
A BILL FOR AN ACT

RELATING TO THE HAWAII HEALTH SYSTEMS CORPORATION.

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

1 SECTION 1. The legislature finds that the Hawaii health
2 systems corporation is the fourth largest public hospital system
3 in the nation and operates public health care facilities that
4 provide essential safety-net hospital and long-term care
5 services throughout the State. The legislature further finds
6 that improving the efficiency and quality of health care
7 services in all communities of the State has become increasingly
8 important. Therefore the continued financial challenges faced
9 by the Hawaii health systems corporation and the State requires
10 the state government to take affirmative measures to improve the
11 quality, efficiency, and availability of health care services in
12 Hawaii.

13 The legislature additionally finds that prominent national
14 studies have demonstrated that many public hospital systems have
15 struggled financially for a variety of reasons, including
16 providing a disproportionate level of uncompensated and under-
17 compensated care compared to private hospital systems, and the
18 inherent constraints and inefficiencies that result from



1 operating as a governmental agency. As a result, an increasing
2 number of public hospitals have converted to non-public status.

3 While the legislature recognizes that the system of public
4 hospitals in the State will continue to require state subsidies
5 and other support to assist public hospitals after their
6 conversion to non-public status, the legislature finds that
7 allowing the operations of one or more regional systems of the
8 corporation, or one or more of its individual health facilities,
9 to transition to non-public status is likely to improve the
10 quality of health care services and operational efficiencies of
11 health facilities in the communities they serve and reduce the
12 level of state support that will be required over time, all for
13 the improvement of the health and welfare of the people of the
14 State of Hawaii.

15 The legislature also finds that it is essential that this
16 transition to non-public operation be an option available for
17 consideration by the various regional system boards and the
18 Hawaii health systems corporation and should be carefully
19 evaluated by the community representatives that comprise the
20 regional system boards.

21 The purpose of this Act is to further advance the State's
22 commitment to providing quality health care by allowing the



1 operations of the regional systems of the Hawaii health systems
2 corporation and their facilities to transition to non-public
3 status.

4 SECTION 2. Section 323F-1, Hawaii Revised Statutes, is
5 amended as follows:

6 1. By adding three new definitions to be appropriately
7 inserted and to read:

8 "Health facility assets" means all property or rights in
9 property and assets, real, personal, and mixed, tangible or
10 intangible, owned, leased, operated, or otherwise used by or
11 accruing to the corporation or a regional system with respect to
12 a health facility or system.

13 "New entity" means an entity formed in accordance with
14 section 323F-7.6(b).

15 "Private entity" means a non-public entity to which health
16 facility assets are sold, leased, or otherwise transferred in
17 accordance with section 323F-7.6."

18 2. By amending the definition of "health facility" to
19 read:

20 "Health facility" means any one of the facilities that
21 [~~constitute the division of community hospitals.~~] is owned or
22 operated under the direction of a regional system board or the



1 corporation, or both, or is transitioned to non-public status
2 pursuant to section 323F-7.6."

3 SECTION 3. Section 323F-7.6, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "[+]§323F-7.6[+] Transition of [~~Hawaii health systems~~]
6 regional system or systems or health facility or facilities to
7 [~~a new entity.~~] non-public status. (a) Notwithstanding any
8 other law to the contrary, including but not limited to section
9 27-1 and chapter 171, [~~any of the~~] each regional system board
10 is, and any two or more regional boards acting together are,
11 authorized to transition their respective regional systems or
12 [~~individual~~] one or more of the health facilities of the [Hawaii
13 health systems] corporation [is hereby authorized to transition
14 into] within their regional systems to non-public status. Any
15 transition shall comply with this section, including the
16 approvals required by subsection (c) and chapter 323D.

17 (b) In furtherance of any transition to non-public status,
18 each regional system board is, and any two or more regional
19 system boards are, authorized to form a new [legal] entity in
20 any form recognized under the laws of the State, including but
21 not limited to:

22 (1) A nonprofit corporation;



- 1 (2) A for-profit corporation;
- 2 (3) A municipal facility;
- 3 (4) A public benefit corporation; or
- 4 (5) Any two or more of the entities in paragraphs (1)
- 5 through (4).

6 ~~[A transition shall occur through the sale, lease, or transfer~~
7 ~~of all or substantially all of the assets of the facility or~~
8 ~~regional system, except for] In order to facilitate the~~
9 transition of health facilities to non-public status, the
10 regional system board for the applicable regional system or
11 health facility is authorized, alone or with other regional
12 system boards, to transfer to the governing body of the new
13 entity all of the duties, responsibilities, rights, and powers
14 of the regional system board with respect to the applicable
15 regional system or systems or health facility or facilities to
16 be transferred to the new entity, including without limitation
17 those duties and powers set forth in sections 323F-3.5 and 323F-
18 7, and is also authorized to sell, lease, or transfer the
19 regional system or systems or health facility or facilities and
20 related health facility assets to the new entity or directly to
21 a private entity; provided that real property [which] shall only



1 be transferred by lease [~~. Any transition shall comply with~~
2 ~~chapter 323D.~~] to a new entity or a private entity.

3 [~~(b)~~] (c) A transition to non-public status, including any
4 related transfer of health facility assets to a new entity or a
5 private entity, shall only occur upon approval [e] by: an
6 affirmative vote of both houses of the legislature, through
7 concurrent resolution; the [appropriate] regional system board;
8 and boards in whose region or regions the health facility assets
9 are located, in the case of a regional system or individual
10 facility transition, or upon approval of the regional system
11 boards and the corporation in the case of the transition of the
12 entire corporation. Any transition to non-public status shall
13 be subject to legal review by the attorney general who shall
14 approve the transition if satisfied that the transition conforms
15 to all applicable laws, subject to the review of the director of
16 the department of budget and finance who shall approve the
17 transition if it conforms to all applicable financing
18 procedures, and subject to the governor's approval. In
19 addition, the transition, including any transfer of health
20 facility assets to a new entity or a private entity, shall be
21 subject to the following terms and conditions:



- 1 (1) All proceeds from the sale, lease, or transfer of
2 health facility assets shall be used for health care
3 services in the [~~respective~~] applicable regional
4 system or systems or health facility [~~, except that~~
5 ~~real property shall only be transferred by lease,~~] or
6 facilities, or to discharge liabilities of the
7 applicable regional system or systems or health
8 facility or facilities;
- 9 (2) Any and all liabilities of the corporation or a
10 regional system or a health facility transitioning
11 [~~into a new entity~~] to non-public status that were
12 transferred to the [~~Hawaii health systems~~] corporation
13 upon its creation by Act 262, Session Laws of Hawaii
14 1996, and all liabilities of the corporation or the
15 regional system or health facility related to
16 collective bargaining contracts negotiated by the
17 State, shall become the responsibility of the State;
18 and
- 19 (3) During the period of transition:
- 20 (A) The State shall continue to fund the provision of
21 health care services provided for by the regional
22 system or individual health facility; and



1 (B) All applicable provisions of this chapter shall
2 continue to apply.

3 (d) A new entity and the governing body thereof are
4 authorized to exercise all of the duties, responsibilities,
5 rights, and powers transferred by the regional system board or
6 boards with respect to the applicable regional system or systems
7 or health facility or facilities transferred to the new entity,
8 including without limitation those duties and powers set forth
9 in sections 323F-3.5 and 323F-7; to enter into and perform any
10 lease or contract with a private entity for the lease and
11 operation of the regional system or systems or health facility
12 or facilities; and to sell, lease, or otherwise transfer all or
13 substantially all of the health facility assets of the
14 applicable regional system or systems or health facility or
15 facilities.

16 (e) Upon and after the completion of the [~~transition~~]
17 transfer of all the health facilities in a regional system to a
18 new entity[~~, the~~] or a private entity:

19 (1) The regional system board for that regional system
20 shall terminate; provided that if not all of a
21 regional system's health facilities are [~~transitioned~~]
22 transferred to a new entity[~~,~~] or a private entity,



1 the existing regional system board shall not terminate
2 but shall continue to retain jurisdiction over those
3 health facilities remaining in the regional system[-];

4 (2) Any adjustment to be made by the new entity or a
5 private entity to the levels of services provided by
6 the transferred facilities or regional system shall be
7 subject to section 323F-31 and shall be exempt from
8 section 323D-82;

9 (3) None of the liabilities of the transferred health
10 facilities or regional system shall become liabilities
11 of the new entity or the private entity by operation
12 of law or otherwise, unless otherwise negotiated
13 between the applicable regional system board and the
14 new entity or between the new entity and the private
15 entity, as applicable;

16 (4) Subject to legislative appropriation of the necessary
17 funds, the State shall continue to fund the provision
18 of health care services by the new entity or the
19 private entity through operating support subsidies,
20 and provide funds for capital improvements to the
21 applicable regional system and health facilities
22 operated by any new entity or private entity;



- 1 (5) The new entity shall have the right to incur revenue
2 bond debt to finance capital expenditures;
- 3 (6) No new entity, unless the new entity is a municipal
4 facility, or private entity shall in any respect be a
5 governmental body, agency, establishment, or
6 instrumentality by virtue of acquiring, leasing, or
7 operating any of the health facilities or regional
8 systems, including by virtue of leasing any real
9 property or acquiring any other health facility
10 assets, and no provisions of law that are or shall be
11 applicable to any governmental body, agency,
12 establishment, or instrumentality including without
13 limitation, chapters 84, 91, 92, and 92F and sections
14 323F-7(d), 323F-21, 323F-22, 323F-24, and 323F-25, are
15 or shall be applicable to the new entity, unless the
16 new entity is a municipal facility, or the private
17 entity. As a non-public entity, the private entity
18 shall be subject to the hospital sustainability fee
19 and shall participate in the hospital sustainability
20 program special fund on the same basis as other
21 private hospitals;



1 (7) Notwithstanding any other law to the contrary, each
2 new entity and private entity shall be exempt from
3 paying any state taxes on any operating support
4 subsidies and funds for capital improvements received
5 by either or both of them and any taxes imposed under
6 chapters 237, 238, and 247 with respect to amounts
7 received in connection with the transactions
8 comprising the transition to non-public status or in
9 connection with any other transaction between or among
10 any two or more of the State, the corporation, the
11 regional systems, the new entity, and the private
12 entity;

13 (8) No director, or other member of the governing body
14 regardless of title; officer; employee; or other agent
15 of a private entity may be a director or other member,
16 regardless of title, of the governing board of a new
17 entity; and

18 (9) Any transaction between a new entity and a private
19 entity, and any purchase of goods and services by or
20 on behalf of the new entity or the private entity,
21 shall be exempt from chapters 102, 103, 103D, and
22 103F."



1 SECTION 4. Section 323F-31, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "§323F-31 Maintenance of services. (a) No planned
4 substantial reduction or elimination of direct patient care
5 services at any health facility shall be undertaken unless all
6 of the following requirements are met:

- 7 (1) An initial determination is made by the regional chief
8 executive officer, or by a new entity or a private
9 entity under section 323F-7.6, as to critical and
10 emergency services which shall not be subject to
11 reduction or elimination pursuant to this section;
- 12 (2) The plan of the health facility, the new entity, or
13 the private entity to substantially reduce or
14 eliminate any direct patient care services at the
15 health facility shall first be presented to the
16 regional system board, or to the new entity in the
17 case of a plan of a private entity, for its approval;
- 18 (3) Subsequent to the requisite [~~regional system board~~]
19 approval, the regional chief executive officer or the
20 designated representative of the new entity or private
21 entity shall present the plan to the community in
22 which the health facility is located, at a community



1 informational meeting, in order to obtain community
2 input on the plan; and

3 (4) Provided that if the regional system board approves
4 the plan, the plan as approved by the regional system
5 board shall be submitted to the corporation board for
6 ratification[-]; provided that no approval by the
7 regional system board or ratification by the
8 corporation is required if the governing body of the
9 new entity approves a plan presented by a private
10 entity.

11 (b) After the community informational meeting, but at
12 least twenty days prior to the implementation of the plan
13 approved by the regional system board[-] or by the governing
14 body of the new entity, the regional system board or the
15 governing body of the new entity or the private entity shall
16 give notice of implementation of the plan to the governor,
17 senate president, and the speaker of the house of
18 representatives.

19 (c) The decision of the regional system board, or the
20 governing body of the new entity with respect to a plan
21 presented by a private entity, shall be the final decision with



1 respect to the plan. Implementation of the plan shall commence
2 and continue, provided that no legislation is enacted that:

3 (1) Requires the reinstatement and continuation of the
4 direct patient care services that are subject to
5 reduction or elimination under the plan; and

6 (2) Includes an appropriation of additional moneys
7 sufficient to adequately fund the mandated
8 reinstatement and continuation of the subject direct
9 patient care services."

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

12 SECTION 6. This Act shall take effect on January 1, 2050.

13



Report Title:

Hawaii Health Systems Corporation; Health Care; Non-Public
Status

Description:

Permits the regional systems of the Hawaii health systems
corporation and their health facilities to transition to non-
public status. Effective 01/01/2050. (SD1)

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

