

JAN 21 2011

A BILL FOR AN ACT

RELATING TO MENTAL HEALTH.

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

1 SECTION 1. The legislature finds that, although public
2 mental health services exist and are provided throughout the
3 State, they are delivered by many different departments and
4 agencies and consumers often experience confusion with respect
5 to how to receive care. Furthermore, the lack of outreach to
6 people with mental health problems, coupled with the absence of
7 preventive and early intervention services, exacerbates mental
8 health problems, often leading to devastating personal and
9 societal consequences.

10 The legislature also finds that the delivery of mental
11 health services requires a highly specialized, professional
12 workforce that contains adequate mental health specific
13 recruitment and retention policies and highly specialized
14 contracting, procurement, and contract oversight.

15 To address the foregoing concerns and needs, the creation
16 of an oversight body would help to foster a more unified mental
17 health system to ensure greater public access to and an



1 equitable distribution of mental health services throughout the
2 State of Hawaii.

3 The legislature acknowledges that the department of health
4 has already established a mental health system and manages
5 designated mental health programs. Given the department of
6 health's existing functions, the legislature finds that the
7 mental health care services currently provided by the department
8 of health should be transferred to a newly created Hawaii mental
9 health commission.

10 The purpose of this Act is to create a Hawaii mental health
11 commission that is charged with the responsibility of developing
12 a unified state mental health delivery service and to transfer
13 the authority, duties, responsibilities and jurisdiction of the
14 department of health, with respect to mental health, mental
15 illness, drug addiction, and alcoholism, to the Hawaii mental
16 health commission on July 1, 2013.

17 SECTION 2. The Hawaii Revised Statutes is amended by
18 adding a new chapter to be appropriately designated and to read
19 as follows:

20 "CHAPTER

21 § -1 Hawaii mental health commission; establishment and
22 organization. (a) There is established within the department



1 of health for administrative purposes the Hawaii mental health
2 commission. The commission shall be an autonomous public body
3 corporate and politic and an instrumentality of the State.

4 (b) The commission shall be composed of nine commissioners
5 appointed by the governor as provided in section 26-34; provided
6 that three commissioners shall be appointed from a list of
7 nominees submitted by the speaker of the house of
8 representatives and three commissioners shall be appointed from
9 a list of nominees submitted by the president of the senate.
10 All commissioners shall be appointed for terms of four years
11 each.

12 (c) The commission shall be composed of at least one of
13 each of the following:

14 (1) A physician recognized as an expert in the treatment
15 of mental illness;

16 (2) A representative of groups who are consumers or
17 families of consumers interested in the treatment of
18 mental illness;

19 (3) A person recognized for expertise in dealing with
20 alcohol abuse;

21 (4) A person recognized for expertise in dealing with drug
22 abuse; and



1 (5) A person recognized for expertise in community mental
2 health services.

3 (d) One of the nine commissioners shall be selected by the
4 commission to be the director of mental health services,
5 confirmed by a majority vote of a quorum of the commissioners.

6 (e) Each commissioner shall hold office until the
7 commissioner's successor is appointed and qualified.

8 (f) All commissioners shall be devoted to the duties of
9 the commission on a full-time basis and no commissioner shall
10 hold any other public office or other employment during the term
11 of office. The director of mental health services shall be paid
12 a salary set at per cent of the salary of the director of
13 health. All other commissioners shall be paid a salary set at
14 per cent of the salary of the director of health. All
15 commissioners shall be reimbursed for their actual and necessary
16 expenses, including travel expenses, incurred in carrying out
17 their duties. Commissioners shall be exempt from chapters 76
18 and 89, but shall be members of any state or federal employee
19 benefit program generally applicable to officers and employees
20 of the State, including programs under chapter 87A.



1 (g) Five commissioners shall constitute a quorum, whose
2 affirmative vote shall be necessary for all valid actions by the
3 commission.

4 (h) Meetings of the commission shall be held in accordance
5 with the public proceedings and records requirements of chapter
6 92.

7 (i) The commission may appoint and employ staff as may be
8 necessary to perform its duties.

9 § -2 **Hawaii mental health commission; duties and**
10 **responsibilities.** (a) In addition to the responsibilities
11 enumerated in chapter 321, part XV, and chapter 334, the
12 commission shall be responsible for the overall mental health
13 planning for the State and shall be responsible for determining
14 future capacity needs for mental health providers, facilities,
15 equipment, and support service providers.

16 (b) The commission shall seek to achieve the following
17 goals:

18 (1) Foster a more unified mental health system to ensure
19 greater public access to and an equitable distribution
20 of mental health services throughout the State, with
21 particular emphasis on client-centered, family-focused
22 and community-based mental health services that are



- 1 culturally and linguistically competent and are
2 provided in an integrated services system;
- 3 (2) Reduce the incidence and prevalence of mental health
4 disorders and their impact on individuals, families,
5 and the state budget resulting from untreated serious
6 mental illness through primary, secondary, and
7 tertiary prevention;
- 8 (3) Emphasize strategies to reduce the negative outcomes
9 that may result from untreated mental illness;
- 10 (4) Improve public understanding of and attitudes toward
11 mental health disorders;
- 12 (5) Increase access to mental health services to
13 underserved groups and increase the overall quality of
14 mental health services throughout the State;
- 15 (6) Promote interagency collaboration and information
16 sharing;
- 17 (7) Foster a continuum of care that provides an array of
18 mental health and related supportive services designed
19 to meet the multiple, complex needs of mental health
20 patients; and
- 21 (8) Remain apprised of emerging practices and procedures
22 in the delivery of mental health services.



1 (c) The commission shall develop a comprehensive mental
2 health plan that includes:

3 (1) Program standards, including definitions of mandatory
4 services; admission, eligibility and case management
5 criteria; monitoring and program and fiscal audit
6 procedures; mental health-specific recruitment and
7 retention polices; contracting, procurement, and
8 contract requirements; and administrative hearing
9 procedures;

10 (2) Determination of criteria for approving providers of
11 mental health services;

12 (3) Assessment of mental health provider shortages in
13 order to increase the supply of professional and
14 non-professional staff to accommodate increases in
15 service demands;

16 (4) Determination of all reimbursable mental health
17 services to be paid by the State;

18 (5) Evaluation of the cost-effectiveness of all aspects of
19 the mental health plan, including a review of funding
20 sources that are creative, flexible, and accountable;

21 (6) Determination of methods to maximize the availability
22 of federal funds, including medicare and medicaid



1 coverage, available for the provision of mental health
2 services; and

3 (7) Methods for outreach to families, employers, primary
4 care health care providers, and others to recognize
5 the early signs of potentially severe and disabling
6 mental illnesses.

7 The commission may utilize findings obtained by the state
8 council on mental health to further the development of the
9 mental health plan.

10 (d) The commission shall establish, maintain, and review
11 the best possible mental health plans, practices, rules and
12 regulations, facilities, programs, and services that are
13 operated, funded, or licensed by the State.

14 (e) The commission shall submit a final, comprehensive
15 mental health services plan for the State, including its final
16 findings and recommendations, to the legislature no later than
17 twenty days prior to the convening of the regular session of
18 2013.

19 (f) In addition to the powers and functions enumerated in
20 chapter 321, part XV, and chapter 334, in carrying out its
21 duties and responsibilities, the commission shall:



- 1 (1) Enter into necessary contracts for services pertaining
2 to the delivery of mental health services to give
3 effect to the goals of the commission;
- 4 (2) Establish an annual fiscal budget to support the needs
5 of the commission and to carry out the mental health
6 plan;
- 7 (3) Adopt rules, pursuant to chapter 91, necessary to
8 effectuate the goals of the commission;
- 9 (4) Obtain data and information from the department of
10 health, or other state or local entities that receive
11 state funds for the provision of mental health
12 services, for the commission to utilize in its
13 oversight, review, and evaluation capacity; and
- 14 (5) Employ all other appropriate strategies necessary or
15 convenient to enable it to fully and adequately
16 perform its duties and exercise the powers expressly
17 granted."

18 SECTION 3. Section 334-1, Hawaii Revised Statutes, is
19 amended as follows:

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

22 "Commission" means the Hawaii mental health commission."



1 2. By deleting the definition of "department":

2 [~~"Department" means the department of health.~~"]

3 SECTION 4. Section 321-15.3, Hawaii Revised Statutes, is
4 amended by substituting the term "Hawaii mental health
5 commission" or "commission" wherever the term "department of
6 health" or "department" appears, as the context requires.

7 SECTION 5. Chapter 321, part XV, Hawaii Revised Statutes,
8 is amended by substituting the term "Hawaii mental health
9 commission" or "commission" wherever the term "department of
10 health" or "department" appears, as the context requires.

11 SECTION 6. Chapter 334, Hawaii Revised Statutes, is
12 amended by substituting the term "Hawaii mental health
13 commission" or "commission" wherever the term "department of
14 health" or "department" appears, as the context requires.

15 SECTION 7. There is appropriated out of the general
16 revenues of the State of Hawaii the sum of \$ or so
17 much thereof as may be necessary for fiscal year 2011-2012 and
18 the same sum or so much thereof as may be necessary for fiscal
19 year 2012-2013 for the Hawaii mental health commission to
20 effectuate goals and duties set forth by this Act.

21 The sums appropriated shall be expended by the department
22 of health for the purposes of this Act.



1 SECTION 8. Beginning July 1, 2013, all rights, powers,
2 functions, and duties of the department of health with respect
3 to mental health, mental illness, drug addiction, and alcoholism
4 are transferred to the Hawaii mental health commission.

5 SECTION 9. All officers and employees whose functions are
6 transferred by this Act shall be transferred with their
7 functions and shall continue to perform their regular duties
8 upon their transfer, subject to the state personnel laws and
9 this Act.

10 No officer or employee of the State having tenure shall
11 suffer any loss of salary, seniority, prior service credit,
12 vacation, sick leave, or other employee benefit or privilege as
13 a consequence of this Act, and such officer or employee may be
14 transferred or appointed to a civil service position without the
15 necessity of examination; provided that the officer or employee
16 possesses the minimum qualifications for the position to which
17 transferred or appointed; and provided further that subsequent
18 changes in status may be made pursuant to applicable civil
19 service and compensation laws.

20 An officer or employee of the State who does not have
21 tenure and who may be transferred or appointed to a civil
22 service position as a consequence of this Act shall become a



1 civil service employee without the loss of salary, seniority,
2 prior service credit, vacation, sick leave, or other employee
3 benefits or privileges and without the necessity of examination;
4 provided that such officer or employee possesses the minimum
5 qualifications for the position to which transferred or
6 appointed.

7 If an office or position held by an officer or employee
8 having tenure is abolished, the officer or employee shall not
9 thereby be separated from public employment, but shall remain in
10 the employment of the State with the same pay and classification
11 and shall be transferred to some other office or position for
12 which the officer or employee is eligible under the personnel
13 laws of the State as determined by the head of the department or
14 the governor.

15 SECTION 10. All appropriations, records, equipment,
16 machines, files, supplies, contracts, books, papers, documents,
17 maps, and other personal property heretofore made, used,
18 acquired, or held by the department of health relating to the
19 functions transferred to the Hawaii mental health commission
20 pursuant to this Act shall be transferred with the functions to
21 which they relate.



1 SECTION 11. All unencumbered moneys deposited in any
2 revolving or special fund controlled by the department of health
3 relating to the functions transferred to the Hawaii mental
4 health commission pursuant to this Act shall lapse to the credit
5 of the general fund.

6 SECTION 12. All rules, policies, procedures, guidelines,
7 and other material adopted or developed by the department of
8 health to implement provisions of the Hawaii Revised Statutes
9 relating to mental health, mental illness, drug abuse, and
10 alcoholism and which are made applicable to the Hawaii mental
11 health commission by this Act shall remain in full force and
12 effect until amended or repealed by the director of mental
13 health services pursuant to chapter 91, Hawaii Revised Statutes.
14 In the interim, every reference to the department of health or
15 the director of health in those rules, policies, procedures,
16 guidelines, and other material is amended to refer to the Hawaii
17 mental health commission or the director of mental health
18 services.

19 SECTION 13. All deeds, leases, contracts, loans,
20 agreements, permits, or other documents executed or entered into
21 by or on behalf of the department of health pursuant to the
22 provisions of the Hawaii Revised Statutes that are made



1 applicable to the Hawaii mental health commission by this Act,
2 shall remain in full force and effect. From July 1, 2013, every
3 reference to the department of health or the director of health
4 therein shall be construed as a reference to the Hawaii mental
5 health commission or the director of mental health services, as
6 appropriate.

7 SECTION 14. If any part of this Act is found to be in
8 conflict with federal requirements that are a prescribed
9 condition for the allocation of federal funds to the State, the
10 conflicting part of this Act is inoperative solely to the extent
11 of the conflict and with respect to the agencies directly
12 affected, and this finding does not affect the operation of the
13 remainder of this Act in its application to the public bodies
14 concerned. The rules in effect as a result of this Act shall
15 meet federal requirements that are a necessary condition to the
16 receipt of federal funds by the State.

17 SECTION 15. The department of health and the Hawaii mental
18 health commission shall collaborate to implement the transfers
19 and transitions required under this Act with as little
20 disruption to ongoing duties, responsibilities, and public
21 services provided.



1 SECTION 16. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

3 SECTION 17. This Act shall take effect upon its approval;
4 provided that section 7 shall take effect on July 1, 2011.

5

INTRODUCED BY:

S.S.T.

Ramirez de Arce

Francisco Lopez



Report Title:

Mental Health Services; Mental Health Plan; Hawaii Mental Health Commission; Transfer of Authority; Appropriation

Description:

Establishes the Hawaii mental health commission, which is charged with the responsibility of creating a unified state mental health delivery service. Transfers the authority, duties, responsibilities and jurisdiction of the department of health, with respect to mental health, mental illness, drug addiction, and alcoholism, to the Hawaii mental health commission on July 1, 2013. Makes an appropriation to the department of health.

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

