

JAN 18 2008

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 there is limited
2 access to mental health care treatment services for citizens in
3 the rural areas of the State. The delivery of comprehensive,
4 accessible, and affordable mental health medical care may be
5 enhanced by providing trained medical psychologists, licensed in
6 Hawaii, with limited prescriptive authority for the specific
7 purpose of providing care in federally qualified health centers.
8 The legislature has previously authorized prescription
9 privileges to advanced practice registered nurses, optometrists,
10 dentists, podiatrists, osteopaths, and physician assistants.

11 Psychologists with appropriate credentials have been
12 allowed to prescribe medications to active duty military
13 personnel and their families in federal facilities and the
14 Indian Health Service for years. Recently, Louisiana and New
15 Mexico adopted legislation authorizing prescriptive authority
16 for psychologists without regard to the service setting.



1 Since 2000, fourteen psychologists in Hawaii, all native to
2 Hawaii, have received psychopharmacological training through the
3 Tripler Army Medical Center, Native Hawaiian Psychology Training
4 Program. These psychologists actively collaborate with primary
5 care physicians to provide combined therapy and
6 psychopharmacological care to a medically underserved patient
7 population at seven federally qualified health centers at Bay
8 Clinic, Hana, Molokai, Kauai, Waianae, Kalihi-Palama, and
9 Waimanalo, and two native Hawaiian healthcare systems clinics
10 located in federally designated medically underserved areas on
11 Kauai and Molokai.

12 To date, thousands of native Hawaiians and other ethnic
13 minorities have received the necessary combined therapy and
14 psychopharmacological care that was sorely lacking to address
15 significant mental and behavioral health care needs. For
16 example, psychologists at the Waianae Coast Comprehensive Health
17 Center completed approximately three thousand eight hundred
18 forty patient encounters in 2004; seventy per cent of these
19 patients received necessary psychotropic medication for the
20 treatment of mental illness. Psychologists in several federally
21 qualified health centers in the State have formed successful



1 collaborative relationships with primary care physicians for
2 mental health treatment of the underserved.

3 Psychologists are licensed health professionals with an
4 average of seven years of post-baccalaureate study and three
5 thousand hours of post-graduate supervised practice in the
6 diagnosis and treatment of mental illness. Because the current
7 scope of psychologists' practice does not include prescribing
8 medications, patients must consult with and pay for another
9 provider to obtain the requisite prescription. However,
10 physicians are not readily available in some areas and for some
11 populations.

12 This is a particular hardship for patients of the federally
13 qualified health centers on Oahu and the neighbor islands.
14 Patients of federally qualified health centers include the
15 uninsured (thirty-six per cent), the poor (fifty-six per cent),
16 native Hawaiians (twenty-seven per cent, sixty per cent in rural
17 areas), other Pacific Islanders (seven per cent), and the
18 homeless (five per cent). Timely, efficient, and cost-effective
19 treatment of mental illnesses in federally qualified health
20 centers could avoid the significantly greater social, economic,
21 and medical costs of delayed treatment or non-treatment for
22 these underserved populations.



1 Research data soundly demonstrates that there are not
2 enough prescribing mental health care providers available to
3 serve the needs of all the people in Hawaii. Further, the
4 economically disadvantaged and medically underserved would
5 receive little or no mental health services if not for the
6 federally qualified health centers and the services provided by
7 clinical psychologists. At present, only three federally
8 qualified health centers have psychiatrists on staff. In
9 contrast, 2004 data from the Hawaii Primary Care Association
10 indicates that there are 9.71 psychologists employed in full- or
11 part-time positions to provide mental/behavioral health service
12 in nine of the thirteen federally qualified health centers--the
13 most recent expansion of these services has occurred within the
14 short span of four years.

15 Since 1988, federal law has recognized the extraordinarily
16 poor health of native Hawaiians. In Hawaii, native Hawaiians
17 have the highest rate of untreated medical and psychological
18 concerns, and higher rates than other indigenous and minority
19 individuals in the United States. Recent concerns include the
20 impact of the crystal methamphetamine epidemic and related
21 substance abuse issues such as those occurring in Waianae,
22 Molokai, and Waimanalo. This epidemic, coupled with the



1 economic and cultural distress of the native Hawaiian
2 population, has created unprecedented demands for services from
3 an already overtaxed mental health system.

4 Further exacerbating the dire need for mental health
5 treatment in underserved areas is the fact that patients from
6 diverse cultural backgrounds are reluctant to seek treatment due
7 to the stigma of mental health problems. Timely access to
8 accurate diagnosis and effective treatment of emotional and
9 behavioral disorders may contribute substantially to the State's
10 responsibilities to Hawaii's "Felix" children and needy adults
11 in underserved rural areas.

12 The United States Congress, through the Native Hawaiian
13 Health Care Professions Scholarship program, requires
14 scholarship recipients to work in federally designated medically
15 underserved areas for a duration (typically four years) equal to
16 the number of years they received scholarship funding. Under
17 this program, psychologists of native Hawaiian ancestry are now
18 using modern training and education to deliver health care in a
19 culturally appropriate manner to other native Hawaiians through
20 their placement in federally qualified health centers, native
21 Hawaiian health systems clinics, and other federally designated
22 health clinics in medically underserved areas.



1 The American Psychological Association has developed a
2 model curriculum for the education and training of prescribing
3 psychologists. Independent evaluations of the Department of
4 Defense Psychopharmacological Demonstration Project by the
5 United States General Accounting Office and the American College
6 of Neuropsychopharmacology have found that appropriately trained
7 medical psychologists prescribe safely and effectively.

8 The purpose of this Act is to effectuate the
9 recommendations of the Maui Health Initiative Task Force
10 established pursuant to Act 219, Session Laws of Hawaii 2007, by
11 authorizing appropriately trained and supervised licensed
12 medical psychologists practicing in federally qualified health
13 centers, to prescribe psychotropic medications for the treatment
14 of mental illness.

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 "Narcotics" means natural and synthetic opioid analgesics,
22 and their derivatives used to relieve pain.



1 "Psychotropic medication" means only those agents related
2 to the diagnosis and treatment of mental and emotional
3 disorders, including controlled substances except narcotics.

4 "Supervising physician" means a medically trained and
5 licensed physician or psychiatrist who accepts professional
6 responsibility for the provision of psychopharmacotherapy.

7 **§465-B Conditional prescription certificate; application.**

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

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

14 (2) Has successfully completed a planned sequence of
15 psychopharmacological training from a regional
16 accredited institution of higher learning. The
17 training shall be consistent with the American
18 Psychological Association's Recommended Postdoctoral
19 Training in Psychopharmacology for Prescription
20 Privileges. The training shall include a two-year
21 postdoctoral program of no less than forty-four credit
22 hours (six hundred sixty hours of classroom



1 instruction) in at least the following core areas of
2 instruction:

- 3 (A) Anatomy and physiology;
- 4 (B) Biochemistry;
- 5 (C) Neurosciences (neuroanatomy, neurochemistry,
6 neurophysiology);
- 7 (D) Pharmacology and clinical pharmacology;
- 8 (E) Psychopharmacology;
- 9 (F) Pathophysiology;
- 10 (G) Health assessment, including relevant physical
11 and laboratory assessment; and
- 12 (H) Clinical pharmacotherapeutics;
- 13 (3) Has successfully completed twelve credit hours
14 consisting of a supervised practicum:
 - 15 (A) Of at least one year;
 - 16 (B) Involving four hundred hours treating a diverse
17 population of no fewer than one hundred patients
18 with mental disorders;
 - 19 (C) Supervised by a medically trained and licensed
20 physician or psychiatrist who accepts
21 professional responsibility for the provision of
22 psychopharmacotherapy and who is not in the



- 1 employ of the person being directed or
2 supervised; and
- 3 (D) Including at least two hours of weekly
4 supervision;
- 5 (4) Has passed a national proficiency examination approved
6 by the board that tests the applicant's knowledge of
7 pharmacology in the diagnosis, care, and treatment of
8 mental disorders; provided that the board shall
9 establish what constitutes a passing score and the
10 number of times an applicant may re-take the
11 examination within a specific time period;
- 12 (5) Has applied for a federal Drug Enforcement
13 Administration registration number for limited use as
14 restricted by state law;
- 15 (6) Has malpractice insurance in place, sufficient to
16 satisfy the rules adopted by the board, that will
17 cover the applicant during the period the conditional
18 prescription certificate is in effect;
- 19 (7) Is employed or contracted by, and will practice the
20 prescribing authority at a federally qualified health
21 center established under Title 42 United States Code
22 Section 1396; and



1 (8) Meets all other requirements, as determined by rules
2 adopted by the board pursuant to chapter 91, for
3 obtaining a conditional prescription certificate.

4 (b) The board shall issue a conditional prescription
5 certificate if it finds that the applicant has met all of the
6 requirements of subsection (a).

7 (c) The conditional prescription certificate shall be
8 immediately relinquished by the psychologist if the psychologist
9 no longer meets the requirements of subsection (a).

10 **§465-C Conditional prescription certificate; powers,**
11 **duties, and responsibilities.** (a) A psychologist holding a
12 conditional prescription certificate shall:

13 (1) Continue to hold a current license to practice
14 psychology in Hawaii and continue to maintain
15 malpractice insurance;

16 (2) Inform the board of the name of the supervising
17 physician under whose supervision the psychologist
18 will prescribe psychotropic medication and the name of
19 the federally qualified health center; provided that
20 the psychologist shall promptly inform the board of
21 any change of the supervising physician; and



1 (3) Maintain an ongoing collaborative relationship with
2 the doctor of medicine who oversees the patient's
3 general medical care.

4 (b) A psychologist holding a conditional prescription
5 certificate may:

6 (1) Administer and prescribe psychotropic medication
7 within the recognized scope of the profession;
8 provided that those medications are not prohibited by
9 the exclusionary formulary list, pursuant to section
10 465-G; and

11 (2) Prescribe only those medications in paragraph (1) to
12 patients under the care of the psychologist and who
13 are enrolled at the federally qualified health center
14 identified to the board.

15 (c) When prescribing psychotropic medication for a
16 patient, a psychologist holding a conditional prescription
17 certificate shall maintain an ongoing collaborative relationship
18 with the doctor of medicine who oversees the patient's general
19 medical care to ensure supervision so that:

20 (1) Necessary medical examinations are conducted;

21 (2) The psychotropic medication is appropriate for the
22 patient's medical condition; and



1 (3) Significant changes in the patient's medical or
2 psychological condition are discussed.

3 (d) A prescription written by a psychologist holding a
4 conditional prescription certificate shall:

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

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

8 (3) Include the psychologist's board number or the
9 identification number assigned by the department of
10 commerce and consumer affairs.

11 (e) A psychologist holding a conditional prescription
12 certificate shall not delegate prescriptive authority to any
13 person. Records of all prescriptions shall be maintained in the
14 prescribing psychologist's patient records.

15 (f) When authorized to prescribe controlled substances, a
16 psychologist holding a conditional prescription certificate
17 shall file with the board, in a timely manner, all individual
18 federal Drug Enforcement Administration registration numbers.

19 **§465-D Prescription certificate.** (a) A psychologist may
20 apply to the board for a prescription certificate. The
21 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 physician;

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

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

12 (4) Has malpractice insurance in place, sufficient to
13 satisfy the rules adopted by the board, that will
14 cover the applicant as a prescribing psychologist; and

15 (5) Meets all other requirements, as determined by rules
16 adopted by the board pursuant to chapter 91, for
17 obtaining a prescription certificate.

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

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



- 1 (1) Continues to hold a current license to practice
2 psychology in Hawaii and continues to maintain
3 malpractice insurance;
- 4 (2) Annually satisfies the continuing education
5 requirements for prescribing psychologists, as set by
6 the board, which shall be no fewer than twenty hours
7 each year, at least half of which shall be in
8 pharmacology or psychopharmacology; and
- 9 (3) Continues to maintain an ongoing collaborative
10 relationship with the doctor of medicine who oversees
11 the patient's general medical care to ensure
12 supervision so that:
 - 13 (A) Necessary medical examinations are conducted;
 - 14 (B) Psychotropic medication prescribed is appropriate
15 for the patient's medical condition; and
 - 16 (C) Significant changes in the patient's medical or
17 psychological condition are discussed.

18 **§465-E Administration.** (a) The board shall adopt rules
19 pursuant to chapter 91 establishing the procedures to be
20 followed to obtain a conditional prescription certificate, a
21 prescription certificate, and renewal of a conditional



1 prescription certificate and prescription certificate. The
2 board may set reasonable application and renewal fees.

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

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

16 (d) The board shall provide to the board of pharmacy an
17 annual list of psychologists holding a conditional prescription
18 certificate or prescription certificate that contains the
19 information agreed upon between the board and the board of
20 pharmacy. The board shall promptly provide the board of
21 pharmacy with the names of any psychologists who are added or
22 deleted from the list.



1 **§465-F Narcotics, prohibited.** This part shall not be
2 construed to permit a psychologist holding a conditional
3 prescription certificate or prescription certificate to
4 administer or prescribe a narcotic.

5 **§465-G Exclusionary formulary list.** The exclusionary
6 formulary list shall specify the types of medications that
7 psychologists holding either a conditional prescription
8 certificate or a prescription certificate shall be prohibited
9 from prescribing or administering. The exclusionary formulary
10 list shall include the following types of medications:

- 11 (1) All narcotics;
- 12 (2) All monoamine oxidase inhibitors;
- 13 (3) All anti-psychotic medications;
- 14 (4) All amphetamines;
- 15 (5) All non-psychotropic medications;
- 16 (6) Lithium; and
- 17 (7) Serzone.

18 **§465-H Joint formulary advisory committee; establishment,**
19 **composition, and duties.** (a) The department of commerce and
20 consumer affairs shall establish a joint formulary advisory
21 committee to periodically review the exclusionary formulary list
22 under section 465-G.



1 (b) The joint formulary advisory committee shall recommend
2 amendments to the exclusionary formulary list as it deems fit,
3 subject to the limitations set forth in section 465-G. The
4 board shall adopt the recommended exclusionary formulary list as
5 established by the joint formulary advisory committee in its
6 rules.

7 (c) The joint formulary advisory committee shall review
8 the exclusionary formulary list no less than once per quarter,
9 and as frequently as it deems necessary.

10 (d) The joint formulary advisory committee shall consist
11 of:

- 12 (1) Two persons licensed as physicians specializing in
13 psychiatry under chapter 453;
- 14 (2) Two persons licensed as psychologists under chapter
15 465 working at federally qualified health centers;
- 16 (3) One person licensed as a pharmacist under chapter 461;
17 and
- 18 (4) The medical director of a federally qualified health
19 center in the state."

20 SECTION 3. Chapter 465, Hawaii Revised Statutes, is
21 amended by designating sections 465-1 to 465-15 as part I and to
22 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 the
13 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
20 industrial/organizational psychologist[~~7~~]; provided that the
21 person registers with the 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 Hawaii state health planning and
21 development agency shall submit to the legislature a report,
22 including any proposed legislation, no later than twenty days



1 prior to the convening of the regular session of 2013,
2 evaluating the status of mental health care in the State after
3 providing prescriptive authority to certain psychologists. To
4 assist the legislature in assessing the viability of continuing
5 prescriptive authority for psychologists, the report shall
6 include recommendations on whether prescriptive authority for
7 psychologists should be amended, repealed, or continued.

8 SECTION 6. In codifying the new sections added by section
9 2 of this Act, the revisor of statutes shall substitute
10 appropriate section numbers for the letters used in designating
11 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 approval;
15 provided that:

- 16 (1) Prescriptive authority for qualified psychologists
17 shall not be granted until July 1, 2009;
- 18 (2) Section 5 of this Act shall take effect on July 1,
19 2010; and
- 20 (3) On July 1, 2014, this Act shall be repealed and
21 section 465-3, Hawaii Revised Statutes, shall be



1 reenacted in the form in which it read on the day
2 before the effective date of this Act.

3

INTRODUCED BY:

S.S.TZ.

4. Kalani English

Randy H. Bell



Report Title:

Prescriptive Authority; Psychologists

Description:

Authorizes prescriptive authority for qualified psychologists who practice at a federally qualified health center.

