

A Bill for an Act Relating to Telemedicine.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 453-1.3, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) ~~Nothing~~ Subject to section 453-2(b), nothing in this section shall preclude any physician acting within the scope of the physician’s license to practice from practicing telemedicine as defined in this section.”

SECTION 2. Section 453-2, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) Nothing herein shall:

- (1) Apply to so-called Christian Scientists; provided that the Christian Scientists practice the religious tenets of their church without pretending a knowledge of medicine or surgery;
- (2) Prohibit service in the case of emergency or the domestic administration of family remedies;
- (3) Apply to any commissioned medical officer in the United States armed forces or public health service engaged in the discharge of one’s official duty, ~~nor~~ including a commissioned medical officer employed by the United States Department of Defense, while providing direct telemedicine support or services to neighbor island beneficiaries within a Hawaii national guard armory on the island of Kauai, Hawaii, Molokai, or Maui; provided that the commissioned medical officer employed by the United States Department of Defense is credentialed by Tripler Army Medical Center;
- (4) Apply to any practitioner of medicine and surgery from another state when in actual consultation, including in-person, mail, electronic, telephonic, fiber-optic, or other telemedicine consultation with a licensed physician or osteopathic physician of this State, if the physician or osteopathic physician from another state at the time of consultation is licensed to practice in the state in which the physician or osteopathic physician resides; provided that:
  - (A) The physician or osteopathic physician from another state shall not open an office, or appoint a place to meet patients in this State, or receive calls within the limits of the State for the provision of care for a patient who is located in this State;
  - (B) The licensed physician or osteopathic physician of this State retains control and remains responsible for the provision of care for the patient who is located in this State; and
  - (C) The laws and rules relating to contagious diseases are not violated;

- [~~(4)~~] (5) Prohibit services rendered by any person certified under part II of this chapter to provide emergency medical services, or any physician assistant, when the services are rendered under the direction and control of a physician or osteopathic physician licensed in this State except for final refraction resulting in a prescription for spectacles, contact lenses, or visual training as performed by an oculist or optometrist duly licensed by the State. The direction and control shall not be construed in every case to require the personal presence of the supervising and controlling physician or osteopathic

physician. Any physician or osteopathic physician who employs or directs a person certified under part II of this chapter to provide emergency medical services, or a physician assistant, shall retain full professional and personal responsibility for any act that constitutes the practice of medicine when performed by the certified person or physician assistant;

- ~~(5)~~ (6) Prohibit automated external defibrillation by:
- (A) Any first responder personnel certified by the department of health to provide automated external defibrillation when it is rendered under the medical oversight of a physician or osteopathic physician licensed in this State; or
- (B) Any person acting in accordance with section 663-1.5(e); or
- ~~(6)~~ (7) Prohibit a radiologist duly licensed to practice medicine and provide radiology services in another state from using telemedicine while located in this State to provide radiology services to a patient who is located in the state in which the radiologist is licensed. For the purposes of this paragraph:

“Radiologist” means a doctor of medicine or a doctor of osteopathy certified in radiology by the American Board of Radiology or the American Board of Osteopathy.

“Telemedicine” means the use of telecommunications services, as that term is defined in section 269-1, including real-time video conferencing-based communication, secure interactive and non-interactive web-based communication, and secure asynchronous information exchange, to transmit patient medical information, such as diagnostic-quality digital images and laboratory results for medical interpretation and diagnosis, and deliver health care services and information to parties separated by distance.”

SECTION 3. Section 465-3, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) This chapter shall not apply to:

- (1) Any person teaching, lecturing, consulting, or engaging in research in psychology insofar as the activities are performed as part of or are dependent upon employment in a college or university; provided that the person shall not engage in the practice of psychology outside the responsibilities of the person’s employment;
- (2) Any person who performs any, or any combination of the professional services defined as the practice of psychology under the direction of a licensed psychologist in accordance with rules adopted by the board; provided that the person may use the term “psychological assistant”, but shall not identify the person’s self as a psychologist or imply that the person is licensed to practice psychology;
- (3) Any person employed by a local, state, or federal government agency in a school psychologist or psychological examiner position, or a position that does not involve diagnostic or treatment services, but only at those times when that person is carrying out the functions of such government employment;
- (4) Any person who is a student of psychology, a psychological intern, or a resident in psychology preparing for the profession of psychology under supervision in a training institution or facility and who is designated by a title as “psychology trainee”, “psychology student”, “psychology intern”, or “psychology resident”, that indicates the person’s training status; provided that the person shall not identify

- the person's self as a psychologist or imply that the person is licensed to practice psychology;
- (5) Any person who is a member of another profession licensed under the laws of this jurisdiction to render or advertise services, including psychotherapy, within the scope of practice as defined in the statutes or rules regulating the person's professional practice; provided that, notwithstanding section 465-1, the person does not represent the person's self to be a psychologist or does not represent that the person is licensed to practice psychology;
  - (6) Any person who is a member of a mental health profession not requiring licensure; provided that the person functions only within the person's professional capacities; and provided further that the person does not represent the person to be a psychologist, or the person's services as psychological; [ø#]
  - (7) Any person who is a duly recognized member of the clergy; provided that the person functions only within the person's capacities as a member of the clergy; and provided further that the person does not represent the person to be a psychologist, or the person's services as psychological[-]; or
  - (8) Any psychologist employed by the United States Department of Defense, while engaged in the discharge of the psychologist's official duty and providing direct telehealth support or services, as defined in section 431:10A-116.3, to neighbor island beneficiaries within a Hawaii national guard armory on the island of Kauai, Hawaii, Molokai, or Maui; provided that the psychologist employed by the United States Department of Defense is credentialed by Tripler Army Medical Center."

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

SECTION 5. This Act shall take effect upon its approval.  
(Approved June 25, 2013.)