
A BILL FOR AN ACT

RELATING TO MENTAL HEALTH.

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

1 PART I

2 SECTION 1. The legislature finds that the State has
3 repeatedly and consistently been recognized by the federal
4 government as a health professional shortage area, meaning the
5 State sorely lacks a sufficient number of mental health
6 professionals, including psychiatrists, psychologists, social
7 workers, marriage and family therapists, and mental health
8 counselors having a focus on marriage and family life, to meet
9 the overwhelming demand for these services in the State. These
10 barriers to access create unnecessarily long wait times for
11 appointments, causing many individuals, especially those
12 individuals living in rural areas, to experience prolonged
13 suffering or to choose not to seek any help at all. The result
14 is a domino effect of mass losses in work force development,
15 increased instances of abuse within families, statistically
16 higher rates of substance abuse, and high debt loads.



1 Currently, associate-level practitioners who have completed
2 rigorous educational and other professional development
3 requirements are deemed capable of rendering professional
4 services to clients seeking mental health treatment under
5 licensed clinical supervision in order to complete the
6 post-degree, pre-license hours required for full licensure
7 status. However, unlike many other professions and trades that
8 have similar requirements, because no laws exist to allow for
9 health insurance reimbursements of their services, almost all of
10 these mental health professionals go unpaid for the lifechanging
11 services that the professionals perform for residents of the
12 State.

13 This regulatory oversight causes undue hardships on these
14 individuals and their families as they are essentially forced to
15 work one very difficult and taxing job for free and a second job
16 to meet personal needs. Unfortunately, this model of living is
17 unsustainable and causes too much homegrown talent to
18 permanently move to one of the many other states in which
19 insurance reimbursements are allowed.

20 Accordingly, the purpose of this Act is to expand access to
21 high quality mental health services by:



- 1 (1) Establishing provisional or associate-level licensure
- 2 requirements and reimbursement allowances for certain
- 3 mental health practitioners in training; and
- 4 (2) Allowing psychologist license applicants to take
- 5 licensing examinations before completing other
- 6 requirements.

PART II

8 SECTION 2. Chapter 451J, Hawaii Revised Statutes, is
 9 amended by adding a new section to be appropriately designated
 10 and to read as follows:

11 "§451J- Provisional license; associate marriage and
 12 family therapist; services reimbursable. (a) The department
 13 shall grant, upon application and payment of proper fees,
 14 provisional licensure as an associate marriage and family
 15 therapist to an individual who:

- 16 (1) Has received from an accredited educational
- 17 institution a master's or doctoral degree in marriage
- 18 and family therapy or an allied field related to the
- 19 practice of mental health counseling that includes, or
- 20 is supplemented by, graduate level course work
- 21 comprising a minimum of thirty-three semester hours or



1 forty-four quarter hours in the following course

2 areas:

3 (A) Marriage and family studies: nine semester hours
4 or twelve quarter hours;

5 (B) Marriage and family therapy studies: nine
6 semester hours or twelve quarter hours;

7 (C) Human development: nine semester hours or twelve
8 quarter hours;

9 (D) Ethical and professional studies: three semester
10 hours or four quarter hours; and

11 (E) Research: three semester hours or four quarter
12 hours;

13 (2) Has completed a one-year practicum that included three
14 hundred hours supervised client contact;

15 (3) During the period of time necessary to fulfill the
16 necessary requirements for licensure as a mental
17 health counselor pursuant to section 453D-7, engages
18 in practice under the clinical supervision of a
19 licensed marriage and family therapist that is in good
20 standing; and



1 (4) Has passed the National Marriage and Family Therapy
2 Exam in accordance with section 451J-8.

3 (b) Each provisional license issued pursuant to this
4 section shall include the name and title of each licensed
5 marriage and family therapist described in subsection (a)(3).
6 The provisional licensee or licensed associate marriage and
7 family therapist shall only practice marriage and family therapy
8 under the direct supervision of the licensed marriage and family
9 therapist.

10 (c) A provisional license issued pursuant to this section
11 shall be valid for one year from the date of issuance and may be
12 renewed for an additional one-year period if necessary to
13 fulfill the requirements for licensure as a marriage and family
14 therapist pursuant to section 451J-7.

15 (d) Services provided by a supervised licensed associate
16 marriage and family therapist shall be eligible for insurance
17 reimbursement; provided that the supervising licensed marriage
18 and family therapist's services shall be eligible for
19 reimbursement as a contracted provider; and provided further
20 that the billed rate for the licensed associate marriage and



1 family therapist shall be commensurate with the requisite level
2 of training."

3 SECTION 3. Section 451J-1, Hawaii Revised Statutes, is
4 amended as follows:

5 1. By adding a new definition to be appropriately inserted
6 and to read:

7 "Associate marriage and family therapist" or "licensed
8 associate marriage and family therapist" means a person who:

9 (1) Has completed all educational requirements under
10 section 451J- (a) (1);

11 (2) Has been issued a provisional license under this
12 chapter; and

13 (3) Is currently earning supervised clinical experience in
14 marriage and family therapy under clinical
15 supervision."

16 2. By amending the definition of "clinical supervision" to
17 read:

18 "Clinical supervision" means the supervision of no more
19 than six persons at the same time who are acquiring and
20 completing clinical experience in accordance with [section]

21 sections 451J-7(2) and (3) [7] and 451J- (a) (3), by a licensed



1 marriage and family therapist whose license has been in good
2 standing in any state for two years preceding commencement and
3 during the term of supervision, or any licensed mental health
4 professional whose license has been in good standing in any
5 state and who has been a clinical member in good standing of the
6 association for the two years preceding commencement and during
7 the term of supervision. Clinical supervision includes but is
8 not limited to case consultation of the assessment and diagnosis
9 of presenting problems, development and implementation of
10 treatment plans, and the evaluation of the course of treatment.
11 Clinical supervision may include direct observation by the
12 qualified supervisor of the provision of marriage and family
13 therapy services."

14 3. By deleting the definition of "marriage and family
15 therapy intern".

16 [~~"Marriage and family therapy intern" means a person who~~
17 ~~has completed all educational requirements stipulated in section~~
18 ~~451J-7(1)(A) and who is currently earning supervised clinical~~
19 ~~experience in marriage and family therapy under clinical~~
20 ~~supervision."~~]



1 SECTION 4. Section 451J-3, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "§451J-3 Powers and duties of the director. In addition
4 to any other powers and duties authorized by law, the director
5 may:

6 (1) Examine and approve the qualifications of all
7 applicants under this chapter, and issue a license to
8 each successful applicant granting permission to use
9 the title of marriage and family therapist [~~or~~],
10 licensed marriage and family therapist, associate
11 marriage and family therapist, or licensed associate
12 marriage and family therapist in this State pursuant
13 to this chapter and the rules adopted under this
14 chapter;

15 (2) Adopt, amend, or repeal rules pursuant to chapter 91;

16 (3) Administer, coordinate, and enforce this chapter and
17 rules;

18 (4) Discipline a person licensed as a marriage and family
19 therapist or associate marriage and family therapist
20 for any cause described by this chapter, or for any
21 violation of rules, or refuse to license a person for



1 failure to meet licensing requirements or for any
 2 cause that would be grounds for disciplining a
 3 licensed marriage and family therapist[+] or licensed
 4 associate marriage and family therapist; and

5 (5) Appoint an advisory committee of licensed marriage and
 6 family therapists and members of the public to assist
 7 with the implementation of this chapter and the rules;
 8 except that the initial members of the committee who
 9 are marriage and family therapists shall not be
 10 required to be licensed pursuant to this chapter."

11 SECTION 5. Section 451J-5, Hawaii Revised Statutes, is
 12 amended to read as follows:

13 "§451J-5 Prohibited acts. Except as specifically provided
 14 elsewhere in this chapter, no person shall use the title
 15 marriage and family therapist [~~or~~], licensed marriage and family
 16 therapist, associate marriage and family therapist, or licensed
 17 associate marriage and family therapist without first having
 18 secured a license under this chapter. The department shall
 19 investigate and prosecute any individual using the title of
 20 marriage and family therapist [~~or~~], licensed marriage and family
 21 therapist, associate marriage and family therapist, or licensed



1 associate marriage and family therapist without being properly
 2 licensed as a marriage and family therapist[-] or associate
 3 marriage and family therapist. Any person who violates this
 4 section shall be subject to a fine of not more than \$1,000 per
 5 violation. Each day's violation shall be deemed a separate
 6 offense. Any action taken to impose or collect the fine imposed
 7 under this section shall be a civil action."

8 SECTION 6. Section 451J-6, Hawaii Revised Statutes, is
 9 amended to read as follows:

10 "§451J-6 Exemptions. (a) Licensure shall not be required
 11 of:

12 (1) A person doing work within the scope of practice or
 13 duties of the person's profession that overlaps with
 14 the practice of marriage and family therapy; provided
 15 the person does not purport to be a marriage and
 16 family therapist [~~or~~], licensed marriage and family
 17 therapist [-], associate marriage and family therapist,
 18 or licensed associate marriage and family therapist;
 19 or

20 (2) Any student enrolled in an accredited educational
 21 institution in a recognized program of study leading



1 toward attainment of a graduate degree in marriage and
2 family therapy or other professional field; provided
3 that the student's activities and services are part of
4 a prescribed course of study supervised by the
5 educational institution and the student is identified
6 by an appropriate title including but not limited to
7 "marriage and family therapy student or trainee",
8 "clinical psychology student or trainee", "clinical
9 social work student or trainee", or any title which
10 clearly indicates training status [~~,-or~~

11 ~~(3) Any individual who uses the title marriage and family~~
12 ~~therapy intern for the purpose of obtaining clinical~~
13 ~~experience in accordance with section 451J-7(3)].~~

14 (b) Nothing in this chapter shall be construed to prevent
15 qualified members of other licensed professions as defined by
16 any law, rule, or the department, including but not limited to
17 social workers, psychologists, registered nurses, or physicians,
18 from doing or advertising that they assist or treat individuals,
19 couples, or families consistent with the accepted standards of
20 their respective licensed professions; provided that no person,
21 unless the person is licensed as a marriage and family



1 therapist~~[7]~~ or associate marriage and family therapist, shall
2 use the title of marriage and family therapist ~~[e#]~~, licensed
3 marriage and family therapist~~[-]~~, associate marriage and family
4 therapist, or licensed associate marriage and family therapist."

5 SECTION 7. Section 451J-9, Hawaii Revised Statutes, is
6 amended to read as follows:

7 "[+]§451J-9[+] Licensure fees. Licenses shall be valid
8 for three years and shall be renewed triennially~~[-]~~; provided
9 that provisional licenses shall be renewed pursuant to
10 section 451J- . Any applicant for renewal of a license that
11 has expired within one year of the renewal deadline shall be
12 required to pay a restoration fee in addition to all renewal
13 fees."

14 SECTION 8. Section 451J-10, Hawaii Revised Statutes, is
15 amended by amending subsection (a) to read as follows:

16 "(a) [~~Licenses~~] Except as provided in section 451J- ,
17 licenses shall be renewed triennially on or before December 31,
18 with the first renewal deadline occurring on December 31, 2001.
19 Failure to renew a license shall result in a forfeiture of the
20 license. Licenses that have been forfeited may be restored
21 within one year of the expiration date upon payment of renewal



1 and restoration fees, and in the case of marriage and family
2 therapists or licensed marriage and family therapists audited
3 pursuant to subsection (f), documentation of continuing
4 education compliance. Failure to restore a forfeited license
5 within one year of the date of its expiration shall result in
6 the automatic termination of the license. Persons with
7 terminated licenses shall be required to reapply for licensure
8 as a new applicant."

9 SECTION 9. Section 451J-12, Hawaii Revised Statutes, is
10 amended to read as follows:

11 "[+]§451J-12[+] Confidentiality and privileged
12 communications. No person licensed as a marriage and family
13 therapist[-] or associate marriage and family therapist, nor any
14 of the person's employees or associates, shall be required to
15 disclose any information that the person may have acquired in
16 rendering marriage and family therapy services except in the
17 following circumstances:

- 18 (1) As required by law;
19 (2) To prevent a clear and immediate danger to a person or
20 persons;



1 (3) In the course of a civil, criminal, or disciplinary
2 action arising from the therapy where the therapist is
3 a defendant;

4 (4) In a criminal proceeding where the client is a
5 defendant and the use of the privilege would violate
6 the defendant's right to a compulsory process of the
7 right to present testimony and witnesses in the
8 defendant's own behalf;

9 (5) In accordance with the terms of a client's previously
10 written waiver of the privilege; or

11 (6) Where more than one person in a family jointly
12 receives therapy and each family member who is legally
13 competent executes a written waiver; in that instance,
14 a marriage and family therapist or associate marriage
15 and family therapist may disclose information received
16 from any family member in accordance with the terms of
17 the person's waiver."

18 SECTION 10. Section 451J-13, Hawaii Revised Statutes, is
19 amended to read as follows:

20 "[+]§451J-13[+] Therapist prohibited from testifying in
21 alimony and divorce actions. If both parties to a marriage have



1 obtained marriage and family therapy by a licensed marriage and
 2 family therapist[7] or licensed associate marriage and family
 3 therapist, the therapist shall be prohibited from testifying in
 4 an alimony or divorce action concerning information acquired in
 5 the course of therapy. This section shall not apply to custody
 6 actions whether or not part of a divorce proceeding."

PART III

8 SECTION 11. Chapter 453D, Hawaii Revised Statutes, is
 9 amended by adding a new section to be appropriately designated
 10 and to read as follows:

11 "§453D- Provisional license; associate mental health
 12 counselor; services reimbursable. (a) The department shall
 13 grant, upon application and payment of proper fees, provisional
 14 licensure as an associate mental health counselor to an
 15 individual who:

- 16 (1) Has received from an accredited educational
- 17 institution a master's or doctoral degree in
- 18 counseling or in an allied field related to the
- 19 practice of mental health counseling that includes, or
- 20 is supplemented by, graduate level course work in
- 21 counseling comprising a minimum of forty-eight



1 semester hours or seventy-two quarter hours in the
2 following course areas, with a minimum of three
3 semester hours or five quarter hours in each course
4 area as indicated below:

5 (A) Human growth and development, including the study
6 of life span development, strategies to
7 facilitate that development and transitions,
8 theories of learning and personality development,
9 and human behavior to include crisis,
10 disabilities, addictive behavior, and
11 environmental factors;

12 (B) Social and cultural foundations, including the
13 study of issues and trends in a multicultural and
14 diverse society, including ages; races; religious
15 or sexual preferences; physical disabilities;
16 ethnicities and cultures; genders;
17 socioeconomics; intellectual abilities; and
18 individual, family, and group strategies of
19 diverse groups;

20 (C) Counseling theories and applications, including
21 counseling and consultation, including both



1 individual and systems perspectives,
 2 interviewing, assessment, and counseling skills,
 3 and applying principles, methods, and theories of
 4 counseling, treatment and counseling of mental
 5 and emotional disorders, and educational
 6 techniques aimed at preventing these disorders
 7 with individuals and families;

8 (D) Group theory and practice, including principles
 9 of group dynamics, group process, group
 10 leadership styles, theories and methods of group
 11 counseling, and the application of theory to the
 12 group processes;

13 (E) Career and lifestyle development, including the
 14 study of vocational development theories;
 15 decision-making models; assessment instruments;
 16 and techniques, types, sources, and uses of
 17 occupational and educational information systems,
 18 career development applications, and career
 19 counseling processes, techniques, and resources;

20 (F) Appraisal of human behavior, including assessment
 21 and diagnosis of disorders with an emphasis on



1 the Diagnostic and Statistical Manual of Mental
2 Disorders' categories and an understanding of
3 these disorders relative to the counseling
4 context;

5 (G) Tests and measurements, including theoretical and
6 historical bases for assessment techniques, and
7 assessment methods, including analysis of various
8 types of tests to select, administer, interpret,
9 and use assessment and evaluation instruments and
10 techniques in counseling;

11 (H) Research and program evaluation, including
12 research design and methods, statistical
13 analysis, principles, practices, and application
14 of needs assessment and program evaluation;

15 (I) Professional orientation and ethics, including
16 the history of the helping profession,
17 professional roles and functions, ethical
18 standards, confidentiality, professional
19 organizations, and public policy process,
20 including advocacy on behalf of the profession
21 and its clientele; and



1 (J) At least two academic terms of supervised mental
2 health practicum intern experience for graduate
3 credit of at least six semester hours or ten
4 quarter hours in a mental health counseling
5 setting, with a total of three hundred hours of
6 supervised client contact; provided that the
7 practicum experience shall be completed under the
8 clinical supervision of a person who is licensed
9 as a mental health counselor, psychologist,
10 clinical social worker, advanced practice
11 registered nurse with a specialty in mental
12 health, marriage and family therapist, or
13 physician with a specialty in psychiatry;

14 (2) During the period of time necessary to fulfill the
15 necessary requirements for licensure as a mental
16 health counselor pursuant to section 453D-7, engages
17 in practice under the clinical supervision of a
18 licensed mental health counselor that is in good
19 standing; and

20 (3) Has passed the National Counselor Examination for
21 Licensure and Certification.



1 (b) Each provisional license issued pursuant to this
2 section shall include the name and title of the licensed mental
3 health counselor or therapists described in subsection (a) (2).
4 The provisional licensee or licensed associate mental health
5 counselor shall only practice mental health counseling under the
6 direct supervision of the licensed mental health counselor.

7 (c) A provisional license issued pursuant to this section
8 shall be valid for one year from the date of issuance and may be
9 renewed for an additional one-year period if necessary to
10 fulfill the requirements for licensure as a mental health
11 counselor pursuant to section 453D-7.

12 (d) Services provided by a supervised licensed associate
13 mental health counselor shall be eligible for insurance
14 reimbursement; provided that the supervising licensed mental
15 health counselor's services shall be eligible for reimbursement
16 as a contracted provider; and provided further that the billed
17 rate for the licensed associate mental health counselor shall be
18 commensurate with the requisite level of training."

19 SECTION 12. Section 453D-1, Hawaii Revised Statutes, is
20 amended as follows:



1 1. By adding a new definition to be appropriately inserted
2 and to read:

3 "Associate mental health counselor" or "licensed
4 associated mental health counselor" means a person who:

5 (1) Has completed all education requirements under
6 section 453D- (a) (1);

7 (2) Has been issued a provisional license under this
8 chapter; and

9 (3) Is currently earning supervised clinical experience in
10 mental health counseling."

11 2. By amending the definition of "clinical supervision" to
12 read:

13 "Clinical supervision" means supervision applied to all
14 individuals who are gaining the experience required for a
15 license as a mental health counselor[-] or associate mental
16 health counselor. "Clinical supervision" includes but is not
17 limited to:

18 (1) Case consultation on the assessment and presenting
19 problem;

20 (2) Development and implementation of treatment plans;



- 1 (3) Enhancement of the supervisee's counseling techniques
- 2 and treatment evaluation skills; and
- 3 (4) Evaluation of the course of treatment."

4 SECTION 13. Section 453D-3, Hawaii Revised Statutes, is
 5 amended to read as follows:

6 "[+]§453D-3[+] Powers and duties of the director. In
 7 addition to any other powers and duties authorized by law, the
 8 director shall have the powers and duties to:

- 9 (1) Grant permission to a person to use the title of
- 10 "licensed mental health counselor" or "licensed
- 11 associate mental health counselor" or a description
- 12 indicating one is a licensed mental health counselor
- 13 or licensed associate mental health counselor in this
- 14 State pursuant to this chapter and the rules adopted
- 15 pursuant thereto;
- 16 (2) Adopt, amend, or repeal rules pursuant to chapter 91
- 17 as the director finds necessary to carry out this
- 18 chapter;
- 19 (3) Administer, coordinate, and enforce this chapter;
- 20 (4) Discipline a licensed mental health counselor or
- 21 licensed associate mental health counselor for any due



1 cause described by this chapter or violation of the
2 rules;

3 (5) Refuse to license a person for failure to meet
4 licensing requirements or on grounds sufficient to
5 discipline a licensed mental health counselor[+] or
6 licensed associate mental health counselor; and

7 (6) Appoint an advisory committee consisting of licensed
8 mental health counselors and members of the public to
9 assist with the implementation of this chapter and
10 adopted rules; provided that the initial members of
11 the committee who are mental health counselors shall
12 not be required to be licensed pursuant to this
13 chapter."

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

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



1 Any person who violates this section shall be subject to a fine
2 of not more than \$1,000 for each separate offense. Each day of
3 each violation shall constitute a separate offense. Any action
4 taken to impose or collect the fine imposed under this section
5 shall be a civil action."

6 SECTION 15. Section 453D-6, Hawaii Revised Statutes, is
7 amended by amending subsection (a) to read as follows:

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

- 9 (1) A person doing work within the duties of the person's
10 profession that overlaps with the practice of mental
11 health counseling; provided that no such person shall
12 use a title stating or implying that the person is a
13 "licensed mental health counselor" [~~or~~], "mental
14 health counselor", "licensed associate mental health
15 counselor", "associate mental health counselor" or
16 describe or refer to the person's services as mental
17 health counseling;
- 18 (2) Any person who is a duly recognized member of the
19 clergy; provided that the person functions only within
20 the person's capacity as a member of the clergy; and
21 provided further that the person does not represent



1 the person to be a "licensed mental health counselor"
 2 [ø], "mental health counselor", "licensed associate
 3 mental health counselor", or "associate mental health
 4 counselor" or describe or refer to the person's
 5 services as mental health counseling;

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

19 ~~[-(4) Any individual who uses the title of "mental health~~
 20 ~~counselor intern" for the purpose of obtaining~~



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

18 SECTION 16. Section 453D-10, Hawaii Revised Statutes, is
19 amended to read as follows:

20 " ~~[§]~~ **§453D-10** ~~[§]~~ **Licensure; fees.** A license shall be
21 issued to a person deemed to be qualified under ~~[section]~~



1 sections 453D-7 or 453D- upon the payment of a license fee to
2 be determined by the department and shall be valid for three
3 years[-]; provided that provisional licenses shall be renewed
4 pursuant to section 453D- ."

5 SECTION 17. Section 453D-11, Hawaii Revised Statutes, is
6 amended to read as follows:

7 "[+]§453D-11[+] **Renewal of license; fees.** [Licenses]
8 Except as provided in section 453D- , licenses shall be
9 renewed, upon the payment of a renewal fee, triennially not
10 earlier than ninety days before June 30, with the first renewal
11 deadline occurring on June 30, 2008. Failure to renew a license
12 shall result in a forfeiture of the license. Licenses that have
13 been forfeited may be restored within one year of the expiration
14 date upon payment of renewal and restoration fees. Failure to
15 restore a forfeited license within one year of the date of its
16 expiration shall result in the automatic termination of the
17 license and the person may be required to reapply for licensure
18 as a new applicant. All renewal and restoration fees shall be
19 determined by the department."

20 SECTION 18. Section 453D-13, Hawaii Revised Statutes, is
21 amended to read as follows:



1 " [+] §453D-13 [+] Confidentiality and privileged
2 communications. No person licensed as a mental health
3 counselor [7] or associate mental health counselor, nor any of
4 the person's employees or associates, shall be required to
5 disclose any information that the person may have acquired in
6 rendering mental health counseling services, except in the
7 following circumstances:

- 8 (1) As required by law;
- 9 (2) To prevent a clear and imminent danger to a person or
10 persons;
- 11 (3) In accordance with the terms of a previously written
12 waiver of the privilege where the waiver is executed
13 by the client or by the client's legally recognized
14 representative;
- 15 (4) Where more than one person jointly receives counseling
16 and each person who is legally competent executes a
17 written waiver. In that instance, a mental health
18 counselor or associate mental health counselor may
19 disclose information from any person in accordance
20 with that person's waiver; or



1 (5) In the course of a disciplinary action or pursuant to
2 a duly authorized subpoena issued by the department."

3 SECTION 19. Section 453D-14, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "[+] §453D-14 [+] Mental health counselor or associate
6 mental health counselor prohibited from testifying in alimony
7 and divorce actions. If both parties to a marriage have
8 obtained mental health counseling from a licensed mental health
9 counselor[-] or licensed associate mental health counselor, the
10 counselor shall be prohibited from testifying in an alimony or
11 divorce action concerning information acquired in the course of
12 mental health counseling. This section shall not apply to
13 custody actions whether or not part of a divorce proceeding."

14 PART IV

15 SECTION 20. Chapter 465, Hawaii Revised Statutes, is
16 amended by adding a new section to be appropriately designated
17 and to read as follows:

18 "§465- Provisional license; associate psychologist;
19 services reimbursable. (a) The board shall grant, upon
20 application and payment of proper fees, provisional licensure as
21 an associate psychologist to an individual who:



- 1 (1) Has received a doctoral degree from:
- 2 (A) An American Psychological Association-approved
- 3 program in clinical psychology, counseling
- 4 psychology, school psychology, or programs
- 5 offering combinations of two or more of these
- 6 areas; or
- 7 (B) A professional psychology training program
- 8 provided by an institution of higher education or
- 9 from a regionally accredited institution; and
- 10 (2) Is engaging in post-doctoral, supervised experience in
- 11 health service psychology pursuant to an organized
- 12 health service training program approved by the board.
- 13 (b) Each provisional license issued pursuant to this
- 14 section shall include the name and title of the supervising
- 15 licensed psychologist or psychologists in the training program
- 16 described in subsection (a) (2). The provisional licensee or
- 17 licensed associate psychologist shall only practice psychology
- 18 under the direct supervision of the licensed psychologist having
- 19 a current, active, and unencumbered license issued by the board;
- 20 provided that the supervising licensed psychologist shall notify



1 the board within ten days of the termination or completion of
2 the supervision.

3 (c) A provisional license issued pursuant to this section
4 shall be valid for one year to fulfill the requirements for full
5 licensure as a psychologist under section 465-7.

6 (d) Services provided by a supervised licensed associate
7 psychologist shall be eligible for insurance reimbursement;
8 provided that the supervising licensed psychologist's services
9 shall be eligible for reimbursement as a contracted provider;
10 provided further that the billed rate for the licensed associate
11 psychologist shall be commensurate with the requisite level of
12 training."

13 SECTION 21. Section 465-1, Hawaii Revised Statutes, is
14 amended by adding a new definition to be appropriately inserted
15 and to read as follows:

16 "Associate psychologist" or "licensed associate
17 psychologist" means a person who:

18 (1) Has completed all educational requirements under
19 section 465- (a) (1);

20 (2) Has been issued a provisional license under this
21 chapter; and



1 (3) Is currently engaging in post-doctoral, supervised
2 experience in health service in psychology pursuant to
3 an organized health service training program approved
4 by the board."

5 SECTION 22. Section 465-2, Hawaii Revised Statutes, is
6 amended to read as follows:

7 "§465-2 License required. Except as otherwise provided in
8 this chapter, it shall be unlawful to represent [~~one's self~~]
9 oneself as a psychologist or associate psychologist or engage in
10 the practice of psychology without having first obtained a
11 license as provided in this chapter."

12 SECTION 23. Section 465-3, Hawaii Revised Statutes, is
13 amended by amending subsection (a) to read as follows:

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

15 (1) Any person teaching, lecturing, consulting, or
16 engaging in research in psychology 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 psychology outside the responsibilities of the
21 person's employment;



- 1 (2) Any person who performs any, or any combination of the
2 professional services defined as the practice of
3 psychology under the direction of a licensed
4 psychologist in accordance with rules adopted by the
5 board; provided that the person may use the term
6 "psychological assistant", but shall not identify the
7 person's self as a psychologist or imply that the
8 person is licensed to practice psychology;
- 9 (3) Any person employed by a local, state, or federal
10 government agency in a school psychologist or
11 psychological examiner position, or a position that
12 does not involve diagnostic or treatment services, but
13 only at those times when that person is carrying out
14 the functions of such government employment;
- 15 (4) Any person who is a student of psychology [~~—a~~
16 ~~psychological intern, or a resident in psychology~~
17 ~~preparing for the profession of psychology under~~
18 ~~supervision in a training institution or facility and~~
19 ~~who is designated by a title as "psychology trainee",~~
20 ~~"psychology student", "psychology intern", or~~
21 ~~"psychology resident", that indicates the person's~~



1 ~~training status~~]; provided that the person shall not
2 identify the person's self as a psychologist or
3 associate psychologist or imply that the person is
4 licensed to practice psychology;

5 (5) Any person who is a member of another profession
6 licensed under the laws of this jurisdiction to render
7 or advertise services, including psychotherapy, within
8 the scope of practice as defined in the statutes or
9 rules regulating the person's professional practice;
10 provided that, notwithstanding section 465-1, the
11 person does not represent the person's self to be a
12 psychologist or associate psychologist or does not
13 represent that the person is licensed to practice
14 psychology;

15 (6) Any person who is a member of a mental health
16 profession not requiring licensure; provided that the
17 person functions only within the person's professional
18 capacities; and provided further that the person does
19 not represent the person to be a psychologist[7] or
20 associate psychologist, or the person's services as
21 psychological;



1 (7) 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 represent
 5 the person to be a psychologist[-] or associate
 6 psychologist, or the person's services as
 7 psychological; or

8 (8) Any psychologist employed by the United States
 9 Department of Defense, while engaged in the discharge
 10 of the psychologist's official duty and providing
 11 direct telehealth support or services, as defined in
 12 section 431:10A-116.3, to neighbor island
 13 beneficiaries within a Hawaii National Guard armory on
 14 the island of Kauai, Hawaii, Molokai, or Maui;
 15 provided that the psychologist employed by the United
 16 States Department of Defense is credentialed by
 17 Tripler Army Medical Center[-~~er~~

18 ~~(9) Any supervisee of a licensed psychologist as defined~~
 19 ~~in section 465D-7]."~~

20 SECTION 24. Section 465-3.5, Hawaii Revised Statutes, is
 21 amended by amending subsection (a) to read as follows:

1 "(a) Notwithstanding other provisions in this chapter the
2 director of health may certify that there is an absence or
3 shortage of licensed psychologists or associate psychologists
4 for government employment in a particular locality. Upon
5 receiving certification of the absence or shortage, the board
6 shall authorize the director to hire and retain persons
7 currently in government employment to fill the absence or
8 shortage; provided persons hired or retained have been duly
9 licensed as a psychologist by written examination under the laws
10 of another state or territory of the United States prior to
11 1977."

12 SECTION 25. Section 465-6, Hawaii Revised Statutes, is
13 amended to read as follows:

14 "§465-6 Powers and duties. In addition to any other
15 powers and duties authorized by law, the board shall:

16 (1) Examine the qualifications of applicants for licensing
17 under this chapter to determine their eligibility for
18 licensing as psychologists[+] or associate
19 psychologists;

20 (2) Administer and grade examinations for applicants as
21 may be required for the purposes of this chapter. The



1 board shall determine the examinations and the score
2 that shall be deemed a passing score. Examinations
3 shall be scheduled at least once annually;

4 (3) Keep a record of action taken on all applicants for
5 licensing; the names of all persons licensed;
6 petitions for temporary permits; actions involving
7 suspension, revocation, or denial of licenses;
8 decisions on waiver of examination in whole or in part
9 and receipt and disbursement of any moneys; and

10 (4) Adopt, amend, and repeal pursuant to chapter 91, rules
11 as it deems proper for the purposes of this chapter."

12 SECTION 26. Section 465-7, Hawaii Revised Statutes, is
13 amended by amending subsection (a) to read as follows:

14 "(a) Every applicant for a license as a psychologist shall
15 submit evidence satisfactory to the board that the applicant
16 meets the following requirements:

17 (1) The applicant for licensure shall possess a doctoral
18 degree from:

19 (A) An American Psychological Association approved
20 program in clinical psychology, counseling
21 psychology, school psychology, or programs



1 offering combinations of two or more of these
2 areas; or

3 (B) A professional psychology training program,
4 awarded by an institution of higher education, or
5 from a regionally accredited institution;

6 (2) The applicant for licensure shall demonstrate that the
7 applicant has completed one year of [~~post-doctoral~~]
8 post-doctoral supervised experience in health service
9 in psychology, and:

10 (A) An internship approved by the American
11 Psychological Association; or

12 (B) One year of supervised experience in health
13 service in psychology, in an internship or
14 residency program in an organized health service
15 training program; and

16 (3) The applicant for licensure has passed an examination
17 as may be prescribed by the board[-];

18 provided that nothing in this subsection shall be construed
19 as requiring the applicant to complete the requirements of
20 paragraph (2) to be eligible to take the examination
21 required in paragraph (3)."



1 SECTION 27. Section 465-7.6, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "§465-7.6 Licensure of state employed clinical
4 psychologists. (a) A psychologist employed in a civil service
5 clinical psychologist position in this State after January 1,
6 1988, shall be licensed subject to:

- 7 (1) Meeting the requirements of section 465-7; and
8 (2) Obtaining licensure within two years from the date of
9 employment [÷];

10 provided that, if the psychologist is not able to obtain
11 licensure within two years, the board may grant a waiver if the
12 psychologist is able to demonstrate that the delay was caused by
13 circumstances beyond the psychologist's control.

14 (b) [~~After~~] Absent a waiver obtained pursuant to
15 subsection (a), after the time period in subsection (a)(2) has
16 expired, a psychologist, employed in a civil service clinical
17 psychologist position rendering diagnostic or treatment
18 services, who has not obtained a license, shall immediately
19 cease and desist the practice of psychology until a license is
20 obtained pursuant to this chapter."



1 SECTION 28. Section 465-8, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "§465-8 Licenses, issuance, display. Upon the board
4 forwarding to the director the name of each applicant who is
5 entitled to a license under this chapter and upon receipt of the
6 prescribed fee, the director shall promptly issue to each
7 applicant a license authorizing the applicant to engage in the
8 practice of psychology for a period of two years. The license
9 shall be in the form as the director shall determine. A
10 licensed psychologist or associate psychologist shall display
11 the license in a conspicuous place in the psychologist's or
12 associate psychologist's principal place of business[-];
13 provided that a provisional license shall include the name and
14 title of the supervising licensed psychologist or
15 psychologists."

16 SECTION 29. Section 465-11, Hawaii Revised Statutes, is
17 amended as follows:

18 1. By amending subsection (a) to read:

19 "(a) Every license issued under this chapter shall be
20 renewed biennially on or before June 30 of each even-numbered
21 year. Failure to renew a license shall result in forfeiture of



1 the license; provided that a psychologist whose license has been
 2 forfeited for one year or less for failure to renew may restore
 3 the license by payment of the renewal fee and, in the case of a
 4 psychologist who is audited, pursuant to subsection (g),
 5 submission of documentation of continuing education compliance,
 6 for the biennium in which the failure occurred[-]; provided
 7 further that the board may grant waivers or extensions if the
 8 licensee is able to demonstrate that the delay was due to
 9 circumstances beyond the licensee's control. If licensing has
 10 lapsed for more than one year, the person may reapply for a
 11 license in the manner prescribed in this chapter."

12 2. By amending subsection (d) to read:

13 "(d) First-time licensees and provisional licensees
 14 pursuant to section 465- shall not be subject to the
 15 continuing education requirement established under
 16 subsection (c) (2) for the first license renewal."

17 SECTION 30. Section 465-15, Hawaii Revised Statutes, is
 18 amended by amending subsection (a) to read as follows:

19 "(a) No person shall:

20 (1) Use in connection with the person's name any
 21 designation tending to imply that the person is a



1 licensed psychologist or license associate
2 psychologist unless the person is duly licensed and
3 authorized under this chapter;

4 (2) Represent oneself as a licensed psychologist or
5 licensed associate psychologist during the time the
6 person's license issued under this chapter is
7 suspended or revoked;

8 (3) Advertise or make a representation, either publicly or
9 privately, as being a psychologist[-] or associate
10 psychologist, licensed or otherwise, or as being able
11 to perform professional services described in
12 section 465-1, except as otherwise provided in this
13 chapter, without having a valid unrevoked license or
14 temporary permit issued by the director; or

15 (4) Otherwise violate this chapter."

16 PART V

17 SECTION 31. Section 467E-7, Hawaii Revised Statutes, is
18 amended to read as follows:

19 "§467E-7 Licensing requirements[-]; services reimbursable.

20 (a) Every applicant for a license as a social worker shall



1 submit evidence satisfactory to the director that the applicant
2 meets the following requirements:

3 (1) For the licensed bachelor social worker, the
4 applicant:

5 (A) Holds a bachelor's degree from a college or
6 university in a social work program accredited by
7 or deemed to be equivalent to a program
8 accredited by the Council on Social Work
9 Education; and

10 (B) Has passed the basic level national examination
11 given by the Association of Social Work Boards;

12 (2) For the licensed social worker, the applicant:

13 (A) Holds a master's degree from a college or
14 university in a social work program accredited by
15 or deemed to be equivalent to an accredited
16 program by the Council on Social Work Education
17 or a doctoral degree from a doctoral degree
18 program in social work accredited by the Western
19 Association of Schools and Colleges or a
20 comparable regional accreditation body; and



- 1 (B) Has passed the intermediate or [~~higher level~~
2 higher-level national examination given by the
3 Association of Social Work Boards; and
- 4 (3) For the licensed clinical social worker, the
5 applicant:
- 6 (A) Has met the educational requirements in paragraph
7 (2);
- 8 (B) Has passed the clinical level national
9 examination given by the Association of Social
10 Work Boards;
- 11 (C) Has provided evidence of successful completion of
12 at least three thousand hours of post masters
13 clinical social work experience under supervision
14 completed within no fewer than two years, but
15 within no more than five years. Clinical social
16 work experience shall include a minimum of two
17 thousand hours of assessment, clinical diagnosis,
18 and psychotherapy; no more than a maximum of nine
19 hundred hours of client-centered advocacy,
20 consultation, and evaluation; and at least one
21 hundred hours of supervision as follows:



- 1 (i) At least sixty of the one hundred hours of
- 2 direct face-to-face supervision shall have
- 3 been individualized supervision; and
- 4 (ii) Not more than forty hours of direct
- 5 face-to-face supervision may have been under
- 6 small group (up to six supervisees)
- 7 supervision.

8 An applicant who submits evidence of
9 certification as a qualified clinical social
10 worker or diplomate in clinical social work by
11 the National Association of Social Workers or as
12 a [~~board-certified~~] board-certified diplomate by
13 the American Board of Examiners shall be deemed
14 to have satisfied the experience requirements of
15 this subparagraph;

16 (D) For the purposes of subparagraph (C), shall have
17 had clinical supervision as follows:

- 18 (i) The supervisor shall have been a licensed
- 19 clinical social worker with at least four
- 20 thousand five hundred hours of post masters
- 21 clinical social work experience;

1 (ii) For the first five years after July 1, 2004,
2 the following individuals shall be deemed to
3 have satisfied the requirements of a
4 supervisor: a person with a master's degree
5 in social work with at least four thousand
6 five hundred hours post masters clinical
7 social work experience; an individual who
8 holds a diplomate in clinical social work or
9 a board certified diplomate certification;
10 or a board certified psychiatrist,
11 psychologist, advanced practice registered
12 nurse who has a minimum of four thousand
13 five hundred hours of post masters clinical
14 experience in assessment, clinical
15 diagnosis, and psychotherapy; and

16 (iii) Supervision shall have included review of
17 assessment, clinical diagnosis, and
18 psychotherapy; and

19 (E) In collaboration with the supervisor, may elect
20 to fulfill some or all of the supervision
21 requirements set forth in subparagraph (C)



1 through face-to-face supervision that is
2 conducted electronically through a video
3 conference service that is compliant with all
4 federal and state privacy, security, and
5 confidentiality laws, including the Health
6 Insurance Portability and Accountability Act of
7 1996. Prior to making such an election, it is
8 incumbent upon the applicant to review the laws
9 and rules of other jurisdictions to determine the
10 impact, if any, that electronic supervision may
11 have on license by endorsement in other states.

12 (b) Services provided by a supervised social worker who is
13 working to obtain post masters clinical social work experience
14 under the supervision of a licensed clinical social worker or
15 individual identified in section 467E-7(a)(3)(D) in order to
16 qualify for a license as a licensed clinical social worker shall
17 be eligible for insurance reimbursement through the insurance of
18 the applicable client through reimbursements of claims submitted
19 by the supervising licensed clinical social worker while listed
20 under the supervising licensed clinical social worker's
21 treatment authority and supervision; provided that the licensed



1 supervising clinical social worker's services shall be eligible
2 for reimbursement as a contracted provider; provided further
3 that the billed rate for the licensed social worker shall be
4 commensurate with the requisite level of training."

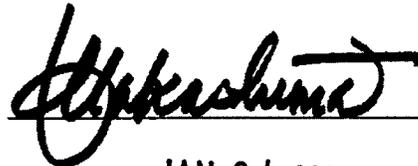
5 PART VI

6 SECTION 32. Statutory material to be repealed is bracketed
7 and stricken. New statutory material is underscored.

8 SECTION 33. This Act shall take effect upon its approval;
9 provided that any provision in this Act authorizing insurance
10 reimbursement for services shall be subject to approval by the
11 Centers for Medicare and Medicaid Services.

12

INTRODUCED BY:



JAN 24 2023



H.B. NO. 1242

Report Title:

Mental Health; Provisional Licensure; Marriage and Family Therapists; Mental Health Counselors; Psychologists; Licensed Clinical Social Workers; Insurance Reimbursement

Description:

Establishes provisional or associate level licensure requirements for marriage and family therapists, mental health counselors, and psychologists and authorizes insurance reimbursements in certain circumstances. Allows psychologist license applicants to take licensing examinations before completing other requirements.

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

