

JAN 20 2023

A BILL FOR AN ACT

RELATING TO HEALTH.

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

1 SECTION 1. Section 334-59, Hawaii Revised Statutes, is
2 amended as follows:
3 1. By amending subsection (b) to read:
4 "(b) Emergency examination. A patient who is delivered
5 for emergency examination and treatment to a psychiatric
6 facility or a behavioral health crisis center shall be provided
7 an examination, which shall include a screening to determine
8 whether the criteria for involuntary hospitalization listed in
9 section 334-60.2 persists, by a licensed physician, medical
10 resident under the supervision of a licensed physician, or
11 advanced practice registered nurse without unnecessary delay,
12 and shall be provided such treatment as is indicated by good
13 medical practice[~~-~~], which may include long-acting psychotropic
14 medication. If, after the examination, screening, and
15 treatment, the licensed physician, medical resident under the
16 supervision of a licensed physician, or advanced practice
17 registered nurse determines that the involuntary hospitalization



1 criteria persist, then a psychiatrist or advanced practice
2 registered nurse who has prescriptive authority and who holds an
3 accredited national certification in an advanced practice
4 registered nurse psychiatric specialization shall further
5 examine the patient to diagnose the presence or absence of a
6 mental illness or substance use disorder, further assess the
7 risk that the patient may be dangerous to self or others, and
8 assess whether or not the patient needs to be hospitalized. The
9 psychiatric facility or hospital where the patient is held may
10 request the director to file a petition for an order for
11 treatment over the patient's objection. The request for
12 petition shall include supporting information. The director
13 shall review such request expeditiously and if the request
14 appears to satisfy the four factors in section 334-161, the
15 director shall file and pursue a petition to request an order
16 for treatment over the patient's objection as soon as possible
17 in court or upon request by the facility or hospital convene an
18 administrative panel pursuant to section 334-162. If it is
19 determined that hospitalization is not needed, an examination
20 pursuant to section 334-121.5 shall be completed."

21 2. By amending subsection (d) to read:



1 "(d) Emergency hospitalization. If the psychiatrist or
2 advanced practice registered nurse with prescriptive authority
3 and who holds an accredited national certification in an
4 advanced practice registered nurse psychiatric specialization
5 who performs the emergency examination has reason to believe
6 that the patient is:

7 (1) Mentally ill or suffering from substance abuse;

8 (2) Imminently dangerous to self or others; and

9 (3) In need of care or treatment, or both;

10 the psychiatrist or advanced practice registered nurse with
11 prescriptive authority and who holds an accredited national
12 certification in an advanced practice registered nurse
13 psychiatric specialization shall direct that the patient be
14 hospitalized on an emergency basis or cause the patient to be
15 transferred to another psychiatric facility for emergency
16 hospitalization, or both. The psychiatric facility or hospital
17 where the patient is held may seek an order to treat pursuant to
18 section 334-162 to provide treatment as is indicated by good
19 medical practice, which may include long-acting psychotropic
20 medication. The patient shall have the right immediately upon
21 admission to telephone the patient's guardian or a family member



1 including a reciprocal beneficiary, or an adult friend and an
2 attorney. If the patient declines to exercise that right, the
3 staff of the facility shall inform the adult patient of the
4 right to waive notification to the family, including a
5 reciprocal beneficiary, and shall make reasonable efforts to
6 ensure that the patient's guardian or family, including a
7 reciprocal beneficiary, is notified of the emergency admission
8 but the patient's family, including a reciprocal beneficiary,
9 need not be notified if the patient is an adult and requests
10 that there be no notification. The patient shall be allowed to
11 confer with an attorney in private."

12 SECTION 2. Section 334-60.3, Hawaii Revised Statutes, is
13 amended by amending subsection (a) to read as follows:

14 "(a) Any person may file a petition alleging that a person
15 located in the county meets the criteria for commitment to a
16 psychiatric facility. The petition shall be executed subject to
17 the penalties of perjury but need not be sworn to before a
18 notary public. The attorney general, the attorney general's
19 deputy, special deputy, or appointee designated to present the
20 case shall assist the petitioner to state the substance of the
21 petition in plain and simple language. The petition may be



1 accompanied by a certificate of the licensed physician, advanced
2 practice registered nurse, or psychologist who has examined the
3 person within two days before submission of the petition, unless
4 the person whose commitment is sought has refused to submit to
5 medical or psychological examination, in which case the fact of
6 refusal shall be alleged in the petition. The certificate shall
7 set forth the signs and symptoms relied upon by the physician,
8 advanced practice registered nurse, or psychologist to determine
9 the person is in need of care or treatment, or both, and whether
10 the person is capable of realizing and making a rational
11 decision with respect to the person's need for treatment. If
12 the petitioner believes that further evaluation is necessary
13 before commitment, the petitioner may request such further
14 evaluation. If the petitioner believes that treatment over
15 objection is necessary before or during commitment, the
16 petitioner may join in the petition for a request for treatment
17 pursuant to section 334-161."

18 SECTION 3. Section 334-161, Hawaii Revised Statutes, is
19 amended to read as follows:

20 "[+]§334-161[+] **Criteria for issuance of court or**
21 **administrative order for treatment over the patient's objection.**



1 (a) A patient who has been committed to a psychiatric facility
2 for involuntary hospitalization [~~or who~~]; is in the custody of
3 the director and residing in a psychiatric facility or hospital;
4 is subject to a court order under section 704-406(1); is
5 transported to a psychiatric facility pursuant to a petition for
6 emergency admission pursuant to section 334-59(a); or is
7 delivered to a psychiatric facility or a behavioral health
8 crisis center for an emergency examination under section 334-
9 59(b) may be ordered to receive treatment over the patient's
10 objection, including the taking or application of medication, if
11 the court, or administrative panel through the administrative
12 authorization process established pursuant to section 334-162,
13 finds that:

- 14 (1) The patient suffers from a physical or mental disease,
15 disorder, or defect;
- 16 (2) The patient is imminently dangerous to self or others;
- 17 (3) The proposed treatment is medically appropriate; and
- 18 (4) After considering less intrusive alternatives,
19 treatment is necessary to forestall the danger posed
20 by the patient.



1 (b) For the purposes of this section, "imminently
2 dangerous to self or others" means that, without intervention,
3 the person will likely become dangerous to self or dangerous to
4 others within the next forty-five days.

5 (c) A psychiatric facility or hospital may request the
6 director to file a petition for an order for treatment over the
7 patient's objection. The request for petition shall include
8 supporting information. The director shall review the request
9 expeditiously and if the request appears to satisfy the four
10 factors in subsection (a), the director shall file and pursue a
11 petition to request an order for treatment over the patient's
12 objection as soon as possible in court, or upon request by the
13 facility or hospital, convene an administrative panel pursuant
14 to section 334-162.

15 (d) If the director does not file and expeditiously pursue
16 a request made pursuant to subsection (c), the psychiatric
17 facility or hospital may file a petition in its own name for an
18 order for treatment over the patient's objection. The petition
19 may be filed in court or may request the director to convene an
20 administrative panel pursuant to section 334-162.



1 (e) When involuntary commitment of the person is
2 additionally sought pursuant to section 334-60.3, the petitioner
3 shall combine the petition for involuntary commitment with the
4 petition for an order for treatment over the patient's objection
5 to reduce the time the patient is involuntarily hospitalized
6 without treatment.

7 (f) The court or administrative panel shall set a hearing
8 date on a petition, and any subsequent hearing dates, as soon as
9 possible. Unless exigent circumstances exist, the court or
10 administrative panel shall file a final order on the petition
11 within thirty days after the petition is filed."

12 SECTION 4. Section 334-162, Hawaii Revised Statutes, is
13 amended to read as follows:

14 "~~§~~334-162~~§~~ **Criteria for administrative**
15 **authorization process.** (a) A patient who is in the custody of
16 the director and in a psychiatric facility or hospital; is the
17 subject to a court order under section 704-406(1); or is
18 subject to a petition for involuntary hospitalization under
19 section 334-59(d) may be ordered to receive medical treatment
20 over the patient's objection through an administrative



1 authorization process that includes the following due process
2 safeguards:

3 (1) The [~~facility~~] director shall give notice to the
4 patient of the authorization process and the reasons
5 for initiating the process;

6 (2) The administrative panel shall consist of three
7 members with relevant clinical training and
8 experience, and who are not involved with the current
9 treatment of the patient;

10 (3) The patient shall have the right to attend the
11 hearing, receive assistance from an advisor, cross
12 examine witnesses, and present testimony, exhibits,
13 and witnesses; and

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

16 (b) An administrative panel shall be convened by the
17 director as soon as possible following a request from a
18 psychiatric facility or hospital for an administrative order to
19 treat a patient who appears to meet the standards for an order
20 of treatment pursuant to section 334-161(a).



1 ~~(b)~~ (c) The administrative process described by this
2 section is exempt from the contested case requirements of
3 sections 91-8.5 to 91-15.

4 ~~(e)~~ (d) The department may adopt rules, pursuant to
5 chapter 91, to effectuate this part."

6 SECTION 5. Statutory material to be repealed is bracketed
7 and stricken. New statutory material is underscored.

8 SECTION 6. This Act shall take effect upon its approval.

9

INTRODUCED BY:





S.B. NO. 916

Report Title:

DOH; Administration of Treatment Over the Patient's Objection;
Emergency Examination and Hospitalization; Long-acting
Psychotropic Medication; Petitions

Description:

Authorizes long-acting psychotropic medication to be provided to patients who are subject to emergency examination or hospitalization. Expands the administration of treatment over a patient's objection to include persons in director of health custody at any hospital, subject to an emergency examination, subject of an application for involuntary hospitalization, and subject to a court order regarding fitness to proceed for a criminal trial. Requires orders for treatment over objection proceedings to be expedited. Expands who may file a petition for an order to treat over objection under certain circumstances.

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

