



EXECUTIVE CHAMBERS  
HONOLULU

LINDA LINGLE  
GOVERNOR

July 12, 2006

**GOV. MSG. NO. 869**

The Honorable Robert Bunda, President  
and Members of the Senate  
Twenty-Third State Legislature  
State Capitol, Room 003  
Honolulu, Hawaii 96813

Dear Mr. President and Members of the Senate:

Re: House Bill No. 3105 HD2 SD2 CD1

On July 11, 2006, House Bill No. 3105, entitled "A Bill for an Act Relating to Psychotropic Medication" became law without my signature, pursuant to Section 16 of Article III of the Constitution of the State of Hawaii.

This bill is intended to provide equal access to psychotropic medication for Medicaid patients, regardless of whether the patient is covered by a fee-for-service plan or a QUEST managed-care plan.

While this portion of the bill is laudable, the measure goes too far in allowing a physician to prescribe a psychotropic medication without the required consultation with a psychiatrist. The field of psychotropic medicine is specialized and requires knowledge of the interaction of various drugs with each other as well as with other medications a patient may be taking.

The current statute allowed for the consultation to take place by telephone, electronically, or via a face-to-face discussion and did not appear to place an undue burden on the attending physician. Further, the law now allows for the concurrent psychiatrist's opinion to be documented in the recipient's medical records, thereby allowing future medical service providers to understand the rationale used in issuing the prescription. Failure to document these decisions could cause harm to the patient in later years and does not appear to be medically prudent.

Finally, the bill eliminates the requirement that only those agents approved by the United State Food and Drug Administration for the treatment of mental and emotional disorders may be prescribed. This deletion in the governing statute raises concerns as to what medications can be prescribed and what safety considerations will be applicable to these medications.

The Honorable Robert Bunda, President  
and Members of the Senate  
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For the foregoing reasons, I allowed House Bill No. 3105 to become law as Act 311 effective July 11, 2006 without my signature.

Sincerely,

A handwritten signature in black ink, appearing to read "L. Lingle", written in a cursive style.

LINDA LINGLE

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A BILL FOR AN ACT

RELATING TO PSYCHOTROPIC MEDICATION.

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

1 SECTION 1. The legislature passed Act 239, Session Laws of  
2 Hawaii 2005, in recognition of the importance of providing open  
3 access to medications used to treat mental illness. Act 239,  
4 Session Laws of 2005, applied to medicaid eligible individuals.  
5 The legislature finds that Act 239 has improved the ability of  
6 mentally ill persons to obtain treatment for mental illness.

7 The purpose of this Act is to improve access to  
8 psychotropic medication for Hawaii medicaid clients.

9 SECTION 2. Act 239, Session Laws of Hawaii 2005, is  
10 amended by amending sections 2 and 3 to read as follows:

11 "SECTION 2. Chapter 346, Hawaii Revised Statutes, is  
12 amended by adding two new sections to be appropriately  
13 designated and to read as follows:

14 "§346- Psychotropic medication. (a) The department  
15 shall not impose any restriction or limitation on the coverage  
16 for, or a recipient's access to, psychotropic medication;  
17 provided that the psychotropic medication shall be prescribed by

1 a licensed psychiatrist or by a [~~licensed~~] physician [~~in~~  
2 ~~consultation with a psychiatrist~~] duly licensed in the State.

3 (b) As used in this section:

4 [~~"Consultation" means communication by telephone,~~  
5 ~~electronically, or face to face by a licensed psychiatrist and a~~  
6 ~~licensed physician, during which the psychiatrist concurs with~~  
7 ~~the prescription made. The psychiatrist's concurring opinion~~  
8 ~~shall be documented in the recipient's medical record.]~~

9 "Psychotropic medication" means only those agents approved  
10 by the United States Food and Drug Administration for the  
11 treatment of mental or emotional disorders.

12 [~~(c) This section shall not apply to QUEST medical plans.~~

13 ~~§346— Pre-authorization exemption for psychotropic~~

14 ~~medication.~~ (a) ~~A licensed physician may prescribe~~  
15 ~~psychotropic medication pursuant to the laws of this State to an~~  
16 ~~individual who is medicaid eligible without the requirement of~~  
17 ~~any preauthorization procedure otherwise required by any other~~  
18 ~~provision of this chapter; provided that the individual is in~~  
19 ~~need of emergency psychiatric or psychological service.~~

20 (b) ~~As used in this section:~~

21 ~~"Emergency psychiatric or psychological service" means~~  
22 ~~immediate administration or prescription of psychotropic~~



1 ~~medication not to exceed seven days by a licensed physician is~~  
2 ~~required to avoid or mitigate significant adverse effects to the~~  
3 ~~individual's mental or emotional condition.~~

4 ~~"Psychotropic medication" means only those agents approved~~  
5 ~~by the United States Food and Drug Administration for the~~  
6 ~~treatment of mental or emotional disorders.~~

7 ~~(c) This section shall not apply to QUEST medical plans.]~~

8 SECTION 3. The department of human services shall report  
9 to the legislature no later than twenty days before the  
10 convening of the regular session of 2007, and annually  
11 thereafter. The report shall include:

12 (1) The number of prescriptions written pursuant to this  
13 Act;

14 (2) The cost and impact of psychiatrists or physicians  
15 prescribing medications pursuant to this Act that are  
16 not part of the existing formulary; and

17 (3) The overall utilization under chapter 346, Hawaii  
18 Revised Statutes.

19 SECTION 3. Act 239, Session Laws of Hawaii 2005, is  
20 amended by amending section 5 to read as follows:



1           "SECTION 5. This Act shall take effect on July 1, 2005,  
2 and shall be repealed as it applies to QUEST plans only, on June  
3 30, [~~2007.~~] 2008."

4           SECTION 4. Statutory material to be repealed is bracketed  
5 and stricken. New statutory material is underscored.

6           SECTION 5. This Act shall take effect on July 1, 2006.

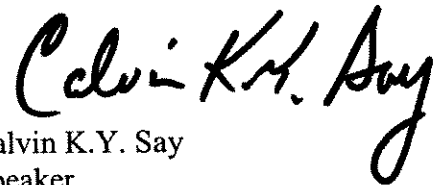


HB No. 3105 HD 2 SD 2 CD 1

THE HOUSE OF REPRESENTATIVES OF THE STATE OF HAWAII

Date: May 2, 2006  
Honolulu, Hawaii

We hereby certify that the foregoing Bill on this day passed Final Reading in the House of Representatives of the Twenty-Third Legislature of the State of Hawaii, Regular Session of 2006.



Calvin K.Y. Say  
Speaker  
House of Representatives



Patricia Mau-Shimizu  
Chief Clerk  
House of Representatives

THE SENATE OF THE STATE OF HAWAII

Date: May 2, 2006  
Honolulu, Hawaii

We hereby certify that the foregoing Bill on this day passed Final Reading in the Senate of the Twenty-Third Legislature of the State of Hawaii, Regular Session of 2006.



Robert Bunda  
President of the Senate



Paul Kawaguchi  
Clerk of the Senate