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# A BILL FOR AN ACT

RELATING TO ORDERS FOR TREATMENT OVER OBJECTION.

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

1           SECTION 1. The legislature finds that the initiation of  
2 treatment for patients admitted to the Hawaii state hospital  
3 needs to be expedient to address patients' psychiatric symptoms  
4 and protect the safety of the patient and others.

5           The legislature further finds that the Hawaii state  
6 hospital is used primarily for forensic commitments, and that  
7 addressing patients' psychiatric symptoms quickly at the  
8 initiation of treatment will help maintain a safe and secure  
9 therapeutic environment for patients and staff as well as have a  
10 positive impact on the patients' length of stay.

11           The legislature notes that the current method to obtain  
12 an authorization to provide treatment over a patient's objection  
13 is by a judicial hearing. Although dependent on circumstances,  
14 the average time between the petition and judicial hearing is  
15 nearly seventeen days. Other states have addressed the  
16 variability and length of time before the hearing by developing



1 a nonjudicial, administrative process to review and authorize  
2 requests for treatment despite a patient's objections.

3 The purpose of this Act is to permit an administrative  
4 order to overcome a patient's objection to psychiatric  
5 treatment, establish criteria for issuance of the administrative  
6 order, and establish criteria for an administrative  
7 authorization process to determine whether the administrative  
8 order should be issued.

9 SECTION 2. Chapter 334, Hawaii Revised Statutes, is  
10 amended by adding a new part to be appropriately designated and  
11 to read as follows:

12 "PART . ADMINISTRATION OF TREATMENT OVER THE PATIENT'S  
13 OBJECTION

14 §334-A Criteria for medical treatment over the patient's  
15 objection. A patient who has been committed to a psychiatric  
16 facility for involuntary hospitalization or who is in the  
17 custody of the director and residing in a psychiatric facility  
18 may be ordered to receive treatment over the patient's  
19 objection, including the taking or application of medication, if  
20 the court, or administrative panel through the administrative



1 authorization process established pursuant to section 334-B,  
2 finds that:

- 3 (1) The patient suffers from a physical or mental disease,  
4 disorder, or defect;
- 5 (2) The patient is physically dangerous to self or others;
- 6 (3) The proposed treatment is medically appropriate; and
- 7 (4) After considering less intrusive alternatives,  
8 treatment is necessary to forestall the danger posed  
9 by the patient.

10 **§334-B Criteria for administrative authorization process.**

11 (a) A patient who is in the custody of the director of health  
12 in a psychiatric facility may be ordered to receive medical  
13 treatment over the patient's objection through an administrative  
14 authorization process that includes the following safeguards:

- 15 (1) The facility shall give notice to the patient of the  
16 authorization process and the reasons for initiating  
17 the process;
- 18 (2) The administrative panel shall consist of three  
19 members with relevant clinical training and  
20 experience, and who are not involved with the current  
21 treatment of the patient;



1           (3) The patient shall have the right to attend the  
2           hearing, receive assistance from an advisor, cross  
3           examine witnesses, and present testimony, exhibits,  
4           and witnesses; and

5           (4) The patient shall have the right to appeal the  
6           decision of the administrative panel.

7           (b) The administrative process described by this section  
8           is exempt from the contested case requirements of section 91-  
9           8.5 to section 91-15.

10          (c) The department may adopt rules, pursuant to chapter  
11          91, to effectuate this part."

12          SECTION 3. Section 334E-2, Hawaii Revised Statutes, is  
13          amended by amending subsection (a) to read as follows:

14          "(a) Any patient in a psychiatric facility shall be  
15          afforded rights; and any psychiatric facility shall provide the  
16          rights to all patients; provided that when a patient is not able  
17          to exercise the patient's rights, the patient's legal guardian  
18          or legal representative shall have the authority to exercise the  
19          same on behalf of the patient. The rights shall include, but  
20          not be limited to, the following:



- 1 (1) Access to written rules and regulations with which the
- 2 patient is expected to comply;
- 3 (2) Access to the facility's grievance procedure or to the
- 4 department of health as provided in section 334-3;
- 5 (3) Freedom from reprisal;
- 6 (4) Privacy, respect, and personal dignity;
- 7 (5) A humane environment;
- 8 (6) Freedom from discriminatory treatment based on race,
- 9 color, creed, national origin, age, and sex;
- 10 (7) A written treatment plan based on the individual
- 11 patient;
- 12 (8) Participation in the planning of the patient's
- 13 treatment plan;
- 14 (9) Refusal of treatment except in emergency situations or
- 15 [~~where a court order exists,~~] when a court order or an
- 16 administrative order pursuant to section 334-A has
- 17 been issued;
- 18 (10) Refusal to participate in experimentation;
- 19 (11) The choice of physician if the physician chosen
- 20 agrees;
- 21 (12) A qualified, competent staff;



- 1 (13) A medical examination before initiation of non-  
2 emergency treatment;
- 3 (14) Confidentiality of the patient's records;
- 4 (15) Access to the patient's records;
- 5 (16) Knowledge of rights withheld or removed by a court or  
6 by law;
- 7 (17) Physical exercise and recreation;
- 8 (18) Adequate diet;
- 9 (19) Knowledge of the names and titles of staff members  
10 with whom the patient has frequent contact;
- 11 (20) The right to work at the facility and fair  
12 compensation for work done; provided that work is  
13 available and is part of the patient's treatment plan;
- 14 (21) Visitation rights, unless the patient poses a danger  
15 to self or others; provided that where visitation is  
16 prohibited, the legal guardian or legal representative  
17 shall be allowed to visit the patient upon request;
- 18 (22) Uncensored communication;
- 19 (23) Notice of and reasons for an impending transfer;
- 20 (24) Freedom from seclusion or restraint, except:



- 1 (A) When necessary to prevent injury to self or
- 2 others; [~~or~~]
- 3 (B) When part of the treatment plan; or
- 4 (C) When necessary to preserve the rights of other
- 5 patients or staff;
- 6 (25) Disclosure to a court, at an involuntary civil
- 7 commitment hearing, of all treatment procedures which
- 8 have been administered prior to the hearing; and
- 9 (26) Receipt by the patient and the patient's guardian or
- 10 legal guardian, if the patient has one, of this
- 11 enunciation of rights at the time of admission."

12 SECTION 4. In codifying the new sections added by section  
 13 2 of this Act, the revisor of statutes shall substitute  
 14 appropriate section numbers for the letters used in designating  
 15 the new sections in this Act.

16 SECTION 5. Statutory material to be repealed is bracketed  
 17 and stricken. New statutory material is underscored.

18 SECTION 6. This Act shall take effect on July 1, 2050.



**Report Title:**

Psychiatric Treatment; Administrative Order

**Description:**

Authorizes psychiatric treatment by administrative order despite a patient's objection. Establishes criteria for administering psychiatric treatment and the process to obtain administrative authorization for psychiatric treatment over the patient's objection. (HB554 HD1)

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

