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# A BILL FOR AN ACT

RELATING TO PSYCHOLOGISTS.

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

1           SECTION 1. The legislature finds that in the low-income  
2 and rural areas of the state there is an urgent need for mental  
3 health care that is provided by persons with prescriptive  
4 authority. There are not enough prescribing mental health care  
5 providers available in the state to serve Hawaii's needs.  
6 Clinical psychologists do not possess prescriptive authority,  
7 however, if not for the federally qualified health centers and  
8 the services provided by clinical psychologists working at those  
9 centers, persons living in low-income or rural areas would  
10 receive little or no mental health services.

11           At present, only three federally qualified health centers  
12 have psychiatrists on staff. In contrast, 2004 data from the  
13 Hawaii Primary Care Association indicates that there are 9.71  
14 psychologists employed in full or part-time positions to provide  
15 mental/behavioral health service in nine of the thirteen  
16 federally qualified health centers.

17           Native Hawaiians often account for a large proportion of  
18 the population living in rural and underserved areas. Since



1 1988, federal law has recognized the extraordinarily poor health  
2 of native Hawaiians who have the highest rate of untreated  
3 medical and psychological concerns, and higher rates than other  
4 indigenous and minority individuals in the United States.  
5 Recent concerns for this population include the crystal  
6 methamphetamine epidemic and related substance abuse issues that  
7 are occurring in communities such as Waianae and Waimanalo, and  
8 on Molokai and the Big Island. This epidemic, coupled with the  
9 economic and cultural distress of the native Hawaiian  
10 population, has created unprecedented demands for services from  
11 an already overtaxed mental health system.

12 The legislature finds that this urgent need for mental  
13 health care in rural and underserved areas in Hawaii may be met  
14 by providing limited prescriptive authority to psychologists  
15 once they have obtained the appropriate education, training, and  
16 experience. This limited prescriptive authority would be given  
17 only to psychologists who will provide care to Hawaii's  
18 communities in need, at federally qualified health centers or  
19 other licensed health clinics located in federally designated  
20 medically underserved areas. Patients of federally qualified  
21 health centers include the uninsured, the poor, native Hawaiian,  
22 other Pacific Islanders, and the homeless.



1           The authorization of limited prescriptive authority by the  
2 legislature is not without precedent. The legislature has  
3 previously provided limited prescriptive privileges to advanced  
4 nurse practitioners, optometrists, dentists, podiatrists,  
5 osteopaths, and physician assistants.

6           In addition, psychologists with appropriate credentials  
7 have been allowed to prescribe medications to active duty  
8 military personnel and their families in federal facilities and  
9 the Indian Health Service for years, and Louisiana and New  
10 Mexico recently adopted legislation authorizing prescriptive  
11 authority for psychologists without regard to the service  
12 setting.

13           Further, since 2000, fourteen psychologists, all residents  
14 of Hawaii, have received psychopharmacological training through  
15 the Tripler Army Medical Center, Native Hawaiian Psychology  
16 Training Program. These psychologists actively collaborate with  
17 primary care physicians to provide combined therapy and  
18 psychopharmacological care to a medically underserved patient  
19 population at seven federally qualified health centers at Bay  
20 Clinic, Hana, Molokai, Kauai, Waianae, Kalihi-Palama, and  
21 Waimanalo, and two native Hawaiian health care systems clinics



1 located in federally designated medically underserved areas on  
2 Kauai and Molokai.

3 Under this program, thousands of native Hawaiians and other  
4 ethnic minorities, many with significant mental and behavioral  
5 health care problems, have received the necessary combined  
6 therapy and psychopharmacological care that was sorely lacking  
7 in their communities. For example, psychologists at the Waianae  
8 Coast Comprehensive Health Center completed approximately three  
9 thousand eight hundred forty patient encounters in 2004; seventy  
10 per cent of these patients received necessary psychotropic  
11 medication for the treatment of mental illness.

12 The American Psychological Association has developed a  
13 model curriculum for the education and training of prescribing  
14 psychologists. Independent evaluations of the Department of  
15 Defense Psychopharmacological Demonstration Project by the  
16 United States General Accounting Office and the American College  
17 of Neuropsychopharmacology have found that appropriately trained  
18 medical psychologists prescribe safely and effectively.

19 The legislature finds that providing timely access to  
20 accurate diagnosis and effective treatment of emotional and  
21 behavioral disorders would help to fulfil the State's  
22 responsibilities to Hawaii's "Felix" children and needy adults



1 in underserved rural areas. In addition, timely, efficient, and  
2 cost-effective treatment of mental illnesses in federally  
3 qualified health centers would not only improve the quality of  
4 life for persons living in low-income and rural communities, but  
5 could also avoid the significantly greater social, economic, and  
6 medical costs of non-treatment for these underserved  
7 populations.

8 The purpose of this Act is to authorize psychologists who  
9 have obtained the appropriate education, training, and  
10 experience, to prescribe a limited formulary of psychotropic  
11 medications for the treatment of mental illness while practicing  
12 in federally qualified health centers or licensed health clinics  
13 located in federally designated medically underserved areas or  
14 in mental health professional shortage areas.

15 SECTION 2. Chapter 465, Hawaii Revised Statutes, is  
16 amended by adding a new part to be appropriately designated and  
17 to read as follows:

18 **"PART . PRESCRIPTION CERTIFICATION**

19 **§465-A Definitions.** As used in this part, unless the  
20 context otherwise requires:

21 "Collaborative relationship" means a cooperative working  
22 relationship between a psychologist holding a conditional



1 prescription certificate and a doctor of medicine in the  
2 provision of patient care, including diagnosis and cooperation  
3 in the management and delivery of physical and mental health  
4 care.

5 "Narcotics" mean natural and synthetic opioid analgesics,  
6 and their derivatives used to relieve pain.

7 "Prescribing mental health professional" means a medically  
8 trained and licensed physician or psychiatrist.

9 "Psychotropic medication" means only those agents related  
10 to the diagnosis and treatment of mental and emotional  
11 disorders, including controlled substances other than narcotics.

12 **§465-B Conditional prescription certificate; application.**

13 (a) A psychologist may apply to the board for a conditional  
14 prescription certificate. The application shall be made on a  
15 form approved by the board, and be accompanied by evidence  
16 satisfactory to the board, that the applicant:

17 (1) Holds a current license in good standing to practice  
18 psychology in the State of Hawaii;

19 (2) Has successfully completed a planned sequence of  
20 psychopharmacological training from an institution of  
21 higher learning. The training shall be consistent  
22 with the American Psychological Association's



1 Recommended Postdoctoral Training in  
2 Psychopharmacology for Prescription Privileges. The  
3 training shall include a minimum of four hundred and  
4 fifty hours of didactic classroom instruction in at  
5 least the following core areas of instruction:

6 (A) Anatomy and physiology;

7 (B) Biochemistry;

8 (C) Neurosciences (neuroanatomy, neurochemistry,  
9 neurophysiology);

10 (D) Pharmacology and clinical pharmacology;

11 (E) Psychopharmacology;

12 (F) Pathophysiology;

13 (G) Health assessment, including relevant physical  
14 and laboratory assessment; and

15 (H) Clinical pharmacotherapeutics;

16 (3) Has completed a supervised practicum of at least one  
17 year involving four hundred hours treating a diverse  
18 population of no fewer than one hundred patients with  
19 mental disorders. A licensed health care provider who  
20 is experienced in the provision of  
21 psychopharmacotherapy shall supervise the practicum.

22 The practicum shall include at least two hours of



- 1 weekly supervision and the supervisor shall not be in  
2 the employ of the person being directed or supervised;
- 3 (4) Has passed a national proficiency examination approved  
4 by the board that tests the applicant's knowledge of  
5 pharmacology in the diagnosis, care, and treatment of  
6 mental disorders; provided that the board shall  
7 establish what constitutes a passing score and the  
8 number of times an applicant may retake the  
9 examination within a specific time period;
- 10 (5) Applies for a Federal Drug Enforcement license for  
11 limited use as restricted by state law;
- 12 (6) Has malpractice insurance in place sufficient to  
13 satisfy requirements adopted by the board by rule,  
14 that will cover the applicant during the period the  
15 conditional prescription certificate is in effect;
- 16 (7) Is employed or contracted by, and will practice the  
17 prescribing authority at:
- 18 (A) A federally qualified health center established  
19 under Title 42 United States Code Section 1396;
- 20 (B) A licensed health clinic located in a federally  
21 designated medically underserved area as defined





1 by Title 42 Code of Federal Regulations Part 62;

2 or

3 (C) A licensed health clinic located in a mental

4 health professional shortage area;

5 and

6 (8) Meets all other requirements, as determined by rule by

7 the board, for obtaining a conditional prescription

8 certificate.

9 (b) The board shall issue a conditional prescription

10 certificate if it finds that the applicant has met the

11 requirements of subsection (a).

12 **§465-C Conditional prescription certificate; powers,**

13 **duties, and responsibilities.** (a) A psychologist holding a

14 conditional prescription certificate shall:

15 (1) Continue to hold a current license to practice

16 psychology in Hawaii;

17 (2) Continue to maintain malpractice insurance;

18 (3) Inform the board of:

19 (A) The name of the prescribing mental health

20 professional under whose supervision the

21 psychologist will prescribe psychotropic

22 medication and shall promptly inform the board of



- 1           any change of the prescribing mental health  
2           professional; and
- 3           (B) The name of the federally qualified health  
4           center, licensed health clinic located in a  
5           federally designated medically underserved area,  
6           or the licensed health clinic located in a mental  
7           health professional shortage area, in which the  
8           psychologist practices; and
- 9           (4) When authorized to prescribe controlled substances,  
10          file with the board, in a timely manner, all  
11          individual federal Drug Enforcement Agency  
12          registrations and numbers.
- 13          (b) A psychologist holding a conditional prescription  
14          certificate:
- 15           (1) May administer and prescribe psychotropic medication  
16           that is not prohibited by the exclusionary formulary  
17           list established pursuant to section 465-F;
- 18           (2) May order and review laboratory tests in conjunction  
19           with the prescription for the treatment of mental  
20           disorders;
- 21           (3) Shall not delegate prescriptive authority to any other  
22           person. Records of all prescriptions shall be



1 maintained in the prescribing psychologist's patient  
2 records; and

3 (4) When prescribing psychotropic medication for a  
4 patient, shall maintain an ongoing collaborative  
5 relationship with the doctor of medicine who oversees  
6 the patient's general medical care to ensure that:

7 (A) Necessary medical examinations are conducted;

8 (B) The psychotropic medication is appropriate for  
9 the patient's medical condition; and

10 (C) Significant changes in the patient's medical or  
11 psychological condition are discussed.

12 (c) A prescription written by a psychologist with a  
13 conditional prescription certificate shall:

14 (1) Comply with applicable state and federal laws;

15 (2) Be identified as issued by the psychologist as  
16 "psychologist certified to prescribe"; and

17 (3) Include the psychologist's board number or the  
18 identification number assigned by the department of  
19 commerce and consumer affairs.

20 **§465-D Prescription certificate.** (a) A psychologist may  
21 apply to the board for a prescription certificate. The  
22 application shall be made on a form approved by the board and be



1 accompanied by evidence satisfactory to the board that the  
2 applicant:

3 (1) Has been issued a conditional prescription certificate  
4 and has successfully completed two years of  
5 prescribing psychotropic medication as certified by  
6 the supervising prescribing mental health  
7 professional;

8 (2) Has successfully undergone a process of independent  
9 peer review approved by the board and the Hawaii board  
10 of medical examiners;

11 (3) Holds a current license to practice psychology in the  
12 State of Hawaii;

13 (4) Has malpractice insurance in place, sufficient to  
14 satisfy requirements adopted by the board by rule,  
15 which will cover the applicant as a prescribing  
16 psychologist; and

17 (5) Meets all other requirements, as determined by rule by  
18 the board, for obtaining a prescription certificate.

19 (b) The board shall issue a prescription certificate if it  
20 finds that the applicant has met the requirements of subsection  
21 (a).



1 (c) A psychologist with a prescription certificate may  
2 prescribe psychotropic medication if the psychologist:

3 (1) Continues to hold a current license to practice  
4 psychology in Hawaii and maintain malpractice  
5 insurance; and

6 (2) Annually satisfies the continuing education  
7 requirements for prescribing psychologists, as set by  
8 the board by rule, which shall be no fewer than twenty  
9 hours each year, at least half of which shall be in  
10 pharmacology or psychopharmacology.

11 (d) A psychologist holding a prescription certificate may:

12 (1) Administer and prescribe psychotropic medication that  
13 is not prohibited by the exclusionary formulary list  
14 established pursuant to section 465-F; and

15 (2) Order and review laboratory tests in conjunction with  
16 the prescription for the treatment of mental  
17 disorders.

18 **§465-E Exclusionary formulary list.** The exclusionary  
19 formulary list shall specify the types of medications that  
20 psychologists holding either a conditional prescription  
21 certificate or a prescription certificate shall be prohibited



1 from prescribing or administering. The exclusionary formulary  
2 list shall include the following types of medications:

- 3 (1) All narcotics;
- 4 (2) All monoamine oxidase inhibitors (MAOI's);
- 5 (3) All antipsychotic medications;
- 6 (4) All amphetamines;
- 7 (5) All non-psychotropic medications;
- 8 (6) Lithium; and
- 9 (7) Serzone.

10 **§465-F Formulary advisory committee; establishment,**  
11 **composition, and duties.** (a) There is established a formulary  
12 advisory committee within the department of health for  
13 administrative purposes. The formulary advisory committee  
14 shall:

- 15 (1) Establish the recommended exclusionary formulary list;  
16 and
- 17 (2) Review the exclusionary formulary list adopted by the  
18 board of psychology no less than once per quarter and  
19 as frequently as it deems necessary, and recommend  
20 amendments to the exclusionary formulary list subject  
21 to the limitations set forth in section 465-E.



1 The board of psychology shall by rule pursuant to chapter 91  
2 adopt the recommended exclusionary formulary list established by  
3 the formulary advisory committee and any recommended amendments  
4 to the list.

5 (b) The formulary advisory committee shall be appointed by  
6 the director of health and consist of:

7 (1) Two persons licensed as psychologists by the board of  
8 psychology;

9 (2) One person licensed in psychiatry by the board of  
10 medical examiners;

11 (3) One person licensed as a pharmacist by the board of  
12 pharmacy; and

13 (4) One medical director from a federally qualified health  
14 center in the state.

15 **§465-G Administration.** (a) The board shall adopt rules  
16 pursuant to chapter 91 establishing the requirements and  
17 procedures for obtaining a conditional prescription certificate,  
18 a prescription certificate, and renewal of a conditional  
19 prescription certificate and prescription certificate, including  
20 continuing education requirements. The board may set reasonable  
21 application and renewal fees.



1           (b) The board shall adopt rules pursuant to chapter 91  
2 establishing the grounds for denial, suspension, or revocation  
3 of conditional prescription certificates and prescription  
4 certificates, including provisions for suspension or revocation  
5 of a license to practice psychology upon suspension or  
6 revocation of a conditional prescription certificate or  
7 prescription certificate. Actions of denial, suspension, or  
8 revocation of a conditional prescription certificate or a  
9 prescription certificate shall be in accordance with this  
10 chapter.

11           (c) The board shall maintain current records on every  
12 prescribing psychologist, including federal registrations and  
13 numbers.

14           (d) The board shall provide to the board of pharmacy an  
15 annual list of psychologists holding a conditional prescription  
16 certificate or prescription certificate that contains the  
17 information agreed upon between the board and the board of  
18 pharmacy. The board shall promptly notify the board of pharmacy  
19 of psychologists who are added or deleted from the list."

20           SECTION 3. Chapter 465, Hawaii Revised Statutes, is  
21 amended by designating sections 465-1 through 465-15 as part I  
22 and inserting a title before section 465-1 to read as follows:





1                                    **"PART I. GENERAL PROVISIONS"**

2            SECTION 4. Section 465-3, Hawaii Revised Statutes, is  
3 amended to read as follows:

4            **"§465-3 Exemptions.** (a) This chapter shall not apply to:

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

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

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



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

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

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



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

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

13          (b) Nothing in this chapter shall in any way restrict any  
14          person from carrying on any of the psychological activities as  
15          defined in section 465-1; provided that such person does not  
16          offer psychological services as defined in this chapter except  
17          as such activities are incidental to the person's lawful  
18          occupational purpose.

19          (c) A person may use the title of industrial/organizational  
20          psychologist[~~r~~]; provided that the person registers with the  
21          board, and:



- 1 (1) Is professionally competent in the practice of  
2 industrial/organizational psychology; ~~and~~
- 3 (2) Holds a doctoral degree from an accredited institution  
4 of higher education with training and education in  
5 industrial/organizational psychology, satisfactory to  
6 the board; and
- 7 (3) Provides psychological service or consultation to  
8 organizations which does not involve the delivery or  
9 supervision of direct psychological services to  
10 individuals or groups of individuals, without regard  
11 to the source or extent of payment for services  
12 rendered.

13 (d) Nothing in this chapter shall prevent the provision of  
14 expert testimony by a psychologist who is otherwise exempted by  
15 this chapter.

16 ~~[(e) Nothing in this chapter shall be construed as  
17 permitting the administration or prescription of drugs, or in  
18 any way engaging in the practice of medicine as defined in the  
19 laws of the State.]"~~

20 SECTION 5. The board of psychology shall submit a final  
21 report, including any proposed legislation, not later than  
22 twenty days prior to the regular session of 2010, on its



1 evaluation of the status of mental health care in the state  
2 after providing conditional and prescriptive authority to  
3 medical psychologists pursuant to this Act. All reports shall  
4 include recommendations as to whether the prescriptive authority  
5 should be modified, eliminated, or continued, to assist the  
6 legislature in assessing the viability of allowing psychologists  
7 to retain prescriptive authority.

8 SECTION 6. In codifying the new part added to chapter 465,  
9 Hawaii Revised Statutes, by section 2 of this Act, the revisor  
10 of statutes shall substitute appropriate section numbers for the  
11 letters used in designating the new sections in this Act.

12 SECTION 7. Statutory material to be repealed is bracketed  
13 and stricken. New statutory material is underscored.

14 SECTION 8. This Act shall take effect upon its approval  
15 and shall be repealed on July 1, 2010; provided that section  
16 465-3, Hawaii Revised Statutes, shall be reenacted in the form  
17 in which it read on the day before the approval of this Act.



HB NO. 2589  
HD2

**Report Title:**

Psychologists; Prescriptive Authority

**Description:**

Authorizes qualified psychologists practicing at federally qualified health centers or health clinics in medically underserved areas to prescribe a limited formulary of psychotropic medications. Establishes a formulary advisory committee to establish and revise the formulary. (HB2589 HD2)

HB2589 HD2 HMS 2006-2497

