
A BILL FOR AN ACT

RELATING TO ALCOHOL AND SUBSTANCE ABUSE.

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

1 SECTION 1. This Act shall be known as the "Providing
2 Intervention for Substance Abuse Act".

3 Medical personnel, particularly in the emergency room,
4 regularly encounter patients who have sustained injuries, loss,
5 or trauma that results from use of alcohol or illicit
6 substances. This initial point of contact in a medical setting
7 is a recognized window of opportunity where patients are most
8 vulnerable and open to intervention and dialogue that addresses
9 their underlying alcohol or substance abuse issues. It is at
10 this "teachable moment" that individuals can benefit from
11 assessment, education, counseling, or, if necessary, a referral
12 to treatment.

13 The "Screening, Brief Intervention, Referral, and
14 Treatment" (SBIRT) program capitalizes on this "teachable
15 moment" and is recognized as a best practices initiative by the
16 Substance Abuse and Mental Health Services Administration
17 (SAMHSA), an agency of the U.S. Department of Health and Human
18 Services. The SBIRT program has been successfully implemented



1 and is ongoing in several other states and continues to serve as
2 a best practices and model program. This initiative recognizes
3 that significant steps can be taken, within a medical setting,
4 to address the problems of addiction. The SBIRT program makes
5 the most of an individual's "teachable moment" by offering
6 screening for alcohol or substance abuse, brief intervention,
7 education, and, if necessary, referrals to appropriate care or
8 treatment.

9 Current state law allows insurers to exclude coverage for
10 injuries sustained by insured persons as a result of
11 intoxication from alcohol or narcotics. This statutory
12 exclusion was created under the original model Uniform Accident
13 and Sickness Policy Provision law (UPPL), which was approved in
14 1947 by the National Association of Insurance Commissioners
15 (NAIC), the organization of insurance regulators from the fifty
16 states, the District of Columbia, and four U.S. territories. At
17 the time of origin, the UPPL model laws mirrored accepted
18 attitudes toward alcohol and drug use. In 1955, Hawaii adopted
19 the UPPL model language.

20 Significantly, in 2001, the NAIC voted unanimously to
21 repeal the provision of the UPPL relating to alcohol and
22 narcotics. In its place, the NAIC adopted a revised model law



1 that prohibits health insurers from denying coverage on the
2 basis of intoxication from alcohol or narcotics. The National
3 Conference of Insurance Legislators, American Medical
4 Association, American Bar Association, Mothers Against Drunk
5 Driving, and Emergency Nurses Association have publicly
6 supported this initiative. While many other states have adopted
7 legislation that prohibits medical health insurers from denying
8 coverage on the basis of intoxication from alcohol or narcotics,
9 Hawaii law has remained unchanged, and continues to mirror the
10 original UPPL language.

11 Accordingly, under current Hawaii law, health care
12 professionals and substance abuse screeners may be hesitant to
13 link alcohol or substance abuse to an injury, for fear of non-
14 reimbursement of services rendered. To successfully implement
15 the SBIRT program in Hawaii, current law must be changed to
16 remove barriers that impede these screeners from comprehensively
17 assessing a patient's underlying alcohol or substance abuse
18 issues. It is noted that this problem currently impedes the use
19 of existing federal moneys appropriated through the state
20 department of transportation for a similar screening pilot
21 program.

22 The purpose of this Act is to:



- 1 (1) Require health insurers to provide coverage for
- 2 injuries sustained by insured persons as a result of
- 3 intoxication from alcohol or narcotics; and
- 4 (2) Appropriate funds to establish the SBIRT program in
- 5 the State of Hawaii.

6 SECTION 2. Chapter 431, article 10A, Hawaii Revised
 7 Statutes, is amended by adding a new section to be appropriately
 8 designated and to read as follows:

9 **"§431:10A-A Coverage for injuries sustained while under**
 10 **the influence of alcohol or narcotics.** Any law to the contrary
 11 notwithstanding, all individual and group accident and health or
 12 sickness insurance policies issued in this state, other than an
 13 accident-only, specific disease, hospital indemnity, medicare
 14 supplement, long-term care, or other limited benefit health
 15 insurance policy, shall provide coverage for the insured's
 16 injury sustained as a consequence of the insured being under the
 17 influence of alcohol or any narcotic."

18 SECTION 3. Chapter 432, article 1, Hawaii Revised
 19 Statutes, is amended by adding a new section to part VI to be
 20 appropriately designated and to read as follows:

21 **"§432:1- Coverage for injuries sustained while under the**
 22 **influence of alcohol or narcotics.** Any law to the contrary

1 notwithstanding, all individual and group health care contracts
2 under this chapter shall provide coverage for the insured's
3 injury sustained as a consequence of the insured being under the
4 influence of alcohol or any narcotic."

5 SECTION 4. Section 431:10A-106, Hawaii Revised Statutes,
6 is amended to read as follows:

7 "**§431:10A-106 Optional provisions.** Except as provided in
8 section 431:10A-107, no policy of accident and health or
9 sickness insurance delivered or issued for delivery to any
10 person in this State shall contain the provisions set forth
11 below unless the provisions are in the words in which they
12 appear below; provided that the insurer may substitute
13 corresponding provisions of different wording approved by the
14 commissioner that are in each instance not less favorable in any
15 respect to the insured or the beneficiary. Such provisions are
16 optional provisions. Any such provision contained in the policy
17 shall be preceded individually by the specified caption or, at
18 the option of the insurer, by such appropriate individual or
19 group captions or subcaptions as the commissioner may approve.
20 The provisions are as follows:

21 (1) "Change of Occupation: If the insured is injured or
22 contracts sickness after having changed occupations to



1 one classified by the insurer as more hazardous than
2 that stated in this policy or while doing for
3 compensation anything pertaining to an occupation so
4 classified, the insurer will pay only such portion of
5 the indemnities provided in this policy as the premium
6 paid would have purchased at the rates and within the
7 limits fixed by the insurer for the more hazardous
8 occupation. If the insured's occupation changes to one
9 classified by the insurer as less hazardous than that
10 stated in this policy, the insurer, upon receipt of
11 proof of such change of occupation, will reduce the
12 premium rate accordingly, and will return the excess
13 pro rata unearned premium from the date of change of
14 occupation or from the policy anniversary date
15 immediately preceding receipt of such proof, whichever
16 is the more recent. In applying this provision, the
17 classification of occupational risk and the premium
18 shall be such as have been last filed by the insurer
19 prior to the occurrence of the loss for which the
20 insurer is liable or prior to date of proof of change
21 in occupation with the state official having
22 supervision of insurance in the state where the insured



1 resided at the time this policy was issued; but if such
2 filing was not required, then the classification of
3 occupational risk and the premium rates shall be those
4 last made effective by the insurer in such state prior
5 to the occurrence of the loss or prior to the date of
6 proof of change in occupation."

7 (2) "Misstatement of Age: If the age of the insured has
8 been misstated, all amounts payable under this policy
9 shall be such as the premium paid would have purchased
10 at the correct age."

11 (3) Other insurance in this insurer shall be in one of the
12 following forms:

13 (A) "Other Insurance in This Insurer: If an accident
14 and health or sickness policy or policies
15 previously issued by the insurer to the insured
16 be in force concurrently herewith, making the
17 aggregate indemnity for (insert type of coverage
18 or coverages) in excess of \$ (insert maximum
19 limit of indemnity or indemnities), the excess
20 insurance shall be void and all premiums paid for
21 such excess shall be returned to the insured or
22 to the insured's estate."; or

1 (B) "Other Insurance in This Insurer: Insurance
2 effective at any one time on the insured under a
3 like policy or policies in this insurer is
4 limited to the one such policy elected by the
5 insured, the insured's beneficiary, or the
6 insured's estate, as the case may be, and the
7 insurer will return all premiums paid for all
8 other such policies."

9 (4) Insurance with other insurers. Either or both of the
10 following forms shall be used:

11 (A) (i) "Insurance with Other Insurers: If there be
12 other valid coverage, not with this insurer,
13 providing benefits for the same loss on a
14 provision of service basis or on an expense
15 incurred basis and of which this insurer has
16 not been given written notice prior to the
17 occurrence or commencement of loss, the only
18 liability under any expense incurred
19 coverage of this policy shall be for such
20 proportion of the loss as the amount which
21 would otherwise have been payable hereunder
22 plus the total of the like amounts under all



1 such other valid coverages for the same loss
2 of which this insurer had notice bears to
3 the total like amounts under all valid
4 coverages for such loss, and for the return
5 of such portion of the premiums paid as
6 shall exceed the pro rata portion for the
7 amount so determined. For the purpose of
8 applying this provision when other coverage
9 is on a provision of service basis, the like
10 amount of such other coverage shall be taken
11 as the amount which the services rendered
12 would have cost in the absence of such
13 coverage."

14 (ii) "Insurance with Other Insurers: If there be
15 other valid coverage, not with this insurer,
16 providing benefits for the same loss on
17 other than an expense incurred basis and of
18 which this insurer has not been given
19 written notice prior to the occurrence or
20 commencement of loss, the only liability for
21 such benefits under this policy shall be for
22 such proportion of the indemnities otherwise



1 provided hereunder for such loss as the like
2 indemnities of which the insurer had notice
3 (including the indemnities under this
4 policy) bear to the total amount of all the
5 indemnities for such loss, and for the
6 return of such portion of the premium paid
7 [~~as shall exceed~~] that exceeds the pro rata
8 portion for the indemnities thus
9 determined."

10 (B) If the provision set forth in subparagraph (A)(i)
11 is included in a policy that also contains the
12 provision set forth in subparagraph (A)(ii),
13 there shall be added to the caption of the
14 subparagraph (A)(i) provision the phrase,
15 "expense incurred benefits".

16 (C) The insurer may, at its option, include in the
17 provision set forth in subparagraph (A)(i) a
18 definition of other valid coverage, approved as
19 to form by the commissioner, which definition
20 shall be limited in subject matter to coverage
21 provided by organizations subject to regulation
22 by insurance law or by insurance authorities of



1 this State or any other state or territory of the
2 United States or any province of Canada, and by
3 hospital or medical service organizations, and to
4 any other coverage the inclusion of which may be
5 approved by the commissioner. In the absence of
6 such definition the term shall not include group
7 insurance, automobile medical payment insurance,
8 or coverage provided by hospital or medical
9 service organizations, union welfare plans, or
10 employer or employee benefit organizations. For
11 the purpose of applying the provision set forth
12 in subparagraph (A)(i) with respect to any
13 insured, any amount of benefit provided for such
14 insured pursuant to any compulsory benefit
15 statute (including any workers' compensation or
16 employers' liability statute), whether provided
17 by a governmental agency or otherwise, shall in
18 all cases be deemed to be other valid coverage of
19 which the insurer has had notice. In applying
20 the provision set forth in subparagraph (A)(i),
21 no third party liability coverage shall be
22 included as other valid coverage.



1 (D) If the provision set forth in subparagraph
2 (A)(ii) is included in a policy that also
3 contains the provision set forth in subparagraph
4 (A)(i), there shall be added to the caption of
5 the subparagraph (A)(ii) provision the phrase,
6 "other benefits".

7 (E) The insurer may, at its option, include in the
8 provision set forth in subparagraph (A)(ii) a
9 definition of other valid coverage, approved as
10 to form by the commissioner, which definition
11 shall be limited in subject matter to coverage
12 provided by organizations subject to regulation
13 by insurance law or by insurance authorities of
14 this State or any other state or territory of the
15 United States or any province of Canada, and to
16 any other coverage the inclusion of which may be
17 approved by the commissioner. In the absence of
18 such definition the term shall not include group
19 insurance, or benefits provided by union welfare
20 plans or employer or employee benefit
21 organizations. For the purpose of applying the
22 provision set forth in subparagraph (A)(ii) with



1 respect to any insured, any amount of benefit
2 provided for such insured pursuant to any
3 compulsory benefit statute (including any
4 workers' compensation or employers' liability
5 statute), whether provided by a governmental
6 agency or otherwise, shall in all cases be deemed
7 to be other valid coverage of which the insurer
8 has had notice. In applying the provision set
9 forth in subparagraph (A)(ii), no third party
10 liability coverage shall be included as other
11 valid coverage.

- 12 (5) (A) "Relation of Earnings to Insurance: If the total
13 monthly amount of loss of time benefits promised
14 for the same loss under all valid loss of time
15 coverage upon the insured, whether payable on a
16 weekly or monthly basis, [~~shall exceed~~] exceeds
17 the monthly earnings of the insured at the time
18 disability commenced or the insured's average
19 monthly earnings for the period of two years
20 immediately preceding a disability for which
21 claim is made, whichever is the greater, the
22 insurer will be liable only for such



1 proportionate amount of such benefits under this
2 policy as the amount of such monthly earnings or
3 such average monthly earnings of the insured
4 bears to the total amount of monthly benefits for
5 the same loss under all such coverage upon the
6 insured at the time such disability commences and
7 for the return of such part of the premiums paid
8 during such two years [~~as shall exceed~~] that
9 exceeds the pro rata amount of the premiums for
10 the benefits actually paid hereunder; but this
11 shall not operate to reduce the total monthly
12 amount of benefits payable under all such
13 coverage upon the insured below the sum of \$200
14 or the sum of the monthly benefits specified in
15 such coverages, whichever is the lesser, nor
16 shall it operate to reduce benefits other than
17 those payable for loss of time."

18 (B) The policy provision in subparagraph (A) may be
19 inserted only in a policy which the insured has
20 the right to continue in force, subject to its
21 terms by the timely payment of premiums until at
22 least age fifty or, in the case of a policy



1 issued after age forty-four, for at least five
2 years from its date of issue.

3 (C) The insurer may, at its option, include in the
4 provision set forth in subparagraph (A) a
5 definition of valid loss of time coverage
6 approved as to form by the commissioner, which
7 definition shall be limited in subject matter to
8 coverage provided by governmental agencies or by
9 organizations subject to regulation by insurance
10 law or by insurance authorities of this State or
11 any state, district, or territory of the United
12 States or any province of Canada, or to any other
13 coverage the inclusion of which may be approved
14 by the commissioner or any combination of such
15 coverages. In the absence of such definition
16 such terms shall not include any coverage
17 provided for such insured pursuant to any
18 compulsory benefit statute (including any
19 workers' compensation or employers' liability
20 statute), or benefits provided by union welfare
21 plans or by employer or employee benefit
22 organizations.



1 (6) "Unpaid Premium: Upon the payment of a claim under
2 this policy, any premium then due and unpaid or
3 covered by any note or written order may be deducted
4 therefrom."

5 (7) "Cancellation: The insurer may cancel this policy at
6 any time by written notice delivered to the insured,
7 or mailed to the insured's last address as shown by
8 the records of the insurer, stating when, not less
9 than five days thereafter, such cancellation shall be
10 effective; and after the policy has been continued
11 beyond its original term, the insured may cancel this
12 policy at any time by written notice delivered or
13 mailed to the insurer, effective upon receipt or on
14 such later date as may be specified in such notice.
15 In the event of cancellation, the insurer will return
16 promptly the unearned portion of any premium paid. If
17 the insured cancels, the earned premium shall be
18 computed by the use of the short-rate table last filed
19 with the state official having supervision of
20 insurance in the state where the insured resided when
21 the policy was issued. If the insurer cancels, the
22 earned premium shall be computed pro rata.



1 Cancellation shall be without prejudice to any claim
2 originating prior to the effective date of
3 cancellation."

4 (8) "Conformity with State Statutes: Any provision of this
5 policy which, on its effective date, is in conflict
6 with the statutes of the state in which the insured
7 resides on such date is hereby amended to conform to
8 the minimum requirements of such statutes."

9 (9) "Illegal Occupation: The insurer shall not be liable
10 for any loss to which a contributing cause was the
11 insured's commission of or attempt to commit a felony
12 or to which a contributing cause was the insured's
13 being engaged in an illegal occupation."

14 [~~(10) "Intoxicants and Narcotics: The insurer shall not be~~
15 ~~liable for any loss sustained or contracted in~~
16 ~~consequence of the insured's being intoxicated or~~
17 ~~under the influence of any narcotic unless~~
18 ~~administered on the advice of a physician."] "~~

19 SECTION 5. Section 432D-23, Hawaii Revised Statutes, is
20 amended to read as follows:

21 "**§432D-23 Required provisions and benefits.**

22 Notwithstanding any provision of law to the contrary, each



1 policy, contract, plan, or agreement issued in the State after
2 January 1, 1995, by health maintenance organizations pursuant to
3 this chapter, shall include benefits provided in sections
4 431:10-212, 431:10A-115, 431:10A-115.5, 431:10A-116, 431:10A-
5 116.5, 431:10A-116.6, 431:10A-119, 431:10A-120, [~~and~~] 431:10A-
6 121, and 431:10A-A, and chapter 431M."

7 SECTION 6. There is appropriated out of the general
8 revenues of the State of Hawaii the sum of \$2 or so much thereof
9 as may be necessary for fiscal year 2006-2007 to implement and
10 establish a pilot program for screening, brief intervention,
11 referral, and substance abuse treatment at hospital emergency
12 rooms; provided that:

13 (1) \$1 shall be used to fund one temporary position in the
14 alcohol and drug abuse division of the department of
15 health, for equipment, and for other operating
16 expenses for the division to administer and coordinate
17 the pilot program; and

18 (2) \$1 shall be used for implementation of screening,
19 brief intervention, and referral and substance abuse
20 treatment services.



1 The sum appropriated shall be expended by the University of
2 Hawaii John A. Burns school of medicine for the purposes of this
3 Act.

4 SECTION 7. In codifying the new section added by section 2
5 of this Act, the revisor of statutes shall substitute an
6 appropriate section number for the letter used in designating
7 the new section in this Act.

8 SECTION 8. Statutory material to be repealed is bracketed
9 and stricken. New statutory material is underscored.

10 SECTION 9. This Act shall take effect on July 1, 2006.



Report Title:

Substance Abuse; Injury Treatment

Description:

Requires health insurers to provide coverage for injuries resulting from the insured's intoxication or being under the influence of a narcotic. Repeals optional, exclusionary insurance provision for these injuries. Appropriates funds to establish the Screening, Brief Intervention, Referral, and Treatment program. (SB2364 HD3)

