RELATING TO TELEHEALTH.

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

SECTION 1. The legislature finds that the coronavirus disease 2019 (COVID-19) pandemic has significantly changed how people interact with one another in a safe manner. Broadband access has played a crucial role in allowing people to continue social interactions and other necessary services. The legislature notes that having access to broadband is paramount during the COVID-19 pandemic as it allows students to learn from their homes, families to see one another, and patients to see their healthcare providers, all from a safe distance.

The legislature further finds that to address the lack of in-person gatherings and meetings in the healthcare industry, telehealth has been gaining popularity as it allows healthcare providers to diagnose and possibly treat patients without putting anyone at risk from face-to-face meetings. However, the legislature recognizes that not everyone in the State has equal access to the necessary resources to allow for telehealth services. Broadband access in the State has created issues for
many, especially those located in rural areas of the State.
Equal broadband access requires the State and private sector to
work together to provide the necessary resources to ensure equal
broadband access for telehealth purposes. However, there
certain obstacles preventing the private sector from assisting
the State.

The legislature also finds that while there are companies
willing to gift necessary resources, such as wi-fi routers or
broadband support, to help the State provide telehealth access
throughout all the islands, these companies are limited to what
can be gifted due to the State's procurement laws. Therefore,
if the State makes it explicit that a gift does not constitute a
procurement contract if the gift is necessary for telehealth
purposes, then private companies will be able to help expand
access to telehealth services across the State.

The purpose of this Act is to:

(1) Exempt telehealth-related gifts from procurement
requirements;

(2) Codify the authorization of advanced practice
registered nurses to use telehealth to assist a
patient, including those advanced practice registered
nurses who are not licensed in the State, under
certain conditions; and

(3) Make permanent certain telehealth-related exemptions
for licensed health professions issued by recent
gubernatorial proclamations.

SECTION 2. 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 3. 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 4. Chapter 457, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§457— Practice of telehealth. (a) Nothing in this section shall preclude any advanced practice registered nurse acting within the scope of the advanced practice registered
nurse'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 advanced practice registered nurse-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 purpose of this section and does not constitute an acceptable standard of care.

(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) An advanced practice registered nurse may use telehealth to establish an advanced practice registered nurse-patient relationship with a patient in this State without a license to practice medicine in Hawaii; provided that the advanced practice registered nurse complies with subsection (f).

(f) An advanced practice registered nurse may use telehealth to assist a patient for any purpose, including consultation with a medical provider licensed in another state, authorized by this chapter, or as otherwise provided by law; provided that the advanced practice registered nurse:

(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 advanced practice registered nurse was never revoked or suspended; or
(C) An active license in another state; provided that the advanced practice registered nurse complies with the applicable law of the state that granted the license; or

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

(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.

(h) For the purposes of this section "state", when not referring to the State of Hawaii, means any other state of the United States or the District of Columbia.

SECTION 5. 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 or an advanced practice registered nurse practicing telehealth pursuant to chapter 457 and otherwise complies with this chapter."

SECTION 6. Section 329-126, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:
"(b) For purposes of this section, a bona fide physician-patient relationship may be established via telehealth, as defined in section 453-1.3(i), and a bona fide advanced practice registered nurse-patient relationship may be established via telehealth, as defined in section 457-2; provided that treatment recommendations that include certifying a patient for the medical use of cannabis via telehealth shall be allowed only after an initial in-person consultation between the certifying physician or advanced practice registered nurse and the patient."

SECTION 7. Section 346-59.1, Hawaii Revised Statutes, is amended as follows:

1. By amending subsection (b) to read:

  "(b) Reimbursement for services provided through telehealth, but not through standard phone contacts, shall be equivalent to reimbursement for the same services provided via face-to-face contact between a health care provider and a patient. Nothing in this section shall require a health care provider to be physically present with the patient at an originating site unless a health care provider at the distant site deems it necessary."
2. By amending subsection (g) to read:

"(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. "Telehealth" does not include facsimile transmissions, e-mail text, 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 8. Section 431:10A-116.3, Hawaii Revised Statutes, is amended as follows:

1. By amending subsection (c) to read:

"(c) Reimbursement for services provided through telehealth, but not through standard phone contact, shall be equivalent to reimbursement for the same services provided via face-to-face contact between a health care provider and a patient. Nothing in this section shall require a health care provider to be physically present with the patient at an originating site unless a health care provider at the distant site deems it necessary."

2. By amending subsection (g) to read:

"(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 9. Section 432:1-601.5, Hawaii Revised Statutes,
is amended as follows:

1. By amending subsection (c) to read:

"(c) Reimbursement for services provided through
telehealth, but not through standard phone contact, shall be
equivalent to reimbursement for the same services provided via
face-to-face contact between a health care provider and a
patient. Nothing in this section shall require a health care provider to be physically present with the patient at an originating site unless a health care provider at the distant site deems it necessary."

2. By amending subsection (g) to read:

"(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, [or] e-mail text, [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 10. Section 432D-23.5, Hawaii Revised Statutes, is amended as follows:

1. By amending subsection (c) to read:

"(c) Reimbursement for services provided through telehealth, but not through standard phone contact, shall be equivalent to reimbursement for the same services provided via face-to-face contact between a health care provider and a patient. Nothing in this section shall require a health care provider to be physically present with the patient at an originating site unless a health care provider at the distant site deems it necessary."

2. By amending subsection (g) to read:

"(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, email text, or any combination [or by itself, does not constitute a telehealth service for the purposes] of [this chapter.] facsimile transmissions and email text."

SECTION 11. 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 12. 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 13. 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; [_ctor]

(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)[τ]; or

(4) 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 14. 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 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 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 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.

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

(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 15. 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 16. Section 453D-5, Hawaii Revised Statutes, is amended to read as follows:

"[§453D-5] 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[; 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 17. 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;
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; [≡]

(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 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 18. 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 19. 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 Maui;
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 20. 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 21. 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 22. Section 467E-5, Hawaii Revised Statutes, is amended to read as follows:

"§467E-5 License required. [Hc] 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 23. 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;

[and]

(8) Any person in the process of obtaining three thousand hours of post masters clinical social work experience under the supervision of a licensed clinical social worker or individual identified in section 467E-7(3)(C)(ii) 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

(9) 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 24. 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 [a] 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 25. 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;
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(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.

(c) 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 26. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.
SECTION 27. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 28. This Act shall take effect on July 1, 2050.
Report Title:
Telehealth; Procurement; Health; Gifts; Health Professionals; License

Description:
Exempts telehealth-related gifts from procurement requirements. Codifies the authorization of advanced practice registered nurses to use telehealth to assist a patient, including those advanced practice registered nurses who are not licensed in the State, under certain conditions. Makes permanent certain telehealth-related exemptions for licensed health professions issued by recent gubernatorial proclamation. Effective 7/1/2050. (HD1)

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