

JAN 25 2006

S.B. NO. 2297

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# A BILL FOR AN ACT

RELATING TO MENTAL HEALTH COUNSELORS.

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

1           SECTION 1. Section 453D-1, Hawaii Revised Statutes, is  
2 amended by amending the definition of "practice of mental health  
3 counseling" to read as follows:  
4           "Practice of mental health counseling" means the rendering  
5 of professional counseling services based on specialized  
6 education, training, and experience to individuals, families, or  
7 groups for compensation, monetary or otherwise. These  
8 professional counseling services include applying the respective  
9 principles, methods, and theories of counseling, human  
10 development, learning theory, group and family dynamics,  
11 rehabilitation, and the etiology of mental illness and  
12 dysfunctional behavior [~~to define~~], and defining goals and  
13 [~~develop~~] developing a treatment plan of action aimed toward the  
14 prevention, treatment, and resolution of mental and emotional  
15 dysfunction and intra or interpersonal disorders to all persons  
16 irrespective of diagnosis. "Practice of mental health  
17 counseling" includes but is not limited to:

- 1           (1) The assessment, diagnosis, and treatment of, and  
2           counseling for, mental and emotional disorders;
- 3           (2) The assessment, diagnosis, and treatment of, and  
4           counseling for, substance abuse and conduct disorders  
5           defined in the approved diagnostic and statistical  
6           manual for mental disorders;
- 7           (3) The application of educational techniques aimed at the  
8           prevention of these disorders; and
- 9           (4) The provision of consultative services to individuals,  
10          couples, families, groups, organizations, and  
11          communities."

12           SECTION 2. Section 453D-6, Hawaii Revised Statutes, is  
13 amended to read as follows:

14           "~~§~~453D-6~~§~~ **Exemptions.** (a) This chapter shall not  
15 apply to:

- 16          (1) A person doing work within the duties of the person's  
17          profession that overlaps with the practice of mental  
18          health counseling; provided that no such person shall  
19          use a title stating or implying that the person is a  
20          "licensed mental health counselor" or "mental health  
21          counselor", or describe or refer to the person's  
22          services as mental health counseling;

- 1           (2) Any person who is a duly recognized member of the  
2           clergy; provided that the person functions only within  
3           the person's capacity as a member of the clergy; and  
4           provided further that the person does not represent  
5           the person to be a "licensed mental health counselor"  
6           or "mental health counselor", or describe or refer to  
7           the person's services as mental health counseling;
- 8           (3) Any student enrolled in an accredited educational  
9           institution in a recognized program of study leading  
10          ~~toward~~ towards attainment of a graduate degree in  
11          mental health counseling or other professional field;  
12          provided that the student's activities and services  
13          are part of a prescribed course of study supervised by  
14          the accredited educational institution and the student  
15          is identified by an appropriate title, including but  
16          not limited to "mental health counseling student" or  
17          "trainee", "clinical psychology student" or "trainee",  
18          "social work student" or "trainee", "marriage and  
19          family counseling student" or "trainee", or any title  
20          that clearly indicates training status;

1           (4) Any individual who uses the title of "mental health  
2           counselor intern" for the purpose of obtaining  
3           clinical experience in accordance with section  
4           453D-7(a)(3);

5           (5) Any person employed by a federal, state, or county  
6           government agency in a counseling position, but only  
7           at those times when the employee is carrying out the  
8           duties and responsibilities as a counselor in  
9           governmental employment; or

10          (6) Any person who is obtaining supervised clinical  
11          experience for licensure as a psychologist, social  
12          worker, marriage and family therapist, or as another  
13          licensed professional; provided that the person's  
14          title indicates a trainee or intern status; and  
15          provided further that the person does not purport to  
16          be a "licensed mental health counselor" or "mental  
17          health counselor".

18          (b) Nothing in this chapter shall be construed to prevent  
19          qualified members of other licensed professions as defined by  
20          any law or rule of the department, including but not limited to  
21          social workers, registered nurses, psychologists, marriage and  
22          family therapists, or physicians, from providing mental health

1 counseling or advertising that they provide mental health  
2 counseling to individuals, couples, or families consistent with  
3 the accepted standards of their respective licensed professions;  
4 provided that no such persons shall use a title stating or  
5 implying that they are licensed mental health counselors unless  
6 the persons are licensed pursuant to this chapter.

7 (c) Nothing in this chapter shall be construed to  
8 supersede the regulation of registered rehabilitation  
9 specialists from the department of labor and industrial  
10 relations. Further, no registered rehabilitation specialist  
11 shall use a title stating or implying that the registered  
12 rehabilitation specialist is a licensed mental health counselor  
13 unless the person is licensed pursuant to this chapter."

14 SECTION 3. Section 453D-7, Hawaii Revised Statutes, is  
15 amended by amending subsection (a) to read as follows:

16 "(a) Any person who applies to the department after  
17 July 1, 2005, shall be issued a license by the department if the  
18 applicant provides satisfactory evidence to the department that  
19 the applicant is qualified for licensure pursuant to the  
20 requirements of this chapter and meets the following  
21 qualifications:

1 (1) A master's degree or doctoral degree from an  
2 accredited educational institution in counseling or in  
3 an allied field related to the practice of mental  
4 health counseling that includes or is supplemented by  
5 graduate level course work in counseling comprising a  
6 minimum of forty-eight semester hours or seventy-two  
7 quarter hours in the following course areas, with a  
8 minimum of three semester hours in each course area as  
9 indicated below:

10 (A) Human growth and development, including but not  
11 limited to the study of life span development,  
12 strategies to facilitate that development and  
13 transitions, theories of learning and personality  
14 development, and human behavior to include  
15 crisis, disabilities, addictive behavior, and  
16 environmental factors;

17 (B) Social and cultural foundations, including but  
18 not limited to the study of issues and trends in  
19 a multicultural and diverse society, including  
20 characteristics of diverse groups that may  
21 include but are not limited to age, race,  
22 religious or sexual preference, physical

- 1           disability, ethnicity and culture, gender,  
2           socioeconomics, intellectual ability, and  
3           individual, family, and group strategies with  
4           diverse populations;
- 5           (C) Counseling theories and applications, including  
6           but not limited to counseling and consultation,  
7           including both individual and systems  
8           perspectives, interviewing, assessment, and  
9           counseling skills, as well as applying  
10          principles, methods, and theories of counseling,  
11          treatment and counseling of mental and emotional  
12          disorders, and educational techniques aimed at  
13          preventing such disorders with individuals and  
14          families;
- 15          (D) Group theory and practice, including but not  
16          limited to principles of group dynamics, group  
17          process, group leadership styles, theories and  
18          methods of group counseling, and the application  
19          of theory to the group processes;
- 20          (E) Career and lifestyle development, including but  
21          not limited to the study of vocational  
22          development theories and decisionmaking models,

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1 assessment instruments, and techniques, types,  
2 sources, and uses of occupational and educational  
3 information systems, career development  
4 applications, and career counseling processes,  
5 techniques, and resources;

6 (F) Appraisal of human behavior, including but not  
7 limited to assessment and diagnosis [~~or~~] of  
8 disorders with an emphasis on DSM-IV categories,  
9 and an understanding of these disorders relative  
10 to the counseling context;

11 (G) Tests and measurements, including but not limited  
12 to theoretical and historical bases for  
13 assessment techniques, assessment methods,  
14 including analysis of various types of tests in  
15 order to select, administer, interpret, and use  
16 assessment and evaluation instruments and  
17 techniques in counseling;

18 (H) Research and program evaluation, including but  
19 not limited to research design and methods,  
20 statistical analysis, principles, practices, and  
21 application of needs assessment, and program  
22 evaluation; and



1 (I) Professional orientation and ethics, including  
2 but not limited to the history of the helping  
3 profession, professional roles and functions,  
4 ethical standards, confidentiality, professional  
5 organizations, and the public policy process,  
6 including advocacy on behalf of the profession  
7 and its clientele;

8 (2) At least two academic terms of supervised mental  
9 health practicum intern experience for graduate credit  
10 of at least three semester hours or five quarter hours  
11 per academic term in a mental health counseling  
12 setting with three hundred hours of supervised client  
13 contact; the practicum experience shall be completed  
14 under the clinical supervision of a person who is  
15 licensed as a mental health counselor, psychologist,  
16 clinical social worker, advanced practice registered  
17 nurse with a specialty in mental health, marriage and  
18 family therapist, or physician with a specialty in  
19 psychiatry;

20 (3) Completion [+]of[+] three thousand hours of  
21 post-graduate [~~direct counseling work~~] experience in  
22 the practice of mental health counseling with one

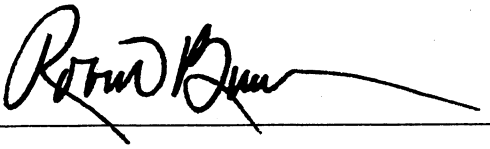
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1 hundred hours of face-to-face clinical supervision  
 2 [~~within a two-year period; and~~] which shall be  
 3 completed in no less than two years and in no more  
 4 than four years, under the clinical supervision of a  
 5 person who is a licensed mental health counselor,  
 6 psychologist, clinical social worker, advanced  
 7 practice registered nurse with a specialty in mental  
 8 health, marriage and family therapist, or physician  
 9 with a specialty in psychiatry; and

10 (4) Passed the National Counselor Examination for  
 11 Licensure and Certification."

12 SECTION 4. Statutory material to be repealed is bracketed  
 13 and stricken. New statutory material is underscored.

14 SECTION 5. This Act shall take effect upon its approval.

15  
 16 INTRODUCED BY:   
 17 BY REQUEST

JUSTIFICATION SHEET

**SB. NO. 2297**

DEPARTMENT: Commerce and Consumer Affairs

TITLE: A BILL FOR AN ACT RELATING TO MENTAL HEALTH COUNSELORS.

PURPOSE: The purposes of this bill are to: (1) amend the definition "practice of mental health counseling" to clarify that professional counseling services are determined by the specialized education, training, and experience that a practitioner completed; (2) specify that "registered rehabilitation specialists" who are regulated by the Department of Labor and Industrial Relations (DLIR) are not subject to the provisions in chapter 453D, Hawaii Revised Statutes (HRS); (3) amend the internship and post-graduate experience requirements to specify these experiences must be completed with a specialty in mental health counseling, and supervised by a licensed mental health professional; and (4) specify that the post-graduate experience must be completed within a period of no less than two years and in no more than four years.

MEANS: Amend sections 453D-1, 453D-6, and 453D-7, HRS.

JUSTIFICATION: The department finds that the current scope of practice for mental health counselors inadvertently fails to specify that the licensee is to render professional counseling services based on the individual's specialized education, training, and experience. The impact of this is that a licensed mental health counselor could construe this to mean they have the authority to provide services when the person has not acquired the necessary expertise. The department needs to remove any doubt on this matter. As a result, this bill proposes to amend the definition "practicing mental health counseling" in

section 453D-1, HRS, to clarify that the rendering of professional counseling services are based on specialized education, training, and experience.

This bill also amends section 453D-6, HRS, to provide a clear exemption for "rehabilitation specialists" who are currently registered with the DLIR. This is a means to codify the department's practice that, while rehabilitation counselors can qualify for licensure as mental health counselors, they are not required to obtain such licensure if they are not going to use the title stating or implying that they are licensed mental health counselors.

The department also finds that the internship and post-graduate experiences in section 453D-7, HRS, do not specify that these experiences must be completed in the specialty area of "mental health" counseling. As a result, both the department and applicants lack clear direction that, consistent with the purpose of chapter 453D, mental health internship and post-graduate experiences are requisites for licensure. Because a licensed mental health counselor provides mental health counseling services, such as assessment, diagnosis, treatment, and counseling for conduct disorders defined in the approved diagnostic and statistical manual for mental disorders, the department finds it is necessary that the internship and post-graduate training be in the area of mental health counseling as opposed to other counseling specialties.

In addition, the department finds that the internship and post-graduate requirements lack specificity as to who is to supervise such training. To ensure that the internship and post-graduate experiences are supervised by individuals who are qualified and trained in mental health, appropriate supervisors are listed, which include

licensed mental health counselors, clinical social workers, psychologists, advanced practice registered nurses with a specialty in mental health, marriage and family therapists, or physicians with a specialty in psychiatry.

Currently, the law states that the post-graduate experience is to consist of three thousand hours which must be completed within a two year period. This was modeled after national licensing standards for mental health counselors. A recent inquiry is causing us to amend the language for further consistency with the national licensing standards, by stating that the post-graduate experience is to be completed in no less than two years. This amendment sets a minimum floor and a maximum ceiling for recognition of the post-graduate experience. While national licensing standards had no definitive maximum period, we decided upon four years based on similar mental health professions (clinical social workers and marriage and family therapists) which also require three thousand hours of supervised post-graduate experience obtained in no fewer than two years and no more than four years. In addition, although marriage and family therapists have no established national maximum threshold for the post-graduate experience, the Association of Social Work Boards (ASWB) model act recommends that the supervised clinical social worker experience be completed within no more than four years. Because the scope of practice for clinical social workers and mental health counselors are similar, the department finds that adopting maximum threshold of four years is reasonable.

Impact on the public: This bill will enhance consumer safety by ensuring that licensed mental health counselors have the appropriate specialized education, training, and experience and that they practice accordingly based on their expertise.

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Impact on the department and other agencies:  
No impact on the department. While the DLIR is named in the bill, we are simply memorializing a policy position on an exemption to chapter 453D, which currently exists and has no impact on DLIR.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM DESIGNATION: CCA-105 - Professional and Vocational Personal Services.

OTHER AFFECTED AGENCIES: None.

EFFECTIVE DATE: Upon approval.