

JAN 18 2008

S.B. NO. 2531

A BILL FOR AN ACT

RELATING TO HEALTH.

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 healthcare treatment services for citizens in
3 the rural areas of the state. The delivery of comprehensive,
4 accessible, and affordable mental healthcare may be enhanced by
5 providing trained medical psychologists licensed in Hawaii with
6 limited prescriptive authority for the specific purpose of
7 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 Recently, Louisiana and New Mexico adopted legislation
12 authorizing prescriptive authority for psychologists. In
13 addition, psychologists with appropriate credentials have been
14 allowed to prescribe medications to active duty military
15 personnel and their families in federal facilities and the
16 Indian Health Service for years.

17 In Hawaii, since 2000, 14 psychologists in Hawaii, all
18 native to Hawaii, have received psychopharmacological training



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

10 To date, these psychologists have provided thousands of
11 native Hawaiians and other ethnic minorities with the necessary
12 combined therapy and psychopharmacological care that was sorely
13 lacking to address significant mental and behavioral healthcare
14 needs. For example, psychologists at the Waianae coast
15 comprehensive health center completed approximately 3,840
16 patient encounters in 2004, and 70 per cent of these patients
17 received necessary psychotropic medication for the treatment of
18 mental illness.

19 Psychologists are licensed health professionals with an
20 average of seven years of post-baccalaureate study and 3,000
21 hours of post-graduate supervised practice in the diagnosis and
22 treatment of mental illness. Because the current scope of a



1 psychologist's practice does not include prescribing
2 medications, patients must consult with and pay for another
3 provider to obtain the requisite prescription. However,
4 physicians are not readily available in some areas and for some
5 populations.

6 This is a particular hardship for patients of the federally
7 qualified health centers on Oahu and the neighbor islands.
8 Patients of federally qualified health centers include the
9 uninsured (36 per cent), the poor (56 per cent), native
10 Hawaiians (27 per cent, 60 per cent in rural areas), other
11 Pacific islanders (seven per cent), and the homeless (five per
12 cent). Timely, efficient, and cost-effective treatment of
13 mental illnesses in federally qualified health centers could
14 avoid the significantly greater social, economic, and medical
15 costs of delayed treatment or non-treatment for these
16 underserved populations.

17 Research data soundly demonstrates that there are not
18 enough prescribing mental healthcare providers available to
19 serve the needs of all the people of Hawaii. Further, the
20 economically disadvantaged and medically underserved would
21 receive little or no mental health services if not for the
22 federally qualified health centers and the services provided by



1 clinical psychologists. At present, only three federally
2 qualified health centers have psychiatrists on staff. In
3 contrast, 2004 data from the Hawaii Primary Care Association
4 indicates that there are 9.71 psychologists employed in full- or
5 part-time positions to provide mental/behavioral health service
6 in nine of the 13 federally qualified health centers--the most
7 recent expansion of these services has occurred within the short
8 span of four years.

9 Since 1988, federal law has recognized the extraordinarily
10 poor health of native Hawaiians. In Hawaii, native Hawaiians
11 have the highest rate of untreated medical and psychological
12 concerns, and higher rates than other indigenous and minority
13 individuals in the United States. Recent concerns include the
14 impact of the crystal methamphetamine epidemic and related
15 substance abuse issues such as those occurring in Waianae,
16 Molokai, and Waimanalo. This epidemic, coupled with the
17 economic and cultural distress of the native Hawaiian
18 population, has created unprecedented demands for services from
19 an already overtaxed mental health system.

20 Further exacerbating the dire need for mental health
21 treatment in underserved areas is the fact that patients from
22 diverse cultural backgrounds are reluctant to seek treatment due



1 to the stigma of mental health problems. Timely access to
2 accurate diagnosis and effective treatment of emotional and
3 behavioral disorders may contribute substantially to the State's
4 responsibilities to Hawaii's "Felix" children and needy adults
5 in underserved rural areas.

6 The federal government already places trained and
7 culturally sensitive psychologists in Hawaii's underserved
8 areas. The Native Hawaiian Health Care Professions Scholarship
9 program, requires scholarship recipients to work in federally
10 designated, medically underserved areas for a duration
11 (typically four years) equal to the number of years they
12 received scholarship funding. Under this program, psychologists
13 of native Hawaiian ancestry are now using modern training and
14 education to deliver healthcare in a culturally appropriate
15 manner to other native Hawaiians through their placement in
16 federally qualified health centers, native Hawaiian health
17 systems clinics, and other federally designated health clinics.

18 Psychologists in several federally qualified health centers
19 in the state have already formed successful collaborative
20 relationships with primary care physicians for mental health
21 treatment of the underserved. In addition, a model curriculum
22 for the education and training of prescribing psychologists has



1 already been developed by the American Psychological
2 Association. Further, independent evaluations of the Department
3 of Defense Psychopharmacological Demonstration Project by the
4 United States General Accounting Office and the American College
5 of Neuropsychopharmacology have found that appropriately trained
6 medical psychologists prescribe safely and effectively.

7 The purpose of this Act is to authorize appropriately
8 trained and supervised licensed medical psychologists practicing
9 in federally qualified health centers, to prescribe psychotropic
10 medications for the treatment of mental illness.

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

14 "PART . PRESCRIPTION CERTIFICATION

15 §465-A Definitions. As used in this part, unless the
16 context otherwise requires:

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

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



1 "Supervising physician" means a medically trained and
2 licensed physician or psychiatrist who accepts professional
3 responsibility for the provision of psychopharmacotherapy.

4 **§465-B Conditional prescription certificate; application.**

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

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

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

22 (A) Anatomy and physiology;



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



- 1 (D) Including at least two hours of weekly
2 supervision;
- 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 re-take the
9 examination within a specific time period;
- 10 (5) Has applied for a federal Drug Enforcement
11 Administration registration number for limited use as
12 restricted by state law;
- 13 (6) Has malpractice insurance in place, sufficient to
14 satisfy the rules adopted by the board, which will
15 cover the applicant during the period the conditional
16 prescription certificate is in effect;
- 17 (7) Is employed or contracted by, and will practice the
18 prescribing authority at a federally qualified health
19 center established under Title 42 United States Code
20 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-H; 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, which will
14 cover the applicant as a prescribing psychologist;

15 (5) Is employed or contracted by and will practice the
16 prescribing authority at a federally qualified health
17 center established under Title 42, United States Code,
18 Section 1396; and

19 (6) Meets all other requirements, as determined by rules
20 adopted by the board pursuant to chapter 91, for
21 obtaining a prescription certificate.



1 (b) The board shall issue a prescription certificate if it
2 finds that the applicant has met all of the requirements of
3 subsection (a); provided that a prescription certificate shall
4 be immediately relinquished by the psychologist if the
5 psychologist no longer meets the requirements of subsection (a).

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

8 (1) Continues to hold a current license to practice
9 psychology in Hawaii and continues to maintain
10 malpractice insurance;

11 (2) Annually satisfies the continuing education
12 requirements for prescribing psychologists, as set by
13 the board, which shall be no fewer than twenty hours
14 each year, at least half of which shall be in
15 pharmacology or psychopharmacology; and

16 (3) Continues to maintain an ongoing collaborative
17 relationship with the doctor of medicine who oversees
18 the patient's general medical care to ensure
19 supervision so that:

20 (A) Necessary medical examinations are conducted;

21 (B) Psychotropic medication prescribed is appropriate
22 for the patient's medical condition; and



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

3 **§465-E Prescription certificate; powers, duties, and**
4 **responsibilities.** (a) A psychologist holding a prescription
5 certificate shall:

6 (1) Continue to hold a current license to practice
7 psychology in Hawaii and continue to maintain
8 malpractice insurance;

9 (2) Annually satisfy the continuing education requirements
10 for prescribing psychologists, as set by the board,
11 which shall be no fewer than twenty hours each year,
12 at least half of which shall be in pharmacology or
13 psychopharmacology; and

14 (3) Continue to maintain an ongoing collaborative
15 relationship directly or by telecommunication with the
16 doctor of medicine who oversees the patient's general
17 medical care to ensure that:

18 (A) Necessary medical examinations are conducted;

19 (B) Psychotropic medication prescribed is appropriate
20 for the patient's medical condition; and

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



- 1 (b) A psychologist holding a prescription certificate may:
- 2 (1) Administer and prescribe psychotropic medication
- 3 within the recognized scope of the profession;
- 4 provided that those medications are not prohibited by
- 5 the exclusionary formula under section 465-H; and
- 6 (2) Prescribe only those medications in paragraph (1) to
- 7 patients under the care of the psychologist and who
- 8 are enrolled at the federally qualified health center
- 9 identified to the board.
- 10 (c) A prescription written by a psychologist holding a
- 11 prescription certificate shall:
- 12 (1) Comply with applicable state and federal laws;
- 13 (2) Be identified as issued by the psychologist as
- 14 "psychologist certified to prescribe"; and
- 15 (3) Include the psychologist's board number or the
- 16 identification number assigned by the department of
- 17 commerce and consumer affairs.
- 18 (d) A psychologist holding a prescription certificate
- 19 shall not delegate prescriptive authority to any person.
- 20 Records of all prescriptions shall be maintained in the
- 21 prescribing psychologist's patient records.



1 (e) When authorized to prescribe controlled substances, a
2 psychologist holding a prescription certificate shall file with
3 the board in a timely manner all individual federal Drug
4 Enforcement Administration registration numbers.

5 **§465-F Administration.** (a) The board shall adopt rules
6 pursuant to chapter 91 establishing the procedures to be
7 followed to obtain a conditional prescription certificate, a
8 prescription certificate, and renewal of a conditional
9 prescription certificate and prescription certificate. The
10 board may set reasonable application and renewal fees.

11 (b) The board shall adopt rules pursuant to chapter 91
12 establishing the grounds for denial, suspension, or revocation
13 of conditional prescription certificates and prescription
14 certificates, including provisions for suspension or revocation
15 of a license to practice psychology upon suspension or
16 revocation of a conditional prescription certificate or
17 prescription certificate. Actions of denial, suspension, or
18 revocation of a conditional prescription certificate or a
19 prescription certificate shall be in accordance with this
20 chapter.



1 (c) The board shall maintain current records on every
2 prescribing psychologist, including federal registrations and
3 numbers.

4 (d) The board shall provide to the board of pharmacy an
5 annual list of psychologists holding a conditional prescription
6 certificate or prescription certificate that contains the
7 information agreed upon between the board and the board of
8 pharmacy. The board shall promptly provide the board of
9 pharmacy with the names of any psychologists who are added or
10 deleted from the list.

11 **§465-G Narcotics; prohibited.** This part shall not be
12 construed to permit a psychologist holding a conditional
13 prescription certificate or prescription certificate to
14 administer or prescribe a narcotic.

15 **§465-H Exclusionary formulary list.** The exclusionary
16 formulary list shall specify the types of medications that
17 psychologists holding either a conditional prescription
18 certificate or a prescription certificate shall be prohibited
19 from prescribing or administering. The exclusionary formulary
20 list shall include the following types of medications:

- 21 (1) All narcotics;
- 22 (2) All monoamine oxidase inhibitors;

- 1 (3) All anti-psychotic medications;
- 2 (4) All amphetamines;
- 3 (5) All non-psychotropic medications;
- 4 (6) Lithium; and
- 5 (7) Serzone.

6 §465-I Joint formulary advisory committee; establishment,
7 composition, and duties. (a) The department of commerce and
8 consumer affairs shall establish a joint formulary advisory
9 committee to periodically review the exclusionary formulary list
10 under section 465-H.

11 (b) The joint formulary advisory committee shall recommend
12 amendments to the exclusionary formulary list as it deems fit,
13 subject to the limitations set forth in section 465-H. The
14 board shall adopt the recommended exclusionary formulary list as
15 established by the joint formulary advisory committee in its
16 rules.

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

20 (d) The joint formulary advisory committee shall consist
21 of:



- 1 (1) Two persons licensed as physicians specializing in
- 2 psychiatry under chapter 453;
- 3 (2) Two persons licensed as psychologists under chapter
- 4 465 working at federally qualified health centers;
- 5 (3) One person licensed as a pharmacist under chapter 461;
- 6 and
- 7 (4) The medical director of a federally qualified health
- 8 center in the state."

9 SECTION 3. Chapter 465, Hawaii Revised Statutes, is
10 amended by designating sections 465-1 to 465-15 as part I and to
11 read as follows:

12 "PART I. GENERAL PROVISIONS"

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

15 "§465-3 Exemptions. (a) This chapter shall not apply to:

- 16 (1) Any person teaching, lecturing, consulting, or
- 17 engaging in research in psychology insofar as the
- 18 activities are performed as part of or are dependent
- 19 upon employment in a college or university; provided
- 20 that the person shall not engage in the practice of
- 21 psychology outside the responsibilities of the
- 22 person's employment;



- 1 (2) Any person who performs any, or any combination of the
2 professional services defined as the practice of
3 psychology under the direction of a licensed
4 psychologist in accordance with rules adopted by the
5 board; provided that the person may use the term
6 "psychological assistant", but shall not identify the
7 person's self as a psychologist or imply that the
8 person is licensed to practice psychology;
- 9 (3) Any person employed by a local, state, or federal
10 government agency in a school psychologist or
11 psychological examiner position, or a position that
12 does not involve diagnostic or treatment services, but
13 only at those times when that person is carrying out
14 the functions of such government employment;
- 15 (4) Any person who is a student of psychology, a
16 psychological intern, or a resident in psychology
17 preparing for the profession of psychology under
18 supervision in a training institution or facility and
19 who is designated by a title as "psychology trainee",
20 "psychology student", "psychology intern", or
21 "psychology resident", that indicates the person's
22 training status; provided that the person shall not



- 1 identify the person's self as a psychologist or imply
2 that the person is licensed to practice psychology;
- 3 (5) Any person who is a member of another profession
4 licensed under the laws of this jurisdiction to render
5 or advertise services, including psychotherapy, within
6 the scope of practice as defined in the statutes or
7 rules regulating the person's professional practice;
8 provided that, notwithstanding section 465-1, the
9 person does not represent the person's self to be a
10 psychologist or does not represent that the person is
11 licensed to practice psychology;
- 12 (6) Any person who is a member of a mental health
13 profession not requiring licensure; provided that the
14 person functions only within the person's professional
15 capacities; and provided further that the person does
16 not represent the person to be a psychologist, or the
17 person's services as psychological; or
- 18 (7) Any person who is a duly recognized member of the
19 clergy; provided that the person functions only within
20 the person's capacities as a member of the clergy; and
21 provided further that the person does not represent



1 the person to be a psychologist, or the person's
2 services as psychological.

3 (b) Nothing in this chapter shall in any way restrict any
4 person from carrying on any of the psychological activities as
5 defined in section 465-1; provided that such person does not
6 offer psychological services as defined in this chapter except
7 as such activities are incidental to the person's lawful
8 occupational purpose.

9 (c) A person may use the title of
10 industrial/organizational psychologist[~~7~~]; provided that the
11 person registers with the board, and:

- 12 (1) Is professionally competent in the practice of
13 industrial/organizational psychology; [~~and~~]
- 14 (2) Holds a doctoral degree from an accredited institution
15 of higher education with training and education in
16 industrial/organizational psychology, satisfactory to
17 the board; and
- 18 (3) Provides psychological service or consultation to
19 organizations which does not involve the delivery or
20 supervision of direct psychological services to
21 individuals or groups of individuals, without regard



1 to the source or extent of payment for services
2 rendered.

3 (d) Nothing in this chapter shall prevent the provision of
4 expert testimony by a psychologist who is otherwise exempted by
5 this chapter.

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

10 SECTION 5. The state health planning and development
11 agency shall submit to the legislature a report, including any
12 proposed legislation, no later than twenty days prior to the
13 convening of the regular session of 2014, evaluating the status
14 of mental healthcare in the state after providing prescriptive
15 authority to certain psychologists. To assist the legislature
16 in assessing the viability of continuing prescriptive authority
17 for psychologists, the report shall include recommendations on
18 whether prescriptive authority for psychologists should be
19 amended, repealed, or continued.

20 SECTION 6. In codifying the new sections added by section
21 2 of this Act, the revisor of statutes shall substitute



1 appropriate section numbers for the letters used in designating
2 the new sections in this Act.

3 SECTION 7. Statutory material to be repealed is bracketed
4 and stricken. New statutory material is underscored.

5 SECTION 8. This Act shall take effect upon its approval;
6 provided that:

7 (1) Prescriptive authority for qualified psychologists
8 shall not be granted until July 1, 2009;

9 (2) Section 5 of this Act shall take effect on July 1,
10 2010; and

11 (3) On July 1, 2015, this Act shall be repealed and
12 section 465-3, Hawaii Revised Statutes, shall be
13 reenacted in the form in which it read on the day
14 before the effective date of this Act.

15

INTRODUCED BY: David Ylge

David Ylge



Report Title:

Prescriptive Authority; Psychologists

Description:

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

