A BILL FOR AN ACT

RELATING TO PRESCRIPTIVE AUTHORITY FOR CERTAIN CLINICAL PSYCHOLOGISTS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

SECTION 1. The legislature finds there are not enough prescribing mental health care providers available to serve the needs of Hawaii's people. Because of this shortage, access to quality, comprehensive, and affordable health care can be facilitated and enhanced by collaborative practice between licensed clinical psychologists and medical doctors. Authorizing qualified clinical psychologists with appropriate advanced training to prescribe from a limited formulary of psychotropic medication will benefit Hawaii residents who live in rural or medically underserved communities, where mental health professionals with prescriptive authority are in short supply.

The legislature further finds that the mental health needs of the State continue to outweigh present capacity. According to the Annual Report on Findings from the Hawaii Physician Workforce Assessment Project (December 2018), psychiatrist
shortages are highest in Maui and Kauai counties. Maui county has the greatest shortage, at 36.91 per cent, followed by Kauai county with a 33.30 per cent shortage, and then Hawaii county with a 32.95 per cent shortage. The 2018 report reflected no shortage of psychiatrists in the city and county of Honolulu, however these calculations do not factor in the additional systemic barriers related to accessing care in urban areas, such as long wait times to see psychiatrists, psychiatrists not taking new patients due to being overbooked, and psychiatrists not taking medicaid or medicare insurance. As high as these shortages are, the 2018 report notes that these measurements are based on the assumption that there is an adequate number of primary care physicians in each county. Since there are critical shortages of primary care physicians in Hawaii, the psychiatrist shortages may be underestimated.

Lack of access to appropriate mental health treatment has serious and irrevocable consequences for many Hawaii residents. According to the department of health, of the ten leading injury-related causes of death, death by suicide is the number one cause among Hawaii residents from the ages of fifteen to twenty-four. Studies have shown that people who attempt or
commit suicide have often received inadequate or no mental
health treatment due to the effects of a shortage of community
mental health providers. While causes for suicide are complex,
the most commonly reported contributing factors are mental
health conditions that, when identified and treated, respond
favorably to therapy and psychotropic medication.

A 2016 Hawaii News Now article reported that sixty-one per
cent of all people arrested in 2015 on Oahu suffered from
serious mental illness or severe substance intoxication. This
almost two-fold increase occurred in the period following
substantial cuts to state-supported mental health services in
2009.

According to the National Alliance on Mental Illness and
the federal Substance Abuse and Mental Health Services
Administration, approximately thirty-two thousand adults in
Hawaii, representing more than three per cent of the population,
live with serious mental illness. The actual scope of need in
the State is even greater since this figure excludes individuals
with clinical diagnoses such as unipolar depression, anxiety
disorders, adjustment disorders, substance abuse, or post-
traumatic stress disorder.
The legislature additionally finds that increasing the number of prescribing mental health providers would be beneficial to the State's homeless population. According to the 2018 Hawaii Statewide Point-In-Time Count, there are an estimated 6,530 homeless persons in the State, with an estimated 1,714 of those persons meeting the definition of chronically homeless. According to the 2018 Oahu Homeless Point-In-Time Count, there are an estimated 4,495 homeless persons on Oahu. Of those persons, a large number fall into four subpopulations that would likely benefit from increased access to prescribing mental health providers, including: 1,084 adults with a serious mental illness; 820 adults with a substance use disorder; 48 adults with HIV/AIDS; and 280 adult survivors of domestic violence.

Clinical psychologists are licensed health professionals with an average of seven years of post-baccalaureate study and three thousand hours of post-graduate supervised practice in the diagnosis and treatment of mental illness. The American Psychological Association has developed a model curriculum for a master's degree in psychopharmacology for the education and training of prescribing psychologists. However, the current
allowable scope of clinical psychologists' practice in Hawaii

does not include prescribing medications. Currently, these

providers' patients must consult with and pay for another

provider to obtain psychotropic medication when it is indicated.

The legislature has previously authorized prescription

privileges for advanced practice registered nurses,

optometrists, dentists, and naturopathic physicians. Licensed

clinical psychologists with specialized education and training

for prescriptive practice have been allowed to prescribe

psychotropic medications to active duty military personnel and

their families in federal facilities and the United States

Public Health Service for decades. In recent years, Idaho,

Iowa, Illinois, Louisiana, and New Mexico have adopted

legislation authorizing prescriptive authority for advanced

trained psychologists. Many of these prescribing psychologists

have filled long-vacant public health positions or otherwise

serve predominantly indigent and rural patient populations.

Independent evaluations of the federal Department of

Defense psychopharmacological demonstration project by the

Government Accountability Office and the American College of

Neuropsychopharmacology, as well as the experiences in other
jurisdictions, have shown that appropriately trained
psychologists can prescribe and administer medications safely
and effectively.

The purpose of this Act is to authorize the board of
psychology to grant prescriptive authority to prescribing
psychologists who meet specific education, training, and
registration requirements.

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

"PART  .  PRESCRIBING PSYCHOLOGISTS

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

"Advanced practice registered nurse with prescriptive
authority" means an advanced practice registered nurse, as
defined in section 457-2, with prescriptive authority granted
pursuant to section 457-8.6.

"Clinical experience" means a period of supervised clinical
training and practice in which clinical diagnoses and
interventions, which can be completed and supervised as part of
or subsequent to earning a post-doctoral master of science degree in clinical psychopharmacology training, are learned.

"Controlled substance" has the same meaning as in section 329-1.

"Forensically encumbered" means a person who has been detained by Hawaii courts for forensic examination or committed to a psychiatric facility under the care and custody of the director of health for appropriate placement by any court; has been placed on conditional release or released on conditions by a judge in Hawaii courts; or is involved in mental health court of a jail diversion program.

"Narcotic drug" has the same meaning as in section 329-1.

"Opiate" has the same meaning as in section 329-1.

"Prescribing psychologist" means a clinical psychologist who has undergone specialized training in clinical psychopharmacology, passed a national proficiency examination in psychopharmacology approved by the board, and been granted a prescriptive authority privilege by the board.

"Prescription" means an order for a psychotropic medication or any device or test directly related to the diagnosis and
treatment of mental and emotional disorders pursuant to the practice of psychology.

"Prescriptive authority privilege" means the authority granted by the board to prescribe and administer psychotropic medication and other directly related procedures within the scope of practice of psychology in accordance with rules adopted by the board.

"Primary care provider" means a physician or osteopathic physician licensed or exempt from licensure pursuant to section 453-2 or an advanced practice registered nurse with prescriptive authority.

"Psychotropic medication" means only those agents related to the diagnosis and treatment of mental and emotional disorders pursuant to the practice of psychology, except drugs classified into schedule I, II, or III pursuant to chapter 329, opiates, or narcotic drugs; provided that psychotropic medication shall include stimulants for the treatment of attention deficit hyperactivity disorder regardless of the stimulants' schedule classification.

"Serious mental illness" means bipolar I disorder, bipolar II disorder, delusional disorder, major depressive disorder with
psychotic features, psychosis secondary to substance use,
schizophrenia, schizophreniform disorder, and schizoaffective
disorder, as defined by the most current version of the
Diagnostic and Statistical Manual of Mental Disorders.
§465-B Administration. (a) The board shall prescribe
application forms and fees for application for and renewal of
prescriptive authority privilege pursuant to this part.
(b) The board shall develop and implement procedures to
review the educational and training credentials of a
psychologist applying for or renewing prescriptive authority
privilege under this part, in accordance with current standards
of professional practice.
(c) The board shall determine the exclusionary formulary
for prescribing psychologists.
(d) The board shall have all other powers which may be
necessary to carry out the purposes of this part.
§465-C Prescriptive authority privilege; requirements.
Beginning on July 1, 2020, the board shall accept applications
for prescriptive authority privilege. Every applicant for
prescriptive authority privilege shall submit evidence
satisfactory to the board, in a form and manner prescribed by
the board, that the applicant meets the following requirements:

(1) The applicant possesses a current license pursuant to
section 465-7;

(2) The applicant successfully graduated with a post
degree in clinical
psychopharmacology from a regionally-accredited
institution with a clinical psychopharmacology program
designated by the American Psychological Association,
or the equivalent of a post doctoral degree, as approved by the board; provided that any equivalent
shall include study in a program offering intensive
didactic education including instruction in anatomy
and physiology, biochemistry, neuroanatomy,
neurophysiology, neurochemistry, physical assessment
and laboratory examinations, clinical medicine and
pathophysiology, clinical and research pharmacology
and psychopharmacology, clinical pharmacotherapeutics,
research, and professional, ethical, and legal issues;

(3) The applicant has clinical experience that includes:
(A) A minimum of four hundred hours completed in a clinical prescribing practicum including geriatric, pediatric, and pregnant patients completed in no less than twelve months and no more than forty-eight months;

(B) Supervision of a minimum of one hundred patients including geriatric, pediatric, and pregnant patients;

(C) A minimum of eighty hours completed in a physical assessment practicum in a primary care, family practice, community, or internal medicine setting;

(D) No less than one hundred hours of community service with homeless, veteran, or low-income populations; and

(E) No less than two hours per week of supervision by a primary care provider or a prescribing psychologist.

(4) The applicant has successfully passed the nationally recognized Psychopharmacology Examination for Psychologists developed by the American Psychological
Association's Practice Organization's College of Professional Psychology, or other authority, relevant to establish competence across the following content areas: neuroscience, nervous system pathology, physiology and pathophysiology, biopsychosocial and pharmacologic assessment and monitoring, differential diagnosis, pharmacology, clinical psychopharmacology, research, integrating clinical psychopharmacology with the practice of psychology, diversity factors, and professional, legal, ethical, and interprofessional issues; provided that the passing score shall be determined by the American Psychological Association's Practice Organization's College of Professional Psychology or other authority, as applicable.

§465-D  Prescriptive authority privilege; renewal.  (a) The board shall implement a method for the renewal of prescriptive authority privilege in conjunction with the renewal of a license under section 465-11.

(b) To qualify for the renewal of prescriptive authority privilege, a prescribing psychologist shall present evidence satisfactory to the board that the prescribing psychologist has
completed at least eighteen hours biennially of acceptable
continuing education, as determined by the board, relevant to
the pharmacological treatment of mental and emotional disorders;
provided that a first-time prescribing psychologist shall not be
subject to the continuing education requirements under this
section for the first prescriptive authority privilege renewal.
(c) The continuing education requirement under this
section shall be in addition to the continuing education
requirement under section 465-11.
(d) The board may conduct random audits of licensees to
determine compliance with the continuing education requirement
under this section. The board shall provide written notice of
an audit to each licensee randomly selected for audit. Within
sixty days of notification, the licensee shall provide the board
with documentation verifying compliance with the continuing
education requirement established by this section.

§465-E Prescriptive authority privilege; prescribing
practices. (a) It shall be unlawful for any psychologist not
granted prescriptive authority privilege under this part to
prescribe, offer to prescribe, administer, or use any sign,
card, or device to indicate that the psychologist is so authorized.

(b) A valid prescription issued by a prescribing psychologist shall be legibly written and contain, at a minimum, the following:

(1) Date of issuance;

(2) Original signature of the prescribing psychologist;

(3) Prescribing psychologist's name and business address;

(4) Name, strength, quantity, and specific instructions for the psychotropic medication to be dispensed;

(5) Name and address of the person for whom the prescription was written;

(6) Room number and route of administration if the patient is in an institutional facility; and

(7) Number of allowable refills, if applicable.

(c) A prescribing psychologist shall comply with all applicable state and federal laws and rules relating to the prescription and administration of psychotropic medication.

(d) A prescribing psychologist shall:

(1) Except as provided in paragraph (3), prescribe and administer psychotropic medication only in
consultation with and pursuant to a written

collaborative agreement with a patient's primary care

provider that is established and signed prior to

prescribing any psychotropic medication for the

patient;

(2) Make any changes to a medication treatment plan,

including dosage adjustments, addition of medications,

or discontinuation of medications only in consultation

and collaboration with a patient's primary care

provider;

(3) For patients who are forensically encumbered and for

patients with a diagnosis of serious mental illness

who are subject to the jurisdiction of the department

of health:

(A) Prescribe and administer psychotropic medication

only:

(i) In accordance with a treatment protocol

agreed to by the prescribing psychologist

and the treating department of health

psychiatrist; and
(ii) With notification to all other health care providers treating the patient; and

(B) Enter into a collaborative agreement with the department of health prior to prescribing any psychotropic medication; and

(4) Document all consultations in the patient's medical record.

(e) A prescribing psychologist shall not prescribe or administer psychotropic medication for any patient who does not have a primary care provider.

(f) A prescribing psychologist shall not delegate prescriptive authority to any other person.

§465-F Prescriptive authority privilege; exclusionary formulary. (a) A prescribing psychologist shall only prescribe and administer medications for the treatment of mental health disorders as defined by the most current version of the Diagnostic and Statistical Manual of Mental Disorders.

(b) The exclusionary formulary for prescribing psychologists shall consist of drugs or categories of drugs adopted by the board.
(c) The exclusionary formulary and any revised formularies shall be made available to licensed pharmacies at the request of the pharmacy and at no cost.

(d) Under the exclusionary formulary, prescribing psychologists shall not prescribe or administer:

1. Schedule I controlled substances pursuant to section 329-14;

2. Schedule II controlled substances pursuant to section 329-16;

3. Schedule III controlled substances pursuant to section 329-18, including all narcotic drugs and opiates; and

4. For indications other than those stated in the labeling approved by the federal Food and Drug Administration for patients seventeen years of age or younger; provided that prescribing psychologists may prescribe and administer stimulants for the treatment of attention deficit hyperactivity disorder, regardless of the stimulants' schedule classification.

§465-G Drug Enforcement Administration; registration. (a)

Every prescribing psychologist shall comply with all federal and
state registration requirements to prescribe and administer psychotropic medication.

(b) Every prescribing psychologist shall file with the board the prescribing psychologist's federal Drug Enforcement Administration registration number. The registration number shall be filed before the prescribing psychologist issues any prescription for a psychotropic medication.

§465-H Violation; penalties. Any person who violates this part shall be guilty of a misdemeanor and, on conviction, fined no more than $1,000 or imprisoned no more than one year, or both. Any person who violates this part may also be subject to disciplinary action by the board."

SECTION 3. Section 329-1, Hawaii Revised Statutes, is amended as follows:

1. By adding two new definitions to be appropriately inserted and to read:

"Prescribing psychologist" means a clinical psychologist who has undergone specialized training in clinical psychopharmacology, passed a national proficiency examination in psychopharmacology approved by the board, and been granted a prescriptive authority privilege by the board.
"Psychotropic medication" means only those agents related to the diagnosis and treatment of mental and emotional disorders pursuant to the practice of psychology, as defined in section 465-1, except drugs classified into schedule I, II, or III pursuant to this chapter, opiates, or narcotic drugs; provided that psychotropic medication shall include stimulants for the treatment of attention deficit hyperactivity disorder regardless of the stimulants' schedule classification."

2. By amending the definition of "practitioner" to read:

"Practitioner" means:

(1) A physician, dentist, veterinarian, scientific investigator, or other person licensed and registered under section 329-32 to distribute, dispense, or conduct research with respect to a controlled substance in the course of professional practice or research in this State;

(2) An advanced practice registered nurse with prescriptive authority licensed and registered under section 329-32 to prescribe and administer controlled substances in the course of professional practice in this State; [and]
A prescribing psychologist licensed and registered under section 329-32 to prescribe and administer psychotropic medication in the course of professional practice in this State; and

[(3)] [4] A pharmacy, hospital, or other institution licensed, registered, or otherwise permitted to distribute, dispense, conduct research with respect to or to administer a controlled substance in the course of professional practice or research in this State."

SECTION 4. Section 329-38, Hawaii Revised Statutes, is amended by amending subsection (i) to read as follows:

"(i) Prescriptions for controlled substances shall be issued only as follows:

(1) All prescriptions for controlled substances shall originate from within the State and be dated as of, and signed on, the day when the prescriptions were issued and shall contain:

(A) The first and last name and address of the patient; and

(B) The drug name, strength, dosage form, quantity prescribed, and directions for use. Where a
prescription is for gamma hydroxybutyric acid, methadone, or buprenorphine, the practitioner shall record as part of the directions for use, the medical need of the patient for the prescription.

Except for electronic prescriptions, controlled substance prescriptions shall be no larger than eight and one-half inches by eleven inches and no smaller than three inches by four inches. A practitioner may sign a prescription in the same manner as the practitioner would sign a check or legal document (e.g., J.H. Smith or John H. Smith) and shall use both words and figures (e.g., alphabetically and numerically as indications of quantity, such as five (5)), to indicate the amount of controlled substance to be dispensed. Where an oral order or electronic prescription is not permitted, prescriptions shall be written with ink or indelible pencil or typed, shall be manually signed by the practitioner, and shall include the name, address, telephone number, and registration number of the practitioner. The
prescriptions may be prepared by a secretary or agent for the signature of the practitioner, but the prescribing practitioner shall be responsible in case the prescription does not conform in all essential respects to this chapter and any rules adopted pursuant to this chapter. In receiving an oral prescription from a practitioner, a pharmacist shall promptly reduce the oral prescription to writing, which shall include the following information: the drug name, strength, dosage form, quantity prescribed in figures only, and directions for use; the date the oral prescription was received; the full name, Drug Enforcement Administration registration number, and oral code number of the practitioner; and the name and address of the person for whom the controlled substance was prescribed or the name of the owner of the animal for which the controlled substance was prescribed.

A corresponding liability shall rest upon a pharmacist who fills a prescription not prepared in the form prescribed by this section. A pharmacist may
add a patient's missing address or change a patient's address on all controlled substance prescriptions after verifying the patient's identification and noting the identification number on the back of the prescription document on file. The pharmacist shall not make changes to the patient's name, the controlled substance being prescribed, the quantity of the prescription, the practitioner's Drug Enforcement Administration number, the practitioner's name, the practitioner's electronic signature, or the practitioner's signature;

(2) An intern, resident, or foreign-trained physician, or a physician on the staff of a Department of Veterans Affairs facility or other facility serving veterans, exempted from registration under this chapter, shall include on all prescriptions issued by the physician:

(A) The registration number of the hospital or other institution; and

(B) The special internal code number assigned to the physician by the hospital or other institution in
lieu of the registration number of the practitioner required by this section.

The hospital or other institution shall forward a copy of this special internal code number list to the department as often as necessary to update the department with any additions or deletions. Failure to comply with this paragraph shall result in the suspension of that facility's privilege to fill controlled substance prescriptions at pharmacies outside of the hospital or other institution. Each written prescription shall have the name of the physician stamped, typed, or hand-printed on it, as well as the signature of the physician;

(3) An official exempted from registration shall include on all prescriptions issued by the official:

(A) The official's branch of service or agency (e.g., "U.S. Army" or "Public Health Service"); and

(B) The official's service identification number, in lieu of the registration number of the practitioner required by this section. The
Service employee shall be the employee's social security or other government issued identification number.

Each prescription shall have the name of the officer stamped, typed, or handprinted on it, as well as the signature of the officer; [and]

(4) A physician assistant registered to prescribe controlled substances under the authorization of a supervising physician shall include on all controlled substance prescriptions issued:

(A) The Drug Enforcement Administration registration number of the supervising physician; and

(B) The Drug Enforcement Administration registration number of the physician assistant.

Each written controlled substance prescription issued shall include the printed, stamped, typed, or handprinted name, address, and phone number of both the supervising physician and physician assistant, and shall be signed by the physician assistant. The medical record of each written controlled substance prescription issued by a physician assistant shall be
reviewed and initialed by the physician assistant's supervising physician within seven working days[.]; and

(5) A prescribing psychologist registered to prescribe and administer psychotropic medication pursuant to part of chapter 465 in consultation and collaboration with a primary care provider shall include on all psychotropic medication prescriptions issued:

(A) The Drug Enforcement Administration registration number of the licensed primary care provider; and

(B) The printed, stamped, typed, or hand-printed name, address, and phone number of both the licensed primary care provider and prescribing psychologist; and

(C) The signature of the prescribing psychologist."

SECTION 5. Section 329-39, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) Whenever a pharmacist sells or dispenses any controlled substance on a prescription issued by a physician, dentist, podiatrist, or veterinarian, or any psychotropic
medication on a prescription issued by a prescribing 
psychologist, the pharmacist shall affix to the bottle or other 
container in which the drug is sold or dispensed:

(1) The pharmacy's name and business address;
(2) The serial number of the prescription;
(3) The name of the patient or, if the patient is an 
animal, the name of the owner of the animal and the 
species of the animal;
(4) The name of the physician, dentist, podiatrist, veterinarian, or prescribing psychologist by whom the 
prescription is written; and
(5) Such directions as may be stated on the prescription."

SECTION 6. Section 346-59.9, Hawaii Revised Statutes, is 
amended by amending subsection (i) to read as follows:
"(i) All psychotropic medications covered by this section 
shall be prescribed by a psychiatrist, a physician, [or an 
advanced practice registered nurse with prescriptive authority 
under chapter 457 and duly licensed in the State], or a 
prescribing psychologist authorized under part of chapter 
465."
SECTION 7. Chapter 465, Hawaii Revised Statutes, is amended by designating sections 465-1 to 465-15 as part I and inserting a title before section 465-1 to read as follows:

"PART I. GENERAL PROVISIONS"

SECTION 8. Section 465-3, Hawaii Revised Statutes, is amended by amending subsection (e) to read as follows:

"(e) [Nothing] Other than as provided in part ,

nothing in this chapter shall be construed as permitting the administration or prescription of drugs, or in any way engaging in the practice of medicine as defined in the laws of the State."

SECTION 9. (a) The board of psychology shall submit a report to the legislature, no later than twenty days prior to the convening of the regular session of 2021, on the authorization of prescriptive authority to prescribing psychologists who meet specific education, training, and registration requirements pursuant to this Act.

(b) The board of psychology shall collaborate with the department of health when preparing information in the report regarding the treatment of patients who are forensically
encumbered or patients with a diagnosis of serious mental
illness who are subject to the department's jurisdiction.

SECTION 10. 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 11. In codifying the new sections added by section
2 of this Act, the revisor of statutes shall substitute
appropriate section numbers for the letters used in designating
the new sections in this Act.

SECTION 12. Statutory material to be repealed is bracketed
and stricken. New statutory material is underscored.

SECTION 13. This Act shall take effect on July 1, 2019;
provided that:

(1) The amendments made to section 329-38(i), Hawaii
Revised Statutes, by section 4 of this Act shall not
be repealed when that section is reenacted on June 30,
2023, pursuant to section 6 of Act 66, Session Laws of
Hawaii 2017;
This Act shall be repealed on August 31, 2025; and

Upon repeal of this Act, sections 329-1, 329-38, 329-39, 346-59.9, and 465-3, Hawaii Revised Statutes, shall be reenacted in the form in which they read on June 30, 2019.

INTRODUCED BY: Allen A.ai

Blakeman

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Nicole E. Lowery
Report Title:
Clinical Psychologists; Prescriptive Authority Privilege

Description:
Authorizes and establishes procedures and criteria for prescriptive authority for clinical psychologists who meet specific education, training, and registration requirements. Requires the Board of Psychology to report to the Legislature prior to the Regular Session of 2021. Sunsets on 8/31/2025.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.