
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 Act 221, Session
2 Laws of Hawaii 2013 (Act 221), was enacted with the intent of
3 helping individuals with serious mental illness obtain the
4 treatment and medication they needed, through the concept of
5 "assisted community treatment." Five years later, however, the
6 potential of assisted community treatment is no closer to
7 reality. Less than ten orders for court-mandated treatment
8 plans have been issued during the past five years.

9 In the statement of findings and purpose of Act 221, the
10 legislature found that the State had "identified serious
11 problems of high incarceration and hospitalization rates of
12 those with severe mental illness" and that the circumstances
13 reflected "a failure to provide needed treatment to persons who
14 may need it most and that failure is extremely costly." These
15 findings remain true today.

16 The purpose of this Act is to clarify the petitions,
17 procedures, and hearings for involuntary hospitalization and
18 assisted community treatment to promote mental health treatment.



1 SECTION 2. Chapter 334, Hawaii Revised Statutes, is
2 amended by adding a new section to part VIII to be appropriately
3 designated and to read as follows:

4 "§334- Examination for assisted community treatment
5 indication. A licensed psychiatrist or advanced practice
6 registered nurse with prescriptive authority and who holds an
7 accredited national certification in an advanced practice
8 registered nurse psychiatric specialization associated with the
9 licensed psychiatric facility where a person is located who was
10 committed to involuntary hospitalization, delivered for
11 emergency examination or emergency hospitalization, or
12 voluntarily admitted to inpatient treatment at a psychiatric
13 facility pursuant to part IV shall, prior to the person's
14 discharge, examine the person to determine whether an assisted
15 community treatment plan is indicated pursuant to this part. If
16 a plan is indicated, the psychiatrist or advanced practice
17 registered nurse shall prepare the certificate specified by
18 section 334-123. The psychiatric facility may notify another
19 mental health program for assistance with the coordination of
20 care in the community for the person. Nothing in this section
21 shall delay the appropriate discharge of a person from the



1 psychiatric facility after the examination for assisted
2 community treatment indication has been completed."

3 SECTION 3. Section 334-1, Hawaii Revised Statutes, is
4 amended by amending the definition of "dangerous to self" to
5 read as follows:

6 "Dangerous to self" means the person recently has:

7 (1) Threatened or attempted suicide or serious bodily
8 harm; or

9 (2) Behaved in such a manner as to indicate that the
10 person is unable, without supervision and the
11 assistance of others, to satisfy the need for
12 nourishment, essential medical care, including
13 treatment for a mental illness, shelter or self-
14 protection, so that it is probable that death,
15 substantial bodily injury, or serious physical
16 debilitation or disease will result unless adequate
17 treatment is afforded."

18 SECTION 4. Section 334-121, Hawaii Revised Statutes, is
19 amended to read as follows:

20 "§334-121 Criteria for assisted community treatment. A
21 person may be ordered to obtain assisted community treatment if



1 the family court finds, based on the professional opinion of a
2 psychiatrist or advanced practice registered nurse with
3 prescriptive authority and who holds an accredited national
4 certification in an advanced practice registered nurse
5 psychiatric specialization, that:

6 (1) The person is mentally ill or suffering from substance
7 abuse;

8 (2) The person is unlikely to live safely in the community
9 without available supervision [~~based on the~~
10 ~~professional opinion of a psychiatrist or advanced~~
11 ~~practice registered nurse with prescriptive authority~~
12 ~~and who holds an accredited national certification in~~
13 ~~an advanced practice registered nurse psychiatric~~
14 ~~specialization,], is now in need of treatment in order
15 to prevent a relapse or deterioration that would
16 predictably result in the person becoming imminently
17 dangerous to self or others, and the person's current
18 mental status or the nature of the person's disorder
19 limits or negates the person's ability to make an
20 informed decision to voluntarily seek or comply with
21 recommended treatment;~~



- 1 ~~[(3) The person, at some time in the past: (A) has~~
2 ~~received inpatient hospital treatment for mental~~
3 ~~illness or substance abuse or (B) has been found to be~~
4 ~~imminently dangerous to self or others, as a result of~~
5 ~~mental illness or substance abuse;~~
- 6 ~~(4) The person, based on the person's treatment history~~
7 ~~and current condition, is now in need of treatment in~~
8 ~~order to prevent a relapse or deterioration which~~
9 ~~would predictably result in the person becoming~~
10 ~~imminently dangerous to self or others;~~
- 11 ~~(5) The person has a history of a lack of adherence to~~
12 ~~treatment for mental illness or substance abuse, and~~
13 ~~the person's current mental status or the nature of~~
14 ~~the person's disorder limits or negates the person's~~
15 ~~ability to make an informed decision to voluntarily~~
16 ~~seek or comply with recommended treatment;~~
- 17 ~~(6) The assisted community treatment is medically~~
18 ~~appropriate, and in the person's medical interests;~~
19 ~~and~~
- 20 ~~(7)]~~ (3) The person has a:



1 (A) Mental illness that has caused that person to
2 refuse needed and appropriate mental health
3 services in the community; or

4 (B) History of lack of adherence to treatment for
5 mental illness or substance abuse that resulted
6 in the person becoming dangerous to self or
7 others and that now would predictably result in
8 the person becoming imminently dangerous to self
9 or others; and

10 (4) Considering less intrusive alternatives, assisted
11 community treatment is essential to prevent the danger
12 posed by the person[-], is medically appropriate, and
13 is in the person's medical interests."

14 SECTION 5. Section 334-123, Hawaii Revised Statutes, is
15 amended by amending subsections (a) and (b) to read as follows:

16 "(a) Any interested party may file a petition with the
17 family court alleging that another person meets the criteria for
18 assisted community treatment. The petition shall state:

19 (1) Each of the criteria under section [~~334-121(1)~~ through
20 ~~(7)~~] 334-121 for assisted community treatment;



1 (2) Petitioner's good faith belief that the subject of the
2 petition meets each of the criteria under section
3 ~~[334-121(1) through (7);]~~ 334-121;

4 (3) Facts that support the petitioner's good faith belief
5 that the subject of the petition meets each of the
6 criteria under section ~~[334-121(1) through (7);]~~
7 334-121; and

8 (4) That the subject of the petition is present within the
9 county where the petition is filed.

10 The hearing on the petition need not be limited to the
11 facts stated in the petition. The petition shall be executed
12 subject to the penalties of perjury[-] but need not be sworn to
13 before a notary public.

14 (b) The petition may be accompanied by a certificate of a
15 licensed psychiatrist or advanced practice registered nurse with
16 prescriptive authority and who holds an accredited national
17 certification in an advanced practice registered nurse
18 psychiatric specialization who has examined the subject of the
19 petition within twenty calendar days prior to the filing of the
20 petition. For purposes of the petition, an examination shall be
21 considered valid so long as the licensed psychiatrist or



1 advanced practice registered nurse with prescriptive authority
2 and who holds an accredited national certification in an
3 advanced practice registered nurse psychiatric specialization
4 has obtained enough information from the subject of the petition
5 to reach a diagnosis of the subject of the petition, and to
6 express a professional opinion concerning the same, even if the
7 subject of the petition is not fully cooperative. If the
8 petitioner believes that further evaluation is necessary before
9 treatment, the petitioner may request further evaluation."

10 SECTION 6. Section 334-127, Hawaii Revised Statutes, is
11 amended by amending subsection (b) to read as follows:

12 "(b) If after hearing all relevant evidence, including the
13 results of any diagnostic examination ordered by the family
14 court, the family court finds that the criteria for assisted
15 community treatment under section 334-121(1) have been met
16 beyond a reasonable doubt and that the criteria under section
17 334-121(2) to [~~334-121(7)~~] 334-121(4) have been met by clear and
18 convincing evidence, the family court shall order the subject to
19 obtain assisted community treatment for a period of no more than
20 one year. The written treatment plan submitted pursuant to



1 section 334-126(h) shall be attached to the order and made a
2 part of the order.

3 If the family court finds by clear and convincing evidence
4 that the beneficial mental and physical effects of recommended
5 medication outweigh the detrimental mental and physical effects,
6 if any, the order may authorize types or classes of medication
7 to be included in treatment at the discretion of the treating
8 psychiatrist or advanced practice registered nurse with
9 prescriptive authority and who holds an accredited national
10 certification in an advanced practice registered nurse
11 psychiatric specialization.

12 The court order shall also state who should receive notice
13 of intent to discharge early in the event that the treating
14 psychiatrist or advanced practice registered nurse with
15 prescriptive authority and who holds an accredited national
16 certification in an advanced practice registered nurse
17 psychiatric specialization determines, prior to the end of the
18 court ordered period of treatment, that the subject should be
19 discharged early from assisted community treatment.

20 Notice of the order shall be provided to those persons
21 entitled to notice pursuant to section 334-125."



1 SECTION 7. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

3 SECTION 8. This Act shall take effect on July 1, 2019.



Report Title:

Mental Health; Petitions; Procedures; Assisted Community Treatment

Description:

Requires a licensed psychiatrist or advanced practice registered nurse with prescriptive authority and psychiatric specialization to determine, prior to a person's discharge from a psychiatric facility, whether an assisted community treatment plan is indicated and to make certain arrangements if so indicated. Amends the criteria for assisted community treatment. (CD1)

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