

ACT 93

H.B. NO. 1830

A Bill for an Act Relating to Mental Health.

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

PART I

SECTION 1. The legislature finds that the State has repeatedly and consistently been recognized by the federal government as a health professional shortage area, meaning the State sorely lacks a sufficient number of mental health professionals, including psychiatrists, psychologists, social workers, marriage and family therapists, and mental health counselors having a focus on marriage and family life, to meet the overwhelming demand for these services in the State. These barriers to access create unnecessarily long wait times for appointments, causing many individuals, especially those individuals living in rural areas, to experience prolonged suffering or choose not to seek any help at all. The result is a domino effect of mass losses in work force development, increased instances of abuse within families, statistically higher rates of substance abuse, and high debt loads.

Currently, associate-level practitioners who have completed rigorous educational and other professional development requirements are deemed capable of rendering professional services to clients seeking mental health treatment under licensed clinical supervision in order to complete the post-degree, pre-license hours required for full licensure status. However, unlike many other professions and trades that have similar requirements, because no laws exist that allow for health insurance reimbursements of their services, almost all of these mental health professionals go unpaid for the life-changing services that they perform for residents of the State.

The inability to be reimbursed by health insurance has caused undue hardships for these mental health professionals and their families as they are essentially forced to work one very difficult and taxing job for free and a second job to meet personal needs. Unfortunately, this model of living is unsustainable and causes many of these practitioners to permanently move from Hawaii to one of the many other states where insurance reimbursements are allowed.

The legislature further finds that there is great demand for high quality mental health professionals in the State, particularly in the aftermath of the coronavirus disease 2019 pandemic. Accordingly, the purpose of this Act is to expand access to high quality mental health services by:

- (1) Establishing provisional or associate-level licensure requirements and insurance reimbursement allowances for marriage and family therapists, mental health counselors, and psychologists in training;
- (2) Authorizing psychologist license applicants who possess a provisional license to sit for their licensing examination before completing certain post-doctoral supervised experience requirements; and
- (3) Authorizing insurance reimbursements for services provided by a supervised social work intern in certain circumstances.

PART II

SECTION 2. Chapter 451J, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§451J- Provisional license for associate marriage and family therapists; services reimbursable. (a) The department shall grant, upon application and payment of proper fees, provisional licensure as an associate marriage and family therapist to an individual who:

- (1) Has received a master’s or doctoral degree from an accredited educational institution in marriage and family therapy or in an allied field related to the practice of mental health counseling;
- (2) Has completed a one year practicum with three hundred hours of supervised client contact; and
- (3) Engages in marriage and family therapy practice under the clinical supervision of a licensed marriage and family therapist or any licensed mental health professional during the period of time necessary to fulfill the clinical experience requirements for licensure as a marriage and family therapist pursuant to section 451J-7(3); provided that the licensed marriage and family therapist or licensed mental health professional is in good standing with the department.

(b) Each provisional license issued pursuant to this section shall include the name and title of the licensed marriage and family therapist or licensed mental health professional providing clinical supervision of the applicant as described in subsection (a)(3). A licensed associate marriage and family therapist shall practice marriage and family therapy only under the direct supervision of the licensed marriage and family therapist or licensed mental health professional.

(c) A provisional license issued pursuant to this section shall be valid for one year from the date of issuance and may be renewed for an additional one-year period if needed to fulfill the requirements for licensure as a marriage and family therapist pursuant to section 451J-7(3).

(d) Services provided by a supervised licensed associate marriage and family therapist shall be eligible for insurance reimbursement; provided that the supervising licensed marriage and family therapist’s services are eligible for reimbursement as a contracted provider; provided further that the billed rate for the licensed associate marriage and family therapist shall be commensurate with the requisite level of training.”

SECTION 3. Section 451J-1, Hawaii Revised Statutes, is amended as follows:

1. By adding a new definition to be appropriately inserted and to read: “Associate marriage and family therapist” or “licensed associate marriage and family therapist” means a person who:

- (1) Has completed all educational requirements under section 451J-(a)(1);
- (2) Has been issued a provisional license under this chapter; and
- (3) Is currently earning supervised clinical experience in marriage and family therapy under clinical supervision.”

2. By amending the definition of “clinical supervision” to read: “Clinical supervision” means the supervision of no more than six persons at the same time who are acquiring and completing clinical experience in accordance with [section] sections 451J-7(2) and (3)[,] and 451J- (a)(3), by a licensed marriage and family therapist whose license has been in good standing in any state for two years preceding commencement and during the term of supervision, or any licensed mental health professional whose license has been in

good standing in any state and who has been a clinical member in good standing of the association for the two years preceding commencement and during the term of supervision. ~~[Clinical supervision]~~ “Clinical supervision” includes but is not limited to case consultation of the assessment and diagnosis of presenting problems, development and implementation of treatment plans, and the evaluation of the course of treatment. ~~[Clinical supervision]~~ “Clinical supervision” may include direct observation by the qualified supervisor of the provision of marriage and family therapy services.”

3. By deleting the definition of “marriage and family therapy intern”.
~~[“Marriage and family therapy intern” means a person who has completed all educational requirements stipulated in section 451J-7(1)(A) and who is currently earning supervised clinical experience in marriage and family therapy under clinical supervision.”]~~

SECTION 4. Section 451J-3, Hawaii Revised Statutes, is amended to read as follows:

“§451J-3 Powers and duties of the director. In addition to any other powers and duties authorized by law, the director may:

- (1) Examine and approve the qualifications of all applicants under this chapter, and issue a license to each successful applicant granting permission to use the title of marriage and family therapist ~~[or]~~, licensed marriage and family therapist, associate marriage and family therapist, or licensed associate marriage and family therapist in this State pursuant to this chapter and the rules adopted under this chapter;
- (2) Adopt, amend, or repeal rules pursuant to chapter 91;
- (3) Administer, coordinate, and enforce this chapter and rules;
- (4) Discipline a person licensed as a marriage and family therapist or an associate marriage and family therapist for any cause described by this chapter, or for any violation of rules, or refuse to license a person for failure to meet licensing requirements or for any cause that would be grounds for disciplining a licensed marriage and family therapist~~;~~ or licensed associate marriage and family therapist; and
- (5) Appoint an advisory committee of licensed marriage and family therapists and members of the public to assist with the implementation of this chapter and the rules; except that the initial members of the committee who are marriage and family therapists shall not be required to be licensed pursuant to this chapter.”

SECTION 5. Section 451J-5, Hawaii Revised Statutes, is amended to read as follows:

“§451J-5 Prohibited acts. Except as specifically provided elsewhere in this chapter, no person shall use the title marriage and family therapist ~~[or]~~, licensed marriage and family therapist, associate marriage and family therapist, or licensed associate marriage and family therapist without first having secured a license under this chapter. The department shall investigate and prosecute any individual using the title of marriage and family therapist ~~[or]~~, licensed marriage and family therapist, associate marriage and family therapist, or licensed associate marriage and family therapist without being properly licensed as a marriage and family therapist~~[-]~~ or an associate marriage and family therapist. Any person who violates this section shall be subject to a fine of ~~[not]~~ no more than \$1,000 per violation. Each day’s violation shall be deemed a separate offense. Any action taken to impose or collect the fine imposed under this section shall be a civil action.”

SECTION 6. Section 451J-6, Hawaii Revised Statutes, is amended to read as follows:

“§451J-6 Exemptions. (a) Licensure shall not be required of:

- (1) A person doing work within the scope of practice or duties of the person’s profession that overlaps with the practice of marriage and family therapy; provided that the person does not purport to be a marriage and family therapist ~~[or]~~, a licensed marriage and family therapist~~;~~, an associate marriage and family therapist, or a licensed associate marriage and family therapist; or
- (2) Any student enrolled in an accredited educational institution in a recognized program of study leading toward attainment of a graduate degree in marriage and family therapy or other professional field; provided that the student’s activities and services are part of a prescribed course of study supervised by the educational institution and the student is identified by an appropriate title, including but not limited to “marriage and family therapy student or trainee”, “clinical psychology student or trainee”, “clinical social work student or trainee”, or any title ~~[which]~~ that clearly indicates training status~~;~~~~or~~
- (3) ~~Any individual who uses the title marriage and family therapy intern for the purpose of obtaining clinical experience in accordance with section 451J-7(3)].~~

(b) Nothing in this chapter shall be construed to prevent qualified members of other licensed professions as defined by any law, rule, or the department, including but not limited to social workers, psychologists, registered nurses, or physicians, from doing or advertising that they assist or treat individuals, couples, or families consistent with the accepted standards of their respective licensed professions; provided that no person, unless the person is licensed as a marriage and family therapist~~;~~ or an associate marriage and family therapist, shall use the title of marriage and family therapist ~~[or]~~, licensed marriage and family therapist~~;~~, associate marriage and family therapist, or licensed associate marriage and family therapist.”

SECTION 7. Section 451J-9, Hawaii Revised Statutes, is amended to read as follows:

“[§451J-9] Licensure fees. ~~[Licenses]~~ Except as otherwise provided in section 451J-, licenses shall be valid for three years and shall be renewed triennially. Any applicant for renewal of a license that has expired within one year of the renewal deadline shall be required to pay a restoration fee in addition to all renewal fees.”

SECTION 8. Section 451J-10, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) [Licenses] Except as otherwise provided in section 451J-, licenses shall be renewed triennially on or before December 31, with the first renewal deadline occurring on December 31, 2001. Failure to renew a license shall result in a forfeiture of the license. Licenses that have been forfeited may be restored within one year of the expiration date upon payment of renewal and restoration fees, and in the case of marriage and family therapists or licensed marriage and family therapists audited pursuant to subsection (f), documentation of continuing education compliance. Failure to restore a forfeited license within one year of the date of its expiration shall result in the automatic termination of the license. Persons with terminated licenses shall be required to reapply for licensure as a new applicant.”

SECTION 9. Section 451J-12, Hawaii Revised Statutes, is amended to read as follows:

“§451J-12 Confidentiality and privileged communications. No person licensed as a marriage and family therapist^[;] or an associate marriage and family therapist, nor any of the person’s employees or associates, shall be required to disclose any information that the person may have acquired in rendering marriage and family therapy services except in the following circumstances:

- (1) As required by law;
- (2) To prevent a clear and immediate danger to a person or persons;
- (3) In the course of a civil, criminal, or disciplinary action arising from the therapy where the therapist is a defendant;
- (4) In a criminal proceeding where the client is a defendant and the use of the privilege would violate the defendant’s right to a compulsory process of the right to present testimony and witnesses in the defendant’s own behalf;
- (5) In accordance with the terms of a client’s previously written waiver of the privilege; or
- (6) Where more than one person in a family jointly receives therapy and each family member who is legally competent executes a written waiver; in that instance, a marriage and family therapist or an associate marriage and family therapist may disclose information received from any family member in accordance with the terms of the person’s waiver.”

SECTION 10. Section 451J-13, Hawaii Revised Statutes, is amended to read as follows:

“§451J-13 Therapist prohibited from testifying in alimony and divorce actions. If both parties to a marriage have obtained marriage and family therapy by a licensed marriage and family therapist^[;] or licensed associate marriage and family therapist, the therapist shall be prohibited from testifying in an alimony or divorce action concerning information acquired in the course of therapy. This section shall not apply to custody actions whether or not part of a divorce proceeding.”

PART III

SECTION 11. Chapter 453D, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§453D- Provisional license for associate mental health counselors; services reimbursable. (a) The department shall grant, upon application and payment of proper fees, provisional licensure as an associate mental health counselor to an individual who:

- (1) Has received a master’s or doctoral degree from an accredited educational institution in counseling or in an allied field related to the practice of mental health counseling that includes, or is supplemented by, at least two academic terms of supervised mental health practicum intern experience for graduate credit of at least six semester hours or ten quarter hours in a mental health counseling setting, with a total of three hundred hours of supervised client contact. The practicum experience shall be completed under the clinical supervision of a licensed clinical supervisor; and
- (2) Engages in the practice of mental health counseling under the clinical supervision of a licensed clinical supervisor during the period of time necessary to fulfill the requirements for licensure as a mental

health counselor pursuant to section 453D-7(a)(2); provided that the licensed clinical supervisor is in good standing with the department.

(b) Each provisional license issued pursuant to this section shall include the name and title of the licensed clinical supervisor providing clinical supervision of the applicant as described in subsection (a)(2). A licensed associate mental health counselor shall practice mental health counseling only under the direct supervision of the licensed clinical supervisor.

(c) A provisional license issued pursuant to this section shall be valid for one year from the date of issuance and may be renewed for an additional one-year period if needed to fulfill the requirements for licensure as a mental health counselor pursuant to section 453D-7(a)(2).

(d) Services provided by a supervised licensed associate mental health counselor shall be eligible for insurance reimbursement; provided that the supervising licensed clinical supervisor's services are eligible for reimbursement as a contracted provider; provided further that the billed rate for the licensed associate mental health counselor is commensurate with the requisite level of training.

(e) For the purposes of this section, "clinical supervisor" means a person who provides clinical supervision and who is licensed as a mental health counselor, psychologist, clinical social worker, advanced practice registered nurse with a specialty in mental health, marriage and family therapist, or physician with a specialty in psychiatry."

SECTION 12. Section 453D-1, Hawaii Revised Statutes, is amended as follows:

1. By adding a new definition to be appropriately inserted and to read:

"Associate mental health counselor" or "licensed associate mental health counselor" means a person who:

- (1) Has completed all education requirements under section 453D-(a)(1);
- (2) Has been issued a provisional license under this chapter; and
- (3) Is currently earning supervised clinical experience in mental health counseling under clinical supervision."

2. By amending the definition of "clinical supervision" to read:

"Clinical supervision" means supervision applied to all individuals who are gaining the experience required for a license as a mental health counselor[-] or an associate mental health counselor. "Clinical supervision" includes but is not limited to:

- (1) Case consultation on the assessment and presenting problem;
- (2) Development and implementation of treatment plans;
- (3) Enhancement of the supervisee's counseling techniques and treatment evaluation skills; and
- (4) Evaluation of the course of treatment."

SECTION 13. Section 453D-3, Hawaii Revised Statutes, is amended to read as follows:

[[§453D-3]] Powers and duties of the director. In addition to any other powers and duties authorized by law, the director shall have the powers and duties to:

- (1) Grant permission to a person to use the title of "licensed mental health counselor" or "licensed associate mental health counselor" or a description indicating one is a licensed mental health counselor or licensed associate mental health counselor in this State pursuant to this chapter and the rules adopted pursuant thereto;

- (2) Adopt, amend, or repeal rules pursuant to chapter 91 as the director finds necessary to carry out this chapter;
- (3) Administer, coordinate, and enforce this chapter;
- (4) Discipline a licensed mental health counselor or licensed associate mental health counselor for any due cause described by this chapter or violation of the rules;
- (5) Refuse to license a person for failure to meet licensing requirements or on grounds sufficient to discipline a licensed mental health counselor[;] or licensed associate mental health counselor; and
- (6) Appoint an advisory committee consisting of licensed mental health counselors and members of the public to assist with the implementation of this chapter and adopted rules; provided that the initial members of the committee who are mental health counselors shall not be required to be licensed pursuant to this chapter.”

SECTION 14. Section 453D-5, Hawaii Revised Statutes, is amended to read as follows:

“~~§~~**§453D-5** **Prohibited acts.** Except as specifically provided in this chapter, no person shall engage in the practice of mental health counseling or use the title of “licensed mental health counselor” ~~[or]~~, “mental health counselor”, “licensed associate mental health counselor”, or “associate mental health counselor” without a valid license issued under this chapter. Any person who violates this section shall be subject to a fine of ~~[not]~~ no more than \$1,000 for each separate offense. Each day of each violation shall constitute a separate offense. Any action taken to impose or collect the fine imposed under this section shall be a civil action.”

SECTION 15. Section 453D-6, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

- “(a) This chapter shall not apply to:
- (1) A person doing work within the duties of the person’s profession that overlaps with the practice of mental health counseling; provided that ~~[no such]~~ the person shall not use a title stating or implying that the person is a “licensed mental health counselor” ~~[or]~~, “mental health counselor”, “licensed associate mental health counselor”, or an “associate mental health counselor” or describe or refer to the person’s services as mental health counseling;
 - (2) Any person who is a duly recognized member of the clergy; provided that the person functions only within the person’s capacity as a member of the clergy; ~~[and]~~ provided further that the person does not represent the person to be a “licensed mental health counselor” ~~[or]~~, “mental health counselor”, “licensed associate mental health counselor”, or an “associate mental health counselor” or describe or refer to the person’s services as mental health counseling;
 - (3) Any student enrolled in an accredited educational institution in a recognized program of study leading towards attainment of a graduate degree in mental health counseling or other professional field; provided that the student’s activities and services are part of a prescribed course of study supervised by the accredited educational institution and the student is identified by an appropriate title, including but not limited to “mental health counseling student” or “trainee”, “clinical psychology student” or “trainee”, “social work student” or “trainee”, “marriage and family counseling student” or “trainee”, or any title that clearly indicates training status;

- [~~(4)~~] ~~Any individual who uses the title of “mental health counselor intern” for the purpose of obtaining clinical experience in accordance with section 453D-7(a)(2);~~
- (5)] (4) Any person employed by a federal, state, or county government agency in a counseling position, but only at those times when the employee is carrying out the duties and responsibilities as a counselor in governmental employment; or
- [~~(6)~~] (5) Any person who is obtaining supervised clinical experience for licensure as a psychologist, social worker, marriage and family therapist, or as another licensed professional; provided that the person’s title indicates a trainee or intern status; and provided further that the person does not purport to be a “licensed mental health counselor” [~~or~~], “mental health counselor”[-], “licensed associate mental health counselor”, or an “associate mental health counselor”.”

SECTION 16. Section 453D-10, Hawaii Revised Statutes, is amended to read as follows:

“~~[[~~**§453D-10**~~]]~~ **Licensure; fees.** A license shall be issued to a person deemed to be qualified under [~~section~~] sections 453D- ~~or 453D-7~~ upon the payment of a license fee to be determined by the department and shall be valid for three years[-]; provided that provisional licenses shall be valid for one year.”

SECTION 17. Section 453D-11, Hawaii Revised Statutes, is amended to read as follows:

“~~[[~~**§453D-11**~~]]~~ **Renewal of license; fees.** [~~Licenses~~] Except as otherwise provided in section 453D- , licenses shall be renewed, upon the payment of a renewal fee, triennially not earlier than ninety days before June 30, with the first renewal deadline occurring on June 30, 2008. Failure to renew a license shall result in a forfeiture of the license. Licenses that have been forfeited may be restored within one year of the expiration date upon payment of renewal and restoration fees. Failure to restore a forfeited license within one year of the date of its expiration shall result in the automatic termination of the license and the person may be required to reapply for licensure as a new applicant. All renewal and restoration fees shall be determined by the department.”

SECTION 18. Section 453D-13, Hawaii Revised Statutes, is amended to read as follows:

“~~[[~~**§453D-13**~~]]~~ **Confidentiality and privileged communications.** No person licensed as a mental health counselor[-] or an associate mental health counselor, nor any of the person’s employees or associates, shall be required to disclose any information that the person may have acquired in rendering mental health counseling services, except in the following circumstances:

- (1) As required by law;
- (2) To prevent a clear and imminent danger to a person or persons;
- (3) In accordance with the terms of a previously written waiver of the privilege where the waiver is executed by the client or by the client’s legally recognized representative;
- (4) Where more than one person jointly receives counseling and each person who is legally competent executes a written waiver. In that instance, [~~a mental health counselor~~] information may [~~disclose information~~] be disclosed from any person in accordance with that person’s waiver; or
- (5) In the course of a disciplinary action or pursuant to a duly authorized subpoena issued by the department.”

SECTION 19. Section 453D-14, Hawaii Revised Statutes, is amended to read as follows:

“~~§453D-14~~ Mental health counselor or associate mental health counselor prohibited from testifying in alimony and divorce actions. If both parties to a marriage have obtained mental health counseling from a licensed mental health counselor~~[,]~~ or licensed associate mental health counselor, the counselor shall be prohibited from testifying in an alimony or divorce action concerning information acquired in the course of mental health counseling. This section shall not apply to custody actions whether or not part of a divorce proceeding.”

PART IV

SECTION 20. Chapter 465, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§465- Provisional license for associate psychologists; services reimbursable. (a) The board shall grant, upon application and payment of proper fees, provisional licensure as an associate psychologist to an individual who:

- (1) Possesses a doctoral degree from:
 - (A) An American Psychological Association approved program in clinical psychology, counseling psychology, school psychology, or programs offering combinations of two or more of these areas; or
 - (B) A professional psychology training program, awarded by an institution of higher education, or from a regionally accredited institution; and
- (2) Is engaging in post-doctoral supervised experience in health service in psychology pursuant to an organized health service training program approved by the board.

(b) Each provisional license issued pursuant to this section shall include the name and title of the supervising psychologist or psychologists in the training program described in subsection (a)(2). An associate psychologist shall practice psychology only under the direct supervision of the supervising psychologist; provided that:

- (1) The supervising psychologist holds a current, active, and unencumbered license with the board; and
 - (2) The supervising psychologist shall notify the board within ten days of the termination or completion of the supervision.
- (c) A provisional license issued pursuant to this section shall be valid for one year to fulfill the requirements for full licensure as a psychologist under section 465-7.

(d) Services provided by a supervised associate psychologist shall be eligible for insurance reimbursement; provided that the supervising psychologist's services are eligible for reimbursement as a contracted provider; provided further that the billed rate for the associate psychologist is commensurate with the requisite level of training.”

SECTION 21. Section 465-1, Hawaii Revised Statutes, is amended by adding a new definition to be appropriately inserted and to read as follows:

““Associate psychologist” means a person who:

- (1) Has completed all educational requirements under section 465-(a)(1);
- (2) Has been issued a provisional license under this chapter; and

- (3) Is currently engaging in post-doctoral supervised experience in health service in psychology pursuant to an organized health service training program approved by the board.”

SECTION 22. Section 465-2, Hawaii Revised Statutes, is amended to read as follows:

“**§465-2 License required.** Except as otherwise provided in this chapter, it shall be unlawful to represent one’s self as a psychologist or an associate psychologist or engage in the practice of psychology without having first obtained a license as provided in this chapter.”

SECTION 23. 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, except an associate psychologist granted provisional licensure pursuant to section 465-, 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 an associate 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~~ the 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;]~~ or enrolled in a professional psychology training program as defined under this chapter; provided that the person shall not identify the person’s self as a psychologist or an associate 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]~~ shall not represent the person’s self to be a psychologist ~~[or does not represent that the person is]~~, an associate psychologist, or an individual 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]~~ shall not represent the person to be a psychologist~~[.]~~ or an associate psychologist or the person's services as psychological;
- (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]~~ shall not represent the person to be a psychologist~~[.]~~ or an associate 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]~~ shall be credentialed by Tripler Army Medical Center~~[.]~~ or
- (9) ~~Any supervisee of a licensed psychologist as defined in section 465D-7.~~"

SECTION 24. Section 465-3.5, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) Notwithstanding other provisions in this chapter, the director of health may certify that there is an absence or shortage of licensed psychologists or associate psychologists for government employment in a particular locality. Upon receiving certification of the absence or shortage, the board shall authorize the director to hire and retain persons currently in government employment to fill the absence or shortage; provided that persons hired or retained have been duly licensed as a psychologist by written examination under the laws of another state or territory of the United States prior to 1977."

SECTION 25. Section 465-6, Hawaii Revised Statutes, is amended to read as follows:

§465-6 Powers and duties. In addition to any other powers and duties authorized by law, the board shall:

- (1) Examine the qualifications of applicants for licensing under this chapter to determine their eligibility for licensing as psychologists~~[.]~~ or associate psychologists;
- (2) Administer and grade examinations for applicants as may be required for the purposes of this chapter. The board shall determine the examinations and the score that shall be deemed a passing score. Examinations shall be scheduled at least once annually;
- (3) Keep a record of action taken on all applicants for licensing; the names of all persons licensed; petitions for temporary permits; actions involving suspension, revocation, or denial of licenses; decisions on waiver of examination in whole or in part and receipt and disbursement of any moneys; and
- (4) Adopt, amend, and repeal pursuant to chapter 91, rules as it deems proper for the purposes of this chapter."

SECTION 26. Section 465-7, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) Every applicant for a license as a psychologist shall submit evidence satisfactory to the board that the applicant meets the following requirements:

- (1) The applicant for licensure shall possess a doctoral degree from:

- (A) An American Psychological Association approved program in clinical psychology, counseling psychology, school psychology, or programs offering combinations of two or more of these areas; or
- (B) A professional psychology training program, awarded by an institution of higher education, or from a regionally accredited institution;
- (2) The applicant for licensure shall demonstrate that the applicant has completed one year of post doctoral supervised experience in health service in psychology, and:
 - (A) An internship approved by the American Psychological Association; or
 - (B) One year of supervised experience in health service in psychology, in an internship or residency program in an organized health service training program; and
- (3) The applicant for licensure has passed an examination as may be prescribed by the board[-]; provided that applicants issued an associate psychologist provisional license pursuant to section 465- shall be authorized to take the examination upon the issuance of the license; provided further that the authorization to take the examination shall terminate on the date the provisional license expires or if disciplinary action is taken on the license.

SECTION 27. Section 465-7.6, Hawaii Revised Statutes, is amended to read as follows:

“§465-7.6 Licensure of state employed clinical psychologists. (a) A psychologist employed in a civil service clinical psychologist position in this State after January 1, 1988, shall be licensed subject to:

- (1) Meeting the requirements of section 465-7; and
- (2) Obtaining licensure within two years from the date of employment[-]; provided that if the psychologist is not able to obtain licensure pursuant to subsection (a)(2), the board may grant a waiver of up to one year to complete the requirements for licensure if the psychologist can demonstrate that the inability to meet the requirements for licensure was caused by circumstances beyond the psychologist's control.

(b) [After] Absent a waiver obtained pursuant to subsection (a), or upon the expiration of the time period in subsection (a)(2) [has expired], a psychologist, employed in a civil service clinical psychologist position rendering diagnostic or treatment services, who has not obtained a license, shall immediately cease and desist the practice of psychology until a license is obtained pursuant to this chapter.”

SECTION 28. Section 465-8, Hawaii Revised Statutes, is amended to read as follows:

“§465-8 Licenses, issuance, display. Upon the board forwarding to the director the name of each applicant who is entitled to a license under this chapter and upon receipt of the prescribed fee, the director shall promptly issue to each applicant a license authorizing the applicant to engage in the practice of psychology for a period of two years. The license shall be in the form as the director shall determine. A licensed psychologist or an associate psychologist shall display the license in a conspicuous place in the psychologist's or associate psychologist's principal place of business[-]; provided that a provisional license shall include the name and title of the supervising psychologist or psychologists.”

SECTION 29. Section 465-11, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

“(d) First-time licensees and associate psychologists licensed pursuant to section 465- shall not be subject to the continuing education requirement established under subsection (c)(2) for the first license renewal.”

SECTION 30. Section 465-15, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) No person shall:

- (1) Use in connection with the person’s name any designation tending to imply that the person is a licensed psychologist or licensed associate psychologist unless the person is duly licensed and authorized under this chapter;
- (2) Represent oneself as a licensed psychologist or licensed associate psychologist during the time the person’s license issued under this chapter is suspended or revoked;
- (3) Advertise or make a representation, either publicly or privately, as being a psychologist[;] or an associate psychologist, licensed or otherwise, or as being able to perform professional services described in section 465-1, except as otherwise provided in this chapter, without having a valid unrevoked license or temporary permit issued by the director; or
- (4) Otherwise violate this chapter.”

PART V

SECTION 31. Section 467E-6, Hawaii Revised Statutes, is amended to read as follows:

“**§467E-6 Exemptions.** Licensure shall not be required of:

- (1) Any licensed person doing work within the scope of practice or duties of the person’s profession that overlaps with the practice of social work; provided that the person does not purport to be a social worker;
- (2) Any person employed by a federal, state, or county government agency in a social worker position, but only at those times when that person is carrying out the duties and responsibilities as a social worker in governmental employment;
- (3) Any student enrolled in an accredited educational institution in a recognized program of study leading toward attainment of a degree in social work; provided that the student’s activities and services are part of a prescribed course of study supervised by the educational institution, and the student is identified by an appropriate title such as “social work student”, “social work intern”, or any other title which clearly indicates the student’s training status;
- (4) 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 purport to be a social worker;
- (5) Any person teaching, lecturing, consulting, or engaging in research in social work 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 social work outside the responsibilities of the person’s employment;

- (6) 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 purport to be a social worker;
- (7) Any person who is obtaining supervised clinical experience for licensure as a psychologist, marriage and family therapist, or as another licensed professional; provided that the person's title indicates a trainee status; and provided further that the person does not purport to be a social worker; and
- (8) Any person in the process of obtaining three thousand hours of post masters clinical social work experience under the supervision of a licensed clinical social worker or individual identified in section [467E-7(3)(C)(ii)] 467E-7(a)(3)(C)(ii) in order to qualify for a license as a licensed clinical social worker; and provided that the person calls oneself a clinical social work intern and is supervised while performing clinical diagnosis and psychotherapy."

SECTION 32. Section 467E-7, Hawaii Revised Statutes, is amended to read as follows:

"§467E-7 Licensing requirements[-]; services reimbursable. (a) Every applicant for a license as a social worker shall submit evidence satisfactory to the director that the applicant meets the following requirements:

- (1) For the licensed bachelor social worker, the applicant:
 - (A) Holds a bachelor's degree from a college or university in a social work program accredited by or deemed to be equivalent to a program accredited by the Council on Social Work Education; and
 - (B) Has passed the basic level national examination given by the Association of Social Work Boards;
- (2) For the licensed social worker, the applicant:
 - (A) Holds a master's degree from a college or university in a social work program accredited by or deemed to be equivalent to an accredited program by the Council on Social Work Education or a doctoral degree from a doctoral degree program in social work accredited by the Western Association of Schools and Colleges or a comparable regional accreditation body; and
 - (B) Has passed the intermediate or higher level national examination given by the Association of Social Work Boards; and
- (3) For the licensed clinical social worker, the applicant:
 - (A) Has met the educational requirements in paragraph (2);
 - (B) Has passed the clinical level national examination given by the Association of Social Work Boards;
 - (C) Has provided evidence of successful completion of at least three thousand hours of post masters clinical social work experience under supervision completed within no fewer than two years, but within no more than five years. Clinical social work experience shall include a minimum of two thousand hours of assessment, clinical diagnosis, and psychotherapy; no more than a maximum of nine hundred hours of client-centered advocacy, consultation, and evaluation; and at least one hundred hours of supervision as follows:
 - (i) At least sixty of the one hundred hours of direct face-to-face supervision shall have been individualized supervision; and

- (ii) Not more than forty hours of direct face-to-face supervision may have been under small group (up to six supervisees) supervision.
An applicant who submits evidence of certification as a qualified clinical social worker or diplomate in clinical social work by the National Association of Social Workers or as a board certified diplomate by the American Board of Examiners shall be deemed to have satisfied the experience requirements of this subparagraph;
- (D) For the purposes of subparagraph (C), shall have had clinical supervision as follows:
 - (i) The supervisor shall have been a licensed clinical social worker with at least four thousand five hundred hours of post masters clinical social work experience;
 - (ii) For the first five years after July 1, 2004, the following individuals shall be deemed to have satisfied the requirements of a supervisor: a person with a master's degree in social work with at least four thousand five hundred hours post masters clinical social work experience; an individual who holds a diplomate in clinical social work or a board certified diplomate certification; or a board certified psychiatrist, psychologist, advanced practice registered nurse who has a minimum of four thousand five hundred hours of post masters clinical experience in assessment, clinical diagnosis, and psychotherapy; and
 - (iii) Supervision shall have included review of assessment, clinical diagnosis, and psychotherapy; and
- (E) In collaboration with the supervisor, may elect to fulfill some or all of the supervision requirements set forth in subparagraph (C) through face-to-face supervision that is conducted electronically through a video conference service that is compliant with all federal and state privacy, security, and confidentiality laws, including the Health Insurance Portability and Accountability Act of 1996. Prior to making ~~such an~~ the election, it is incumbent upon the applicant to review the laws and rules of other jurisdictions to determine the impact, if any, that electronic supervision may have on license by endorsement in other states.

(b) Services provided by a supervised social work intern obtaining post masters clinical social work experience under the supervision of a licensed clinical social worker or individual identified in subsection (a)(3)(D) to qualify for a license as a licensed clinical social worker shall be eligible for insurance reimbursement; provided that the supervising licensed clinical social worker's services are eligible for reimbursement as a contracted provider; provided further that the billed rate for the social work intern is commensurate with the requisite level of training."

SECTION 33. Section 571-46.4, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) Subject to subsection (c), a person may be appointed as a child custody evaluator for purposes of section 571-46 if the person is actively licensed as a:

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- (1) Marriage and family therapist under chapter 451J;
- (2) Physician under chapter 453 and is a board certified psychiatrist or has completed a residency in psychiatry;
- (3) Psychologist under chapter 465; or
- (4) Clinical social worker under section [~~467E-7(3).~~ 467E-7(a)(3)].”

PART VI

SECTION 34. There is appropriated out of the compliance resolution fund the sum of \$148,406 or so much thereof as may be necessary for fiscal year 2024-2025 as follows:

- (1) \$73,406 to establish, recruit, and hire one full-time equivalent (1.0 FTE) office assistant V position to process new license applications established by this Act; and
- (2) \$75,000 to make appropriate updates to the professional and vocational licensing division’s internal databases to create new license types established by this Act and associated requirements.

The sum appropriated shall be expended by the department of commerce and consumer affairs for the purposes of this Act.

SECTION 35. Fees assessed pursuant to the new categories of provisional or associate-level licenses established by parts II, III, and IV of this Act shall be used to defray costs incurred by the department of commerce and consumer affairs to support the operations of the marriage and family therapist licensing program and mental health counselors licensing program and the regulation of psychologists by the board of psychology. Fees collected shall be managed in accordance with section 26-9(I), Hawaii Revised Statutes.

PART VII

SECTION 36. If any provision of this Act, or the application thereof to any person or circumstance, is held invalid, the invalidity does not affect other provisions or applications of the Act that can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

SECTION 37. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.¹

SECTION 38. This Act shall take effect on July 1, 2024; provided that:

- (1) Any provision in this Act authorizing insurance reimbursement for services provided to medicaid enrollees shall be subject to approval by the Centers for Medicare and Medicaid Services; and
- (2) Parts II, III, IV, and V shall take effect on July 1, 2026.

(Approved June 27, 2024.)

Note

1. Edited pursuant to HRS §23G-16.5.