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# A BILL FOR AN ACT

RELATING TO TELEHEALTH.

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

1           SECTION 1. Chapter 103D, Hawaii Revised Statutes, is  
2 amended by adding a new section to part III to be appropriately  
3 designated and to read as follows:

4           "§103D-       Gifts to the State for telehealth purposes;  
5 exemption. A gift to the State shall not be deemed to  
6 constitute a procurement contract and shall not require a  
7 procurement contract to be accepted by the State as a gift;  
8 provided that:

9           (1) The gift is necessary for the State to provide  
10           telehealth services to members of the public; and

11           (2) The agency accepting the gift shall promptly report  
12           the gift to the state procurement office.

13           For purposes of this section, "gift" means a donation of  
14 material, labor, equipment, or other appropriate subject of  
15 donation."



1 SECTION 2. Chapter 103F, Hawaii Revised Statutes, is  
2 amended by adding a new section to part IV to be appropriately  
3 designated and to read as follows:

4 "§103F- Gifts to the State for telehealth purposes;  
5 exemption. A gift to the State shall not be deemed to  
6 constitute a contract for health and human services and shall  
7 not require a contract for health and human services to be  
8 accepted by the State as a gift; provided that:

- 9 (1) The gift is necessary for the State to provide  
10 telehealth services to members of the public; and  
11 (2) The agency accepting the gift shall promptly report  
12 the gift to the state procurement office.

13 For purposes of this section, "gift" means a donation of  
14 services, labor, or other appropriate subject of donation."

15 SECTION 3. Section 329-41, Hawaii Revised Statutes, is  
16 amended by amending subsection (a) to read as follows:

- 17 "(a) It is unlawful for any person:
- 18 (1) Who is subject to part III to distribute, administer,  
19 prescribe, or dispense a controlled substance in  
20 violation of section 329-38 or rules authorized under  
21 section 329-31; however, a licensed manufacturer or



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1 wholesaler may sell or dispense a controlled substance  
2 to a master of a transpacific ship or a person in  
3 charge of a transpacific aircraft upon which no  
4 physician is regularly employed, for the actual  
5 medical needs of persons on board such ship or  
6 aircraft when not in port; provided schedule I or II  
7 controlled substances shall be sold to the master of  
8 such ship or person in charge of such aircraft only in  
9 accordance with the provisions set forth in 21 Code of  
10 Federal Regulations, sections 1301, 1305, and 1307,  
11 adopted pursuant to Title 21, United States Code,  
12 section 821;

13 (2) Who is a registrant to manufacture a controlled  
14 substance not authorized by the registrant's  
15 registration or to distribute or dispense a controlled  
16 substance not authorized by the registrant's  
17 registration to another registrant or another  
18 authorized person;

19 (3) To refuse or fail to make available, keep, or furnish  
20 any record, notification, order form, prescription,  
21 statement, invoice, or information in patient charts



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- 1 relating to the administration, dispensing, or  
2 prescribing of controlled substances;
- 3 (4) To refuse any lawful entry into any premises for any  
4 inspection authorized by this chapter;
- 5 (5) Knowingly to keep or maintain any store, shop,  
6 warehouse, dwelling, building, vehicle, boat,  
7 aircraft, or other structure or place for the purpose  
8 of using these substances or which is used for keeping  
9 or selling them in violation of this chapter or  
10 chapter 712, part IV;
- 11 (6) Who is a practitioner or pharmacist to dispense a  
12 controlled substance to any individual not known to  
13 the practitioner or pharmacist, except under the  
14 following circumstances:
- 15 (A) When dispensing a controlled substance directly  
16 to an individual, the practitioner or pharmacist  
17 shall first obtain and document, in a log book or  
18 an electronic database, the full name,  
19 identification number, identification type, and  
20 signature, whether by actual signature or by  
21 electronic signature capture device, of the



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1 individual obtaining the controlled substance.  
2 If the individual does not have any form of  
3 proper identification, the pharmacist shall  
4 verify the validity of the prescription and  
5 identity of the patient with the prescriber, or  
6 their authorized agent, before dispensing the  
7 controlled substance; and

8 (B) For mail order prescriptions, the practitioner or  
9 pharmacist shall not be subject to subparagraph  
10 (A); provided that all other requirements of  
11 chapter 329 shall apply and that the practitioner  
12 or pharmacist, as part of the initial  
13 registration process of an individual in a mail  
14 order prescription drug plan and prior to the  
15 controlled substance being dispensed, shall  
16 obtain all identification information, including  
17 the full name, identification number,  
18 identification type, signature, and a photocopy  
19 of a form of proper identification of the  
20 individual obtaining the controlled substance.



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1           The practitioner or pharmacist shall also comply  
2           with other requirements set forth by rule.

3           For the purpose of this section, "proper  
4           identification" means government-issued identification  
5           containing the photograph, printed name,  
6           identification number, and signature of the individual  
7           obtaining the controlled substance;

8           (7) Who is a practitioner to predate or pre-sign  
9           prescriptions to facilitate the obtaining or attempted  
10          obtaining of controlled substances; or

11          (8) Who is a practitioner to facilitate the issuance or  
12          distribution of a written prescription or to issue an  
13          oral prescription for a controlled substance when not  
14          physically in the State[-]; provided that this  
15          prohibition shall not apply if the person is a  
16          physician practicing telehealth as provided in section  
17          453-1.3 and otherwise complies with this chapter."

18          SECTION 4. Section 346-59.1, Hawaii Revised Statutes, is  
19          amended by amending subsection (g) to read as follows:

20          "(g) For the purposes of this section:



1 "Distant site" means the location of the health care  
2 provider delivering services through telehealth at the time the  
3 services are provided.

4 "Health care provider" means a provider of services, as  
5 defined in title 42 United States Code section 1395x(u), a  
6 provider of medical and other health services, as defined in  
7 title 42 United States Code section 1395x(s), other  
8 practitioners licensed by the State and working within their  
9 scope of practice, and any other person or organization who  
10 furnishes, bills, or is paid for health care in the normal  
11 course of business, including but not limited to primary care  
12 providers, mental health providers, oral health providers,  
13 physicians and osteopathic physicians licensed under chapter  
14 453, advanced practice registered nurses licensed under chapter  
15 457, psychologists licensed under chapter 465, and dentists  
16 licensed under chapter 448.

17 "Originating site" means the location where the patient is  
18 located, whether accompanied or not by a health care provider,  
19 at the time services are provided by a health care provider  
20 through telehealth, including but not limited to a health care  
21 provider's office, hospital, critical access hospital, rural



1 health clinic, federally qualified health center, a patient's  
2 home, and other non-medical environments such as school-based  
3 health centers, university-based health centers, or the work  
4 location of a patient.

5 "Telehealth" means the use of telecommunications services,  
6 as defined in section 269-1, to encompass four modalities:  
7 store and forward technologies, remote monitoring, live  
8 consultation, and mobile health; and which shall include but not  
9 be limited to real-time video conferencing-based communication,  
10 secure interactive and non-interactive web-based communication,  
11 and secure asynchronous information exchange, to transmit  
12 patient medical information, including diagnostic-quality  
13 digital images and laboratory results for medical interpretation  
14 and diagnosis, for the purpose of delivering enhanced health  
15 care services and information while a patient is at an  
16 originating site and the health care provider is at a distant  
17 site. [~~Standard telephone contacts,~~] "Telehealth" does not  
18 include facsimile transmissions, [~~or~~] e-mail text, [~~in~~] or any  
19 combination [~~or by itself, does not constitute a telehealth~~  
20 ~~service for the purposes~~] of [~~this section.~~] facsimile  
21 transmissions and e-mail text."



1 SECTION 5. Section 431:10A-116.3, Hawaii Revised Statutes,  
2 is amended by amending subsection (g) to read as follows:

3 "(g) For the purposes of this section:

4 "Distant site" means the location of the health care  
5 provider delivering services through telehealth at the time the  
6 services are provided.

7 "Health care provider" means a provider of services, as  
8 defined in title 42 United States Code section 1395x(u), a  
9 provider of medical and other health services, as defined in  
10 title 42 United States Code section 1395x(s), other  
11 practitioners licensed by the State and working within their  
12 scope of practice, and any other person or organization who  
13 furnishes, bills, or is paid for health care in the normal  
14 course of business, including but not limited to primary care  
15 providers, mental health providers, oral health providers,  
16 physicians and osteopathic physicians licensed under chapter  
17 453, advanced practice registered nurses licensed under chapter  
18 457, psychologists licensed under chapter 465, and dentists  
19 licensed under chapter 448.

20 "Originating site" means the location where the patient is  
21 located, whether accompanied or not by a health care provider,



1 at the time services are provided by a health care provider  
2 through telehealth, including but not limited to a health care  
3 provider's office, hospital, health care facility, a patient's  
4 home, and other nonmedical environments such as school-based  
5 health centers, university-based health centers, or the work  
6 location of a patient.

7 "Telehealth" means the use of telecommunications services,  
8 as defined in section 269-1, to encompass four modalities:  
9 store and forward technologies, remote monitoring, live  
10 consultation, and mobile health; and which shall include but not  
11 be limited to real-time video conferencing-based communication,  
12 secure interactive and non-interactive web-based communication,  
13 and secure asynchronous information exchange, to transmit  
14 patient medical information, including diagnostic-quality  
15 digital images and laboratory results for medical interpretation  
16 and diagnosis, for the purpose of delivering enhanced health  
17 care services and information while a patient is at an  
18 originating site and the health care provider is at a distant  
19 site. [~~Standard telephone contacts,~~] "Telehealth" does not  
20 include facsimile transmissions, [~~or~~] e-mail text, [~~in~~] or any  
21 combination [~~or by itself, does not constitute a telehealth~~



1 ~~service for the purposes]~~ of [~~this chapter.~~] facsimile  
2 transmissions and e-mail text."

3 SECTION 6. Section 432:1-601.5, Hawaii Revised Statutes,  
4 is amended by amending subsection (g) to read as follows:

5 "(g) For the purposes of this section:

6 "Health care provider" means a provider of services, as  
7 defined in title 42 United States Code section 1395x(u), a  
8 provider of medical and other health services, as defined in  
9 title 42 United States Code section 1395x(s), other  
10 practitioners licensed by the State and working within their  
11 scope of practice, and any other person or organization who  
12 furnishes, bills, or is paid for health care in the normal  
13 course of business, including but not limited to primary care  
14 providers, mental health providers, oral health providers,  
15 physicians and osteopathic physicians licensed under chapter  
16 453, advanced practice registered nurses licensed under chapter  
17 457, psychologists licensed under chapter 465, and dentists  
18 licensed under chapter 448.

19 "Originating site" means the location where the patient is  
20 located, whether accompanied or not by a health care provider,  
21 at the time services are provided by a health care provider



1 through telehealth, including but not limited to a health care  
 2 provider's office, hospital, health care facility, a patient's  
 3 home, and other nonmedical environments such as school-based  
 4 health centers, university-based health centers, or the work  
 5 location of a patient.

6 "Telehealth" means the use of telecommunications services,  
 7 as defined in section 269-1, to encompass four modalities:  
 8 store and forward technologies, remote monitoring, live  
 9 consultation, and mobile health; and which shall include but not  
 10 be limited to real-time video conferencing-based communication,  
 11 secure interactive and non-interactive web-based communication,  
 12 and secure asynchronous information exchange, to transmit  
 13 patient medical information, including diagnostic-quality  
 14 digital images and laboratory results for medical interpretation  
 15 and diagnosis, for the purpose of delivering enhanced health  
 16 care services and information while a patient is at an  
 17 originating site and the health care provider is at a distant  
 18 site. [~~Standard telephone contacts,~~] "Telehealth" does not  
 19 include facsimile transmissions, [~~or~~] e-mail text, [~~in~~] or any  
 20 combination [~~or by itself, does not constitute a telehealth~~



1 ~~service for the purposes]~~ of [~~this chapter.~~] facsimile  
2 transmissions and e-mail text."

3 SECTION 7. Section 432D-23.5, Hawaii Revised Statutes, is  
4 amended by amending subsection (g) to read as follows:

5 "(g) For the purposes of this section:

6 "Distant site" means the location of the health care  
7 provider delivering services through telehealth at the time the  
8 services are provided.

9 "Health care provider" means a provider of services, as  
10 defined in title 42 United States Code section 1395x(u), a  
11 provider of medical and other health services, as defined in  
12 title 42 United States Code section 1395x(s), other  
13 practitioners licensed by the State and working within their  
14 scope of practice, and any other person or organization who  
15 furnishes, bills, or is paid for health care in the normal  
16 course of business, including but not limited to primary care  
17 providers, mental health providers, oral health providers,  
18 physicians and osteopathic physicians licensed under chapter  
19 453, advanced practice registered nurses licensed under chapter  
20 457, psychologists licensed under chapter 465, and dentists  
21 licensed under chapter 448.



1 "Originating site" means the location where the patient is  
2 located, whether accompanied or not by a health care provider,  
3 at the time services are provided by a health care provider  
4 through telehealth, including but not limited to a health care  
5 provider's office, hospital, health care facility, a patient's  
6 home, and other nonmedical environments such as school-based  
7 health centers, university-based health centers, or the work  
8 location of a patient.

9 "Telehealth" means the use of telecommunications services,  
10 as defined in section 269-1, to encompass four modalities:  
11 store and forward technologies, remote monitoring, live  
12 consultation, and mobile health; and which shall include but not  
13 be limited to real-time video conferencing-based communication,  
14 secure interactive and non-interactive web-based communication,  
15 and secure asynchronous information exchange, to transmit  
16 patient medical information, including diagnostic-quality  
17 digital images and laboratory results for medical interpretation  
18 and diagnosis, for the purpose of delivering enhanced health  
19 care services and information while a patient is at an  
20 originating site and the health care provider is at a distant  
21 site. [~~Standard telephone contacts,~~] "Telehealth" does not



1 include facsimile transmissions, [~~or~~] e-mail text, [~~in~~] or any  
2 combination [~~or by itself, does not constitute a telehealth~~  
3 ~~service for the purposes~~] of [~~this chapter.~~] facsimile  
4 transmissions and e-mail text."

5 SECTION 8. Section 451J-1, Hawaii Revised Statutes, is  
6 amended by adding two new definitions to be appropriately  
7 inserted and to read as follows:

8 "State", when not referring to the State of Hawaii, means  
9 any other state of the United States or the District of  
10 Columbia.

11 "Telehealth" shall have the same meaning as in section  
12 453-1.3."

13 SECTION 9. Section 451J-5, Hawaii Revised Statutes, is  
14 amended to read as follows:

15 "**§451J-5 Prohibited acts.** (a) Except as specifically  
16 provided elsewhere in this chapter, no person shall use the  
17 title marriage and family therapist or licensed marriage and  
18 family therapist [~~without first having~~] unless the person has  
19 secured a license:

20 (1) From the department under this chapter~~[-]~~; or



1        (2) As a marriage and family therapist, or similar  
 2        license, from another state; provided that if the  
 3        person has not also secured a license from the  
 4        department under this chapter, the person shall also  
 5        comply with section 451J-6(a)(4).

6        (b) The department shall investigate and prosecute any  
 7        individual using the title of marriage and family therapist or  
 8        licensed marriage and family therapist [~~without being properly~~  
 9        ~~licensed as a marriage and family therapist.~~] in violation of  
 10       this section.

11       (c) Any person who violates this section shall be subject  
 12       to a fine of not more than \$1,000 per violation. Each day's  
 13       violation shall be deemed a separate offense. Any action taken  
 14       to impose or collect the fine imposed under this section shall  
 15       be a civil action."

16       SECTION 10. Section 451J-6, Hawaii Revised Statutes, is  
 17       amended to read as follows:

18       "**§451J-6 Exemptions.** (a) Licensure shall not be required  
 19       of:

20       (1) [A] Any person doing work within the scope of practice  
 21       or duties of the person's profession that overlaps



1 with the practice of marriage and family therapy;  
2 provided the person does not purport to be a marriage  
3 and family therapist or licensed marriage and family  
4 therapist;

5 (2) Any student enrolled in an accredited educational  
6 institution in a recognized program of study leading  
7 toward attainment of a graduate degree in marriage and  
8 family therapy or other professional field; provided  
9 that the student's activities and services are part of  
10 a prescribed course of study supervised by the  
11 educational institution and the student is identified  
12 by an appropriate title including but not limited to  
13 "marriage and family therapy student or trainee",  
14 "clinical psychology student or trainee", "clinical  
15 social work student or trainee", or any title which  
16 clearly indicates training status; ~~[or]~~

17 (3) Any individual who uses the title marriage and family  
18 therapy intern for the purpose of obtaining clinical  
19 experience in accordance with section 451J-7(3) ~~[or]~~; or



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1       (4) Any person who has secured a license as a marriage and  
2       family therapist, or similar license, from another  
3       state; provided that:

4       (A) The person's engagement in marriage and family  
5       therapy with any patient or client in the State  
6       shall be confined to the person's provision of  
7       that therapy from that person's state of  
8       licensure through telehealth services;

9       (B) The person's patients or clients in the State  
10      shall be limited to those patients or clients  
11      with whom the person had a pre-existing  
12      professional relationship in the person's state  
13      of licensure; and

14      (C) The person shall not solicit or establish new  
15      professional relationships with clients or  
16      patients in the State.

17       (b) Nothing in this chapter shall be construed to prevent  
18      qualified members of other licensed professions as defined by  
19      any law, rule, or the department, including [but not limited to]  
20      social workers, psychologists, registered nurses, or physicians,  
21      from doing or advertising that they assist or treat individuals,



1 couples, or families consistent with the accepted standards of  
2 their respective licensed professions; provided that no person,  
3 unless the person is licensed as a marriage and family  
4 therapist[7] by the department or complies with subsection  
5 (a)(4), shall use the title of marriage and family therapist or  
6 licensed marriage and family therapist."

7 SECTION 11. Section 453-1.3, Hawaii Revised Statutes, is  
8 amended to read as follows:

9 "**§453-1.3 Practice of telehealth.** (a) Subject to section  
10 453-2(b), nothing in this section shall preclude any physician  
11 acting within the scope of the physician's license to practice  
12 from practicing telehealth as defined in this section.

13 (b) Telehealth services shall include a documented patient  
14 evaluation, including history and a discussion of physical  
15 symptoms adequate to establish a diagnosis and to identify  
16 underlying conditions or contraindications to the treatment  
17 recommended or provided.

18 (c) Treatment recommendations made via telehealth,  
19 including issuing a prescription via electronic means, shall be  
20 held to the same standards of appropriate practice as those in  
21 traditional physician-patient settings that do not include a



1 face-to-face visit but in which prescribing is appropriate,  
2 including on-call telephone encounters and encounters for which  
3 a follow-up visit is arranged. Issuing a prescription based  
4 solely on an online questionnaire is not treatment for the  
5 purposes of this section and does not constitute an acceptable  
6 standard of care. [~~For the purposes of prescribing opiates or~~  
7 ~~certifying a patient for the medical use of cannabis, a~~  
8 ~~physician patient relationship shall only be established after~~  
9 ~~an in person consultation between the prescribing physician and~~  
10 ~~the patient.]~~

11 (d) All medical reports resulting from telehealth services  
12 are part of a patient's health record and shall be made  
13 available to the patient. Patient medical records shall be  
14 maintained in compliance with all applicable state and federal  
15 requirements including privacy requirements.

16 (e) A physician [~~shall not~~] or osteopathic physician may  
17 use telehealth to establish a physician-patient relationship  
18 with a patient in this State without a license to practice  
19 medicine in Hawaii[-]; provided that the physician or  
20 osteopathic physician otherwise complies with this subsection  
21 and subsection (f).



1           (f) A [~~physician patient relationship may be established~~  
2 ~~via telehealth if the patient is referred to the telehealth~~  
3 ~~provider by another health care provider who has conducted an~~  
4 ~~in person consultation and has provided all pertinent patient~~  
5 ~~information to the telehealth provider. Once a provider patient~~  
6 ~~relationship is established, a patient or] physician [licensed  
7 ~~in this State], osteopahtic physician, or physician assistant~~  
8 may use telehealth to assist a patient for any purpose,  
9 including consultation with a medical provider licensed in  
10 another state, authorized by this section or as otherwise  
11 provided by law[-]; provided that the physician, osteopathic  
12 physician, or physician assistant:~~

13           (1) Has:

14           (A) An active license in the State pursuant to this  
15           chapter;

16           (B) Been previously licensed in the State pursuant to  
17           this chapter or prior applicable chapter;  
18           provided that the license of the physician,  
19           osteopathic physician, or physician assistant was  
20           never revoked or suspended; or



1            (C) An active license in another state; provided that  
2            that the physician, osteopathic physician, or  
3            physician assistant complies with the applicable  
4            law of the state that granted the license; and  
5            (2) Otherwise complies with the requirements of this  
6            section.

7            [~~(g) The physician patient relationship prerequisite under~~  
8 ~~this section shall not apply to telehealth consultations for~~  
9 ~~emergency department services.]~~

10           ~~[(h)]~~ (g) Reimbursement for behavioral health services  
11 provided through telehealth shall be equivalent to reimbursement  
12 for the same services provided via face-to-face contact between  
13 a health care provider and a patient.

14           ~~[(i)]~~ (h) Services provided by telehealth pursuant to this  
15 chapter shall be consistent with all federal and state privacy,  
16 security, and confidentiality laws.

17           ~~[(j)]~~ (i) For the purposes of this section:

18           "Distant site" means the location of the physician  
19 delivering services through telehealth at the time the services  
20 are provided.



1 "Originating site" means the location where the patient is  
2 located, whether accompanied or not by a health care provider,  
3 at the time services are provided by a physician through  
4 telehealth, including but not limited to a physician's office,  
5 hospital, health care facility, a patient's home, and other non-  
6 medical environments such as school-based health centers,  
7 university-based health centers, or the work location of a  
8 patient.

9 "State", when not referring to the State of Hawaii, means  
10 any other state of the United States or the District of  
11 Columbia.

12 "Telehealth" means the use of telecommunications as that  
13 term is defined in section 269-1, to encompass four modalities:  
14 store and forward technologies, remote monitoring, live  
15 consultation, and mobile health; and which shall include but not  
16 be limited to real-time video conferencing-based communication,  
17 secure interactive and non-interactive web-based communication,  
18 and secure asynchronous information exchange, to transmit  
19 patient medical information, including diagnostic-quality  
20 digital images and laboratory results for medical interpretation  
21 and diagnosis, for the purposes of: delivering enhanced health



1 care services and information while a patient is at an  
2 originating site and the physician is at a distant site;  
3 establishing a physician-patient relationship; evaluating a  
4 patient; or treating a patient."

5 SECTION 12. Section 453D-1, Hawaii Revised Statutes, is  
6 amended by adding two new definitions to be appropriately  
7 inserted and to read as follows:

8 ""State", when not referring to the State of Hawaii, means  
9 any other state of the United States or the District of  
10 Columbia.

11 "Telehealth" shall have the same meaning as in section  
12 453-1.3."

13 SECTION 13. Section 453D-5, Hawaii Revised Statutes, is  
14 amended to read as follows:

15 "~~[-]~~**§453D-5**~~[+]~~ **Prohibited acts.** (a) Except as  
16 specifically provided in this chapter, no person shall engage in  
17 the practice of mental health counseling or use the title of  
18 "licensed mental health counselor" or "mental health counselor"  
19 without a valid license [~~issued~~]:

20 (1) Issued by the department under this chapter~~[-]~~; or



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1       (2) To practice as a mental health counselor, or similar  
2       license, issued by another state; provided that if the  
3       person has not also secured a license from the  
4       department under this chapter, the person shall also  
5       comply with section 453D-6(a)(7).

6       (b) Any person who violates this section shall be subject  
7       to a fine of not more than \$1,000 for each separate offense.  
8       Each day of each violation shall constitute a separate offense.  
9       Any action taken to impose or collect the fine imposed under  
10      this section shall be a civil action."

11      SECTION 14. Section 453D-6, Hawaii Revised Statutes, is  
12      amended to read as follows:

13      "**§453D-6 Exemptions.** (a) This chapter shall not apply  
14      to:

15      (1) A person doing work within the duties of the person's  
16      profession that overlaps with the practice of mental  
17      health counseling; provided that no such person shall  
18      use a title stating or implying that the person is a  
19      "licensed mental health counselor" or "mental health  
20      counselor", or describe or refer to the person's  
21      services as mental health counseling;



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- 1           (2) Any person who is a duly recognized member of the  
2           clergy; provided that the person functions only within  
3           the person's capacity as a member of the clergy; and  
4           provided further that the person does not represent  
5           the person to be a "licensed mental health counselor"  
6           or "mental health counselor", or describe or refer to  
7           the person's services as mental health counseling;
- 8           (3) Any student enrolled in an accredited educational  
9           institution in a recognized program of study leading  
10          towards attainment of a graduate degree in mental  
11          health counseling or other professional field;  
12          provided that the student's activities and services  
13          are part of a prescribed course of study supervised by  
14          the accredited educational institution and the student  
15          is identified by an appropriate title, including but  
16          not limited to "mental health counseling student" or  
17          "trainee", "clinical psychology student" or "trainee",  
18          "social work student" or "trainee", "marriage and  
19          family counseling student" or "trainee", or any title  
20          that clearly indicates training status;



- 1           (4) Any individual who uses the title of "mental health  
2           counselor intern" for the purpose of obtaining  
3           clinical experience in accordance with section  
4           453D-7(a)(2);
- 5           (5) Any person employed by a federal, state, or county  
6           government agency in a counseling position, but only  
7           at those times when the employee is carrying out the  
8           duties and responsibilities as a counselor in  
9           governmental employment; [~~or~~]
- 10          (6) Any person who is obtaining supervised clinical  
11          experience for licensure as a psychologist, social  
12          worker, marriage and family therapist, or as another  
13          licensed professional; provided that the person's  
14          title indicates a trainee or intern status; and  
15          provided further that the person does not purport to  
16          be a "licensed mental health counselor" or "mental  
17          health counselor" [~~-~~]; or
- 18          (7) Any person who has secured a license as a mental  
19          health counselor, or similar license, from another  
20          state; provided that:



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- 1           (A) The person's engagement in mental health  
2           counseling with any patient or client in the  
3           State shall be confined to the person's provision  
4           of that counseling from that person's state of  
5           licensure through telehealth services;
- 6           (B) The person's patients or clients in the State  
7           shall be limited to those patients or clients  
8           with whom the person had a pre-existing  
9           professional relationship in the person's state  
10           of licensure; and
- 11           (C) The person shall not solicit or establish new  
12           professional relationships with clients or  
13           patients in the State.

14           (b) Nothing in this chapter shall be construed to prevent  
15 qualified members of other licensed professions as defined by  
16 any law or rule of the department, including [~~but not limited~~  
17 ~~to~~] social workers, registered nurses, psychologists, marriage  
18 and family therapists, or physicians, from providing mental  
19 health counseling or advertising that they provide mental health  
20 counseling to individuals, couples, or families consistent with  
21 the accepted standards of their respective licensed professions;



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1 provided that no [~~such persons~~] person shall use a title stating  
 2 or implying that [~~they are~~] the person is a licensed mental  
 3 health [~~counselors~~] counselor unless the [~~persons are~~] person is  
 4 licensed by the department pursuant to this chapter[-] or  
 5 complies with subsection (a)(7).

6 (c) Nothing in this chapter shall be construed to  
 7 supersede the regulation of registered rehabilitation  
 8 specialists from the department of labor and industrial  
 9 relations. Further, no registered rehabilitation specialist  
 10 shall use a title stating or implying that the registered  
 11 rehabilitation specialist is a licensed mental health counselor  
 12 unless the person is licensed pursuant to this chapter[-] or  
 13 complies with subsection (a)(7)."

14 SECTION 15. Section 465-1, Hawaii Revised Statutes, is  
 15 amended by adding two new definitions to be appropriately  
 16 inserted and to read as follows:

17 "State", when not referring to the State of Hawaii, means  
 18 any other state of the United States or the District of  
 19 Columbia.

20 "Telehealth" shall have the same meaning as in section  
 21 453-1.3."



1 SECTION 16. Section 465-3, Hawaii Revised Statutes, is  
2 amended by amending subsection (a) to read as follows:

3 "(a) This chapter shall not apply to:

4 (1) Any person teaching, lecturing, consulting, or  
5 engaging in research in psychology insofar as the  
6 activities are performed as part of or are dependent  
7 upon employment in a college or university; provided  
8 that the person shall not engage in the practice of  
9 psychology outside the responsibilities of the  
10 person's employment;

11 (2) Any person who performs any, or any combination of the  
12 professional services defined as the practice of  
13 psychology under the direction of a licensed  
14 psychologist in accordance with rules adopted by the  
15 board; provided that the person may use the term  
16 "psychological assistant", but shall not identify the  
17 person's self as a psychologist or imply that the  
18 person is licensed to practice psychology;

19 (3) Any person employed by a local, state, or federal  
20 government agency in a school psychologist or  
21 psychological examiner position, or a position that



1 does not involve diagnostic or treatment services, but  
2 only at those times when that person is carrying out  
3 the functions of such government employment;

4 (4) Any person who is a student of psychology, a  
5 psychological intern, or a resident in psychology  
6 preparing for the profession of psychology under  
7 supervision in a training institution or facility and  
8 who is designated by a title as "psychology trainee",  
9 "psychology student", "psychology intern", or  
10 "psychology resident", that indicates the person's  
11 training status; provided that the person shall not  
12 identify the person's self as a psychologist or imply  
13 that the person is licensed to practice psychology;

14 (5) Any person who is a member of another profession  
15 licensed under the laws of this jurisdiction to render  
16 or advertise services, including psychotherapy, within  
17 the scope of practice as defined in the statutes or  
18 rules regulating the person's professional practice;  
19 provided that, notwithstanding section 465-1, the  
20 person does not represent the person's self to be a



1 psychologist or does not represent that the person is  
2 licensed to practice psychology;

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

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

15 (8) Any psychologist employed by the United States  
16 Department of Defense, while engaged in the discharge  
17 of the psychologist's official duty and providing  
18 direct telehealth support or services, as defined in  
19 section 431:10A-116.3, to neighbor island  
20 beneficiaries within a Hawaii National Guard armory on  
21 the island of Kauai, Hawaii, Molokai, or Maui;



1 provided that the psychologist employed by the United  
2 States Department of Defense is credentialed by  
3 Tripler Army Medical Center; [~~or~~]

4 (9) Any supervisee of a licensed psychologist as defined  
5 in section 465D-7[-]; or

6 (10) Any person who has secured a license as a  
7 psychologist, or similar license, from another state;  
8 provided that:

9 (A) The person's engagement in psychology with any  
10 patient or client in the State shall be confined  
11 to the person's provision of that psychological  
12 treatment from that person's state of licensure  
13 through telehealth services;

14 (B) The person's patients or clients in the State  
15 shall be limited to those patients or clients  
16 with whom the person had a pre-existing  
17 professional relationship in the person's state  
18 of licensure; and

19 (C) The person shall not solicit or establish new  
20 professional relationships with clients or  
21 patients in the State."



1 SECTION 17. Section 465-15, Hawaii Revised Statutes, is  
2 amended by amending subsection (a) to read as follows:

3 "(a) No person shall:

4 (1) Use in connection with the person's name any  
5 designation tending to imply that the person is a  
6 licensed psychologist unless the person is duly  
7 licensed and authorized:

8 (A) By the director under this chapter; or

9 (B) By another state; provided that if the person is  
10 not also licensed and authorized by the director,  
11 the person shall also comply with section  
12 465-3(a)(10);

13 (2) Represent oneself as a licensed psychologist during  
14 the time the person's license issued under this  
15 chapter or by another state is suspended or revoked;

16 (3) Advertise or make a representation, either publicly or  
17 privately, as being a psychologist, licensed or  
18 otherwise, or as being able to perform professional  
19 services described in section 465-1, except as  
20 otherwise provided in this chapter, without having a  
21 [~~valid~~]:



- 1           (A) Valid unrevoked license or temporary permit
- 2                           issued by the director; or
- 3           (B) Valid unrevoked license issued by another state;
- 4                           provided that if the person is not also licensed
- 5                           and authorized by the director, the person shall
- 6                           also comply with section 465-3(a)(10); or
- 7           (4) Otherwise violate this chapter."

8           SECTION 18. Section 467E-1, Hawaii Revised Statutes, is  
 9 amended by adding two new definitions to be appropriately  
 10 inserted and to read as follows:

11           "State", when not referring to the State of Hawaii, means  
 12 any other state of the United States or the District of  
 13 Columbia.

14           "Telehealth" shall have the same meaning as in section  
 15 453-1.3."

16           SECTION 19. Section 467E-5, Hawaii Revised Statutes, is  
 17 amended to read as follows:

18           "**§467E-5 License required.** [~~No~~] Except as otherwise  
 19 provided in this chapter, no person shall purport to be a  
 20 "social worker", "licensed bachelor social worker", "licensed  
 21 social worker", "licensed clinical social worker", or use the



1 letters "S.W.", "L.B.S.W.", "L.S.W.", or "L.C.S.W." in  
2 connection with the person's name, or use any words or symbols  
3 indicating or tending to indicate that the person is a social  
4 worker, licensed bachelor social worker, licensed social worker,  
5 or licensed clinical social worker, or engage in the practice of  
6 social work as defined in this chapter without meeting the  
7 applicable requirements and holding a license as set forth in  
8 this chapter."

9 SECTION 20. Section 467E-6, Hawaii Revised Statutes, is  
10 amended to read as follows:

11 "**§467E-6 Exemptions.** Licensure shall not be required of:

- 12 (1) Any licensed person doing work within the scope of  
13 practice or duties of the person's profession that  
14 overlaps with the practice of social work; provided  
15 the person does not purport to be a social worker;
- 16 (2) Any person employed by a federal, state, or county  
17 government agency in a social worker position, but  
18 only at those times when that person is carrying out  
19 the duties and responsibilities as a social worker in  
20 governmental employment;



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- 1           (3) Any student enrolled in an accredited educational  
2           institution in a recognized program of study leading  
3           toward attainment of a degree in social work; provided  
4           that the student's activities and services are part of  
5           a prescribed course of study supervised by the  
6           educational institution, and the student is identified  
7           by an appropriate title such as "social work student",  
8           "social work intern", or any other title which clearly  
9           indicates the student's training status;
- 10          (4) Any person who is a member of a mental health  
11          profession not requiring licensure; provided that the  
12          person functions only within the person's professional  
13          capacities; and provided further that the person does  
14          not purport to be a social worker;
- 15          (5) Any person teaching, lecturing, consulting, or  
16          engaging in research in social work insofar as the  
17          activities are performed as part of or are dependent  
18          upon employment in a college or university; provided  
19          that the person shall not engage in the practice of  
20          social work outside the responsibilities of the  
21          person's employment;



- 1           (6) Any person who is a duly recognized member of the  
2           clergy; provided that the person functions only within  
3           the person's capacities as a member of the clergy; and  
4           provided further that the person does not purport to  
5           be a social worker;
- 6           (7) Any person who is obtaining supervised clinical  
7           experience for licensure as a psychologist, marriage  
8           and family therapist, or as another licensed  
9           professional; provided that the person's title  
10          indicates a trainee status; and provided further that  
11          the person does not purport to be a social worker;  
12          [and]
- 13          (8) Any person in the process of obtaining three thousand  
14          hours of post masters clinical social work experience  
15          under the supervision of a licensed clinical social  
16          worker or individual identified in section  
17          467E-7(3)(C)(ii) in order to qualify for a license as  
18          a licensed clinical social worker; and provided that  
19          the person calls oneself a clinical social work intern  
20          and is supervised while performing clinical diagnosis  
21          and psychotherapy[-]; and



- 1       (9) Any person who has secured a license as a social  
2       worker, bachelor social worker, or clinical social  
3       worker, or similar license, from another state;  
4       provided that:
- 5       (A) The person's engagement in social work with any  
6       patient or client in the State shall be confined  
7       to the person's provision of that social work  
8       from that person's state of licensure through  
9       telehealth services;
- 10       (B) The person's patients or clients in the State  
11       shall be limited to those patients or clients  
12       with whom the person had a pre-existing  
13       professional relationship in the person's state  
14       of licensure; and
- 15       (C) The person shall not solicit or establish new  
16       professional relationships with clients or  
17       patients in the State."

18       SECTION 21. Section 467E-13, Hawaii Revised Statutes, is  
19       amended by amending subsection (a) to read as follows:

20       "(a) No person shall:



- 1           (1) Use in connection with the person's name any  
2            designation tending to imply that the person is a  
3            social worker, licensed bachelor social worker,  
4            licensed social worker, or licensed clinical social  
5            worker unless the person is duly licensed and  
6            authorized:
- 7            (A) By the director under this chapter; or  
8            (B) By another state; provided that if the person is  
9            not also licensed and authorized by the director  
10           under this chapter, the person shall also comply  
11           with section 467E-6(9);
- 12          (2) Represent oneself as a social worker, licensed  
13          bachelor social worker, licensed social worker, or  
14          licensed clinical social worker during the time the  
15          person's license issued under this chapter or by  
16          another state is forfeited, terminated, suspended, or  
17          revoked;
- 18          (3) Perform clinical diagnosis or psychotherapy unless the  
19          person is [a] licensed as a clinical social worker[+]:  
20          (A) By the director under this chapter; or



1           (B) By another state; provided that if the person is  
 2           not also licensed and authorized by the director  
 3           under this chapter, the person shall also comply  
 4           with section 467E-6(9); or

5           (4) Engage in autonomous and independent clinical social  
 6           work practice without being licensed as a licensed  
 7           clinical social worker[-]:

8           (A) By the director under this chapter; or

9           (B) By another state; provided that if the person is  
 10           not also licensed and authorized by the director  
 11           under this chapter, the person shall also comply  
 12           with section 467E-6(9)."

13           SECTION 22. Section 471-10, Hawaii Revised Statutes, is  
 14           amended to read as follows:

15           "**§471-10 Refusal to grant and revocation or suspension of**  
 16           **license.** (a) In addition to any other actions authorized by  
 17           law, the board may refuse to grant, renew, reinstate or restore  
 18           a license for any cause which would be ground for revocation of  
 19           a license under the law.

20           (b) In addition to any other actions authorized by law,  
 21           the board may revoke or suspend the license of any veterinarian,



1 fine a licensee, or both, for any cause authorized by law,  
2 including but not limited to the following:

3 (1) Professional misconduct, gross negligence, or manifest  
4 incapacity;

5 (2) Violation of this chapter or the rules adopted  
6 pursuant thereto or any other law which applies to the  
7 licensee as a practicing veterinarian;

8 (3) Making any false representations or promises through  
9 advertising or otherwise;

10 (4) Habitual intemperance in the use of alcoholic  
11 beverages or addiction to the use of narcotic or  
12 dangerous substances;

13 (5) Mental incompetence;

14 (6) Any fraudulent, dishonest, or deceitful act in  
15 connection with the practice of veterinary medicine;

16 (7) Making a false statement on any document submitted or  
17 required to be filed by this chapter, including a  
18 false certification of compliance with the continuing  
19 education requirement;



- 1           (8) Revocation, suspension, or other disciplinary action  
2           by another state of a license or certificate for  
3           reasons as provided in this section;
- 4           (9) Conviction of or plea of nolo contendere to a penal  
5           offense substantially related to the qualifications,  
6           functions, or duties of a veterinarian,  
7           notwithstanding any statutory provision to the  
8           contrary;
- 9           (10) Violation of chapter 329, the uniform controlled  
10          substances act, or any rule adopted pursuant thereto;
- 11          (11) Failure to report any disciplinary action taken  
12          against the licensee in another jurisdiction within  
13          thirty days after the disciplinary action becomes  
14          final; or
- 15          (12) Conduct or practice contrary to the recognized  
16          principles of medical ethics of the veterinary  
17          profession as adopted by the Hawaii Veterinary Medical  
18          Association and the American Veterinary Medical  
19          Association.
- 20          (c) The board shall not revoke or suspend the license of  
21          any veterinarian or fine any veterinarian solely because the



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1 veterinarian engaged in telehealth without a previously existing  
 2 veterinarian-client-patient relationship or physical examination  
 3 of the patient.

4 (d) For the purposes of this section:

5 "Telehealth" shall have the same meaning as in section  
 6 453-1.3."

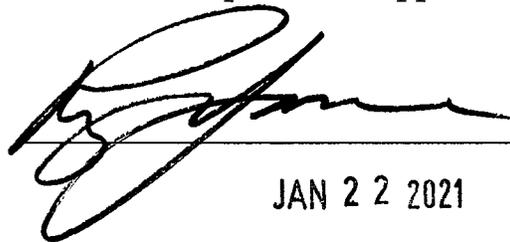
7 SECTION 23. This Act does not affect rights and duties  
 8 that matured, penalties that were incurred, and proceedings that  
 9 were begun before its effective date.

10 SECTION 24. Statutory material to be repealed is bracketed  
 11 and stricken. New statutory material is underscored.

12 SECTION 25. This Act shall take effect upon its approval.

13

INTRODUCED BY:



JAN 22 2021



# H.B. NO. 472

**Report Title:**

Telehealth; Procurement; Health; Gifts; Physicians; License

**Description:**

Exempts telehealth-related gifts from procurement requirements. Makes permanent certain telehealth-related exemptions for licensed health professions issued by recent gubernatorial proclamation.

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

