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# 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 flaw in regulatory oversight causes undue hardships on  
14 these individuals and their families as they are essentially  
15 forced to work one very difficult and taxing job for free and a  
16 second job to meet personal needs. Unfortunately, this model of  
17 living is 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           Enabling and encouraging post-degree, pre-licensed mental  
21 health practitioners to remain in the State to complete the



1 required hours of supervised work for full licensure will  
2 promote a diverse pool of homegrown providers that can best meet  
3 the needs of the people of Hawaii.

4 Accordingly, the purpose of this Act is to expand access to  
5 high quality mental health services by establishing provisional  
6 or associate-level licensure requirements and reimbursement  
7 allowances for certain mental health practitioners in training.

8 It is not the intent of the legislature to allow associate-  
9 level practitioners to perform acts that they are not currently  
10 permitted to perform, but to have their services billed through  
11 the insurance covering their supervisor's treatment and  
12 supervision.

13 PART II

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

17 **"§451J- Provisional license; associate marriage and**  
18 **family therapist; services reimbursable.** (a) The department  
19 shall grant, upon application and payment of proper fees,  
20 provisional licensure as an associate marriage and family  
21 therapist to an individual who:



- 1        (1) Has received from an accredited educational
- 2            institution a master's or doctoral degree in marriage
- 3            and family therapy or an allied field related to the
- 4            practice of mental health counseling that includes, or
- 5            is supplemented by, graduate level course work
- 6            comprising a minimum of thirty-three semester hours or
- 7            forty-four quarter hours in the following course
- 8            areas:
- 9            (A) Marriage and family studies: nine semester hours
- 10           or twelve quarter hours;
- 11           (B) Marriage and family therapy studies: nine
- 12           semester hours or twelve quarter hours;
- 13           (C) Human development: nine semester hours or twelve
- 14           quarter hours;
- 15           (D) Ethical and professional studies: three semester
- 16           hours or four quarter hours; and
- 17           (E) Research: three semester hours or four quarter
- 18           hours;
- 19        (2) Has completed a one-year practicum that included three
- 20           hundred hours supervised client contact; and



1       (3) During the period of time necessary to fulfill the  
2       requirements for licensure as a marriage and family  
3       therapist pursuant to section 451J-7, engages in  
4       practice under the clinical supervision of a licensed  
5       marriage and family therapist that is in good  
6       standing.

7       (b) Each provisional license issued pursuant to this  
8       section shall include the name and title of each licensed  
9       marriage and family therapist described in subsection (a)(3).

10      The provisional licensee or licensed associate marriage and  
11      family therapist shall only practice marriage and family therapy  
12      under the direct supervision of the licensed marriage and family  
13      therapist.

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

19      (d) Services provided by a supervised licensed associate  
20      marriage and family therapist shall be eligible for insurance  
21      reimbursement; provided that the supervising licensed marriage



1 and family therapist's services are eligible for reimbursement  
2 as a contracted provider; provided further that the billed rate  
3 for the licensed associate marriage and family therapist shall  
4 be commensurate with the requisite level of training."

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

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

9 "Associate marriage and family therapist" or "licensed  
10 associate marriage and family therapist" means a person who:

11 (1) Has completed all educational requirements under  
12 section 451J- (a)(1);

13 (2) Has been issued a provisional license under this  
14 chapter; and

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

18 2. By amending the definition of "clinical supervision" to  
19 read:

20 "Clinical supervision" means the supervision of no more  
21 than six persons at the same time who are acquiring and



1 completing clinical experience in accordance with ~~[section]~~  
2 sections 451J-7(2) and (3) [7] and 451J- (a)(3), by a licensed  
3 marriage and family therapist whose license has been in good  
4 standing in any state for two years preceding commencement and  
5 during the term of supervision, or any licensed mental health  
6 professional whose license has been in good standing in any  
7 state and who has been a clinical member in good standing of the  
8 association for the two years preceding commencement and during  
9 the term of supervision. Clinical supervision includes but is  
10 not limited to case consultation of the assessment and diagnosis  
11 of presenting problems, development and implementation of  
12 treatment plans, and the evaluation of the course of treatment.  
13 Clinical supervision may include direct observation by the  
14 qualified supervisor of the provision of marriage and family  
15 therapy services."

16 3. By deleting the definition of "marriage and family  
17 therapy intern".

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



1 ~~experience in marriage and family therapy under clinical~~  
2 ~~supervision."]~~

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

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

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

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

18 (3) Administer, coordinate, and enforce this chapter and  
19 rules;

20 (4) Discipline a person licensed as a marriage and family  
21 therapist or associate marriage and family therapist



1 for any cause described by this chapter, or for any  
 2 violation of rules, or refuse to license a person for  
 3 failure to meet licensing requirements or for any  
 4 cause that would be grounds for disciplining a  
 5 licensed marriage and family therapist[+] or licensed  
 6 associate marriage and family therapist; and

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

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

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



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

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

12 "**§451J-6 Exemptions.** (a) Licensure shall not be required  
13 of:

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



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

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

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



1 their respective licensed professions; provided that no person,  
2 unless the person is licensed as a marriage and family  
3 therapist~~[7]~~ or associate marriage and family therapist, shall  
4 use the title of marriage and family therapist ~~[e#]~~, licensed  
5 marriage and family therapist~~[7]~~, associate marriage and family  
6 therapist, or licensed associate marriage and family therapist."

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

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

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

18 "(a) [~~L~~icenses] Except as provided in section 451J- ,  
19 licenses shall be renewed triennially on or before December 31,  
20 with the first renewal deadline occurring on December 31, 2001.  
21 Failure to renew a license shall result in a forfeiture of the



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

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

13 "[~~§~~451J-12~~§~~] **Confidentiality and privileged**  
14 **communications.** No person licensed as a marriage and family  
15 therapist~~[7]~~ or associate marriage and family therapist, nor any  
16 of the person's employees or associates, shall be required to  
17 disclose any information that the person may have acquired in  
18 rendering marriage and family therapy services except in the  
19 following circumstances:

20 (1) As required by law;



- 1 (2) To prevent a clear and immediate danger to a person or  
2 persons;
- 3 (3) In the course of a civil, criminal, or disciplinary  
4 action arising from the therapy where the therapist is  
5 a defendant;
- 6 (4) In a criminal proceeding where the client is a  
7 defendant and the use of the privilege would violate  
8 the defendant's right to a compulsory process of the  
9 right to present testimony and witnesses in the  
10 defendant's own behalf;
- 11 (5) In accordance with the terms of a client's previously  
12 written waiver of the privilege; or
- 13 (6) Where more than one person in a family jointly  
14 receives therapy and each family member who is legally  
15 competent executes a written waiver; in that instance,  
16 a marriage and family therapist or associate marriage  
17 and family therapist may disclose information received  
18 from any family member in accordance with the terms of  
19 the person's waiver."

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



1           " ~~[+]§451J-13[+]~~ **Therapist prohibited from testifying in**  
2 **alimony and divorce actions.** If both parties to a marriage have  
3 obtained marriage and family therapy by a licensed marriage and  
4 family therapist~~[r]~~ or licensed associate marriage and family  
5 therapist, the therapist shall be prohibited from testifying in  
6 an alimony or divorce action concerning information acquired in  
7 the course of therapy. This section shall not apply to custody  
8 actions whether or not part of a divorce proceeding."

PART III

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

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

- 18           (1) Has received from an accredited educational
- 19                 institution a master's or doctoral degree in
- 20                 counseling or in an allied field related to the
- 21                 practice of mental health counseling that includes, or



1 is supplemented by, graduate level course work in  
2 counseling comprising a minimum of forty-eight  
3 semester hours or seventy-two quarter hours in the  
4 following course areas, with a minimum of three  
5 semester hours or five quarter hours in each course  
6 area as indicated below:

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

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



- 1           (C) Counseling theories and applications, including  
2           counseling and consultation, including both  
3           individual and systems perspectives;  
4           interviewing; assessment; and counseling skills;  
5           and applying principles, methods, and theories of  
6           counseling, treatment and counseling of mental  
7           and emotional disorders, and educational  
8           techniques aimed at preventing these disorders  
9           with individuals and families;
- 10          (D) Group theory and practice, including principles  
11          of group dynamics, group process, group  
12          leadership styles, theories and methods of group  
13          counseling, and the application of theory to the  
14          group processes;
- 15          (E) Career and lifestyle development, including the  
16          study of vocational development theories;  
17          decision-making models; assessment instruments;  
18          and techniques, types, sources, and uses of  
19          occupational and educational information systems,  
20          career development applications, and career  
21          counseling processes, techniques, and resources;



- 1           (F) Appraisal of human behavior, including assessment  
2           and diagnosis of disorders with an emphasis on  
3           the Diagnostic and Statistical Manual of Mental  
4           Disorders' categories and an understanding of  
5           these disorders relative to the counseling  
6           context;
- 7           (G) Tests and measurements, including theoretical and  
8           historical bases for assessment techniques, and  
9           assessment methods, including analysis of various  
10          types of tests to select, administer, interpret,  
11          and use assessment and evaluation instruments and  
12          techniques in counseling;
- 13          (H) Research and program evaluation, including  
14          research design and methods, statistical  
15          analysis, principles, practices, and application  
16          of needs assessment and program evaluation;
- 17          (I) Professional orientation and ethics, including  
18          the history of the helping profession,  
19          professional roles and functions, ethical  
20          standards, confidentiality, professional  
21          organizations, and public policy process,



1           including advocacy on behalf of the profession  
2           and its clientele; and  
3        (J) At least two academic terms of supervised mental  
4           health practicum intern experience for graduate  
5           credit of at least six semester hours or ten  
6           quarter hours in a mental health counseling  
7           setting, with a total of three hundred hours of  
8           supervised client contact; provided that the  
9           practicum experience shall be completed under the  
10          clinical supervision of a person who is licensed  
11          as a mental health counselor, psychologist,  
12          clinical social worker, advanced practice  
13          registered nurse with a specialty in mental  
14          health, marriage and family therapist, or  
15          physician with a specialty in psychiatry; and  
16        (2) During the period of time necessary to fulfill the  
17          requirements for licensure as a mental health  
18          counselor pursuant to section 453D-7, engages in  
19          practice under the clinical supervision of a licensed  
20          mental health counselor that is in good standing.



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 or  
7 therapist.

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

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

20       SECTION 12. Section 453D-1, Hawaii Revised Statutes, is  
21 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  
12 shall use a title stating or implying that the person  
13 is a "licensed mental health counselor" ~~[or]~~, "mental  
14 health counselor", "licensed associate mental health  
15 counselor", or "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 [~~or~~], "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 are 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~~] the 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[~~r~~] 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[7] 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[7-~~or~~

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 that 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 disbursal 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 SECTION 27. Section 465-7.6, Hawaii Revised Statutes, is  
19 amended to read as follows:

20 "**§465-7.6 Licensure of state employed clinical**  
21 **psychologists.** (a) A psychologist employed in a civil service



1 clinical psychologist position in this State after January 1,  
2 1988, shall be licensed subject to:

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

6 provided that, if the psychologist is not able to obtain  
7 licensure within two years, the board may grant a waiver if the  
8 psychologist is able to demonstrate that the delay was caused by  
9 circumstances beyond the psychologist's control.

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

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

19 "**§465-8 Licenses, issuance, display.** Upon the board  
20 forwarding to the director the name of each applicant who is  
21 entitled to a license under this chapter and upon receipt of the



1 prescribed fee, the director shall promptly issue to each  
 2 applicant a license authorizing the applicant to engage in the  
 3 practice of psychology for a period of two years. The license  
 4 shall be in the form as the director shall determine. A  
 5 licensed psychologist or associate psychologist shall display  
 6 the license in a conspicuous place in the psychologist's or  
 7 associate psychologist's principal place of business[-];  
 8 provided that a provisional license shall include the name and  
 9 title of the supervising licensed psychologist or  
 10 psychologists."

11 SECTION 29. Section 465-11, Hawaii Revised Statutes, is  
 12 amended by amending subsection (d) to read as follows:

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 licensed 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~~[7]~~ 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
- 7 paragraph (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 licensed social  
13 worker or licensed social worker who is working to obtain post  
14 masters clinical social work experience under the supervision of  
15 a Hawaii licensed clinical social worker, or individual  
16 identified in subsection (a)(3)(D) to qualify for a license as a  
17 licensed clinical social worker, shall be eligible for insurance  
18 reimbursement through the insurance of the applicable client  
19 through reimbursements of claims submitted by the supervising  
20 licensed clinical social worker while listed under the  
21 supervising licensed clinical social worker's treatment



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

PART VI

7 SECTION 32. In accordance with section 9 of article VII of  
 8 the Hawaii State Constitution and sections 37-91 and 37-93,  
 9 Hawaii Revised Statutes, the legislature has determined that the  
 10 appropriations contained in Act 164, Regular Session of 2023,  
 11 and this Act will cause the state general fund expenditure  
 12 ceiling for fiscal year 2024-2025 to be exceeded by  
 13 \$ or per cent. This current declaration takes  
 14 into account general fund appropriations authorized for fiscal  
 15 year 2024-2025 in Act 164, Regular Session of 2023, and this Act  
 16 only. The reasons for exceeding the general fund expenditure  
 17 ceiling are that:

- 18 (1) The appropriation made in this Act is necessary to
- 19 serve the public interest; and
- 20 (2) The appropriation made in this Act meets the needs
- 21 addressed by this Act.



1 SECTION 33. There is appropriated out of the general  
2 revenues of the State of Hawaii the sum of \$ or so  
3 much thereof as may be necessary for fiscal year 2024-2025 for  
4 the implementation of this Act; provided that:

5 (1) \$ shall be used to establish, recruit, and  
6 hire an office assistant V to process provisional  
7 license applications; and

8 (2) \$ shall be used to make appropriate updates  
9 to the department of commerce and consumer affairs  
10 internal database for the new license types and  
11 associated requirements.

12 The sum appropriated shall be expended by the department of  
13 commerce and consumer affairs for the purposes of this Act.

14 SECTION 34. Statutory material to be repealed is bracketed  
15 and stricken. New statutory material is underscored.

16 SECTION 35. This Act shall take effect upon its approval;  
17 provided that parts II, III, IV, and V of this Act shall take  
18 effect on July 1, 2026; provided further that any provision in  
19 this Act authorizing insurance reimbursement for services shall  
20 be subject to approval by the Centers for Medicare and Medicaid  
21 Services.



**Report Title:**

Department of Commerce and Consumer Affairs; Mental Health; Provisional Licensure; Marriage and Family Therapists; Mental Health Counselors; Psychologists; Licensed Clinical Social Workers; Insurance Reimbursement; Expenditure Ceiling; Appropriation

**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. Declares that the general fund expenditure ceiling has been exceeded. Makes an appropriation. Parts II, III, IV, and V takes effect on 7/1/2026. (SD1)

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

