RELATING TO TELEHEALTH.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAI'I:

SECTION 1. Chapter 103D, Hawaii Revised Statutes, is amended by adding a new section to part III to be appropriately designated and to read as follows:

"$103D- Gifts to the State for telehealth purposes;

exemption. A gift to the State shall not be deemed to constitute a procurement contract and shall not require a procurement contract to be accepted by the State as a gift; provided that:

(1) The gift is necessary for the State to provide telehealth services to members of the public; and

(2) The agency accepting the gift shall promptly report the gift to the state procurement office.

For purposes of this section, "gift" means a donation of material, labor, equipment, or other appropriate subject of donation."
SECTION 2. Chapter 103F, Hawaii Revised Statutes, is amended by adding a new section to part IV to be appropriately designated and to read as follows:

"§103F- Gifts to the State for telehealth purposes; exemption. A gift to the State shall not be deemed to constitute a contract for health and human services and shall not require a contract for health and human services to be accepted by the State as a gift; provided that:

(1) The gift is necessary for the State to provide telehealth services to members of the public; and

(2) The agency accepting the gift shall promptly report the gift to the state procurement office.

For purposes of this section, "gift" means a donation of services, labor, or other appropriate subject of donation."

SECTION 3. Section 329-41, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) It is unlawful for any person:

(1) Who is subject to part III to distribute, administer, prescribe, or dispense a controlled substance in violation of section 329-38 or rules authorized under section 329-31; however, a licensed manufacturer or
wholesaler may sell or dispense a controlled substance
to a master of a transpacific ship or a person in
charge of a transpacific aircraft upon which no
physician is regularly employed, for the actual
medical needs of persons on board such ship or
aircraft when not in port; provided schedule I or II
controlled substances shall be sold to the master of
such ship or person in charge of such aircraft only in
accordance with the provisions set forth in 21 Code of
Federal Regulations, sections 1301, 1305, and 1307,
adopted pursuant to Title 21, United States Code,
section 821;

(2) Who is a registrant to manufacture a controlled
substance not authorized by the registrant's
registration or to distribute or dispense a controlled
substance not authorized by the registrant's
registration to another registrant or another
authorized person;

(3) To refuse or fail to make available, keep, or furnish
any record, notification, order form, prescription,
statement, invoice, or information in patient charts
relating to the administration, dispensing, or prescribing of controlled substances;

(4) To refuse any lawful entry into any premises for any inspection authorized by this chapter;

(5) Knowingly to keep or maintain any store, shop, warehouse, dwelling, building, vehicle, boat, aircraft, or other structure or place for the purpose of using these substances or which is used for keeping or selling them in violation of this chapter or chapter 712, part IV;

(6) Who is a practitioner or pharmacist to dispense a controlled substance to any individual not known to the practitioner or pharmacist, except under the following circumstances:

(A) When dispensing a controlled substance directly to an individual, the practitioner or pharmacist shall first obtain and document, in a log book or an electronic database, the full name, identification number, identification type, and signature, whether by actual signature or by electronic signature capture device, of the
individual obtaining the controlled substance. If the individual does not have any form of proper identification, the pharmacist shall verify the validity of the prescription and identity of the patient with the prescriber, or their authorized agent, before dispensing the controlled substance; and

(B) For mail order prescriptions, the practitioner or pharmacist shall not be subject to subparagraph (A); provided that all other requirements of chapter 329 shall apply and that the practitioner or pharmacist, as part of the initial registration process of an individual in a mail order prescription drug plan and prior to the controlled substance being dispensed, shall obtain all identification information, including the full name, identification number, identification type, signature, and a photocopy of a form of proper identification of the individual obtaining the controlled substance.
The practitioner or pharmacist shall also comply with other requirements set forth by rule. For the purpose of this section, "proper identification" means government-issued identification containing the photograph, printed name, identification number, and signature of the individual obtaining the controlled substance;

(7) Who is a practitioner to predate or pre-sign prescriptions to facilitate the obtaining or attempted obtaining of controlled substances; or

(8) Who is a practitioner to facilitate the issuance or distribution of a written prescription or to issue an oral prescription for a controlled substance when not physically in the State[→]; provided that this prohibition shall not apply if the person is a physician practicing telehealth as provided in section 453-1.3 and otherwise complies with this chapter."

SECTION 4. Section 346-59.1, Hawaii Revised Statutes, is amended by amending subsection (g) to read as follows:

"(g) For the purposes of this section:
"Distant site" means the location of the health care provider delivering services through telehealth at the time the services are provided.

"Health care provider" means a provider of services, as defined in title 42 United States Code section 1395x(u), a provider of medical and other health services, as defined in title 42 United States Code section 1395x(s), other practitioners licensed by the State and working within their scope of practice, and any other person or organization who furnishes, bills, or is paid for health care in the normal course of business, including but not limited to primary care providers, mental health providers, oral health providers, physicians and osteopathic physicians licensed under chapter 453, advanced practice registered nurses licensed under chapter 457, psychologists licensed under chapter 465, and dentists licensed under chapter 448.

"Originating site" means the location where the patient is located, whether accompanied or not by a health care provider, at the time services are provided by a health care provider through telehealth, including but not limited to a health care provider's office, hospital, critical access hospital, rural
health clinic, federally qualified health center, a patient's home, and other non-medical environments such as school-based health centers, university-based health centers, or the work location of a patient.

"Telehealth" means the use of telecommunications services, as defined in section 269-1, to encompass four modalities: store and forward technologies, remote monitoring, live consultation, and mobile health; and which shall include but not be limited to real-time video conferencing-based communication, secure interactive and non-interactive web-based communication, and secure asynchronous information exchange, to transmit patient medical information, including diagnostic-quality digital images and laboratory results for medical interpretation and diagnosis, for the purpose of delivering enhanced health care services and information while a patient is at an originating site and the health care provider is at a distant site. [Standard telephone contacts] "Telehealth" does not include facsimile transmissions, [e-mail text, [in] or any combination [or by itself, does not constitute a telehealth service for the purposes] of [this section] facsimile transmissions and e-mail text."
SECTION 5. Section 431:10A-116.3, Hawaii Revised Statutes, is amended by amending subsection (g) to read as follows:

"(g) For the purposes of this section:

"Distant site" means the location of the health care provider delivering services through telehealth at the time the services are provided.

"Health care provider" means a provider of services, as defined in title 42 United States Code section 1395x(u), a provider of medical and other health services, as defined in title 42 United States Code section 1395x(s), other practitioners licensed by the State and working within their scope of practice, and any other person or organization who furnishes, bills, or is paid for health care in the normal course of business, including but not limited to primary care providers, mental health providers, oral health providers, physicians and osteopathic physicians licensed under chapter 453, advanced practice registered nurses licensed under chapter 457, psychologists licensed under chapter 465, and dentists licensed under chapter 448.

"Originating site" means the location where the patient is located, whether accompanied or not by a health care provider,
at the time services are provided by a health care provider through telehealth, including but not limited to a health care provider's office, hospital, health care facility, a patient's home, and other nonmedical environments such as school-based health centers, university-based health centers, or the work location of a patient.

"Telehealth" means the use of telecommunications services, as defined in section 269-1, to encompass four modalities: store and forward technologies, remote monitoring, live consultation, and mobile health; and which shall include but not be limited to real-time video conferencing-based communication, secure interactive and non-interactive web-based communication, and secure asynchronous information exchange, to transmit patient medical information, including diagnostic-quality digital images and laboratory results for medical interpretation and diagnosis, for the purpose of delivering enhanced health care services and information while a patient is at an originating site and the health care provider is at a distant site. "Telehealth" does not include facsimile transmissions, e-mail text, or any combination thereof, does not constitute a telehealth
service for the purposes of this chapter.] facsimile
transmissions and e-mail text."

SECTION 6. Section 432:1-601.5, Hawaii Revised Statutes, is amended by amending subsection (g) to read as follows:

"(g) For the purposes of this section:

"Health care provider" means a provider of services, as defined in title 42 United States Code section 1395x(u), a provider of medical and other health services, as defined in title 42 United States Code section 1395x(s), other practitioners licensed by the State and working within their scope of practice, and any other person or organization who furnishes, bills, or is paid for health care in the normal course of business, including but not limited to primary care providers, mental health providers, oral health providers, physicians and osteopathic physicians licensed under chapter 453, advanced practice registered nurses licensed under chapter 457, psychologists licensed under chapter 465, and dentists licensed under chapter 448.

"Originating site" means the location where the patient is located, whether accompanied or not by a health care provider, at the time services are provided by a health care provider.
through telehealth, including but not limited to a health care provider's office, hospital, health care facility, a patient's home, and other nonmedical environments such as school-based health centers, university-based health centers, or the work location of a patient.

"Telehealth" means the use of telecommunications services, as defined in section 269-1, to encompass four modalities: store and forward technologies, remote monitoring, live consultation, and mobile health; and which shall include but not be limited to real-time video conferencing-based communication, secure interactive and non-interactive web-based communication, and secure asynchronous information exchange, to transmit patient medical information, including diagnostic-quality digital images and laboratory results for medical interpretation and diagnosis, for the purpose of delivering enhanced health care services and information while a patient is at an originating site and the health care provider is at a distant site. [Standard telephone contacts] "Telehealth" does not include facsimile transmissions, [ex] e-mail text, [in] or any combination [ex by itself, does not constitute a telehealth]
service for the purposes] of [this chapter.] facsimile
transmissions and e-mail text."

SECTION 7. Section 432D-23.5, Hawaii Revised Statutes, is
amended by amending subsection (g) to read as follows:
"(g) For the purposes of this section:
"Distant site" means the location of the health care
provider delivering services through telehealth at the time the
services are provided.
"Health care provider" means a provider of services, as
defined in title 42 United States Code section 1395x(u), a
provider of medical and other health services, as defined in
title 42 United States Code section 1395x(s), other
practitioners licensed by the State and working within their
scope of practice, and any other person or organization who
furnishes, bills, or is paid for health care in the normal
course of business, including but not limited to primary care
providers, mental health providers, oral health providers,
physicians and osteopathic physicians licensed under chapter
453, advanced practice registered nurses licensed under chapter
457, psychologists licensed under chapter 465, and dentists
licensed under chapter 448.
"Originating site" means the location where the patient is located, whether accompanied or not by a health care provider, at the time services are provided by a health care provider through telehealth, including but not limited to a health care provider's office, hospital, health care facility, a patient's home, and other nonmedical environments such as school-based health centers, university-based health centers, or the work location of a patient.

"Telehealth" means the use of telecommunications services, as defined in section 269-1, to encompass four modalities: store and forward technologies, remote monitoring, live consultation, and mobile health; and which shall include but not be limited to real-time video conferencing-based communication, secure interactive and non-interactive web-based communication, and secure asynchronous information exchange, to transmit patient medical information, including diagnostic-quality digital images and laboratory results for medical interpretation and diagnosis, for the purpose of delivering enhanced health care services and information while a patient is at an originating site and the health care provider is at a distant site. [Standard telephone contact:] "Telehealth" does not
include facsimile transmissions, [or] e-mail text, [in] or any
combination [or by itself, does not constitute a telehealth
service for the purposes] of [this chapter:] facsimile
transmissions and e-mail text."

SECTION 8. Section 451J-1, Hawaii Revised Statutes, is
amended by adding two new definitions to be appropriately
inserted and to read as follows:

"State", when not referring to the State of Hawaii, means
any other state of the United States or the District of
Columbia.

"Telehealth" shall have the same meaning as in section
453-1.3."

SECTION 9. Section 451J-5, Hawaii Revised Statutes, is
amended to read as follows:

"§451J-5 Prohibited acts. (a) Except as specifically
provided elsewhere in this chapter, no person shall use the
title marriage and family therapist or licensed marriage and
family therapist [without first having] unless the person has
secured a license:

(1) From the department under this chapter[—]; or
(2) As a marriage and family therapist, or similar license, from another state; provided that if the person has not also secured a license from the department under this chapter, the person shall also comply with section 451J-6(a)(4).

(b) The department shall investigate and prosecute any individual using the title of marriage and family therapist or licensed marriage and family therapist [without being properly licensed as a marriage and family therapist] in violation of this section.

(c) Any person who violates this section shall be subject to a fine of not 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 10. Section 451J-6, Hawaii Revised Statutes, is amended to read as follows:

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

(1) [A] Any 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 the person does not purport to be a marriage
and family therapist or licensed marriage and family
therapist;

(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
clearly indicates training status; [ex]

(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)[ex]or
Any person who has secured a license as a marriage and family therapist, or similar license, from another state; provided that:

(A) The person's engagement in marriage and family therapy with any patient or client in the State shall be confined to the person's provision of that therapy from that person's state of licensure through telehealth services;

(B) The person's patients or clients in the State shall be limited to those patients or clients with whom the person had a pre-existing professional relationship in the person's state of licensure; and

(C) The person shall not solicit or establish new professional relationships with clients or patients in the State.

(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 by the department or complies with subsection (a)(4), shall use the title of marriage and family therapist or licensed marriage and family therapist."

SECTION 11. Section 453-1.3, Hawaii Revised Statutes, is amended to read as follows:

"§453-1.3 Practice of telehealth. (a) Subject to section 453-2(b), nothing in this section shall preclude any physician acting within the scope of the physician's license to practice from practicing telehealth as defined in this section.

(b) Telehealth services shall include a documented patient evaluation, including history and a discussion of physical symptoms adequate to establish a diagnosis and to identify underlying conditions or contraindications to the treatment recommended or provided.

(c) Treatment recommendations made via telehealth, including issuing a prescription via electronic means, shall be held to the same standards of appropriate practice as those in traditional physician-patient settings that do not include a
face-to-face visit but in which prescribing is appropriate, including on-call telephone encounters and encounters for which a follow-up visit is arranged. Issuing a prescription based solely on an online questionnaire is not treatment for the purposes of this section and does not constitute an acceptable standard of care. [For the purposes of prescribing opiates or certifying a patient for the medical use of cannabis, a physician-patient relationship shall only be established after an in-person consultation between the prescribing physician and the patient.]

(d) All medical reports resulting from telehealth services are part of a patient's health record and shall be made available to the patient. Patient medical records shall be maintained in compliance with all applicable state and federal requirements including privacy requirements.

(e) A physician or osteopathic physician may use telehealth to establish a physician-patient relationship with a patient in this State without a license to practice medicine in Hawaii; provided that the physician or osteopathic physician otherwise complies with this subsection and subsection (f).
(f) A [physician-patient relationship may be established via telehealth if the patient is referred to the telehealth provider by another health care provider who has conducted an in-person consultation and has provided all pertinent patient information to the telehealth provider. Once a provider-patient relationship is established, a patient or a physician [licensed in this State], osteopathic physician, or physician assistant may use telehealth to assist a patient for any purpose, including consultation with a medical provider licensed in another state, authorized by this section or as otherwise provided by law[—]; provided that the physician, osteopathic physician, or physician assistant:

(1) Has:

(A) An active license in the State pursuant to this chapter;

(B) Been previously licensed in the State pursuant to this chapter or prior applicable chapter; provided that the license of the physician, osteopathic physician, or physician assistant was never revoked or suspended; or
(C) An active license in another state; provided that
that the physician, osteopathic physician, or
physician assistant complies with the applicable
law of the state that granted the license; and

(2) Otherwise complies with the requirements of this
section.

[(g) The physician-patient relationship prerequisite under
this section shall not apply to telehealth consultations for
emergency department services.]

[(h)] (g) Reimbursement for behavioral health services
provided through telehealth shall be equivalent to reimbursement
for the same services provided via face-to-face contact between
a health care provider and a patient.

[(i)] (h) Services provided by telehealth pursuant to this
chapter shall be consistent with all federal and state privacy,
security, and confidentiality laws.

[(j)] (i) For the purposes of this section:

"Distant site" means the location of the physician
delivering services through telehealth at the time the services
are provided.
"Originating site" means the location where the patient is located, whether accompanied or not by a health care provider, at the time services are provided by a physician through telehealth, including but not limited to a physician's office, hospital, health care facility, a patient's home, and other non-medical environments such as school-based health centers, university-based health centers, or the work location of a patient.

"State", when not referring to the State of Hawaii, means any other state of the United States or the District of Columbia.

"Telehealth" means the use of telecommunications as that term is defined in section 269-1, to encompass four modalities: store and forward technologies, remote monitoring, live consultation, and mobile health; and which shall include but not be limited to real-time video conferencing-based communication, secure interactive and non-interactive web-based communication, and secure asynchronous information exchange, to transmit patient medical information, including diagnostic-quality digital images and laboratory results for medical interpretation and diagnosis, for the purposes of: delivering enhanced health
care services and information while a patient is at an
originating site and the physician is at a distant site;
establishing a physician-patient relationship; evaluating a
patient; or treating a patient."

SECTION 12. Section 453D-1, Hawaii Revised Statutes, is
amended by adding two new definitions to be appropriately
inserted and to read as follows:

"State", when not referring to the State of Hawaii, means
any other state of the United States or the District of
Columbia.

"Telehealth" shall have the same meaning as in section
453-1.3."

SECTION 13. Section 453D-5, Hawaii Revised Statutes, is
amended to read as follows:

"§453D-5[1] Prohibited acts. (a) 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"
without a valid license [issued]:

(1) Issued by the department under this chapter[1]; or
(2) To practice as a mental health counselor, or similar license, issued by another state; provided that if the person has not also secured a license from the department under this chapter, the person shall also comply with section 453D-6(a)(7).

(b) Any person who violates this section shall be subject to a fine of not 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 14. Section 453D-6, Hawaii Revised Statutes, is amended to read as follows:

"§453D-6 Exemptions. (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 person shall use a title stating or implying that the person is a "licensed mental health counselor" or "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", 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) 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; [er]

(6) 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"[?]; or

(7) Any person who has secured a license as a mental health counselor, or similar license, from another state; provided that:
(A) The person's engagement in mental health counseling with any patient or client in the State shall be confined to the person's provision of that counseling from that person's state of licensure through telehealth services;

(B) The person's patients or clients in the State shall be limited to those patients or clients with whom the person had a pre-existing professional relationship in the person's state of licensure; and

(C) The person shall not solicit or establish new professional relationships with clients or patients in the State.

(b) Nothing in this chapter shall be construed to prevent qualified members of other licensed professions as defined by any law or rule of the department, including [but not limited to] social workers, registered nurses, psychologists, marriage and family therapists, or physicians, from providing mental health counseling or advertising that they provide mental health counseling to individuals, couples, or families consistent with the accepted standards of their respective licensed professions;
provided that no [such persons] person shall use a title stating or implying that [they are] the person is a licensed mental health [counselors] counselor unless the [persons are] person is licensed by the department pursuant to this chapter[–] or complies with subsection (a)(7).

(c) Nothing in this chapter shall be construed to supersede the regulation of registered rehabilitation specialists from the department of labor and industrial relations. Further, no registered rehabilitation specialist shall use a title stating or implying that the registered rehabilitation specialist is a licensed mental health counselor unless the person is licensed pursuant to this chapter[–] or complies with subsection (a)(7)."

SECTION 15. Section 465-1, Hawaii Revised Statutes, is amended by adding two new definitions to be appropriately inserted and to read as follows:

"State", when not referring to the State of Hawaii, means any other state of the United States or the District of Columbia.

"Telehealth" shall have the same meaning as in section 453-1.3."
SECTION 16. Section 465-3, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) This chapter shall not apply to:

(1) Any person teaching, lecturing, consulting, or engaging in research in psychology insofar as the activities are performed as part of or are dependent upon employment in a college or university; provided that the person shall not engage in the practice of psychology outside the responsibilities of the person's employment;

(2) Any person who performs any, or any combination of the professional services defined as the practice of psychology under the direction of a licensed psychologist in accordance with rules adopted by the board; provided that the person may use the term "psychological assistant", but shall not identify the person's self as a psychologist or imply that the person is licensed to practice psychology;

(3) Any person employed by a local, state, or federal government agency in a school psychologist or psychological examiner position, or a position that
does not involve diagnostic or treatment services, but only at those times when that person is carrying out the functions of such government employment;

(4) Any person who is a student of psychology, a psychological intern, or a resident in psychology preparing for the profession of psychology under supervision in a training institution or facility and who is designated by a title as "psychology trainee", "psychology student", "psychology intern", or "psychology resident", that indicates the person's training status; provided that the person shall not identify the person's self as a psychologist or imply that the person is licensed to practice psychology;

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

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

(7) Any person who is a duly recognized member of the
clergy; provided that the person functions only within
the person's capacities as a member of the clergy; and
provided further that the person does not represent
the person to be a psychologist, or the person's
services as psychological;

(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 Māui;
provided that the psychologist employed by the United States Department of Defense is credentialed by Tripler Army Medical Center; [er]

(9) Any supervisee of a licensed psychologist as defined in section 465D-7[-]; or

(10) Any person who has secured a license as a psychologist, or similar license, from another state; provided that:

(A) The person's engagement in psychology with any patient or client in the State shall be confined to the person's provision of that psychological treatment from that person's state of licensure through telehealth services;

(B) The person's patients or clients in the State shall be limited to those patients or clients with whom the person had a pre-existing professional relationship in the person's state of licensure; and

(C) The person shall not solicit or establish new professional relationships with clients or patients in the State."
SECTION 17. 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 unless the person is duly licensed and authorized:

(A) By the director under this chapter; or

(B) By another state; provided that if the person is not also licensed and authorized by the director, the person shall also comply with section 465-3(a)(10);

(2) Represent oneself as a licensed psychologist during the time the person's license issued under this chapter or by another state is suspended or revoked;

(3) Advertise or make a representation, either publicly or privately, as being a 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]:


(A) Valid unrevoked license or temporary permit issued by the director; or

(B) Valid unrevoked license issued by another state; provided that if the person is not also licensed and authorized by the director, the person shall also comply with section 465-3(a)(10); or

(4) Otherwise violate this chapter."

SECTION 18. Section 467E-1, Hawaii Revised Statutes, is amended by adding two new definitions to be appropriately inserted and to read as follows:

"State", when not referring to the State of Hawaii, means any other state of the United States or the District of Columbia.

"Telehealth" shall have the same meaning as in section 453-1.3."

SECTION 19. Section 467E-5, Hawaii Revised Statutes, is amended to read as follows:

"§467E-5 License required. [Ne] Except as otherwise provided in this chapter, no person shall purport to be a "social worker", "licensed bachelor social worker", "licensed social worker", "licensed clinical social worker", or use the
letters "S.W.", "L.B.S.W.", "L.S.W.", or "L.C.S.W." in connection with the person's name, or use any words or symbols indicating or tending to indicate that the person is a social worker, licensed bachelor social worker, licensed social worker, or licensed clinical social worker, or engage in the practice of social work as defined in this chapter without meeting the applicable requirements and holding a license as set forth in this chapter."

SECTION 20. 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 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;

(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) 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[—]; and
Any person who has secured a license as a social worker, bachelor social worker, or clinical social worker, or similar license, from another state; provided that:

(A) The person's engagement in social work with any patient or client in the State shall be confined to the person's provision of that social work from that person's state of licensure through telehealth services;

(B) The person's patients or clients in the State shall be limited to those patients or clients with whom the person had a pre-existing professional relationship in the person's state of licensure; and

(C) The person shall not solicit or establish new professional relationships with clients or patients in the State."

SECTION 21. Section 467E-13, 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 social worker, licensed bachelor social worker, licensed social worker, or licensed clinical social worker unless the person is duly licensed and authorized:

(A) By the director under this chapter; or

(B) By another state; provided that if the person is not also licensed and authorized by the director under this chapter, the person shall also comply with section 467E-6(9);

(2) Represent oneself as a social worker, licensed bachelor social worker, licensed social worker, or licensed clinical social worker during the time the person's license issued under this chapter or by another state is forfeited, terminated, suspended, or revoked;

(3) Perform clinical diagnosis or psychotherapy unless the person is licensed as a clinical social worker:

(A) By the director under this chapter; or
(B) By another state; provided that if the person is not also licensed and authorized by the director under this chapter, the person shall also comply with section 467E-6(9); or

(4) Engage in autonomous and independent clinical social work practice without being licensed as a licensed clinical social worker[—]:

(A) By the director under this chapter; or

(B) By another state; provided that if the person is not also licensed and authorized by the director under this chapter, the person shall also comply with section 467E-6(9)."

SECTION 22. Section 471-10, Hawaii Revised Statutes, is amended to read as follows:

"§471-10 Refusal to grant and revocation or suspension of license. (a) In addition to any other actions authorized by law, the board may refuse to grant, renew, reinstate or restore a license for any cause which would be ground for revocation of a license under the law.

(b) In addition to any other actions authorized by law, the board may revoke or suspend the license of any veterinarian,
fine a licensee, or both, for any cause authorized by law, including but not limited to the following:

(1) Professional misconduct, gross negligence, or manifest incapacity;

(2) Violation of this chapter or the rules adopted pursuant thereto or any other law which applies to the licensee as a practicing veterinarian;

(3) Making any false representations or promises through advertising or otherwise;

(4) Habitual intemperance in the use of alcoholic beverages or addiction to the use of narcotic or dangerous substances;

(5) Mental incompetence;

(6) Any fraudulent, dishonest, or deceitful act in connection with the practice of veterinary medicine;

(7) Making a false statement on any document submitted or required to be filed by this chapter, including a false certification of compliance with the continuing education requirement;
(8) Revocation, suspension, or other disciplinary action by another state of a license or certificate for reasons as provided in this section;

(9) Conviction of or plea of nolo contendere to a penal offense substantially related to the qualifications, functions, or duties of a veterinarian, notwithstanding any statutory provision to the contrary;

(10) Violation of chapter 329, the uniform controlled substances act, or any rule adopted pursuant thereto;

(11) Failure to report any disciplinary action taken against the licensee in another jurisdiction within thirty days after the disciplinary action becomes final; or

(12) Conduct or practice contrary to the recognized principles of medical ethics of the veterinary profession as adopted by the Hawaii Veterinary Medical Association and the American Veterinary Medical Association.

The board shall not revoke or suspend the license of any veterinarian or fine any veterinarian solely because the
veterinarian engaged in telehealth without a previously existing
veterinarian-client-patient relationship or physical examination
of the patient.

(d) For the purposes of this section:
"Telehealth" shall have the same meaning as in section
453-1.3."

SECTION 23. This Act does not affect rights and duties
that matured, penalties that were incurred, and proceedings that
were begun before its effective date.

SECTION 24. Statutory material to be repealed is bracketed
and stricken. New statutory material is underscored.

SECTION 25. This Act shall take effect upon its approval.

INTRODUCED BY: 

JAN 22 2021
Report Title:
Telehealth; Procurement; Health; Gifts; Physicians; License

Description:
Exempts telehealth-related gifts from procurement requirements. Makes permanent certain telehealth-related exemptions for licensed health professions issued by recent gubernatorial proclamation.

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