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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. Act 239, Session Laws of Hawaii 2005, is  
2 amended as follows:

3 1. By amending section 2 to read:

4 "SECTION 2. Chapter 346, Hawaii Revised Statutes, is  
5 amended by adding [~~two~~] a new [sections] section to be  
6 appropriately designated and to read as follows:

7 "**§346- Psychotropic medication.** [~~(a) The department~~  
8 ~~shall not impose any restriction or limitation on the coverage~~  
9 ~~for, or a recipient's access to, psychotropic medication;~~  
10 ~~provided that the psychotropic medication shall be prescribed by~~  
11 ~~a licensed psychiatrist or by a licensed physician in~~  
12 ~~consultation with a psychiatrist duly licensed in the State.]~~

13 (a) The department shall not restrict by any prior or  
14 retroactive approval process, restrictive formulary, therapeutic  
15 substitution, or preferred drug list a physician's ability to  
16 treat a fee-for-service mental health consumer with psychotropic  
17 medications:



- 1        (1) That have been approved and designated as safe and  
2                    effective by the Food and Drug Administration; and  
3        (2) That the physician's practice considers appropriate  
4                    for the treatment of a mental health consumer.

5        (b) As used in this section:

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

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

15        (c) This section shall not apply to QUEST medical plans.

16        [~~346—~~ ~~Pre-authorization exemption for psychotropic~~  
17        ~~medication.~~ (a) A licensed physician may prescribe  
18        ~~psychotropic medication pursuant to the laws of this State to an~~  
19        ~~individual who is medicaid eligible without the requirement of~~  
20        ~~any preauthorization procedure otherwise required by any other~~  
21        ~~provision of this chapter; provided that the individual is in~~  
22        ~~need of emergency psychiatric or psychological service.~~



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

2       ~~"Emergency psychiatric or psychological service" means~~  
3 ~~immediate administration or prescription of psychotropic~~  
4 ~~medication not to exceed seven days by a licensed physician is~~  
5 ~~required to avoid or mitigate significant adverse effects to the~~  
6 ~~individual's mental or emotional condition.~~

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

10       ~~(c) This section shall not apply to QUEST medical~~  
11 ~~plans.]"~~

12       2. By repealing section 3.

13       ~~["SECTION 3. The department of human services shall report~~  
14 ~~to the legislature no later than twenty days before the~~  
15 ~~convening of the regular session of 2007. The report shall~~  
16 ~~include:~~

17       ~~(1) The number of prescriptions written pursuant to this~~  
18       ~~Act;~~

19       ~~(2) The cost and impact of psychiatrists or physicians~~  
20       ~~prescribing medications pursuant to this Act that are~~  
21       ~~not part of the existing formulary; and~~



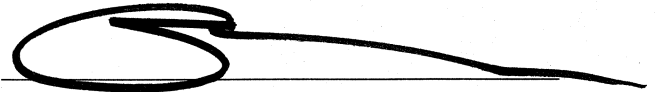
1        ~~(3) The overall utilization under chapter 346, Hawaii~~  
2                ~~Revised Statutes." ]~~

3                SECTION 2. Statutory material to be repealed is bracketed  
4 and stricken. New statutory material is underscored.

5                SECTION 3. This Act shall take effect upon its approval.

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INTRODUCED BY:



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*029.2-*

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JAN 25 2006



**Report Title:**

Medicaid; Psychotropic medication

**Description:**

Amends Act 239, SLH 2005, by prohibiting DHS from restricting a physician's ability to treat a fee-for-service mental health consumer with psychotropic medications that have been approved and designated as safe and effective by the FDA and psychotropic medications considered appropriate and within the lawful scope of the physician's practice and professional judgment for the treatment of a mental health consumer. Removes the pre-authorization exemption for psychotropic medication. Removes the requirement that DHS report the statistics or prescriptions written pursuant to the Act. Removes the exemption for QUEST medical plans.

