

JAN 26 2011

---

---

# A BILL FOR AN ACT

RELATING TO HEALTH CARE.

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

1           SECTION 1. The legislature finds that a very serious issue  
2 facing our State is the lack of capacity in our community to  
3 provide adequate care in community-based residential settings.  
4 This applies not only for individuals with disabilities, but  
5 also for the vast majority of elderly individuals in need of  
6 basic medical care or assistance with activities of daily  
7 living. This lack of capacity will become even more exacerbated  
8 over time as the State's population ages. The legislature  
9 further finds that one of the unfortunate results of this  
10 situation has been a disturbing increase in the number of  
11 residents who are discharged from hospitals or treatment  
12 facilities in the State only to be transferred to a facility in  
13 another state.

14           The legislature finds this practice unacceptable because  
15 our island community has a responsibility to properly care for  
16 the elderly and disabled. The practice of transferring Hawaii's  
17 elderly or disabled to another state merely because they are  
18 occupying valuable space in a hospital while they wait for a bed



1 to become available at a nursing home or care home is  
2 unconscionable.

3 The legislature finds that there is an urgent need to  
4 reverse this alarming practice and build, develop, and increase  
5 our capacity to care for our elderly and disabled in a manner  
6 that will preserve their dignity and allow them to receive  
7 appropriate care in a community-based setting.

8 The legislature also finds that, on a case-by-case basis,  
9 individuals who are transferred to a facility in another state  
10 should be apprised of their legal rights and assisted by an  
11 advocacy agency suited to determining whether their rights are  
12 being violated and their needs are being met. Hawaii has a  
13 state-designated protection and advocacy system that is designed  
14 and well-equipped to perform this function.

15 The purpose of this Act is to require all health care  
16 facilities and health care providers to notify the state-  
17 designated protection and advocacy entity or agency prior to  
18 transferring any individual to a treatment, rehabilitation, or  
19 long-term care facility in another state.

20 SECTION 2. Section 333F-8.5, Hawaii Revised Statutes, is  
21 amended to read as follows:



1           "§333F-8.5 Advocacy agency for persons with developmental  
2 disabilities and mental illness. (a) The purpose of this  
3 section is to comply with federal law [~~which~~] that mandates the  
4 states to provide advocacy services to persons with  
5 developmental disabilities and mental illness in order to  
6 receive federal funds.

7           (b) The governor may designate an entity or agency to  
8 [~~carry out the purposes of~~] provide advocacy services under this  
9 section.

10          (c) The [~~entity or agency designated by the governor~~]  
11 advocacy services shall have access to all records of any person  
12 with developmental disabilities or mental illness, to the extent  
13 required by federal law.

14          (d) The [~~entity or agency so~~] designated [~~by the governor~~]  
15 advocacy services entity or agency shall provide those  
16 [~~advocacy~~] services to persons with developmental disabilities  
17 or mental illness as required by federal law. All departments  
18 and agencies of the State and the judiciary shall cooperate with  
19 the advocacy services entity or agency [~~so designated~~] to carry  
20 out the purposes of this section.

21          (e) Prior to the transfer of an elderly individual in need  
22 of basic medical care or an individual with a developmental



1 disability, mental illness, or other disability to a treatment,  
2 rehabilitation, or long-term care facility located in another  
3 State, the entity proposing the transfer shall provide notice to  
4 the advocacy services entity or agency under this section;  
5 provided that this subsection shall not apply to prisoners in  
6 correctional facilities.

7 For the purposes of this subsection, "elderly" means an  
8 individual sixty-two years of age or older."

9 SECTION 3. New statutory material is underscored.

10 SECTION 4. This Act shall take effect upon its approval.

11

INTRODUCED BY: \_\_\_\_\_

*Jul M...*

*Matt...*

*Will Syro*

*Clarence W. Fisher*



**Report Title:**

Health Care; Out-of-State Transfer; Notification; Developmental Disabilities; Long-term Care

**Description:**

Requires health care facilities and providers to notify the state-designated advocacy services entity or agency prior to transferring an elderly or disabled patient to a treatment, rehabilitation, or long-term care facility in another state.

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

