

JAN 18 2024'

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 workforce 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 must render professional mental health treatment to
4 clients to fulfill the post-degree, pre-license hours required
5 for full licensure. However, unlike many other professions and
6 trades that have similar requirements, almost all of these
7 mental health professionals go unpaid for the life-changing
8 services because no laws exist to allow for health insurance
9 reimbursements of their services.

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

17 Accordingly, the purpose of this Act is to expand access to
18 high-quality mental health services by:

19 (1) Establishing provisional, associate-level licensure
20 requirements and reimbursement allowances for certain
21 mental health practitioners in training; and



- 1 (A) Marriage and family studies: nine semester hours
2 or twelve quarter hours;
- 3 (B) Marriage and family therapy studies: nine
4 semester hours or twelve quarter hours;
- 5 (C) Human development: nine semester hours or twelve
6 quarter hours;
- 7 (D) Ethical and professional studies: three semester
8 hours or four quarter hours; and
- 9 (E) Research: three semester hours or four quarter
10 hours;
- 11 (2) Has completed a one-year practicum that includes three
12 hundred hours of supervised client contact;
- 13 (3) Has an agreement to be supervised by a marriage and
14 family therapist; and
- 15 (4) Has passed the Marital and Family Therapy National
16 Examination in accordance with section 451J-8.
- 17 (b) Each application for a license issued pursuant to this
18 section shall include the name and title of each licensed
19 marriage and family therapist described in subsection (a) (3).
- 20 **§451J-B Associate marriage and family therapist.** (a)
- 21 Each associate marriage and family therapist shall only practice



1 marriage and family therapy under the direct supervision of the
2 respective licensed marriage and family therapist specified
3 pursuant to section 451J-A(b).

4 (b) Services provided by an associate marriage and family
5 therapist shall be eligible for insurance reimbursement in the
6 same manner that the supervising licensed marriage and family
7 therapist's services would be eligible for reimbursement as a
8 contracted provider; provided that the billed rate for the
9 licensed associate marriage and family therapist shall be
10 commensurate with the requisite level of training.

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

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

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

20 "Associate marriage and family therapist" means a person
21 who has a valid license issued under section 451J-A."



1 2. By deleting the definition of "marriage and family
2 therapy intern".

3 [~~"Marriage and family therapy intern" means a person who
4 has completed all educational requirements stipulated in section
5 451J-7(1)(A) and who is currently earning supervised clinical
6 experience in marriage and family therapy under clinical
7 supervision."~~]

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

10 "**§451J-3 Powers and duties of the director.** In addition
11 to any other powers and duties authorized by law, the director
12 may:

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



- 1 (2) Adopt, amend, or repeal rules pursuant to chapter 91;
- 2 (3) Administer, coordinate, and enforce this chapter and
- 3 rules;
- 4 (4) Discipline a person licensed as a marriage and family
- 5 therapist or associate marriage and family therapist
- 6 for any cause described by this chapter, or for any
- 7 violation of rules, or refuse to license a person for
- 8 failure to meet licensing requirements or for any
- 9 cause that would be grounds for disciplining a
- 10 [~~licensed~~] marriage and family therapist[+] or
- 11 associate marriage and family therapist; and
- 12 (5) Appoint an advisory committee of licensed marriage and
- 13 family therapists and members of the public to assist
- 14 with the implementation of this chapter and the rules;
- 15 except that the initial members of the committee who
- 16 are marriage and family therapists shall not be
- 17 required to be licensed pursuant to this chapter."

18 SECTION 5. Section 451J-5, Hawaii Revised Statutes, is

19 amended to read as follows:

20 "**§451J-5 Prohibited acts.** Except as specifically provided

21 elsewhere in this chapter, no person shall use the title



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 first having
4 secured a license under this chapter. The department shall
5 investigate and prosecute any individual using the title of
6 marriage and family therapist [~~or~~], licensed marriage and family
7 therapist, associate marriage and family therapist, or licensed
8 associate marriage and family therapist without being properly
9 licensed as a marriage and family therapist[~~-~~] or associate
10 marriage and family therapist. Any person who violates this
11 section shall be subject to a fine of not more than \$1,000 per
12 violation. Each day's violation shall be deemed a separate
13 offense. Any action taken to impose or collect the fine imposed
14 under this section shall be a civil action."

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

17 "**§451J-6 Exemptions.** (a) Licensure shall not be required
18 of:

19 (1) A person doing work within the scope of practice or
20 duties of the person's profession that overlaps with
21 the practice of marriage and family therapy; provided



1 the person does not purport to be a marriage and
2 family therapist [~~or~~], licensed marriage and family
3 therapist[~~+~~], associate marriage and family therapist,
4 or licensed associate marriage and family therapist;
5 or

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

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



1 (b) Nothing in this chapter shall be construed to prevent
2 qualified members of other licensed professions as defined by
3 any law, rule, or the department, including but not limited to
4 social workers, psychologists, registered nurses, or physicians,
5 from doing or advertising that they assist or treat individuals,
6 couples, or families consistent with the accepted standards of
7 their respective licensed professions; provided that no person,
8 unless the person is licensed as a marriage and family
9 therapist[~~r~~] or associate marriage and family therapist, shall
10 use the title of marriage and family therapist [~~er~~], licensed
11 marriage and family therapist[~~r~~], associate marriage and family
12 therapist, or licensed associate marriage and family therapist."

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

15 "**§451J-7 Application for licensure.** Any person who files
16 an application with the department after December 31, 1998,
17 shall be issued a license by the department if the applicant
18 provides satisfactory evidence to the department that the
19 applicant is qualified for licensure pursuant to the
20 requirements of this chapter and meets the following
21 qualifications:



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



- 1 (2) Has completed a one year practicum [~~with~~] that
2 includes three hundred hours of supervised client
3 contact;
- 4 (3) [~~Completes~~] Has completed one thousand hours of direct
5 marriage and family therapy, and two hundred hours
6 clinical supervision in not less than twenty-four
7 months; and
- 8 (4) Has passed the [~~National Marriage~~] Marital and Family
9 Therapy [~~Exam~~] National Examination in accordance with
10 section 451J-8.

11 An individual who is a clinical member of the association
12 shall be deemed to have met the educational and clinical
13 experience requirements of this section."

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

16 "(b) The department shall administer the [~~National~~
17 ~~Marriage~~] Marital and Family Therapy [~~Exam~~] National Examination
18 in compliance with the Association of Marital and Family Therapy
19 Regulatory Board standards."

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



1 "~~[+]§451J-9[+]~~ **Licensure fees.** The department may
2 establish fees for licensure under this chapter. Licenses shall
3 be valid for three years and shall be renewed triennially~~[+]~~;
4 provided that licenses under section 451J-A shall be renewed
5 pursuant to section 451J-A. Any applicant for renewal of a
6 license that has expired within one year of the renewal deadline
7 shall be required to pay a restoration fee in addition to all
8 renewal fees."

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

11 "(a) [~~Licenses~~] Except as provided in section 451J-A,
12 licenses shall be renewed triennially on or before December 31,
13 with the first renewal deadline occurring on December 31, 2001.
14 Failure to renew a license shall result in a forfeiture of the
15 license. Licenses that have been forfeited may be restored
16 within one year of the expiration date upon payment of renewal
17 and restoration fees, and in the case of marriage and family
18 therapists or licensed marriage and family therapists audited
19 pursuant to subsection (f), documentation of continuing
20 education compliance. Failure to restore a forfeited license
21 within one year of the date of its expiration shall result in



1 the automatic termination of the license. Persons with
2 terminated licenses shall be required to reapply for licensure
3 as a new applicant."

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

6 "[~~§~~451J-12~~]~~ **Confidentiality and privileged**
7 **communications.** No person licensed as a marriage and family
8 therapist~~[7]~~ or associate marriage and family therapist, nor any
9 of the person's employees or associates, shall be required to
10 disclose any information that the person may have acquired in
11 rendering marriage and family therapy services except in the
12 following circumstances:

- 13 (1) As required by law;
- 14 (2) To prevent a clear and immediate danger to a person or
15 persons;
- 16 (3) In the course of a civil, criminal, or disciplinary
17 action arising from the therapy where the therapist is
18 a defendant;
- 19 (4) In a criminal proceeding where the client is a
20 defendant and the use of the privilege would violate
21 the defendant's right to a compulsory process of the



1 right to present testimony and witnesses in the
2 defendant's own behalf;
3 (5) In accordance with the terms of a client's previously
4 written waiver of the privilege; or
5 (6) Where more than one person in a family jointly
6 receives therapy and each family member who is legally
7 competent executes a written waiver; in that instance,
8 a marriage and family therapist or associate marriage
9 and family therapist may disclose information received
10 from any family member in accordance with the terms of
11 the person's waiver."

12 SECTION 12. Section 451J-13, Hawaii Revised Statutes, is
13 amended to read as follows:

14 "[+]§451J-13[+] **Therapist prohibited from testifying in**
15 **alimony and divorce actions.** If both parties to a marriage have
16 obtained marriage and family therapy by a licensed marriage and
17 family therapist[~~7~~] or licensed associate marriage and family
18 therapist, the therapist shall be prohibited from testifying in
19 an alimony or divorce action concerning information acquired in
20 the course of therapy. This section shall not apply to custody
21 actions whether or not part of a divorce proceeding."



1 PART III

2 SECTION 13. Chapter 453D, Hawaii Revised Statutes, is
3 amended by adding two new sections to be appropriately
4 designated and to read as follows:

5 "§453D-A Application for license as an associate mental
6 health counselor. (a) Any person who files an application with
7 the department shall be issued an associate mental health
8 counselor license if the applicant provides satisfactory
9 evidence to the department that the applicant meets the
10 following qualifications:

- 11 (1) Has received from an accredited educational
12 institution a master's or doctoral degree in
13 counseling or in an allied field related to the
14 practice of mental health counseling that includes, or
15 is supplemented by, graduate-level coursework in
16 counseling comprising a minimum of forty-eight
17 semester hours or seventy-two quarter hours in the
18 following course areas, with a minimum of three
19 semester hours or five quarter hours in each course
20 area as indicated below:



- 1 (A) Human growth and development, including the study
2 of life span development, strategies to
3 facilitate that development and transitions,
4 theories of learning and personality development,
5 and human behavior to include crisis,
6 disabilities, addictive behavior, and
7 environmental factors;
- 8 (B) Social and cultural foundations, including the
9 study of issues and trends in a multicultural and
10 diverse society, such as ages; races; religious
11 or sexual preferences; physical disabilities;
12 ethnicities and cultures; genders;
13 socioeconomics; intellectual abilities; and
14 individual, family, and group strategies of
15 diverse groups;
- 16 (C) Counseling theories and applications, including
17 counseling and consultation, such as both
18 individual and systems perspectives,
19 interviewing, assessment, and counseling skills,
20 and applying principles, methods, and theories of
21 counseling, treatment and counseling of mental



1 and emotional disorders, and educational
2 techniques aimed at preventing these disorders
3 with individuals and families;

4 (D) Group theory and practice, including principles
5 of group dynamics, group process, group
6 leadership styles, theories and methods of group
7 counseling, and the application of theory to the
8 group processes;

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

16 (F) Appraisal of human behavior, including assessment
17 and diagnosis of disorders with an emphasis on
18 the Diagnostic and Statistical Manual of Mental
19 Disorders' categories and an understanding of
20 these disorders relative to the counseling
21 context;



- 1 (G) Tests and measurements, including theoretical and
2 historical bases for assessment techniques, and
3 assessment methods, such as analysis of various
4 types of tests to select, administer, interpret,
5 and use assessment and evaluation instruments and
6 techniques in counseling;
- 7 (H) Research and program evaluation, including
8 research design and methods, statistical
9 analysis, principles, practices, and application
10 of needs assessment and program evaluation;
- 11 (I) Professional orientation and ethics, including
12 the history of the helping profession,
13 professional roles and functions, ethical
14 standards, confidentiality, professional
15 organizations, and public policy process such as
16 advocacy on behalf of the profession and its
17 clientele; and
- 18 (J) At least two academic terms of supervised mental
19 health practicum intern experience for graduate
20 credit of at least six semester hours or ten
21 quarter hours in a mental health counseling



1 setting, with a total of three hundred hours of
2 supervised client contact; provided that the
3 practicum experience shall be completed under the
4 clinical supervision of a person who is licensed
5 as a mental health counselor, psychologist,
6 clinical social worker, advanced practice
7 registered nurse with a specialty in mental
8 health, marriage and family therapist, or
9 physician having a specialty in psychiatry;

10 (2) During the period of time to fulfill the requirements
11 for licensure as a mental health counselor pursuant to
12 section 453D-7, engages in practice under the clinical
13 supervision of a licensed mental health counselor that
14 is in good standing with the department; and

15 (3) Has passed the National Counselor Examination for
16 Licensure and Certification.

17 (b) Each application for a license issued pursuant to this
18 section shall include the name and title of the licensed mental
19 health counselor described in subsection (a) (2).

20 §453D-B Associate mental health counselor. (a) Each
21 associate mental health counselor shall only practice mental



1 health counseling under the direct supervision of the respective
2 licensed mental health counselor specified in section 453D-A(b).

3 (b) Services provided by an associate mental health
4 counselor shall be eligible for insurance reimbursement in the
5 same manner that the supervising licensed mental health
6 counselor's services would be eligible for reimbursement as a
7 contracted provider; provided that the billed rate for the
8 licensed associate mental health counselor shall be commensurate
9 with the requisite level of training.

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

15 SECTION 14. Section 453D-1, Hawaii Revised Statutes, is
16 amended by adding a new definition to be appropriately inserted
17 and to read:

18 ""Associate mental health counselor" or "licensed
19 associated mental health counselor" means a person who has a
20 valid license issued under section 453D-A."



1 SECTION 15. Section 453D-3, Hawaii Revised Statutes, is
2 amended to read as follows:

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

- 6 (1) Grant permission to a person to use the title of
7 "licensed mental health counselor" or "licensed
8 associate mental health counselor" or a description
9 indicating one is a licensed mental health counselor
10 or licensed associate mental health counselor in this
11 State pursuant to this chapter and the rules adopted
12 pursuant thereto;
- 13 (2) Adopt, amend, or repeal rules pursuant to chapter 91
14 as the director finds necessary to carry out this
15 chapter;
- 16 (3) Administer, coordinate, and enforce this chapter;
- 17 (4) Discipline a [~~licensed~~] mental health counselor or
18 associate mental health counselor for any due cause
19 described by this chapter or violation of the rules;
- 20 (5) Refuse to license a person for failure to meet
21 licensing requirements or on grounds sufficient to



1 discipline a [~~licensed~~] mental health counselor[+] or
2 associate mental health counselor; and

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

10 SECTION 16. Section 453D-5, Hawaii Revised Statutes, is
11 amended to read as follows:

12 "[+]§453D-5[+] **Prohibited acts.** Except as specifically
13 provided in this chapter, no person shall engage in the practice
14 of mental health counseling or use the title of "licensed mental
15 health counselor" [ø], "mental health counselor", "licensed
16 associate mental health counselor", or "associate mental health
17 counselor" without a valid license issued under this chapter.

18 Any person who violates this section shall be subject to a fine
19 of not more than \$1,000 for each separate offense. Each day of
20 each violation shall constitute a separate offense. Any action



1 taken to impose or collect the fine imposed under this section
2 shall be a civil action."

3 SECTION 17. Section 453D-6, Hawaii Revised Statutes, is
4 amended by amending subsection (a) to read as follows:

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

6 (1) A person doing work within the duties of the person's
7 profession that overlaps with the practice of mental
8 health counseling; provided that no ~~such~~ person
9 shall use a title stating or implying that the person
10 is a "licensed mental health counselor" ~~[or]~~, "mental
11 health counselor", "licensed associate mental health
12 counselor", "associate mental health counselor" or
13 describe or refer to the person's services as mental
14 health counseling;

15 (2) Any person who is a duly recognized member of the
16 clergy; provided that the person functions only within
17 the person's capacity as a member of the clergy; and
18 provided further that the person does not represent
19 the person to be a "licensed mental health counselor"
20 ~~[or]~~, "mental health counselor", "licensed associate
21 mental health counselor", or "associate mental health



1 counselor" or describe or refer to the person's
2 services as mental health counseling;

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

16 [~~4~~] ~~Any individual who uses the title of "mental health~~
17 ~~counselor intern" for the purpose of obtaining~~
18 ~~clinical experience in accordance with section~~
19 ~~453D-7(a)(2);~~

20 ~~(5)]~~ (4) Any person employed by a federal, state, or
21 county government agency in a counseling position, but



1 only at those times when the employee is carrying out
2 the duties and responsibilities as a counselor in
3 governmental employment; or

4 ~~[(6)]~~ (5) Any person who is obtaining supervised clinical
5 experience for licensure as a psychologist, social
6 worker, marriage and family therapist, or as another
7 licensed professional; provided that the person's
8 title indicates a trainee or intern status; and
9 provided further that the person does not purport to
10 be a "licensed mental health counselor" ~~[or]~~, "mental
11 health counselor"~~[-]~~, "licensed associate mental
12 health counselor", or "associate mental health
13 counselor".

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

16 "~~[§]~~**§453D-10**~~[§]~~ **Licensure; fees.** A license shall be
17 issued to a person deemed to be qualified under ~~[section]~~
18 sections 453D-7 or 453D-A upon the payment of a license fee to
19 be determined by the department and shall be valid for three
20 years[-]; provided that provisional licenses shall be renewed
21 pursuant to section 453D-A."



1 SECTION 19. Section 453D-11, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "[+]§453D-11[+] **Renewal of license; fees.** [~~L~~icenses]

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

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

18 "[+]§453D-13[+] **Confidentiality and privileged**
19 **communications.** No person licensed as a mental health
20 counselor[~~r~~] or associate mental health counselor, nor any of
21 the person's employees or associates, shall be required to



1 disclose any information that the person may have acquired in
2 rendering mental health counseling services, except in the
3 following circumstances:

4 (1) As required by law;

5 (2) To prevent a clear and imminent danger to a person or
6 persons;

7 (3) In accordance with the terms of a previously written
8 waiver of the privilege where the waiver is executed
9 by the client or by the client's legally recognized
10 representative;

11 (4) Where more than one person jointly receives counseling
12 and each person who is legally competent executes a
13 written waiver. In that instance, a mental health
14 counselor or associate mental health counselor may
15 disclose information from any person in accordance
16 with that person's waiver; or

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

19 SECTION 21. Section 453D-14, Hawaii Revised Statutes, is
20 amended to read as follows:



1 "[\+]§453D-14[\+] Mental health counselor or associate
2 mental health counselor prohibited from testifying in alimony
3 and divorce actions. If both parties to a marriage have
4 obtained mental health counseling from a licensed mental health
5 counselor[\-] or licensed associate mental health counselor, the
6 counselor shall be prohibited from testifying in an alimony or
7 divorce action concerning information acquired in the course of
8 mental health counseling. This section shall not apply to
9 custody actions whether or not part of a divorce proceeding."

PART IV

11 SECTION 22. Chapter 465, Hawaii Revised Statutes, is
12 amended by adding two new sections to be appropriately
13 designated and to read as follows:

14 "§465-A Application for license as an associate
15 psychologist. (a) Any person who files an application with the
16 board shall be issued an associate psychologist license if the
17 applicant provides satisfactory evidence to the department that
18 the applicant meets the following qualifications:

- 19 (1) Has received a doctoral degree from:
 - 20 (A) An American Psychological Association-approved
 - 21 program in clinical psychology, counseling



1 psychology, or school psychology, or programs
2 offering combinations of two or more of these
3 areas; or

4 (B) A professional psychology training program
5 provided by an institution of higher education or
6 from a regionally accredited institution; and

7 (2) Is engaging in post-doctoral, supervised experience in
8 health service psychology pursuant to an organized
9 health service training program approved by the board.

10 (b) Each application for a license issued pursuant to this
11 section shall include the name and title of the supervising
12 licensed psychologist or psychologists in the training program
13 described in subsection (a) (2).

14 **§465-B Associate psychologist.** (a) Each associate
15 psychologist shall only practice psychology under the direct
16 supervision of the respective licensed psychologist having a
17 current, active, and unencumbered license issued by the board;
18 provided that the supervising licensed psychologist shall notify
19 the board within ten days of the termination or completion of
20 the supervision.



1 (b) Services provided by an associate psychologist shall
2 be eligible for insurance reimbursement in the same manner that
3 the supervising licensed psychologist's services would be
4 eligible for reimbursement as a contracted provider; provided
5 that the billed rate for the licensed associate psychologist
6 shall be commensurate with the requisite level of training.

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

10 SECTION 23. Section 465-1, Hawaii Revised Statutes, is
11 amended by adding a new definition to be appropriately inserted
12 and to read as follows:

13 "Associate psychologist" or "licensed associate
14 psychologist" means a person who has a valid license issued
15 under section 465-A."

16 SECTION 24. Section 465-2, Hawaii Revised Statutes, is
17 amended to read as follows:

18 "**§465-2 License required.** Except as otherwise provided in
19 this chapter, it shall be unlawful to represent [~~one's self~~]
20 oneself as a psychologist or associate psychologist or engage in



1 the practice of psychology without having first obtained a
2 license as provided in this chapter."

3 SECTION 25. Section 465-3, Hawaii Revised Statutes, is
4 amended by amending subsection (a) to read as follows:

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

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

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



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



1 rules regulating the person's professional practice;
2 provided that, notwithstanding section 465-1, the
3 person does not represent the person's self to be a
4 psychologist or associate psychologist or does not
5 represent that the person is licensed to practice
6 psychology;

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

14 (7) Any person who is a duly recognized member of the
15 clergy; provided that the person functions only within
16 the person's capacities as a member of the clergy; and
17 provided further that the person does not represent
18 the person to be a psychologist[7] or associate
19 psychologist, or the person's services as
20 psychological; or



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

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

13 SECTION 26. Section 465-3.5, Hawaii Revised Statutes, is
14 amended by amending subsection (a) to read as follows:

15 "(a) Notwithstanding other provisions in this chapter the
16 director of health may certify that there is an absence or
17 shortage of licensed psychologists or associate psychologists
18 for government employment in a particular locality. Upon
19 receiving certification of the absence or shortage, the board
20 shall authorize the director to hire and retain persons
21 currently in government employment to fill the absence or



1 shortage; provided persons hired or retained have been duly
2 licensed as a psychologist by written examination under the laws
3 of another state or territory of the United States prior to
4 1977."

5 SECTION 27. Section 465-6, Hawaii Revised Statutes, is
6 amended to read as follows:

7 "**§465-6 Powers and duties.** In addition to any other
8 powers and duties authorized by law, the board shall:

- 9 (1) Examine the qualifications of applicants for licensing
10 under this chapter to determine their eligibility for
11 licensing as psychologists[+] or associate
12 psychologists;
- 13 (2) Administer and grade examinations for applicants as
14 may be required for the purposes of this chapter. The
15 board shall determine the examinations and the score
16 that shall be deemed a passing score. Examinations
17 shall be scheduled at least once annually;
- 18 (3) Keep a record of action taken on all applicants for
19 licensing; the names of all persons licensed;
20 petitions for temporary permits; actions involving
21 suspension, revocation, or denial of licenses;



1 decisions on waiver of examination in whole or in part
2 and receipt and disbursal of any moneys; and
3 (4) Adopt, amend, and repeal pursuant to chapter 91, rules
4 as it deems proper for the purposes of this chapter."

5 SECTION 28. Section 465-7, Hawaii Revised Statutes, is
6 amended by amending subsection (a) to read as follows:

7 "(a) Every applicant for a license as a psychologist shall
8 submit evidence satisfactory to the board that the applicant
9 meets the following requirements:

10 (1) The applicant for licensure shall possess a doctoral
11 degree from:

12 (A) An American Psychological [~~Association approved~~]
13 Association-approved program in clinical
14 psychology, counseling psychology, school
15 psychology, or programs offering combinations of
16 two or more of these areas; or

17 (B) A professional psychology training program,
18 awarded by an institution of higher education, or
19 from a regionally accredited institution;

20 (2) The applicant for licensure shall demonstrate that the
21 applicant has completed one year of [~~post-doctoral~~]



1 post-doctoral supervised experience in health service
2 in psychology, and:

3 (A) An internship approved by the American
4 Psychological Association; or

5 (B) One year of supervised experience in health
6 service in psychology, in an internship or
7 residency program in an organized health service
8 training program; and

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

11 provided that nothing in this subsection shall be construed
12 as requiring the applicant to complete the requirements of
13 paragraph (2) to be eligible to take the examination
14 required in paragraph (3)."

15 SECTION 29. Section 465-7.6, Hawaii Revised Statutes, is
16 amended to read as follows:

17 "**§465-7.6 Licensure of state employed clinical**
18 **psychologists.** (a) A psychologist employed in a civil service
19 clinical psychologist position in this State after January 1,
20 1988, shall be licensed subject to:

21 (1) Meeting the requirements of section 465-7; and



1 (2) Obtaining licensure within two years from the date of
2 employment[-];
3 provided that, if the psychologist is not able to obtain
4 licensure within two years, the board may grant a waiver if the
5 psychologist is able to demonstrate that the delay was caused by
6 circumstances beyond the psychologist's control.

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

14 SECTION 30. Section 465-8, Hawaii Revised Statutes, is
15 amended to read as follows:

16 "**§465-8 Licenses, issuance, display.** Upon the board
17 forwarding to the director the name of each applicant who is
18 entitled to a license under this chapter and upon receipt of the
19 prescribed fee, the director shall promptly issue to each
20 applicant a license authorizing the applicant to engage in the
21 practice of psychology for a period of two years. The license



1 shall be in the form as the director shall determine. A
2 licensed psychologist or associate psychologist shall display
3 the license in a conspicuous place in the psychologist's or
4 associate psychologist's principal place of business[-];
5 provided that a license shall include the name and title of the
6 supervising licensed psychologist or psychologists."

7 SECTION 31. Section 465-11, Hawaii Revised Statutes, is
8 amended as follows:

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

10 "(a) Every license issued under this chapter shall be
11 renewed biennially on or before June 30 of each even-numbered
12 year. Failure to renew a license shall result in forfeiture of
13 the license; provided that a psychologist whose license has been
14 forfeited for one year or less for failure to renew may restore
15 the license by payment of the renewal fee and, in the case of a
16 psychologist who is audited, pursuant to subsection (g),
17 submission of documentation of continuing education compliance,
18 for the biennium in which the failure occurred[-]; provided
19 further that the board may grant waivers or extensions if the
20 licensee is able to demonstrate that the delay was due to
21 circumstances beyond the licensee's control. If licensing has



1 lapsed for more than one year, the person may reapply for a
2 license in the manner prescribed in this chapter."

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

4 "(d) First-time licensees and provisional licensees
5 pursuant to section 465-A shall not be subject to the continuing
6 education requirement established under subsection (c)(2) for
7 the first license renewal."

8 SECTION 32. Section 465-15, Hawaii Revised Statutes, is
9 amended by amending subsection (a) to read as follows:

10 "(a) No person shall:

11 (1) Use in connection with the person's name any
12 designation tending to imply that the person is a
13 licensed psychologist or licensed associate
14 psychologist unless the person is duly licensed and
15 authorized under this chapter;

16 (2) Represent oneself as a licensed psychologist or
17 licensed associate psychologist during the time the
18 person's license issued under this chapter is
19 suspended or revoked;

20 (3) Advertise or make a representation, either publicly or
21 privately, as being a psychologist[7] or associate



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

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

4 (A) Holds a master's degree from a college or
5 university in a social work program accredited by
6 or deemed to be equivalent to an accredited
7 program by the Council on Social Work Education
8 or a doctoral degree from a doctoral degree
9 program in social work accredited by the Western
10 Association of Schools and Colleges or a
11 comparable regional accreditation body; and

12 (B) Has passed the intermediate or [~~higher level~~]
13 higher-level national examination given by the
14 Association of Social Work Boards; and

15 (3) For the licensed clinical social worker, the
16 applicant:

17 (A) Has met the educational requirements in
18 paragraph (2);

19 (B) Has passed the clinical level national
20 examination given by the Association of Social
21 Work Boards;



1 (C) Has provided evidence of successful completion of
2 at least three thousand hours of post masters
3 clinical social work experience under supervision
4 completed within no fewer than two years, but
5 within no more than five years. Clinical social
6 work experience shall include a minimum of two
7 thousand hours of assessment, clinical diagnosis,
8 and psychotherapy; no more than a maximum of nine
9 hundred hours of client-centered advocacy,
10 consultation, and evaluation; and at least one
11 hundred hours of supervision as follows:

12 (i) At least sixty of the one hundred hours of
13 direct face-to-face supervision shall have
14 been individualized supervision; and

15 (ii) Not more than forty hours of direct
16 face-to-face supervision may have been under
17 small group (up to six supervisees)
18 supervision.

19 An applicant who submits evidence of
20 certification as a qualified clinical social
21 worker or diplomate in clinical social work by



1 the National Association of Social Workers or as
2 a [~~board-certified~~] board-certified diplomate by
3 the American Board of Examiners shall be deemed
4 to have satisfied the experience requirements of
5 this subparagraph;

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

8 (i) The supervisor shall have been a licensed
9 clinical social worker with at least four
10 thousand five hundred hours of post masters
11 clinical social work experience;

12 (ii) For the first five years after July 1, 2004,
13 the following individuals shall be deemed to
14 have satisfied the requirements of a
15 supervisor: a person with a master's degree
16 in social work with at least four thousand
17 five hundred hours post masters clinical
18 social work experience; an individual who
19 holds a diplomate in clinical social work or
20 a board certified diplomate certification;
21 or a board certified psychiatrist,



1 psychologist, advanced practice registered
2 nurse who has a minimum of four thousand
3 five hundred hours of post masters clinical
4 experience in assessment, clinical
5 diagnosis, and psychotherapy; and
6 (iii) Supervision shall have included review of
7 assessment, clinical diagnosis, and
8 psychotherapy; and
9 (E) In collaboration with the supervisor, may elect
10 to fulfill some or all of the supervision
11 requirements set forth in subparagraph (C)
12 through face-to-face supervision that is
13 conducted electronically through a video
14 conference service that is compliant with all
15 federal and state privacy, security, and
16 confidentiality laws, including the Health
17 Insurance Portability and Accountability Act of
18 1996. Prior to making [~~such an~~] the election, it
19 is incumbent upon the applicant to review the
20 laws and rules of other jurisdictions to
21 determine the impact, if any, that electronic



1 supervision may have on license by endorsement in
2 other states.

3 (b) Services provided by a supervised social worker who is
4 working to obtain post-masters clinical social work experience
5 under the supervision of a licensed clinical social worker or
6 individual identified in section 467E-7(a)(3)(D) in order to
7 qualify for a license as a licensed clinical social worker shall
8 be eligible for insurance reimbursement through the insurance of
9 the applicable client through reimbursements of claims submitted
10 by the supervising licensed clinical social worker while listed
11 under the supervising licensed clinical social worker's
12 treatment authority and supervision; provided that the licensed
13 supervising clinical social worker's services shall be eligible
14 for reimbursement as a contracted provider; provided further
15 that the billed rate for the licensed social worker shall be
16 commensurate with the requisite level of training."

17 PART VI

18 SECTION 34. Statutory material to be repealed is bracketed
19 and stricken. New statutory material is underscored.

20 SECTION 35. This Act shall take effect upon its approval;
21 provided that any provision in this Act authorizing insurance



1 reimbursement for services shall be subject to approval by the
2 Centers for Medicare and Medicaid Services.
3

INTRODUCED BY:

A large, stylized handwritten signature in black ink, written over a horizontal line. The signature is highly cursive and difficult to decipher.

S.B. NO. 2243

Report Title:

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

Description:

Establishes 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.

