

JAN 23 2009

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
3 across the State of Hawaii. 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 prescriptive authority. The legislature has
7 previously authorized prescription privileges to advanced
8 practice registered nurses, optometrists, dentists, podiatrists,
9 osteopaths, and physician assistants.

10 The legislature acknowledges that the United States Public
11 Health Service, Health Resources and Services Administration,
12 has officially designated much of the State of Hawaii as a
13 mental health professional shortage area. In addition to rural
14 areas where geographic isolation is an obvious reason for
15 shortage problems, urban areas located minutes from downtown
16 Honolulu, such as Kalihi-Palama and Kalihi Valley, have also
17 received this shortage designation. The nearly statewide



1 shortage designations indicate that both rural and urban areas
2 suffer when it comes to accessing mental health care.

3 The legislature acknowledges that the mental health needs
4 of the State continue to outweigh present capacity. From
5 2000-2004, more people died from suicide than from automobile
6 accidents or homicides. At 22.5 per cent, Hawaii's suicide rate
7 is higher than the national average. While causes for suicide
8 are complex, the most commonly reported reasons include
9 depression, relationship problems, and serious medical problems,
10 conditions with significantly high rates of occurrence within
11 the general population.

12 In 2008, six domestic violence murders (three of which were
13 murder-suicides) occurred within six months compared to an
14 average of nine domestic killings from 1996 through 2006. The
15 Hawaii State Coalition Against Domestic Violence acknowledged
16 that these are the highest numbers they have witnessed in
17 decades. Many perpetrators of these types of killings are not
18 obviously troubled. They represent individuals from the general
19 population, and from both rural and urban areas of Hawaii.
20 Last year, a review by the Honolulu police department revealed
21 that in 2006, 1435 people were involuntarily taken to emergency
22 rooms for psychiatric evaluation and treatment.



1 During the first four months of 2007, the Honolulu police
2 department responded to four hundred four calls to assist in
3 psychological crisis who required emergency attention. Based on
4 a review of the records, approximately fifty-four per cent of
5 these calls resulted from inadequate medication management.

6 At the same time that mental health needs are apparently
7 growing, resources available for treatment and assistance are
8 being reduced. Due to the State's anticipated budget short-
9 fall, the department of health recently announced a \$25,000,000
10 funding cut-back for fiscal year 2009 and plans reductions up to
11 an additional twenty per cent for fiscal year 2010.

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

19 Since 2000, twenty psychologists, all born and raised in
20 Hawaii, have received psychopharmacological training through the
21 Tripler Army Medical Center, psychology training program. These
22 psychologists have actively collaborated with primary care



1 physicians to provide combined therapy and psychopharmacological
2 care to a medically underserved patient population at eleven
3 federally qualified health centers, Bay Clinic, Hana, Molokai,
4 Kauai, Waianae, Kalihi-Palama, Waimanalo, Ko'olauloa, West
5 Hawaii, Kokua Kalihi Valley, and Waikiki, as well as a native
6 Hawaiian healthcare system clinic located in a federally
7 designated medically underserved area on Molokai.

8 To date, thousands of native Hawaiians and other ethnic
9 minorities have received the necessary combined therapy and
10 psychopharmacological care that has been historically lacking to
11 address significant mental and behavioral health care needs.

12 For example, psychologists at the Waianae Coast Comprehensive
13 Health Center completed approximately 3,840 patient encounters
14 in 2004; seventy per cent of these patients received necessary
15 psychotropic medication for the treatment of mental illness.

16 Psychologists in several federally qualified health centers in
17 the State have formed successful collaborative relationships
18 with primary care physicians for mental health treatment of the
19 underserved.

20 Psychologists are licensed health professionals with an
21 average of seven years of post-baccalaureate study and three
22 thousand hours of post-graduate supervised practice in the



1 diagnosis and treatment of mental illness. Because the current
2 scope of psychologists' practice does not include prescribing
3 medications, patients must consult with and pay for another
4 provider to obtain prescriptions. However, practitioners with
5 prescriptive authority are not readily available in some areas
6 and to some populations.

7 Research data soundly demonstrates that there is an
8 insufficient amount of prescribing mental health care providers
9 available to serve the needs of the people in Hawaii. Based on
10 prevalence rates provided by the Substance Abuse and Mental
11 Health Services Administration and reported in "The Behavioral
12 Health Workforce in Hawai'i: A Status Report" (January, 2008),
13 40.4 per cent of the population diagnosed with severe and
14 persistent mental illness received services by the department of
15 health, adult mental health division. In 2007, 14,276 out of a
16 total of 52,064 adults with severe mental illness received
17 services through the adult mental health division, indicating
18 that approximately 37,788 individuals may not have received
19 services. Adults diagnosed with severe mental illness represent
20 5.2 per cent of the total state population and do not include
21 other individuals with other clinical diagnoses such as



1 substance abuse, post-traumatic stress disorder, or a prior
2 experience with domestic violence that may require treatment.

3 Since 1988, federal law has recognized the extraordinarily
4 poor health of native Hawaiians. In Hawaii, native Hawaiians
5 have the highest rate of untreated medical and psychological
6 concerns, and higher rates than other indigenous and minority
7 individuals in the United States. Recent concerns include the
8 impact of the crystal methamphetamine epidemic, which is
9 especially prevalent in areas with a large native Hawaiian
10 population, such as Waianae, Molokai, Waimanalo, Maui, Puna, and
11 Kau, and related issues. This epidemic, coupled with the
12 economic and cultural distress of the native Hawaiian
13 population, has created unprecedented demands for services from
14 an already over-taxed mental health system. Further
15 exacerbating the dire need for mental health treatment in areas
16 across the State is the fact that patients from some cultural
17 backgrounds are sometimes reluctant to seek treatment due to the
18 stigma of mental health problems. Timely access to accurate
19 diagnosis and effective treatment of emotional and behavioral
20 disorders may contribute substantially to the State's
21 responsibilities to Hawaii's "Felix" children and needy adults
22 in underserved rural and urban areas.



1 The United States Congress, through the native Hawaiian
2 health care professions scholarship program, requires
3 scholarship recipients to work in federally designated medically
4 underserved areas for a number of years (typically four) equal
5 to the number of years they received scholarship funding. Under
6 this program, psychologists of native Hawaiian ancestry are now
7 using modern training and education to deliver health care in a
8 culturally appropriate manner to other native Hawaiians through
9 their placement in federally qualified health centers, native
10 Hawaiian health systems clinics, and other federally designated
11 health clinics in medically underserved areas.

12 The American Psychological Association has developed a
13 model curriculum for a master's degree in psychopharmacology for
14 the education and training of prescribing psychologists.

15 Independent evaluations of the Department of Defense
16 Psychopharmacological Demonstration Project by the United States
17 General Accounting Office and the American College of
18 Neuropsychopharmacology have found that appropriately trained
19 medical psychologists prescribe safely and effectively.

20 The purpose of this Act is to authorize appropriately
21 trained and supervised licensed psychologists to prescribe
22 psychotropic medications for the treatment of mental illness.



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

4 "PART . PRESCRIPTION CERTIFICATION

5 §465-A Definitions. As used in this part, unless the
6 context otherwise requires:

7 "Board" means the board of psychology established under
8 chapter 465.

9 "Clinical experience" means a period of supervised clinical
10 training and practice in which clinical diagnoses and
11 interventions are learned and which are conducted and supervised
12 as part of the training program.

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

15 "Prescription" is an order for a drug, laboratory test, or
16 any medicine, device, or treatment, including a controlled
17 substance, as defined by state law.

18 "Prescriptive authority" means the authority to prescribe,
19 administer, discontinue, or distribute without charge, drugs or
20 controlled substances recognized in or customarily used in the
21 diagnosis, treatment, and management of individuals with
22 psychiatric, mental, cognitive, nervous, emotional or behavioral



1 disorders, or other procedures directly related thereto within
2 the scope of practice of psychology in accordance with rules and
3 regulations adopted by the board.

4 "Psychologists certified to prescribe" means a licensed,
5 doctoral-level psychologist who has undergone specialized
6 education and training in preparation for prescriptive practice
7 and has passed an examination accepted by the board relevant to
8 establishing competence for prescribing, and has received from
9 the board a current certificate granting prescriptive authority,
10 which has not been revoked or suspended.

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

14 "Supervising physician" means a medically trained and
15 licensed physician or psychiatrist who accepts professional
16 responsibility for the provision of psychopharmacotherapy.

17 **§465-B Conditional prescription certificate; application.**

18 (a) A psychologist who applies for a conditional prescription
19 certificate shall demonstrate all of the following by official
20 transcript or other official evidence satisfactory to the board:

- 21 (1) The psychologist holds a current license in good
22 standing to practice psychology in Hawaii;



- 1 (2) As defined by the board, and consistent with
2 established policies of the American Psychological
3 Association for educating and training psychologists
4 in preparation for prescriptive authority:
- 5 (A) The psychologist shall have completed a master's
6 degree in psychopharmacology or the equivalent.
7 This is an organized sequence of study in an
8 organized program offering intensive didactic
9 education, and including the following core areas
10 of instruction: basic life sciences,
11 neurosciences, clinical and research pharmacology
12 and psychopharmacology, clinical medicine and
13 pathophysiology, physical assessment and
14 laboratory examinations, clinical
15 pharmacotherapeutics, research, professional,
16 ethical and legal issues; and
- 17 (B) The psychologist shall have obtained relevant
18 clinical experience sufficient to attain
19 competency in the psychopharmacological treatment
20 of a diverse patient population under the
21 direction of a supervising physician. This
22 consists of at least one year, involving four



1 hundred hours treating a diverse population of no
2 fewer than one hundred patients with mental
3 disorders including at least two hours of weekly
4 supervision. The supervising physician shall not
5 be in the employ of the person being directed or
6 supervised;

7 (3) The psychologist shall pass an examination developed
8 by a nationally recognized body (e.g., the American
9 Psychological Association's Practice Organization's
10 College of Professional Psychology) and approved by
11 the board;

12 (4) The psychologist shall obtain a federal Drug
13 Enforcement Administration registration number for
14 limited use as restricted by state law;

15 (5) The psychologist shall have malpractice insurance in
16 place sufficient to satisfy the rules adopted by the
17 board, that covers the applicant during the period the
18 conditional prescription certificate is in effect;

19 (6) The psychologist has met all other requirements, as
20 determined by rules adopted by the board pursuant to
21 chapter 91, for obtaining a conditional prescription
22 certificate; and



1 (7) The psychologist is employed or contracted by and will
2 practice the prescribing authority at a federally
3 qualified health center established pursuant to Title
4 42 United States Code Section 1396.

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

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

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

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

17 (2) Inform the board of the name of the supervising
18 physician under whose supervision the psychologist
19 will prescribe psychotropic medication; 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 shall be authorized to prescribe, administer,
6 discontinue, or distribute without charge, drugs or controlled
7 substances recognized in or customarily used in the diagnosis,
8 treatment, and management of individuals with psychiatric,
9 mental, cognitive, nervous, emotional or behavioral disorders
10 and relevant to the practice of psychology, or other procedures
11 directly related thereto within the scope of practice of
12 psychology in accordance with rules and regulations adopted by
13 the board. The authorization shall be limited to services
14 provided to patients under the care of the psychologist and who
15 are enrolled at the federally qualified health center identified
16 by the board.

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

22 (1) Necessary medical examinations are conducted;



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

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

5 (d) A prescription written by a psychologist holding a
6 conditional prescription certificate shall:

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

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

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

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

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

21 §465-D Prescription certificate. (a) A psychologist who
22 applies for a prescription certificate shall demonstrate all of



1 the following by official transcript or other official evidence
2 satisfactory to the board:

3 (1) The psychologist has been issued a conditional
4 prescription certificate and has successfully
5 completed two years of prescribing psychotropic
6 medication as certified by the supervising physician;

7 (2) The psychologist has successfully undergone a process
8 of independent peer review approved by the department
9 of commerce and consumer affairs;

10 (3) The psychologist holds a current license in good
11 standing to practice psychology in Hawaii;

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

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

19 (b) The board shall issue a prescription certificate if it
20 finds that the applicant has met all of the requirements of
21 subsection (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 continues to maintain
5 malpractice insurance;

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

11 (3) Continues to maintain an ongoing collaborative
12 relationship directly or by telecommunication with the
13 doctor of medicine who oversees the patient's general
14 medical care to ensure that:

15 (A) Necessary medical examinations are conducted;

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

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

20 (d) The prescription certificate shall be immediately
21 relinquished by the psychologist if the psychologist no longer
22 meets the requirements of subsection (a).



1 **§465-E Administration.** (a) The board shall adopt rules
2 pursuant to chapter 91 establishing the procedures to be
3 followed to obtain a conditional prescription certificate, a
4 prescription certificate, and renewal of a conditional
5 prescription certificate and prescription certificate. The
6 board may set reasonable application and renewal fees.

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

17 (c) The board shall maintain current records on every
18 prescribing psychologist, including federal registrations and
19 numbers.

20 (d) The board shall provide to the board of pharmacy an
21 annual list of psychologists holding a conditional prescription
22 certificate or prescription certificate that contains the



1 information agreed upon between the board and the board of
2 pharmacy. The board shall promptly provide the board of
3 pharmacy with the names of any psychologists who are added or
4 deleted from the list.

5 **§465-F Narcotics; prohibited.** This part shall not be
6 construed to permit a psychologist holding a conditional
7 prescription certificate or prescription certificate to
8 administer or prescribe a narcotic."

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

13 **"PART I. GENERAL PROVISIONS"**

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

16 **"§465-3 Exemptions.** (a) This chapter shall not apply to:

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



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



1 "psychology resident", that indicates the person's
2 training status; provided that the person shall not
3 identify the person's self as a psychologist or imply
4 that the person is licensed to practice psychology;

5 (5) Any person who is a member of another profession
6 licensed under the laws of this jurisdiction to render
7 or advertise services, including psychotherapy, within
8 the scope of practice as defined in the statutes or
9 rules regulating the person's professional practice;
10 provided that, notwithstanding section 465-1, the
11 person does not represent the person's self to be a
12 psychologist or does not represent that the person is
13 licensed to practice psychology;

14 (6) Any person who is a member of a mental health
15 profession not requiring licensure; provided that the
16 person functions only within the person's professional
17 capacities; and provided further that the person does
18 not represent the person to be a psychologist, or the
19 person's services as psychological; or

20 (7) Any person who is a duly recognized member of the
21 clergy; provided that the person functions only within
22 the person's capacities as a member of the clergy; and



1 provided further that the person does not represent
2 the person to be a psychologist, or the person's
3 services as psychological.

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

10 (c) A person may use the title of
11 industrial/organizational psychologist, provided that the person
12 registers with the board, and:

- 13 (1) Is professionally competent in the practice of
14 industrial/organizational psychology; ~~[and]~~
- 15 (2) Holds a doctoral degree from an accredited institution
16 of higher education with training and education in
17 industrial/organizational psychology, satisfactory to
18 the board; and
- 19 (3) Provides psychological service or consultation to
20 organizations ~~[which]~~ that does not involve the
21 delivery or supervision of direct psychological
22 services to individuals or groups of individuals,



1 without regard to the source or extent of payment for
2 services 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. In codifying the new sections added by section
11 2 of this Act, the revisor of statutes shall substitute
12 appropriate section numbers for the letters used in designating
13 the new sections in this Act.

14 SECTION 6. Statutory material to be repealed is bracketed
15 and stricken. New statutory material is underscored.

16 SECTION 7. This Act shall take effect on July 1, 2009.

17

J. Paul Sen
INTRODUCED BY: Jim Durand
Josh Green

David V. Ige
Carol Fournier
Paula de Bak
Mike Hubbard
Ronnie Bunn



Report Title:

Prescriptive Authority; Psychologist

Description:

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

