

JAN 17 2013

A BILL FOR AN ACT

RELATING TO HEALTH.

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

PART I

1
2 SECTION 1. The legislature finds that the department of
3 health has implemented administrative rules that narrow the
4 scope of people who are eligible to receive continuing services
5 from the adult mental health division. The legislature further
6 finds that these restrictive rules leave many people with mental
7 health needs without access to mental health services.

8 The purpose of this part is to add a definition of
9 "qualifying diagnosis" to the Hawaii Revised Statutes and
10 require the adult mental health division of the department of
11 health to provide services to people with a qualifying
12 diagnosis.

13 SECTION 2. Section 334-1, Hawaii Revised Statutes, is
14 amended by adding two new definitions to be appropriately
15 inserted and to read as follows:

16 "Qualifying diagnosis" means one of the following
17 diagnoses:

18 (1) Schizophrenia and other psychotic disorders;



- 1 (2) Mood disorders, including recurrent major depressive
2 disorder and bipolar disorders;
- 3 (3) Anxiety disorders, including panic disorder with
4 agoraphobia, obsessive-compulsive disorder, and
5 post-traumatic stress disorder;
- 6 (4) Borderline personality disorder;
- 7 (5) Substance-related disorders that do not resolve in
8 thirty days, including alcohol-induced psychotic
9 disorder, amphetamine-induced psychotic disorder,
10 cannabis-induced psychotic disorder, cocaine-induced
11 psychotic disorder, hallucinogen-induced psychotic
12 disorder, inhalant-induced psychotic disorder,
13 opioid-induced psychotic disorder,
14 phencyclidine-induced psychotic disorder, sedative-,
15 hypnotic-, or anxiolytic-induced psychotic disorder,
16 and other- or unknown-substance-induced psychotic
17 disorders; and
- 18 (6) Co-occurring disorders, including persons with severe
19 and persistent mental illness and a substance abuse
20 disorder, and persons with severe and persistent
21 mental illness and diagnosis of mild mental
22 retardation.



1 "Severe and persistent mental illness" means a qualified
2 diagnosis, as defined in this section, that results in
3 emotional, cognitive, or behavioral functioning which is so
4 impaired as to substantially interfere with a person's capacity
5 to remain in the community without treatment, and which results
6 in a long-term limitation in a person's functional capacities
7 for the primary activities of daily living."

8 SECTION 3. Section 334-3, Hawaii Revised Statutes, is
9 amended by amending subsection (c) to read as follows:

10 (c) The department shall specifically:

11 (1) Perform statewide assessments of the need for
12 prevention, treatment, and rehabilitation services in
13 the areas of mental or emotional disorders and
14 substance abuse;

15 (2) Adopt rules pursuant to chapter 91 for establishing
16 the number and boundaries of the geographical service
17 areas for the delivery of services in the areas of
18 mental or emotional disorders and substance abuse.

19 The department shall periodically review the
20 effectiveness of the geographical service areas in
21 promoting accessibility and continuity of appropriate
22 care to all residents of that geographical area;



- 1 (3) Appoint a service area administrator in each county
2 who shall be responsible for the development,
3 delivery, and coordination of services in that area;
- 4 (4) Ensure statewide and community-based planning for the
5 ongoing development and coordination of the service
6 delivery system as guided by needs assessment data and
7 performance related information;
- 8 (5) Establish standards and rules for psychiatric
9 facilities and their licensing, where applicable;
- 10 (6) Establish standards and rules for services in the
11 areas of mental health and substance abuse treatment,
12 including assurances of the provision of minimum
13 levels of accessible service to persons of all ages,
14 ethnic groups, and geographical areas in the State;
- 15 (7) Ensure community involvement in determining the
16 service delivery arrangements appropriate to each
17 community of the State;
- 18 (8) Cooperate with public and private health, education,
19 and human service groups, agencies, and institutions
20 in establishing a coordinated system to meet the needs
21 of persons with mental or emotional disorders and
22 substance abuse difficulties;



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- 1 (9) Evaluate and monitor all services in the fields of
2 mental health and substance abuse where such services
3 are supported fully or in part by state resources;
- 4 (10) Promote and conduct research, demonstration projects,
5 and studies concerned with the nature, prevention,
6 intervention, and consequences of mental or emotional
7 disorders and substance abuse;
- 8 (11) Keep records, statistical data, and other information
9 as may be necessary in carrying out the functions of
10 the mental health system and this chapter;
- 11 (12) Advocate patients' rights in all psychiatric
12 facilities in the State and investigate any grievances
13 submitted to the department by any patient in a
14 psychiatric facility, except as provided in section
15 334E-2(d). The department shall establish rules and
16 procedures for the purpose of this paragraph within
17 one year after January 1, 1985, and post the rules in
18 a conspicuous manner and accessible place;
- 19 (13) Promote and conduct a systematic program of
20 accountability for all services provided, funds
21 expended, and activities carried out under its



1 direction or support in accordance with sound

2 business, management, and scientific principles;

3 (14) Coordinate mental health resources in each county of
4 the State by the development and presentation of a
5 comprehensive integrated service area plan developed
6 by the service area administrator in conjunction with
7 the service area board. The service area
8 administrator and the service area board, in
9 collaboration with private and public agencies serving
10 their population, shall submit recommendations for the
11 statewide comprehensive integrated service plan,
12 including needs assessment, program planning, resource
13 development, priorities for funding, monitoring, and
14 accountability activities;

15 (15) Oversee and coordinate service area programs and
16 provide necessary administrative and technical
17 assistance to assist service area programs in meeting
18 their program objectives; ~~and~~

19 (16) Provide staffing to the state council and service area
20 boards to assist in the performance of their
21 functions[-]; and



1 (17) Provide services to persons who have a qualifying
2 diagnosis; provided that notwithstanding any law or
3 rules adopted by the department to the contrary, any
4 person who has a qualifying diagnosis shall be
5 eligible to receive services that are offered by the
6 department of health's adult mental health division
7 and are not covered by any insurance policy held by or
8 for the benefit of that person."

9 **PART II**

10 SECTION 4. The legislature finds that budgetary reductions
11 have forced cuts to state mental health services, causing harm
12 to thousands of mentally ill persons by reducing access to
13 needed medication, treatment, and other services. This
14 reduction in mental health services may be contrary to the
15 United States Supreme Court holding in *Olmstead v. L. C.*, 527
16 U.S. 581 (1999). This holding gave people with disabilities the
17 right to live in the community, if they desire, rather than
18 being institutionalized, and the failure to provide necessary
19 supports to these persons may constitute a denial of that right.
20 The department of health adult mental health division
21 changed its eligibility rules in July 2010 to end services it
22 provides to patients other than those with severe and persistent



1 mental illness. This left thousands of people searching for
2 help from private providers who are already in short supply.
3 The adult mental health division also eliminated or reduced
4 support for residential facilities, parent education, support
5 groups, and clubhouses that have been important resources for
6 the mentally ill. Cuts have also been made to area-service
7 administrator positions for the adult mental health division,
8 which has adversely impacted the availability and coordination
9 of mental health resources on the neighbor islands. In the wake
10 of these steep cuts and intense government-wide budget
11 pressures, it is also questionable whether the State has the
12 means to adequately monitor and treat former criminal defendants
13 who are on conditional release.

14 The purpose of this part is to make an appropriation for
15 the restoration of mental health services.

16 SECTION 5. There is appropriated out of the general
17 revenues of the State of Hawaii the sum of \$ or so
18 much thereof as may be necessary for fiscal year 2013-2014 and
19 the same sum or so much thereof as may be necessary for fiscal
20 year 2014-2015 for restoration of funding for mental health
21 services for adults, adolescents, and children, that have been
22 eliminated or reduced in the past two years.



1 The sums appropriated shall be expended by the department
2 of health for the purposes of this part.

3 **PART III**

4 SECTION 6. The legislature finds that homelessness
5 continues to be one of the State's most significant and
6 challenging social problems. The legislature further finds that
7 according to a recent report, 14,200 homeless individuals were
8 served through shelter and outreach programs in fiscal year
9 2011. Of these individuals, 9,781 resided in the city and
10 county of Honolulu. The legislature also finds that homeless
11 service providers estimate that 6,000 homeless people in the
12 State need shelter each night.

13 The legislature additionally finds that homelessness is a
14 complex issue that requires continuous resources and coordinated
15 efforts at all levels. The legislature also finds that homeless
16 persons face a myriad of issues, including mental illness,
17 substance abuse, loss of employment and income, and lack of
18 affordable housing. Appropriate funding for programs and
19 services tailored to address these issues is essential.

20 The purpose of this part is to make an appropriation



1 for substance abuse treatment and mental health support services
2 for individuals who are homeless or at risk of becoming
3 homeless.

4 SECTION 7. There is appropriated out of the general
5 revenues of the State of Hawaii the sum of \$ or so
6 much thereof as may be necessary for fiscal year 2013-2014 and
7 the same sum or so much thereof as may be necessary for fiscal
8 year 2014-2015 for substance abuse treatment and mental health
9 support services for individuals who are homeless or at risk of
10 becoming homeless.

11 The sums appropriated shall be expended by the department
12 of health for the purposes of this part.

13 PART IV

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

16 SECTION 9. This part shall take effect upon its approval;
17 provided that sections 5 and 7 shall take effect on July 1,
18 2013.

19

INTRODUCED BY:

Fuzanne Chun Casland
Qsh
Miller

Rossly H Baker



S.B. NO. 43

Report Title:

Mental Health; Adult Mental Health; Homeless Services;
Appropriation

Description:

Adds definitions for "qualifying diagnosis" and "severe and persistent mental illness." Requires the adult mental health division of the department of health to provide services to people with a qualifying diagnosis, including services that are not covered by an insurance policy held by or for the benefit of the individual who seeks services. Makes an appropriation for mental health services for adults, adolescents, and children, that have been eliminated or reduced in the past two years. Makes an appropriation for substance abuse treatment and mental health support services for individuals who are homeless or at risk of becoming homeless.

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