



GOV. MSG. NO. 1129

EXECUTIVE CHAMBERS
HONOLULU

DAVID Y. IGE
GOVERNOR

April 28, 2016

The Honorable Ronald D. Kouchi,
President
and Members of the Senate
Twenty-Eighth State Legislature
State Capitol, Room 409
Honolulu, Hawai'i 96813

The Honorable Joseph M. Souki,
Speaker and Members of the
House of Representatives
Twenty-Eighth State Legislature
State Capitol, Room 431
Honolulu, Hawai'i 96813

Dear President Kouchi, Speaker Souki, and Members of the Legislature:

This is to inform you that on April 28, 2016, the following bill was signed into law:

SB2333 SD1

RELATED TO LICENSED MARRIAGE AND
FAMILY THERAPISTS
ACT 029 (16)

Sincerely,

DAVID Y. IGE
Governor, State of Hawai'i

A BILL FOR AN ACT

RELATED TO LICENSED MARRIAGE AND FAMILY THERAPISTS.

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

1 SECTION 1. The legislature finds that title 25 of the
2 Hawaii Revised Statutes regulates numerous professions and
3 occupations, including marriage and family therapists. One of
4 the regulatory mechanisms provided for in title 25 is
5 professional licensing. Specifically, marriage and family
6 therapists are licensed by a program within the department of
7 commerce and consumer affairs pursuant to chapter 451J, Hawaii
8 Revised Statutes.

9 The legislature further finds that, although chapter 451J,
10 Hawaii Revised Statutes, provides a licensing procedure for
11 marriage and family therapists, the term "marriage and family
12 therapist" is used elsewhere in the Hawaii Revised Statutes
13 without a reference to licensing. Often, "marriage and family
14 therapist" appears in conjunction with other regulated
15 professions that are explicitly referred to in those sections as
16 "licensed" professions. The legislature additionally finds that
17 this discrepancy between marriage and family therapists and



1 other regulated and licensed professions may create ambiguity in
2 interpretations of these statutes.

3 The purpose of this Act is to improve clarity and
4 facilitate understanding in the law by reducing ambiguity in the
5 term "marriage and family therapist".

6 SECTION 2. Section 431M-1, Hawaii Revised Statutes, is
7 amended by amending the definitions of "alcohol or drug
8 dependence outpatient services", "day treatment services",
9 "marriage and family therapist", "mental health outpatient
10 services", "partial hospitalization", "qualified", and
11 "treatment episode" to read as follows:

12 "Alcohol or drug dependence outpatient services" means
13 alcohol or drug dependence nonresidential treatment provided on
14 an ambulatory basis to patients with alcohol or drug dependence
15 problems that includes interventions prescribed and performed by
16 qualified physicians, psychologists, licensed clinical social
17 workers, licensed marriage and family therapists, licensed
18 mental health counselor, or advanced practice registered nurses.
19 This definition shall not imply a broadening of the scope of or
20 granting of prescriptive authority privileges, except as
21 otherwise allowed pursuant to chapter 457.



1 "Day treatment services" means treatment services provided
2 by a hospital, mental health outpatient facility, or nonhospital
3 facility to patients who, because of their conditions, require
4 more than periodic hourly service. Day treatment services shall
5 be prescribed by a physician, psychologist, licensed clinical
6 social worker, licensed marriage and family therapist, licensed
7 mental health counselor, or advanced practice registered nurse,
8 and carried out under the supervision of a physician,
9 psychologist, licensed clinical social worker, licensed marriage
10 and family therapist, licensed mental health counselor, or
11 advanced practice registered nurse. Day treatment services
12 require less than twenty-four hours of care and a minimum of
13 three hours in any one day.

14 "[~~Marriage~~] Licensed marriage and family therapist" means a
15 person licensed in marriage and family therapy practice pursuant
16 to chapter 451J.

17 "Mental health outpatient services" means mental health
18 nonresidential treatment provided on an ambulatory basis to
19 patients with mental illness that includes interventions
20 prescribed and performed by a physician, psychologist, licensed
21 clinical social worker, licensed marriage and family therapist,



1 licensed mental health counselor, or advanced practice
2 registered nurse.

3 "Partial hospitalization" means treatment services,
4 including in-hospital treatment services or benefits, provided
5 by a hospital or mental health outpatient facility to patients
6 who, because of their conditions, require more than periodic
7 hourly service. Partial hospitalization shall be prescribed by
8 a physician or psychologist, and may be prescribed by a licensed
9 clinical social worker, licensed marriage and family therapist,
10 licensed mental health counselor, or advanced practice
11 registered nurse in consultation with a physician or
12 psychologist. Partial hospitalization requires less than
13 twenty-four hours of care and a minimum of three hours in any
14 one day.

15 "Qualified" means:

- 16 (1) Having skill in the diagnosis or treatment of
17 substance use disorders, based on a practitioner's
18 credentials, including but not limited to professional
19 education, clinical training, licensure, board or
20 other certification, clinical experience, letters of



1 reference, other professional qualifications, and
2 disciplinary action; or

3 (2) Being a licensed physician, psychologist, licensed
4 clinical social worker, licensed marriage and family
5 therapist, licensed mental health counselor, or
6 advanced practice registered nurse, and certified
7 pursuant to chapter 321.

8 "Treatment episode" means one admission to an accredited
9 hospital or nonhospital facility, or office of a qualified
10 physician, psychologist, licensed clinical social worker,
11 licensed marriage and family therapist, licensed mental health
12 counselor, or advanced practice registered nurse for treatment
13 of alcohol or drug dependence, or both, as stipulated in a
14 prescribed treatment plan and that would generally produce
15 remission in those who complete the treatment. The prescribed
16 treatment plan may include the provision of substance abuse
17 services in more than one location and may include in-hospital,
18 nonhospital residential, day treatment, or alcohol or drug
19 dependence outpatient services, or any combination thereof. An
20 admission for only detoxification services shall not constitute
21 a treatment episode."



1 SECTION 3. Section 431M-4, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "§431M-4 Mental illness, alcohol and drug dependence
4 benefits. (a) Alcohol and drug dependence benefits shall be as
5 follows:

6 (1) Detoxification services as a covered benefit under
7 this chapter shall be provided either in a hospital or
8 in a nonhospital facility that has a written
9 affiliation agreement with a hospital for emergency,
10 medical, and mental health support services. The
11 following services shall be covered under
12 detoxification services:

- 13 (A) Room and board;
14 (B) Diagnostic x-rays;
15 (C) Laboratory testing; and
16 (D) Drugs, equipment use, special therapies, and
17 supplies.

18 Detoxification services shall be included as part of
19 the covered in-hospital services;

20 (2) Alcohol or drug dependence treatment through in-
21 hospital, nonhospital residential, or day treatment



1 substance abuse services as a covered benefit under
2 this chapter shall be provided in a hospital or
3 nonhospital facility. Before a person qualifies to
4 receive benefits under this subsection, a qualified
5 physician, psychologist, licensed clinical social
6 worker, licensed marriage and family therapist,
7 licensed mental health counselor, or advanced practice
8 registered nurse shall determine that the person
9 suffers from alcohol or drug dependence, or both;
10 provided that the substance abuse services covered
11 under this paragraph shall include those services that
12 are required for licensure and accreditation.

13 Excluded from alcohol or drug dependence treatment
14 under this subsection are detoxification services and
15 educational programs to which drinking or drugged
16 drivers are referred by the judicial system and
17 services performed by mutual self-help groups;

- 18 (3) Alcohol or drug dependence outpatient services as a
19 covered benefit under this chapter shall be provided
20 under an individualized treatment plan approved by a
21 qualified physician, psychologist, licensed clinical



1 social worker, licensed marriage and family therapist,
2 licensed mental health counselor, or advanced practice
3 registered nurse and shall be services reasonably
4 expected to produce remission of the patient's
5 condition. An individualized treatment plan approved
6 by a licensed marriage and family therapist, licensed
7 mental health counselor, licensed clinical social
8 worker, or an advanced practice registered nurse for a
9 patient already under the care or treatment of a
10 physician or psychologist shall be done in
11 consultation with the physician or psychologist; and
12 (4) Substance abuse assessments for alcohol or drug
13 dependence as a covered benefit under this section for
14 a child facing disciplinary action under section 302A-
15 1134.6 shall be provided by a qualified physician,
16 psychologist, licensed clinical social worker,
17 advanced practice registered nurse, or certified
18 substance abuse counselor. The certified substance
19 abuse counselor shall be employed by a hospital or
20 nonhospital facility providing substance abuse
21 services. The substance abuse assessment shall



1 evaluate the suitability for substance abuse treatment
2 and placement in an appropriate treatment setting.

3 (b) Mental illness benefits.

4 (1) Covered benefits for mental health services set forth
5 in this subsection shall be limited to coverage for
6 diagnosis and treatment of mental disorders. All
7 mental health services shall be provided under an
8 individualized treatment plan approved by a physician,
9 psychologist, licensed clinical social worker,
10 licensed marriage and family therapist, licensed
11 mental health counselor, or advanced practice
12 registered nurse and must be reasonably expected to
13 improve the patient's condition. An individualized
14 treatment plan approved by a licensed clinical social
15 worker, licensed marriage and family therapist,
16 licensed mental health counselor, or an advanced
17 practice registered nurse for a patient already under
18 the care or treatment of a physician or psychologist
19 shall be done in consultation with the physician or
20 psychologist;



1 "Marriage and family therapist" or "licensed marriage and
2 family therapist" means a person who uses the title of marriage
3 and family therapist~~[7]~~ or licensed marriage and family
4 therapist, who has been issued a license under this chapter, and
5 whose license is in effect and not revoked or suspended at the
6 time in question."

7 SECTION 6. Section 451J-3, Hawaii Revised Statutes, is
8 amended to read as follows:

9 "~~[+]§451J-3[+]~~ Powers and duties of the director. In
10 addition to any other powers and duties authorized by law, the
11 director may:

- 12 (1) Examine and approve the qualifications of all
13 applicants under this chapter, and issue a license to
14 each successful applicant granting permission to use
15 the title of marriage and family therapist or licensed
16 marriage and family therapist in this State pursuant
17 to this chapter and the rules adopted under this
18 chapter;
- 19 (2) Adopt, amend, or repeal rules pursuant to chapter 91;
- 20 (3) Administer, coordinate, and enforce this chapter and
21 rules;



- 1 (4) Discipline a person licensed as a marriage and family
2 therapist for any cause described by this chapter, or
3 for any violation of rules, or refuse to license a
4 person for failure to meet licensing requirements or
5 for any cause that would be grounds for disciplining a
6 licensed marriage and family therapist; and
- 7 (5) Appoint an advisory committee of licensed marriage and
8 family therapists and members of the public to assist
9 with the implementation of this chapter and the rules;
10 except that the initial members of the committee who
11 are marriage and family therapists shall not be
12 required to be licensed pursuant to this chapter."

13 SECTION 7. Section 451J-5, Hawaii Revised Statutes, is
14 amended to read as follows:

15 "[+]§451J-5[+] Prohibited acts. Except as specifically
16 provided elsewhere in this chapter, no person shall use the
17 title marriage and family therapist or licensed marriage and
18 family therapist without first having secured a license under
19 this chapter. The department shall investigate and prosecute
20 any individual using the title of marriage and family therapist
21 or licensed marriage and family therapist without being properly



1 licensed as a marriage and family therapist. Any person who
2 violates this section shall be subject to a fine of not more
3 than \$1,000 per violation. Each day's violation shall be deemed
4 a separate offense. Any action taken to impose or collect the
5 fine imposed under this section shall be a civil action."

6 SECTION 8. Section 451J-6, Hawaii Revised Statutes, is
7 amended to read as follows:

8 "[~~f~~]~~\$~~451J-6[~~t~~] Exemptions. (a) Licensure shall not be
9 required of:

10 (1) A person doing work within the scope of practice or
11 duties of the person's profession that overlaps with
12 the practice of marriage and family therapy; provided
13 the person does not purport to be a marriage and
14 family therapist[~~t~~] or licensed marriage and family
15 therapist;

16 (2) Any student enrolled in an accredited educational
17 institution in a recognized program of study leading
18 toward attainment of a graduate degree in marriage and
19 family therapy or other professional field; provided
20 that the student's activities and services are part of
21 a prescribed course of study supervised by the



1 educational institution and the student is identified
2 by an appropriate title including but not limited to
3 "marriage and family therapy student or trainee",
4 "clinical psychology student or trainee", "clinical
5 social work student or trainee", or any title which
6 clearly indicates training status; or

7 (3) Any individual who uses the title marriage and family
8 therapy intern for the purpose of obtaining clinical
9 experience in accordance with section 451J-7(3).

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

20 SECTION 9. Section 451J-10, Hawaii Revised Statutes, is
21 amended by amending subsection (a) to read as follows:



1 "(a) Licenses shall be renewed triennially on or before
2 December 31, with the first renewal deadline occurring on
3 December 31, 2001. Failure to renew a license shall result in a
4 forfeiture of the license. Licenses that have been forfeited
5 may be restored within one year of the expiration date upon
6 payment of renewal and restoration fees, and in the case of
7 marriage and family therapists or licensed marriage and family
8 therapists audited pursuant to subsection (f), documentation of
9 continuing education compliance. Failure to restore a forfeited
10 license within one year of the date of its expiration shall
11 result in the automatic termination of the license. Persons
12 with terminated licenses shall be required to reapply for
13 licensure as a new applicant."

14 SECTION 10. Section 451J-11, Hawaii Revised Statutes, is
15 amended by amending subsection (a) to read as follows:

16 "(a) The department shall deny, revoke, condition, or
17 suspend a license granted pursuant to this chapter on the
18 following grounds:

- 19 (1) Conviction by a court of competent jurisdiction of a
- 20 crime which the department has determined, by rules
- 21 adopted pursuant to chapter 91, to be of a nature that



- 1 renders the person convicted unfit to practice
2 marriage and family therapy;
- 3 (2) Failing to report in writing to the director any
4 disciplinary decision related to the provision of
5 mental health services issued against the licensee or
6 the applicant in any jurisdiction within thirty days
7 of the disciplinary decision, or within thirty days of
8 licensure;
- 9 (3) Violation of recognized ethical standards for marriage
10 and family therapists or licensed marriage and family
11 therapists as set by the association;
- 12 (4) Fraud or misrepresentation in obtaining or renewing a
13 license, including making a false certification of
14 compliance with the continuing education requirement
15 set forth in section 451J-10;
- 16 (5) Revocation, suspension, or other disciplinary action
17 by any state or federal agency against a licensee or
18 applicant for any reason provided under this section;
19 or
- 20 (6) Other just and sufficient cause that renders a person
21 unfit to practice marriage and family therapy."



1 SECTION 11. This Act does not affect rights and duties
2 that matured, penalties that were incurred, and proceedings that
3 were begun before its effective date.

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

6 SECTION 13. This Act shall take effect upon its approval.

7

APPROVED this 28 day of APR, 2016



GOVERNOR OF THE STATE OF HAWAII