

ACT 167

H.B. NO. 2056

A Bill for an Act Relating to Social Work.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The legislature finds that the practice of social work is a professional practice affecting the public health, safety, and welfare of the people of Hawaii and it is in the best interest of the public that this profession be regulated. Furthermore, the legislature finds that it is in the public's best interest that only qualified persons be permitted to engage in the practice of social work. The purpose of this Act is to promote, preserve, and protect the public health, safety, and welfare of the people of Hawaii by regulating the practice of social work and the licensure of social workers.

SECTION 2. Chapter 467E, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§467E- Limitations of scope of practice. In accordance with the definition of the practice of social work, there shall be limitations on the scope of the practice of social work as follows:

- (1) The “licensed bachelor social worker” or “L.B.S.W.” may perform duties as defined in paragraphs (1) to (4) of the definition of the practice of social work in section 467E-1 in an agency setting under supervision;
- (2) The “licensed social worker” or “L.S.W.” may perform duties as defined in paragraphs (1) to (7) of the definition of the practice of social work in section 467E-1; and
- (3) The “licensed clinical social worker” or “L.C.S.W.” may perform duties as defined in paragraphs (1) to (8) of the definition of the practice of social work in section 467E-1.”

SECTION 3. Section 431M-1, Hawaii Revised Statutes, is amended as follows:

1. By amending the definition of “alcohol or drug dependence outpatient services” to read:

““Alcohol or drug dependence outpatient services” means alcohol or drug dependence nonresidential treatment provided on an ambulatory basis to patients with alcohol or drug dependence problems that includes interventions prescribed and performed by qualified physicians, psychologists, licensed clinical social workers, or advanced practice registered nurses. This definition shall not imply a broadening of the scope of or granting of prescriptive authority privileges, except as otherwise allowed pursuant to chapter 457.”

2. By amending the definition of “clinical social worker” to read:

““~~Clinical~~ Licensed clinical social worker” means a person who is a licensed ~~[in the practice of]~~ clinical social ~~[work]~~ worker pursuant to chapter 467E ~~[and certified in clinical social work by a recognized national organization].”~~

3. By amending the definition of “day treatment services” to read:

““Day treatment services” means treatment services provided by a hospital, mental health outpatient facility, or nonhospital facility to patients who, because of their conditions, require more than periodic hourly service. Day treatment services shall be prescribed by a physician, psychologist, licensed clinical social worker, or advanced practice registered nurse [~~with a psychiatric or mental health specialty or subspecialty~~], and carried out under the supervision of a physician, psychologist, licensed clinical social worker, or advanced practice registered nurse [~~with a psychiatric or mental health specialty or subspecialty~~]. Day treatment services require less than twenty-four hours of care and a minimum of three hours in any one day.”

4. By amending the definition of “mental health outpatient services” to read:

““Mental health outpatient services” means mental health nonresidential treatment provided on an ambulatory basis to patients with mental illness that includes interventions prescribed and performed by a physician, psychologist, licensed clinical social worker, or advanced practice registered nurse [~~with a psychiatric or mental health specialty or subspecialty~~].”

5. By amending the definition of “partial hospitalization services” to read:

““Partial hospitalization services” means treatment services, including in-hospital treatment services or benefits, provided by a hospital or mental health outpatient facility to patients who, because of their conditions, require more than periodic hourly service. Partial hospitalization services shall be prescribed by a physician or psychologist, and may be prescribed by a licensed clinical social worker in consultation with a physician or psychologist or an advanced practice registered nurse [~~with a psychiatric or mental health specialty or subspecialty~~] in consultation with a physician or psychologist. Partial hospitalization services require less than twenty-four hours of care and a minimum of three hours in any one day.”

6. By amending the definition of “qualified” to read:

““Qualified” means:

- (1) Having skill in the diagnosis or treatment of substance use disorders, based on a practitioner’s credentials, including but not limited to professional education, clinical training, licensure, board or other certification, clinical experience, letters of reference, other professional qualifications, and disciplinary action; or
- (2) Being a licensed physician, psychologist, [e] licensed clinical social worker, or advanced practice registered nurse, and [b] certified pursuant to chapter 321.”

7. By amending the definition of “treatment episode” to read:

““Treatment episode” means one admission to an accredited hospital or nonhospital facility, or office of a qualified physician, psychologist, licensed clinical social worker, or advanced practice registered nurse for treatment of alcohol or drug dependence, or both, as stipulated in a prescribed treatment plan and [which] that would generally produce remission in those who complete the treatment. The prescribed treatment plan may include the provision of substance abuse services in more than one location and may include in-hospital, nonhospital residential, day treatment, or alcohol or drug dependence outpatient services, or any combination thereof. An admission for only detoxification services shall not constitute a treatment episode.”

SECTION 4. Section 431M-3, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Covered benefits for alcohol dependence, drug dependence, or mental illness insurance policies, hospital or medical service plan contracts, and health

maintenance organization health plan contracts shall be limited to those services certified by the insurance or health care plan carrier's physician, psychologist, licensed clinical social worker, or advanced practice registered nurse as medically or psychologically necessary at the least restrictive appropriate level of care."

SECTION 5. Section 431M-4, Hawaii Revised Statutes, is amended to read as follows:

"§431M-4 Mental illness, alcohol and drug dependence benefits. (a) The covered benefit under this chapter shall not be less than thirty days of in-hospital services per year. Each day of in-hospital services may be exchanged for two days of nonhospital residential services, two days of partial hospitalization services, or two days of day treatment services. Visits to a physician, psychologist, licensed clinical social worker, or advanced practice registered nurse [~~with a psychiatric or mental health specialty or subspecialty~~] shall not be less than thirty visits per year to hospital or nonhospital facilities or to mental health outpatient facilities for day treatment or partial hospitalization services. Each day of in-hospital services may also be exchanged for two outpatient visits under this chapter; provided that the patient's condition is such that the outpatient services would reasonably preclude hospitalization. The total covered benefit for outpatient services in subsections (b) and (c) shall not be less than twenty-four visits per year; provided that coverage of twelve of the twenty-four outpatient visits shall apply only to the services under subsection (c). The other covered benefits under this chapter shall apply to any of the services in subsection (b) or (c). In the case of alcohol and drug dependence benefits, the insurance policy may limit the number of treatment episodes but may not limit the number to less than two treatment episodes per lifetime. Nothing in this section shall be construed to limit serious mental illness benefits.

(b) Alcohol and drug dependence benefits shall be as follows:

(1) Detoxification services as a covered benefit under this chapter shall be provided either in a hospital or in a nonhospital facility which has a written affiliation agreement with a hospital for emergency, medical, and mental health support services. The following services shall be covered under detoxification services:

(A) Room and board;

(B) Diagnostic x-rays;

(C) Laboratory testing; and

(D) Drugs, equipment use, special therapies, and supplies.

Detoxification services shall be included as part of the covered in-hospital services, but shall not be included in the treatment episode limitation, as specified in subsection (a);

(2) Alcohol or drug dependence treatment through in-hospital, nonhospital residential, or day treatment substance abuse services as a covered benefit under this chapter shall be provided in a hospital or nonhospital facility. Before a person qualifies to receive benefits under this subsection, a qualified physician, psychologist, licensed clinical social worker, or advanced practice registered nurse shall determine that the person suffers from alcohol or drug dependence, or both. The substance abuse services covered under this paragraph shall include those services which are required for licensure and accreditation, and shall be included as part of the covered in-hospital services as specified in subsection (a). Excluded from alcohol or drug dependence treatment under this subsection are detoxification services and educational programs to which drinking or drugged drivers are referred by the judicial system, and services performed by mutual self-help groups; and

- (3) Alcohol or drug dependence outpatient services as a covered benefit under this chapter shall be provided under an individualized treatment plan approved by a qualified physician, psychologist, licensed clinical social worker, or advanced practice registered nurse and must be services reasonably expected to produce remission of the patient's condition. An individualized treatment plan approved by a licensed clinical social worker or an advanced practice registered nurse for a patient already under the care or treatment of a physician or psychologist shall be done in consultation with the physician or psychologist. Services covered under this paragraph shall be included as part of the covered outpatient services as specified in subsection (a).
- (c) Mental illness benefits.
 - (1) Covered benefits for mental health services set forth in this subsection shall be limited to coverage for diagnosis and treatment of mental disorders. All mental health services shall be provided under an individualized treatment plan approved by a physician, psychologist, licensed clinical social worker, or advanced practice registered nurse [~~with a psychiatric or mental health specialty or subspecialty~~] and must be reasonably expected to improve the patient's condition. An individualized treatment plan approved by a licensed clinical social worker or an advanced practice registered nurse [~~with a psychiatric or mental health specialty or subspecialty~~] for a patient already under the care or treatment of a physician or psychologist shall be done in consultation with the physician or psychologist;
 - (2) In-hospital and nonhospital residential mental health services as a covered benefit under this chapter shall be provided in a hospital or a nonhospital residential facility. The services to be covered shall include those services required for licensure and accreditation, and shall be included as part of the covered in-hospital services as specified in subsection (a);
 - (3) Mental health partial hospitalization as a covered benefit under this chapter shall be provided by a hospital or a mental health outpatient facility. The services to be covered under this paragraph shall include those services required for licensure and accreditation and shall be included as part of the covered in-hospital services as specified in subsection (a); and
 - (4) Mental health outpatient services shall be a covered benefit under this chapter and shall be included as part of the covered outpatient services as specified in subsection (a)."

SECTION 6. Section 467E-1, Hawaii Revised Statutes, is amended by amending the definitions of "practice of social work" and "social worker" or "licensed social worker" to read as follows:

"Practice of social work" means applying the formal knowledge base, theoretical concepts, specific functional skills, and essential social values that are used to effect change in human behavior, emotional responses, and social conditions, and helping individuals, couples, families, groups, and community organizations enhance or restore their capacities for personal and social functioning [~~and~~] while preventing and controlling social problems. Social work practice is the professional application of social work values, principles, ethics, and techniques in the following areas:

- (1) Information, resource identification [~~and development, and~~], referral services[;], mediation services, advocacy services, and education of individuals, groups, couples, and families;

- (2) Preparation and evaluation of [~~psychosocial~~] assessments and development and implementation of social work service plans;
- (3) Case management, coordination, casework intervention, and monitoring of social work service plans in the areas of personal, social, or economic resources, conditions, or problems;
- (4) Administration[;] and development[;] of social service programs, policies, community organization, planning, implementation, and involvement in the evaluation of social [work-programs] systems and social policies;
- [5] ~~Treatment and prevention of psychosocial dysfunction, disability, or impairment, including emotional and mental disorders;~~
- (6) (5) Social work consultation[;] and resource development;
- [7] (6) Research through the formal [organization] design and methodology of data collection and the analysis and evaluation of [social-work] data [practice; or], social work programs, social systems, and social policies;
- (7) Psychosocial assessment, diagnostic impressions, treatment of individuals, couples, families, and groups, prevention of psychosocial dysfunction, disability, or impairment, including emotional, mental, and behavioral disorders, and evaluation of practice effectiveness; and
- (8) Clinical diagnosis or psychotherapy, or both, [only if the practitioner is a] provided by a licensed clinical social worker [who initially and triennially registers with the department and is granted permission to use the designation "C.S.W." or "clinical social worker" after providing proof of current certification by:
 - (A) ~~The National Association of Social Workers as a qualified clinical social worker or diplomate in clinical social work; or~~
 - (B) ~~The American Board of Examiners in Clinical Social Work as a board-certified diplomate].~~

“Social worker” [or “licensed social worker”] means a person who:

 - (1) ~~Uses the title of “social worker”;~~
 - (2) ~~Has met the licensing requirements set forth in this chapter; and~~
 - (3) ~~Who engages in the practice of social work as defined in this section.]~~ or “S.W.” means a person who has been issued a license as a licensed bachelor social worker, licensed social worker, or licensed clinical social worker to practice within the scope of practice as provided in this chapter.”

SECTION 7. Section 467E-2, Hawaii Revised Statutes, is amended to read as follows:

“~~[§467E-2]~~ **Social worker licensing program.** There is established a social worker licensing program within the department to be administered by the director[-] that shall recognize the “licensed bachelor social worker” or “L.B.S.W.”, the “licensed social worker” or “L.S.W.”, and the “licensed clinical social worker” or “L.C.S.W.”.”

SECTION 8. Section 467E-3, Hawaii Revised Statutes, is amended to read as follows:

“~~[§467E-3]~~ **Powers and duties of the director.** In addition to any other powers and duties authorized by law, the director shall have the following powers and duties:

- (1) Grant permission to a person to use the title of social worker and engage in the practice of social work in this State pursuant to this chapter and the rules adopted pursuant thereto;
- (2) Adopt, amend, or repeal rules pursuant to chapter 91 as the director finds necessary to carry out [~~the provisions of~~] this chapter;
- (3) Administer, coordinate, and enforce this chapter and rules adopted pursuant thereto;
- (4) Discipline a [~~licensed social worker~~] licensee for any cause described by this chapter or for any violation of the rules, fine any government employee employed as a social worker for any cause described by this chapter, and refuse to license a person for failure to meet licensing requirements or for any cause that would be grounds for disciplining a [~~licensed social worker~~;] licensee; and
- (5) Appoint an advisory committee consisting of [~~licensed~~] three social workers and two members of the public to assist with the implementation of this chapter and the rules adopted pursuant thereto.”

SECTION 9. Section 467E-5, Hawaii Revised Statutes, is amended to read as follows:

“[~~§~~467E-5] **License required.** No person shall purport to be a “social worker” [~~or~~], “licensed bachelor social worker”, “licensed social worker”, “licensed clinical social worker”, or use the letters “S.W.” [~~or~~], “L.B.S.W.”, “L.S.W.”, or “L.C.S.W.” in connection with the person’s name, or use any words or symbols indicating or tending to indicate that the person is a social worker, licensed bachelor social worker, licensed social worker, or licensed clinical social worker, or engage in the practice of social work as defined in this chapter without meeting the applicable requirements and holding a license as set forth in this chapter.”

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

- “[~~§~~467E-6] **Exemptions.** Licensure shall not be required of:
- (1) Any licensed person doing work within the scope of practice or duties of the person’s profession that overlaps with the practice of social work; provided the person does not purport to be a social worker [~~or licensed social worker~~];
 - (2) Any person employed by a federal, state, or county government agency in a social worker position, but only at those times when that person is carrying out the duties and responsibilities as a social worker in governmental employment; [~~and~~]
 - (3) Any student enrolled in an accredited educational institution in a recognized program of study leading toward attainment of a degree in social work; provided that the student’s activities and services are part of a prescribed course of study supervised by the educational institution, and the student is identified by an appropriate title such as “social work student”, “social work intern”, or any other title which clearly indicates the student’s training status[-];
 - (4) Any person who is a member of a mental health profession not requiring licensure; provided that the person functions only within the person’s professional capacities; and provided further that the person does not purport to be a social worker;

- (5) Any person teaching, lecturing, consulting, or engaging in research in social work insofar as the activities are performed as part of or are dependent upon employment in a college or university; provided that the person shall not engage in the practice of social work outside the responsibilities of the person's employment;
- (6) Any person who is a duly recognized member of the clergy; provided that the person functions only within the person's capacities as a member of the clergy; and provided further that the person does not purport to be a social worker;
- (7) Any person who is obtaining supervised clinical experience for licensure as a psychologist, marriage and family therapist, or as another licensed professional; provided that the person's title indicates a trainee status; and provided further that the person does not purport to be a social worker; and
- (8) Any person in the process of obtaining three thousand hours of post masters clinical social work experience under the supervision of a licensed clinical social worker or individual identified in section 467E-7(3)(C)(ii) in order to qualify for a license as a licensed clinical social worker; and provided that the person calls oneself a clinical social work intern and is supervised while performing clinical diagnosis and psychotherapy.'

SECTION 11. Section 467E-7, Hawaii Revised Statutes, is amended to read as follows:

~~“§467E-7 Licensing requirements. [In addition to the licensing requirements provided by section 436B-11, the director shall consider the following as minimum evidence that an applicant is qualified to be licensed:] Every applicant for a license as a social worker shall submit evidence satisfactory to the director that the applicant meets the following requirements:~~

- (1) ~~[The applicant holds]~~ For the licensed bachelor social worker, the applicant:
 - (A) Holds a bachelor's degree from a college or university in a social work program accredited by or deemed to be equivalent to a program accredited by the Council on Social Work Education; and
 - (B) Has passed the basic level national examination given by the Association of Social Work Boards;
- (2) For the licensed social worker, the applicant:
 - (A) Holds a master's degree from a college or university in a social work program accredited by or deemed to be equivalent to an accredited program by the Council on Social Work Education or a doctoral degree from a doctoral degree program in social work accredited by the Western Association of Schools and Colleges or a comparable regional accreditation body; and
- ~~(2) The applicant has]~~ (B) Has passed the intermediate or higher level national examination given by the Association of Social Work Boards[-]; and
- (3) For the licensed clinical social worker, the applicant:
 - (A) Has met the educational requirements in paragraph (2);
 - (B) Has passed the clinical level national examination given by the Association of Social Work Boards; and
 - (C) Has provided evidence of successful completion of at least three thousand hours of post masters clinical social work experience

under supervision completed within no fewer than two years, but within no more than five years. Clinical social work experience shall include a minimum of two thousand hours of assessment, clinical diagnosis, and psychotherapy; no more than a maximum of nine hundred hours of client-centered advocacy, consultation, and evaluation; and at least one hundred hours of direct face-to-face supervision. At least sixty of the one hundred hours of direct face-to-face supervision shall have been individualized supervision and the remaining forty hours may have been under small group (up to six supervisees) supervision; provided that:

- (i) The supervisor shall have been a licensed clinical social worker with at least four thousand five hundred hours of post masters clinical social work experience;
- (ii) For the first five years after the effective date of this Act, the following individuals shall be deemed to have satisfied the requirements of a supervisor: a person with a master's degree in social work with at least four thousand five hundred hours post masters clinical social work experience; an individual who holds a diplomate in clinical social work or a board certified diplomate certification; or a board certified psychiatrist, psychologist, advanced practice registered nurse who has a minimum of four thousand five hundred hours of post masters clinical experience in assessment, clinical diagnosis, and psychotherapy; and
- (iii) Supervision shall have occurred in an agency setting that provides clinical diagnosis and psychotherapy.

An applicant who submits evidence of certification as a qualified clinical social worker or diplomate in clinical social work by the National Association of Social Workers or as a board certified diplomate by the American Board of Examiners shall be deemed to have satisfied the experience requirements of this subparagraph."

SECTION 12. Section 467E-7.5, Hawaii Revised Statutes, is amended to read as follows:

“[E]§467E-7.5[E] Reciprocity and endorsement. (a) The director may enter into reciprocity agreements with other states and issue a license to a social worker who has been licensed in that state; provided that the requirements for a license in the state [that] in which the applicant is licensed are deemed by the director to be equal to or greater than the current requirements for a license in this State [at the date of the license].

(b) The director may also issue a license by endorsement by honoring a passing score on the examination of the Association of Social Work Boards; provided that at a minimum, the applicant meets the other requirements under [section] sections 467E-7 and 467E-9, and the passing score is from the examination category that is required for licensure in this State and the other state uses for its license.”

SECTION 13. Section 467E-9, Hawaii Revised Statutes, is amended to read as follows:

“§467E-9 Examination for license. (a) Each applicant for licensure shall take and pass a [written] national examination administered by the Association of

Social Work Boards in accordance with procedures and standards prescribed by the director.

(b) ~~[Applicants who have passed the Academy of Certified Social Workers examination administered by the National Association of Social Workers prior to June 30, 1995, shall be deemed to have satisfied the requirements of this section only if the application for licensure is filed with the department by June 30, 2000.] Applicants for the "licensed clinical social worker" or "L.C.S.W." license who have passed the diplomate clinical assessment examination administered by the National Association of Social Workers before the effective date of this Act shall be deemed to have satisfied the requirement of this section only if the application for licensure is filed with the department by June 30, 2005.~~

(c) The examination fee shall be paid by the applicant directly to the Association of Social Work Boards."

SECTION 14. Section 467E-12, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) In addition to any other acts or conditions provided by law, the director may refuse to renew, reinstate, or restore, or may deny, revoke, suspend, or condition in any manner any license, or fine any exempt government employee for any one or more of the following acts or conditions on the part of the applicant, licensee, or exempt person:

- (1) Failing to meet or maintain the conditions and requirements necessary to qualify for the granting of a license;
- (2) Being addicted to, dependent on, or being a habitual user of a narcotic, barbiturate, amphetamine, hallucinogen, opium, or cocaine, or other drugs or derivatives of a similar nature;
- (3) ~~[Practicing the profession]~~ Engaging in the practice of social work while impaired by alcohol, drugs, or mental instability;
- (4) Procuring a social work license through fraud, misrepresentation, or deceit;
- (5) Aiding and abetting an unlicensed person to directly or indirectly use the title "social worker" or engage in practice as a "licensed bachelor social worker", "licensed social worker"[;], or "licensed clinical social worker";
- (6) Engaging in professional misconduct, incompetence, gross negligence, or manifest incapacity in the practice of social work;
- (7) Engaging in conduct or practice contrary to recognized standards of ethics for the social work profession;
- (8) Failing to comply, observe, or adhere to any law in a manner such that the director deems the applicant or holder to be an unfit or improper person to hold a social work license;
- (9) Revocation, suspension, or other disciplinary action by another state or federal agency against a licensee or applicant for any reason provided by this section;
- (10) Having a criminal conviction, whether by nolo contendere or otherwise, of a crime directly related to the qualifications, functions, or duties of the social work profession;
- (11) Failing to report in writing to the director any disciplinary decision issued against the licensee or the applicant in another jurisdiction within thirty days of the disciplinary decision;
- (12) Employing, utilizing, or attempting to employ or utilize at any time any person not licensed under this chapter who purports to be or engages in practice as a social worker [or], licensed bachelor social worker, licensed social worker[;], or licensed clinical social worker;

- (13) Engaging in the practice of social work beyond the scope of the person's license; or
[(13)] (14) Violating this chapter or any rules adopted pursuant thereto."

SECTION 15. Section 467E-13, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) No person shall:

- (1) Use in connection with the person's name any designation tending to imply that the person is a social worker, licensed bachelor social worker, licensed social worker, or licensed clinical social worker unless the person is duly licensed and authorized under this chapter;
- (2) Represent oneself as a social worker, licensed bachelor social worker, licensed social worker, or licensed clinical social worker during the time the person's license issued under this chapter is forfeited, terminated, suspended, or revoked; [or]
- (3) Perform clinical diagnosis or psychotherapy unless the person is:
(A) A licensed clinical social worker; and
(B) Registered as a clinical social worker as provided by paragraph (8) of the definition of "practice of social work" in section 467E-1; or
- (4) Engage in autonomous and independent clinical social work practice without being licensed as a licensed clinical social worker."

SECTION 16. Section 467E-15, Hawaii Revised Statutes, is amended to read as follows:

"[~~§~~467E-15] **Privileged communication.** Communications between [~~registered~~] licensed clinical social workers and their clients shall be treated in the same manner as provided for psychologist-client privilege under rule 504.1 of the Hawaii Rules of Evidence."

SECTION 17. Act 229, Session Laws of Hawaii 2001, is amended by amending section 5 to read as follows:

"SECTION 5. This Act shall take effect upon its approval [~~and shall be repealed on January 1, 2003~~]."

SECTION 18. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.¹

SECTION 19. This Act shall take effect upon its approval; provided that sections 2 to 16 shall take effect on July 1, 2004.

(Approved June 18, 2002.)

Note

1. Edited pursuant to HRS §23G-16.5.