patient
21 encounters, and seventy per cent of these patients received



1 necessary psychotropic medication for the treatment of mental
2 illness.

3 Providing combined mental health therapy and
4 psychopharmacological care through appropriately trained
5 psychologists is not unique to Hawaii. For years these services
6 have been provided by psychologists with appropriate credentials
7 through the Indian health service, and to active duty military
8 personnel and their families in federal facilities. Recently,
9 Louisiana and New Mexico gave psychologists prescriptive
10 authority without regard to the service setting.

11 In addition, independent evaluations of the Department of
12 Defense Psychopharmacological Demonstration Project by the
13 United States General Accounting Office and the American College
14 of Neuropsychopharmacology have found that appropriately-trained
15 psychologists prescribe safely and effectively.

16 Research data soundly demonstrates that the number of
17 prescribing mental health care providers in Hawaii is
18 insufficient to serve the needs of Hawaii's people. The crystal
19 methamphetamine epidemic that is especially severe in rural
20 areas, coupled with the economic and cultural distress of the
21 native Hawaiian population, has created unprecedented demands
22 for services from an already overtaxed mental health system.



1 The resultant delays in providing treatment add to suffering of
2 those with mental illness and are exacerbating Hawaii's future
3 social, economic, and medical costs.

4 The legislature finds that the native Hawaiian psychology
5 training program has demonstrated that there already exists a
6 means to address the urgent need to provide timely, appropriate,
7 and cost-effective therapeutic and psychopharmacological health
8 services in rural areas. There are already psychologists
9 working in federally qualified health centers that could be
10 trained to provide these services. In addition, psychologists
11 are being placed in rural areas under the native Hawaiian health
12 care professions scholarship program, which requires scholarship
13 recipients to work in federally designated medically underserved
14 areas for the number of years (typically four) they received
15 scholarship funding. Under this program, psychologists of
16 native Hawaiian ancestry working in federally qualified health
17 centers, native Hawaiian health system clinics, and other
18 federally designated health clinics, are now delivering mental
19 health care in a culturally appropriate manner to underserved
20 populations.



1 Furthermore, the American Psychological Association has
2 developed a model curriculum for the education and training of
3 prescribing psychologists.

4 The purpose of this Act is to address the urgent need for
5 timely, appropriate, and cost-effective therapeutic and
6 psychopharmacological health services in rural areas by
7 establishing a means under state law by which psychologists
8 practicing in licensed health clinics located in federally
9 designated medically underserved areas or mental health
10 professional shortage areas may become appropriately trained,
11 obtain the necessary licenses and credentials, and with
12 appropriate supervision and in collaboration with the patient's
13 primary physician, prescribe a limited formulary of psychotropic
14 medications for the treatment of mental illness.

15 SECTION 2. Chapter 465, Hawaii Revised Statutes, is
16 amended by adding a new part to be appropriately designated and
17 to read as follows:

18 **"PART . PRESCRIPTION CERTIFICATION**

19 **§465-A Definitions.** As used in this part, unless the
20 context otherwise requires:

21 "Collaborative relationship" means a cooperative working
22 relationship between a physician licensed under chapter 453 and



1 a psychologist holding a conditional prescription certificate in
2 the provision of patient care, including the diagnosis of
3 patients, and the management and delivery of physical and mental
4 health care.

5 "Narcotics" means natural and synthetic opioid analgesics
6 and their derivatives used to relieve pain.

7 "Prescribing mental health professional" means a
8 psychiatrist or other physician licensed in accordance with
9 chapter 453.

10 "Psychotropic medication" means only those pharmaceutical
11 agents related to the diagnosis and treatment of mental and
12 emotional disorders, including controlled substances other than
13 narcotics.

14 **§465-B Conditional prescription certificate; application.**

15 (a) A psychologist may apply to the board for a conditional
16 prescription certificate. The application shall be made on a
17 form approved by the board, and be accompanied by evidence
18 satisfactory to the board, that the applicant:

- 19 (1) Holds a current license in good standing to practice
20 psychology in the State of Hawaii;
- 21 (2) Has successfully completed a planned sequence of
22 psychopharmacological training from a regional,



1 accredited institution of higher learning approved by
2 the John A. Burns school of medicine and the Tripler
3 Army Medical Center's psychiatry residency program.

4 The training shall be consistent with the American
5 Psychological Association's Recommended Postdoctoral
6 Training in Psychopharmacology for Prescription
7 Privileges. The training shall include a two-year
8 postdoctoral program of no less than four hundred
9 fifty hours of classroom instruction in at least the
10 following core areas of instruction:

- 11 (A) Anatomy and physiology;
- 12 (B) Biochemistry;
- 13 (C) Neurosciences (neuroanatomy, neurochemistry, and
14 neurophysiology);
- 15 (D) Pharmacology and clinical pharmacology;
- 16 (E) Psychopharmacology;
- 17 (F) Pathophysiology;
- 18 (G) Health assessment, including relevant physical
19 and laboratory assessment; and
- 20 (H) Clinical pharmacotherapeutics;

- 21 (3) Has completed at least one hundred eighty hours of a
22 supervised practicum:



- 1 (A) Of at least one year;
- 2 (B) Involving four hundred hours treating a diverse
3 population of no fewer than one hundred patients
4 with mental disorders;
- 5 (C) Supervised by a prescribing mental health
6 professional who is experienced in the provision
7 of psychopharmacotherapy and is not in the employ
8 of the person being directed or supervised; and
- 9 (D) Including at least two hours of weekly
10 supervision;
- 11 (4) Has passed a national proficiency examination approved
12 by the board that tests the applicant's knowledge of
13 pharmacology in the diagnosis, care, and treatment of
14 mental disorders; provided that the board shall
15 establish what constitutes a passing score and the
16 number of times an applicant may retake the
17 examination within a specific time period;
- 18 (5) Has malpractice insurance that satisfies the
19 requirements adopted by the board by rule, and covers
20 the applicant during the period the conditional
21 prescription certificate is in effect;



1 (6) Is employed or contracted by, and will practice the
2 prescribing authority at:

3 (A) A federally qualified health center established
4 under Title 42 United States Code Section 1396;

5 (B) A licensed health clinic located in a federally
6 designated medically underserved area as defined
7 by Title 42 Code of Federal Regulations Part 62;
8 or

9 (C) A licensed health clinic located in a mental
10 health professional shortage area;
11 and

12 (7) Meets all other requirements, as determined by rule by
13 the board, for obtaining a conditional prescription
14 certificate.

15 (b) The board shall issue a conditional prescription
16 certificate if it finds that the applicant has met the
17 requirements of subsection (a).

18 (c) The conditional prescription certificate shall be
19 immediately relinquished to the board should the psychologist no
20 longer meet the requirements of subsection (a).



1 **§465-C Conditional prescription certificate; powers,**
2 **duties, and responsibilities.** (a) A psychologist holding a
3 conditional prescription certificate shall:

4 (1) Continue to hold a current license to practice
5 psychology in Hawaii;

6 (2) Continue to maintain the required malpractice
7 insurance;

8 (3) Inform the board of:

9 (A) The name of the prescribing mental health
10 professional under whose supervision the
11 psychologist will prescribe psychotropic
12 medication and shall promptly inform the board if
13 any other prescribing mental health professional
14 will assure supervision; and

15 (B) The name of the federally qualified health
16 center, licensed health clinic located in a
17 federally designated medically underserved area,
18 or the licensed health clinic located in a mental
19 health professional shortage area, in which the
20 psychologist practices and promptly inform the
21 board if the psychologist will be practicing at a
22 different clinic;



- 1 and
- 2 (4) Apply for a Federal Drug Enforcement license for
- 3 limited use as restricted by state law and file with
- 4 the board, in a timely manner, all individual federal
- 5 Drug Enforcement Agency registrations and numbers.
- 6 (b) A psychologist holding a conditional prescription
- 7 certificate:
- 8 (1) May administer and prescribe psychotropic medication
- 9 that is not prohibited by the exclusionary formulary
- 10 list established pursuant to section 465-E;
- 11 (2) May order and review laboratory tests related to
- 12 prescriptions for the treatment of mental disorders
- 13 under this chapter;
- 14 (3) Shall not delegate prescriptive authority to any other
- 15 person. Records of all prescriptions shall be
- 16 maintained in the prescribing psychologist's patient
- 17 records; and
- 18 (4) When prescribing psychotropic medication for a
- 19 patient, shall maintain an ongoing collaborative
- 20 relationship with the physician who oversees the
- 21 patient's general medical care to ensure that:
- 22 (A) Necessary medical examinations are conducted;



1 (B) The psychotropic medication is appropriate for
2 the patient's medical condition; and

3 (C) Significant changes in the patient's medical or
4 psychological condition are discussed.

5 (c) A prescription written by a psychologist with a
6 conditional prescription certificate shall:

7 (1) Comply with applicable state and federal laws;

8 (2) Be identified as issued by the psychologist as
9 "psychologist certified to prescribe"; and

10 (3) Include the psychologist's board number or the
11 identification number assigned by the department of
12 commerce and consumer affairs.

13 (d) A psychologist holding a conditional prescription
14 certificate may only prescribe psychotropic medications to
15 patients under the psychologist's care who are enrolled at the
16 health center or clinic identified by the board under subsection
17 (a) (3) (B).

18 **§465-D Prescription certificate.** (a) A psychologist may
19 apply to the board for a prescription certificate. The
20 application shall be made on a form approved by the board and be
21 accompanied by evidence satisfactory to the board that the
22 applicant:



- 1 (1) Holds a conditional prescription certificate and has
2 successfully completed two years of prescribing
3 psychotropic medication as certified by the
4 supervising prescribing mental health professional;
- 5 (2) Has successfully undergone a process of independent
6 peer review approved by the board, the Hawaii Primary
7 Care Association, and the Hawaii board of medical
8 examiners;
- 9 (3) Holds a current license to practice psychology in the
10 State of Hawaii;
- 11 (4) Has malpractice insurance in place that satisfies
12 requirements adopted by the board by rule, that covers
13 the applicant during the period that the prescription
14 certificate is in effect; and
- 15 (5) Meets all other requirements, as determined by the
16 board by rule, for obtaining a prescription
17 certificate.
- 18 (b) The board shall issue a prescription certificate if it
19 finds that the applicant has met the requirements of subsection
20 (a).
- 21 (c) A psychologist with a prescription certificate may
22 prescribe psychotropic medication if the psychologist:



- 1 (1) Continues to hold a current license to practice
2 psychology in Hawaii and maintains malpractice
3 insurance;
- 4 (2) Annually satisfies the continuing education
5 requirements for prescribing psychologists, set by the
6 board by rule, which shall be no fewer than twenty
7 hours each year, at least half of which shall be in
8 pharmacology or psychopharmacology;
- 9 (3) Continues to be employed or contracted by the health
10 center or clinic identified under section 465-
11 C(a)(3)(B); and
- 12 (4) Continues to maintain an ongoing collaborative
13 relationship with the physician who oversees the
14 prescribing psychologist's patient's general medical
15 care to ensure that:
- 16 (A) Necessary medical examinations are conducted;
- 17 (B) The psychotropic medication is appropriate for
18 the patient's medical condition; and
- 19 (C) Significant changes in the patient's medical or
20 psychological condition are discussed.



1 (d) A psychologist holding a prescription certificate may
2 order and review laboratory tests related to prescriptions for
3 the treatment of mental disorders under this chapter.

4 **§465-E Exclusionary formulary list.** The exclusionary
5 formulary list shall specify the types of medications that
6 psychologists holding either a conditional prescription
7 certificate or a prescription certificate shall be prohibited
8 from prescribing or administering. The exclusionary formulary
9 list shall include the following types of medications:

- 10 (1) All narcotics;
- 11 (2) All monoamine oxidase inhibitors (MAOI's);
- 12 (3) All antipsychotic medications;
- 13 (4) All amphetamines;
- 14 (5) All non-psychotropic medications;
- 15 (6) Lithium; and
- 16 (7) Serzone.

17 **§465-F Formulary advisory committee; establishment,**
18 **composition, and duties.** (a) There is established a formulary
19 advisory committee within the department of health for
20 administrative purposes. The formulary advisory committee
21 shall:



- 1 (1) Establish the recommended exclusionary formulary list;
2 and
3 (2) Review the exclusionary formulary list adopted by the
4 board of psychology no fewer than once per quarter and
5 as frequently as it deems necessary, and recommend
6 amendments to the exclusionary formulary list subject
7 to the limitations set forth in section 465-E.

8 The board of psychology shall, by rule pursuant to chapter 91
9 adopt the recommended exclusionary formulary list established by
10 the formulary advisory committee and any recommended amendments
11 to the list.

12 (b) The formulary advisory committee shall be appointed by
13 the director of health and consist of:

- 14 (1) Two psychologists licensed under chapter 465;
15 (2) Two psychiatrists licensed under chapter 453;
16 (3) Two pharmacists licensed under chapter 461; and
17 (4) The medical director of a federally qualified health
18 center in the state.

19 **§465-G Administration.** (a) The board shall adopt rules
20 pursuant to chapter 91:

- 21 (1) Establishing the requirements and procedures for
22 obtaining and renewing a conditional prescription



1 certificate, a prescription certificate, including
2 continuing education requirements and reasonable
3 application and renewal fees;

4 (2) Establishing the grounds for denial, suspension, or
5 revocation of conditional prescription certificates
6 and prescription certificates; and

7 (3) Allowing for the suspension or revocation of a license
8 to practice psychology upon suspension or revocation
9 of a conditional prescription certificate or
10 prescription certificate.

11 (b) The board shall maintain current records on every
12 prescribing psychologist, including federal registrations and
13 numbers.

14 (c) The board shall provide to the board of pharmacy an
15 annual list of psychologists holding a conditional prescription
16 certificate or prescription certificate that also contains the
17 information required by agreement between the board and the
18 board of pharmacy. The board shall promptly notify the board of
19 pharmacy of psychologists who are added or deleted from the
20 list."



1 SECTION 3. Chapter 465, Hawaii Revised Statutes, is
2 amended by designating sections 465-1 through 465-15 as part I
3 and inserting a title before section 465-1 to read as follows:

4 **"PART I. GENERAL PROVISIONS"**

5 SECTION 4. Section 465-3, Hawaii Revised Statutes, is
6 amended to read as follows:

7 "**§465-3 Exemptions.** (a) This chapter shall not apply to:

- 8 (1) Any person teaching, lecturing, consulting, or
9 engaging in research in psychology insofar as the
10 activities are performed as part of or are dependent
11 upon employment in a college or university; provided
12 that the person shall not engage in the practice of
13 psychology outside the responsibilities of the
14 person's employment;
- 15 (2) Any person who performs any, or any combination, of
16 the professional services defined as the practice of
17 psychology under the direction of a licensed
18 psychologist in accordance with rules adopted by the
19 board; provided that the person may use the term
20 "psychological assistant", but shall not identify the
21 person's self as a psychologist or imply that the
22 person is licensed to practice psychology;



- 1 (3) Any person employed by a local, state, or federal
2 government agency in a school psychologist or
3 psychological examiner position, or a position that
4 does not involve diagnostic or treatment services, but
5 only at those times when that person is carrying out
6 the functions of such government employment;
- 7 (4) Any person who is a student of psychology, a
8 psychological intern, or a resident in psychology
9 preparing for the profession of psychology under
10 supervision in a training institution or facility and
11 who is designated by a title as "psychology trainee",
12 "psychology student", "psychology intern", or
13 "psychology resident", that indicates the person's
14 training status; provided that the person shall not
15 identify the person's self as a psychologist or imply
16 that the person is licensed to practice psychology;
- 17 (5) Any person who is a member of another profession
18 licensed under the laws of this jurisdiction to render
19 or advertise services, including psychotherapy, within
20 the scope of practice as defined in the statutes or
21 rules regulating the person's professional practice;
22 provided that, notwithstanding section 465-1, the



1 person does not represent the person's self to be a
2 psychologist or does not represent that the person is
3 licensed to practice psychology;

4 (6) Any person who is a member of a mental health
5 profession not requiring licensure; provided that the
6 person functions only within the person's professional
7 capacities; and provided further that the person does
8 not represent the person to be a psychologist, or the
9 person's services as psychological; or

10 (7) Any person who is a duly recognized member of the
11 clergy; provided that the person functions only within
12 the person's capacities as a member of the clergy; and
13 provided further that the person does not represent
14 the person to be a psychologist, or the person's
15 services as psychological.

16 (b) Nothing in this chapter shall in any way restrict any
17 person from carrying on any of the psychological activities as
18 defined in section 465-1; provided that such person does not
19 offer psychological services as defined in this chapter except
20 as such activities are incidental to the person's lawful
21 occupational purpose.



1 (c) A person may use the title of industrial/organizational
2 psychologist[~~7~~]; provided that the person registers with the
3 board, and:

4 (1) Is professionally competent in the practice of
5 industrial/organizational psychology; [~~and~~]

6 (2) Holds a doctoral degree from an accredited institution
7 of higher education with training and education in
8 industrial/organizational psychology, satisfactory to
9 the board; and

10 (3) Provides psychological service or consultation to
11 organizations which does not involve the delivery or
12 supervision of direct psychological services to
13 individuals or groups of individuals, without regard
14 to the source or extent of payment for services
15 rendered.

16 (d) Nothing in this chapter shall prevent the provision of
17 expert testimony by a psychologist who is otherwise exempted by
18 this chapter.

19 [~~(e) Nothing in this chapter shall be construed as~~
20 ~~permitting the administration or prescription of drugs, or in~~
21 ~~any way engaging in the practice of medicine as defined in the~~
22 ~~laws of the State.] "~~



1 SECTION 5. The Hawaii State health planning and
2 development agency shall evaluate the effects of providing
3 conditional prescriptive authority and prescriptive authority to
4 psychologists pursuant to this Act on the status of mental
5 health care in the state. The Hawaii State health planning and
6 development agency shall submit a report of that evaluation,
7 including any proposed legislation, to the legislature not later
8 than twenty days prior to the convening of the regular session
9 of 2011. The report shall also include recommendations as to
10 whether the prescriptive authority should be modified,
11 eliminated, or continued.

12 SECTION 6. The office of the legislative auditor shall
13 evaluate the effects of providing conditional prescriptive
14 authority and prescriptive authority to psychologists pursuant
15 to this Act on the mental health care system in Hawaii,
16 including any improvement in accessibility to mental health
17 care, and problems posed by providing prescriptive authority, in
18 the three years after this Act is implemented. The office of
19 the legislative auditor shall submit a report of that
20 evaluation, including any proposed legislation, to the
21 legislature not later than twenty days prior to the convening of
22 the regular session of 2011. The report shall also include



1 recommendations as to whether the prescriptive authority should
2 be modified, eliminated, or continued.

3 SECTION 7. In codifying the new part added to chapter 465,
4 Hawaii Revised Statutes, by section 2 of this Act, the revisor
5 of statutes shall substitute appropriate section numbers for the
6 letters used in designating the new sections in this Act.

7 SECTION 8. Statutory material to be repealed is bracketed
8 and stricken. New statutory material is underscored.

9 SECTION 9. This Act shall take effect on January 1, 2050,
10 and shall be repealed on July 1, 2011; provided that section
11 465-3, Hawaii Revised Statutes, shall be reenacted in the form
12 in which it read on the day before the approval of this Act.



Report Title:

Psychologists; Prescriptive Authority

Description:

Establishes a means under state law by which appropriately trained and supervised psychologists practicing at federally qualified health centers or clinics in medically underserved or mental health professional shortage areas may prescribe a limited formulary of psychotropic medications. (HB1456 HD2)

