

1 the other regions due to the logistical complexities of its
2 facilities and the limited but crucial nature of the services
3 these facilities, Leahi hospital and Maluhia, currently provide.
4 Because the Oahu facilities almost exclusively serve long-term
5 care and medicaid patients, groups traditionally underserved by
6 private facilities because of the high cost of their care, the
7 Oahu region's long-term care operations are run more as a
8 safety-net social service operation and, compared to the other
9 regions, have less opportunity for additional revenue
10 generation.

11 While the need for long-term care beds on Oahu has
12 decreased in recent years, a study completed by the department
13 of business, economic development, and tourism has projected
14 that the population aged sixty-five and older in Hawaii will
15 grow by one hundred forty-eight per cent over the next twenty-
16 five years. On Oahu, this translates to an estimated shortfall
17 of one thousand one hundred long-term care beds in the next five
18 to ten years alone. Thus, despite the costs of long-term care,
19 it is vital that state facilities continue to operate to ensure
20 that beds remain available for our aging population.



1 Similar to the Oahu region, the department of health
2 operates the Hawaii state hospital, a facility that does not
3 generate revenue, but is nonetheless necessary to provide care
4 and treatment for mentally ill patients in Hawaii. In recent
5 years, the Hawaii state hospital has experienced a challenge in
6 providing sufficient bed space for admitted patients. As of
7 September 2019, two hundred twenty patients - well over the
8 maximum capacity of two hundred two - occupied beds at the
9 Hawaii state hospital. To meet its needs, the Hawaii state
10 hospital was also required to contract with Kahi Mohala, a
11 privately-run facility, to care for an additional forty-six
12 patients.

13 Beyond the Hawaii state hospital, the department of health
14 has also been charged with addressing the significant gap in the
15 behavioral health care system between acute psychiatric care
16 facilities and low acuity residential treatment. Data collected
17 in the State estimates that more than half of all individuals
18 experiencing a mental health crisis, or fifty-four per cent,
19 have needs that align better with services delivered within a
20 subacute level of care facility rather than an emergency room.



1 The legislature finds that Act 90, Session Laws of Hawaii
2 2019, established the involuntary hospitalization task force and
3 Act 263, Session Laws of Hawaii 2019, established a working
4 group to evaluate current behavioral health care and related
5 systems, including existing resources, systems gaps, and
6 identification of action steps that would be taken to improve
7 the overall system of care. The findings from these initiatives
8 highlight the need in Hawaii for a coordinated network of
9 stabilization beds that will allow triage, clinical assessment,
10 and recommendation for the next level of care for those
11 struggling with substance use, mental health conditions, and
12 homelessness.

13 The National Coalition for the Homeless has found that
14 sixty-four per cent of homeless individuals are dependent on
15 alcohol or other substances. In Hawaii, the Oahu homeless point
16 in time count reported that 36.4 per cent of homeless single
17 adults suffer from some type of mental illness. The
18 intersection of homelessness and behavioral health conditions
19 are a crisis in Hawaii, which contributes to Hawaii having the
20 second highest rate of homelessness in the nation.
21 Unfortunately, there is currently no coordinated system of



1 stabilization from the streets that assesses for and links to
2 the next level of clinical care.

3 The legislature additionally finds that the current options
4 for those needing stabilization from substance use, mental
5 health, and homelessness are overburdened and inadequate, and
6 emergency facilities throughout the State have experienced
7 substantial increases in psychiatric emergency admissions, which
8 has resulted in overcrowding and unsafe environments for
9 patients and medical staff.

10 The legislature also finds that comprehensive crisis
11 response and stabilization services are crucial elements of the
12 continuum of care. Reducing unnecessary transportation to
13 hospital emergency rooms and appropriately placing clients in
14 more suitable levels of care will improve outcomes for
15 consumers, reduce inpatient hospital stays, and facilitate
16 access to other behavioral health services.

17 Subacute residential stabilization services have been a
18 missing component of a comprehensive behavioral health continuum
19 of care, which would bridge the gap between acute
20 hospitalization and lower level residential and community
21 resources. Many individuals who are taken to the emergency room



1 on a MH-1, or for emergency examination and hospitalization, are
2 often not acute enough in their illness to warrant psychiatric
3 hospitalization. On the other hand, their symptomology is too
4 acute for them to be admitted to a group home, shelter, or other
5 existing low acuity residential programs, or, if they are
6 admitted, they are often unsuccessful in those environments.
7 More often than not, they fail because they have not had time to
8 stabilize in an environment where they can be closely monitored.
9 This lack of post-acute care contributes to the poor outcomes of
10 both acute behavioral health inpatient and community-based
11 services because the conditions of many individuals are not
12 appropriate for either level, but fall somewhere in between.

13 The legislature further finds that there exists state
14 facilities that have underutilized space that could accommodate
15 these services with minimal effort and adjustments and reduce
16 certain burdens and barriers. Therefore, assertive efforts
17 should be undertaken to make sure of these resources and to
18 organize them in a way that is beneficial to the State.

19 Through discussions with the Oahu region, it was determined
20 that some of the Oahu region's health care facilities,
21 particularly at Leahi hospital, are currently underutilized and



1 have the potential to be re-purposed for other important health
2 care and social service needs.

3 The legislature further finds that, while statutorily tied
4 to the Hawaii health systems corporation, the Oahu region
5 operates mostly autonomously and its functions - including
6 target population - are unique from those of the other regional
7 health care systems. As such, there is little benefit from
8 keeping the Oahu regional health care system as a part of the
9 Hawaii health systems corporation. With proper planning and
10 implementation, the Oahu regional health care system could be
11 strategically assimilated into the department of health and its
12 facilities could be utilized to help alleviate the need for
13 subacute residential mental health stabilization and other
14 subacute care services.

15 The purpose of this Act is to:

16 (1) Commence the transfer of the Oahu regional health care
17 system in its entirety from the Hawaii health systems
18 corporation to the department of health, beginning
19 with the transfer of the Oahu regional health care
20 system's budget and position count into the department
21 of health; and



1 district, north Kona district, and south Kona
2 district;
3 and shall be identified as regional systems I, II, III, and IV,
4 [~~and V,~~] respectively."

5 SECTION 3. Section 323F-3, Hawaii Revised Statutes, is
6 amended to read as follows:

7 "**§323F-3 Corporation board.** (a) The corporation shall be
8 governed by an eighteen-member board of directors that shall
9 carry out the duties and responsibilities of the corporation
10 other than those duties and responsibilities relating to the
11 establishment of any captive insurance company pursuant to
12 section 323F-7(c)(20) and the operation thereof.

13 (b) The members of the corporation board shall be
14 appointed as follows:

- 15 (1) The director of health as an ex officio, voting
16 member;
- 17 (2) The [~~five~~] four regional chief executive officers as
18 ex officio, nonvoting members;
- 19 (3) Three members who reside in the county of Maui, two of
20 whom shall be appointed by the Maui regional system



- 1 board and one of whom shall be appointed by the
2 governor, all of whom shall serve as voting members;
- 3 (4) Two members who reside in the eastern section of the
4 county of Hawaii, one of whom shall be appointed by
5 the East Hawaii regional system board and one of whom
6 shall be appointed by the governor, both of whom shall
7 serve as voting members;
- 8 (5) Two members who reside in the western section of the
9 county of Hawaii, one of whom shall be appointed by
10 the West Hawaii regional system board and one of whom
11 shall be appointed by the governor, both of whom shall
12 serve as voting members;
- 13 (6) Two members who reside on the island of Kauai, one of
14 whom shall be appointed by the Kauai regional system
15 board and one of whom shall be appointed by the
16 governor, both of whom shall serve as voting members;
- 17 (7) Two members who reside on the island of Oahu, one of
18 whom shall be appointed by the Oahu regional system
19 board and one of whom shall be appointed by the
20 governor, both of whom shall serve as voting members;
21 and



1 (8) One member who shall be appointed by the governor and
2 serve as an at-large voting member.

3 The appointed board members who reside in the county of
4 Maui, eastern section of the county of Hawaii, western section
5 of the county of Hawaii, on the island of Kauai, and on the
6 island of Oahu shall each serve for a term of four years;
7 provided that the terms of the initial appointments of the
8 members who are appointed by their respective regional system
9 boards shall be as follows: one of the initial members from the
10 county of Maui shall be appointed to serve a term of two years
11 and the other member shall be appointed to serve a term of four
12 years; the initial member from East Hawaii shall be appointed to
13 serve a term of two years; the initial member from West Hawaii
14 shall be appointed to serve a term of four years; the initial
15 member from the island of Kauai shall be appointed to serve a
16 term of two years; and the initial member from the island of
17 Oahu shall be appointed to serve a term of four years; and
18 provided further that the terms of the initial appointments of
19 the members who are appointed by the governor shall be four
20 years. The at-large member appointed by the governor shall
21 serve a term of two years.



1 Any vacancy shall be filled in the same manner provided for
2 the original appointments. The corporation board shall elect
3 its own chair from among its members. Appointments to the
4 corporation board shall be as representative as possible of the
5 system's stakeholders as outlined in this subsection. The board
6 member appointments shall strive to create a board that includes
7 expertise in the fields of medicine, finance, health care
8 administration, government affairs, human resources, and law.

9 (c) The selection, appointment, and confirmation of any
10 nominee shall be based on ensuring that board members have
11 diverse and beneficial perspectives and experiences and that
12 they include, to the extent possible, representatives of the
13 medical, business, management, law, finance, and health sectors,
14 and patients or consumers. Members of the board shall serve
15 without compensation but may be reimbursed for actual expenses,
16 including travel expenses incurred in the performance of their
17 duties.

18 (d) Any member of the board may be removed for cause by
19 vote of a two-thirds majority of the board's members then in
20 office. For purposes of this section, cause shall include
21 without limitation:



- 1 (1) Malfeasance in office;
- 2 (2) Failure to attend regularly called meetings;
- 3 (3) Sentencing for conviction of a felony, to the extent
- 4 allowed by section 831-2; or
- 5 (4) Any other cause that may render a member incapable or
- 6 unfit to discharge the duties required under this
- 7 chapter.

8 Filing nomination papers for elective office or appointment to
9 elective office, or conviction of a felony consistent with
10 section 831-3.1, shall automatically and immediately disqualify
11 a board member from office.

12 (e) With regard to all corporation board matters
13 concerning the Oahu regional health care system, the director of
14 health shall have sole decision-making authority over those
15 matters, commencing on June 30, 2021, and continuing until the
16 transition of the Oahu regional health care system into the
17 department of health is complete. Upon completion of the
18 transition, the corporation board shall have no legal
19 relationship with the Oahu regional health care system or its
20 facilities."



1 SECTION 4. Section 323F-7.6, Hawaii Revised Statutes, is
2 amended to read as follows:

3 " ~~[§]~~323F-7.6 ~~[§]~~ Transition of Hawaii health systems
4 regional system or health facility to a new entity. (a)

5 Notwithstanding any other law to the contrary, including but not
6 limited to section 27-1 and chapter 171, any of the regional
7 systems or individual facilities of the Hawaii health systems
8 corporation is hereby authorized to transition into a new legal
9 entity in any form recognized under the laws of the State,
10 including but not limited to:

- 11 (1) A nonprofit corporation;
- 12 (2) A for-profit corporation;
- 13 (3) A municipal facility;
- 14 (4) A public benefit corporation; ~~[ex]~~
- 15 (5) A division or branch under a state executive

16 department; or

- 17 ~~[+5+]~~ (6) Any two or more of the entities in paragraphs (1)
18 through ~~[+4+]~~ (5).

19 A transition shall occur through the sale, lease, or transfer of
20 all or substantially all of the assets of the facility or
21 regional system, except for real property which shall only be



1 transferred by lease[-], unless such transfer is effectuated
2 under paragraph (5), in which case real property shall
3 transition to the executive department. Any transition shall
4 comply with chapter 323D.

5 (b) A transition shall only occur upon approval of the
6 appropriate regional system board in the case of a regional
7 system or individual facility transition, or upon approval of
8 the regional system boards and the corporation in the case of
9 the transition of the entire corporation. Any transition shall
10 be subject to legal review by the attorney general who shall
11 approve the transition if satisfied that the transition conforms
12 to all applicable laws, subject to the review of the director of
13 the department of budget and finance who shall approve the
14 transition if it conforms to all applicable financing
15 procedures, and subject to the governor's approval. In
16 addition, the transition shall be subject to the following terms
17 and conditions:

18 (1) All proceeds from the sale, lease, or transfer of
19 assets shall be used for health care services in the
20 respective regional system or facility, except that
21 real property shall only be transferred by lease[+],



1 unless such transfer is effectuated under subsection
2 (a) (5), in which case real property shall transition
3 to the executive department;

4 (2) Any and all liabilities of a regional system or
5 facility transitioning into a new entity that were
6 transferred to the Hawaii health systems corporation
7 upon its creation by Act 262, Session Laws of Hawaii
8 1996, and all liabilities of the regional system or
9 facility related to collective bargaining contracts
10 negotiated by the State, shall become the
11 responsibility of the State; and

12 (3) During the period of transition:

13 (A) The State shall continue to fund the provision of
14 health care services provided for by the regional
15 system or individual facility; and

16 (B) All applicable provisions of this chapter shall
17 continue to apply.

18 Upon the completion of the transition of all the facilities
19 in a regional system to a new entity, the regional system board
20 for that regional system shall terminate; provided that if not
21 all of a regional system's facilities are transitioned to a new



1 entity, the existing regional system board shall not terminate
2 but shall continue to retain jurisdiction over those facilities
3 remaining in the regional system."

4 PART III

5 SECTION 5. (a) The transfer of the Oahu regional health
6 care system to the department of health shall commence with the
7 transfer of the budget and position count associated with the
8 Oahu region as follows:

9 (1) On June 30, 2021, the budget of the Oahu regional
10 health care system shall be transferred from the
11 Hawaii health systems corporation to the department of
12 health; provided that:

13 (A) The Oahu regional health care system's budget
14 codes and all related allocated funds of the Oahu
15 region shall be reflected in the state budget and
16 all other related tables and documents under the
17 program code HTH ; and

18 (B) The program code HTH shall be known as the
19 behavioral and elder care facilities division
20 within the department of health's behavioral
21 health administration. The organizational



1 structure of the Oahu regional health care system
2 shall remain unchanged, unless modified and
3 approved by the transition working group
4 identified in this Act, and as approved by the
5 conditions established in this part or as
6 required by law; and

7 (2) On June 30, 2021, the total position count and class
8 specifications of the Oahu region shall be transferred
9 in their entirety to the department of health and
10 associated with HTH ; provided that:

11 (A) All employees of the Oahu region who occupy civil
12 service positions shall be transferred to the
13 department of health by this Act and retain their
14 civil service status, whether permanent or
15 temporary, and shall maintain their respective
16 functions as reflected in their current position
17 descriptions during the transition period;
18 provided that any changes determined necessary by
19 the working group established pursuant to this
20 Act shall follow standard union consultation
21 process prior to implementation;



1 (B) Employees shall be transferred without loss of
2 salary; seniority, except as prescribed by
3 applicable collective bargaining agreements;
4 retention points; prior service credit; any
5 vacation and sick leave credits previously
6 earned; and other rights, benefits, and
7 privileges, in accordance with state employment
8 laws;

9 (C) The personnel structure of the Oahu regional
10 health care system shall remain unchanged, unless
11 modified and approved by the working group and as
12 approved by the conditions established pursuant
13 to this Act;

14 (D) Any employee who, prior to this Act, is exempt
15 from civil service or collective bargaining and
16 is transferred as a consequence of this Act shall
17 be transferred without loss of salary and shall
18 not suffer any loss of prior service credit,
19 contractual rights, vacation or sick leave
20 credits previously earned, or other employee
21 benefits or privileges and shall be entitled to



1 remain employed in the employee's current
2 position for a period of no less than one year
3 after the transition of the Oahu regional health
4 care system into the department of health is
5 complete;

6 (E) The wages, hours, and other conditions of
7 employment shall be negotiated or consulted, as
8 applicable, with the respective exclusive
9 representative of the affected employees, in
10 accordance with chapter 89, Hawaii Revised
11 Statutes; and

12 (F) The rights, benefits, and privileges currently
13 enjoyed by employees, including those rights,
14 benefits, and privileges under chapters 76, 78,
15 87A, 88, and 89, Hawaii Revised Statutes, shall
16 not be impaired or diminished as a result of
17 these employees being transitioned to the
18 department of health pursuant to this Act. The
19 transition to the department of health shall not
20 result in any break in service for the affected
21 employees. The rights, benefits, and privileges



1 currently enjoyed by employees shall be
2 maintained under their existing collective
3 bargaining or other agreements and any successor
4 agreement.

5 (b) Upon effectuation of subsection (a), the Oahu regional
6 board shall be placed within the department of health pursuant
7 to section 26-35, Hawaii Revised Statutes, for the purposes of
8 facilitating the transition of the Oahu region into the
9 department of health as part of the working group established
10 pursuant this Act and to effectuate the assignment of all
11 contracts and agreements in which the Oahu region is a party to
12 the department of health.

13 SECTION 6. (a) There is established a working group of
14 the Oahu regional health care system and department of health to
15 develop, evaluate, and implement any additional steps necessary
16 to complete the transition of the Oahu regional health care
17 system into the department of health.

18 (b) The working group shall consist of the following
19 members:

20 (1) The director of health, or the director's designee,
21 who shall serve as co-chair, and who, along with the



1 chair of the Oahu regional health care system, or the
2 chair's designee, shall have final authority over
3 transfer activities to be implemented by the working
4 group;

5 (2) The chair of the Oahu regional health care system
6 board, or the chair's designee, who shall serve as co-
7 chair, and who, along with the director of health, or
8 the director's designee, shall have final authority
9 over transfer activities to be implemented by the
10 working group;

11 (3) The chief executive officer of the Oahu regional
12 health care system, or the chief executive officer's
13 designee;

14 (4) One or more department of health staff members as
15 deemed necessary by the director of health, or the
16 director's designee; and

17 (5) One or more Oahu regional health care system staff
18 members as deemed necessary by the chief executive
19 officer of the Oahu regional health care system, or
20 the chief executive officer's designee.



1 (c) In addition, the working group shall include the
2 following members, who shall serve in a consultative capacity:

3 (1) One representative from the behavioral health
4 administration of the department of health;

5 (2) One representative from the department of human
6 resources development;

7 (3) One representative from the department of accounting
8 and general services;

9 (4) The chair of the Hawaii health systems corporation
10 board, or the chair's designee;

11 (5) One representative from the Hawaii health systems
12 corporation human resources department;

13 (6) One representative from the Hawaii health systems
14 corporation finance department;

15 (7) One representative from the state procurement office;

16 (8) One representative from the Hawaii Government
17 Employees Association;

18 (9) One representative from the United Public Workers
19 Union; and

20 (10) Others as recommended and invited by the co-chairs.



1 (d) In carrying out its purpose, the working group shall
2 develop a transfer framework to govern and manage the additional
3 steps necessary to complete the transfer of the Oahu region into
4 the department of health. The transfer framework shall include
5 but not be limited to the following steps:

6 (1) Identification and preparation of proposed additional
7 legislation to address any matters not covered by this
8 Act that may be necessary to complete the transfer of
9 the Oahu region into the department of health;

10 (2) Identification of all real property, appropriations,
11 records, equipment, machines, files, supplies,
12 contracts, books, papers, documents, maps, and other
13 property made, used, acquired, or held by the Oahu
14 regional health care system and effectuate the
15 transfer of the same to the department of health;
16 provided that in all cases applicable and appropriate,
17 section 26-35, Hawaii Revised Statutes, shall apply;

18 (3) Identification of all debts and other liabilities that
19 will remain with the Hawaii health systems corporation
20 and transfer any remaining debts and liabilities to
21 the department of health; provided that in all cases



- 1 applicable and appropriate, section 26-35, Hawaii
2 Revised Statutes, shall apply;
- 3 (4) Identification of all contractual arrangements and
4 obligations of the Oahu region, including but not
5 limited to those related to personal service
6 contracts, vendor contracts, and capital improvement
7 projects; provided that in all cases applicable and
8 appropriate, section 26-35, Hawaii Revised Statutes,
9 shall apply;
- 10 (5) Development and implementation of any and all policies
11 and procedures necessary to ensure that the facilities
12 within the Oahu regional health care system remain
13 compliant with all federal, state, and local laws and
14 regulations; provided that in all cases applicable and
15 appropriate, section 26-35, Hawaii Revised Statutes,
16 shall apply; and
- 17 (6) Development and implementation of procedures to
18 extricate the Oahu region from system-wide services
19 secured or provided by the Hawaii health systems
20 corporation or enable the Oahu region to continue to
21 utilize such services on a temporary or permanent



1 basis through interagency agreement; provided that in
2 all cases applicable and appropriate, section 26-35,
3 Hawaii Revised Statutes, shall apply.

4 (e) Members of the working group shall serve without
5 compensation but shall be reimbursed for reasonable expenses
6 necessary for the performance of their duties, including travel
7 expenses. No member of the working group shall be subject to
8 chapter 84, Hawaii Revised Statutes, solely because of the
9 member's participation in the working group.

10 (f) The working group shall submit an interim report to
11 the legislature no later than twenty days prior to the convening
12 of the regular session of 2022 that outlines all components of
13 the transition that have been effectuated to date and any
14 legislative action needed to complete the transfer pursuant to
15 this Act.

16 (g) The working group shall be dissolved on June 30, 2023,
17 or upon completion of the transition of the Oahu regional health
18 care system into the department of health, whichever is later.
19 Prior to its dissolution, the working group shall submit a final
20 report to the legislature that documents the completion of the



1 transfer and dissolution of the Oahu regional health care
2 system.

3 SECTION 7. All transition actions, with the exception of
4 those covered under section 5(a) of this Act, shall be subject
5 to the following conditions:

- 6 (1) The attorney general shall approve the legality and
7 form of any material transition actions created by the
8 working group prior to implementation, and the
9 director of finance shall evaluate and approve any
10 expenditure of public funds determined to be in
11 accordance with the budget laws and controls in force;
- 12 (2) Liabilities of the Oahu regional health care system
13 that were transferred to the Hawaii health systems
14 corporation upon its creation by Act 262, Session Laws
15 of Hawaii 1996, or to the Oahu regional health care
16 system upon its establishment by Act 290, Session Laws
17 of Hawaii 2007, and all other contractual liabilities
18 of the Oahu regional health care system, including
19 those related to collective bargaining contracts
20 negotiated by the State in existence at the time they



S.B. NO. 628

Report Title:

Hawaii Health Systems Corporation; Oahu Region; Department of Health; Transition; Working Group

Description:

Commences the transfer of the Oahu regional health care system in its entirety from the Hawaii health systems corporation to the department of health, beginning with the transfer of the Oahu regional health care system's budget and position count into the department of health. Enables the Oahu regional health care system, department of health, Hawaii health systems corporation, and other state agencies to manage and implement the processes required to effectuate the completion of such transition. Part II takes effect on 6/30/2022.

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

