
A BILL FOR AN ACT

RELATING TO MENTAL HEALTH.

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

1 SECTION 1. Section 321-11, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "**§321-11 Subjects of health rules, generally.** The
4 department of health pursuant to chapter 91 may adopt rules that
5 it deems necessary for the public health and safety respecting:

- 6 (1) Nuisances, foul or noxious odors, gases, vapors,
7 waters in which mosquitoes breed or may breed, sources
8 of filth, and causes of sickness or disease, within
9 the respective districts of the State, and on board
10 any vessel;
- 11 (2) Adulteration and misbranding of food or drugs;
- 12 (3) Location, air space, ventilation, sanitation,
13 drainage, sewage disposal, and other health conditions
14 of buildings, courts, construction projects,
15 excavations, pools, watercourses, areas, and alleys;
- 16 (4) Privy vaults and cesspools;
- 17 (5) Fish and fishing;



- 1 (6) Interments and dead bodies;
- 2 (7) Disinterments of dead human bodies, including the
- 3 exposing, disturbing, or removing of these bodies from
- 4 their place of burial, or the opening, removing, or
- 5 disturbing after due interment of any receptacle,
- 6 coffin, or container holding human remains or a dead
- 7 human body or a part thereof and the issuance and
- 8 terms of permits for the aforesaid disinterments of
- 9 dead human bodies;
- 10 (8) Cemeteries and burying grounds;
- 11 (9) Laundries, and the laundering, sanitation, and
- 12 sterilization of articles including linen and uniforms
- 13 used by or in the following businesses and
- 14 professions: barber shops, manicure shops, beauty
- 15 parlors, electrology shops, restaurants, soda
- 16 fountains, hotels, rooming and boarding houses,
- 17 bakeries, butcher shops, public bathhouses, midwives,
- 18 masseurs, and others in similar calling, public or
- 19 private hospitals, and canneries and bottling works
- 20 where foods or beverages are canned or bottled for
- 21 public consumption or sale; provided that nothing in



1 this chapter shall be construed as authorizing the
2 prohibiting of laundering, sanitation, and
3 sterilization by those conducting any of these
4 businesses or professions where the laundering or
5 sterilization is done in an efficient and sanitary
6 manner;

7 (10) Hospitals, freestanding surgical outpatient
8 facilities, skilled nursing facilities, intermediate
9 care facilities, adult residential care homes, adult
10 foster homes, assisted living facilities, special
11 treatment facilities and programs, home health
12 agencies, home care agencies, hospices, freestanding
13 birthing facilities, adult day health centers,
14 independent group residences, and therapeutic living
15 programs, but excluding youth shelter facilities
16 unless clinical treatment of mental, emotional, or
17 physical disease or handicap is a part of the routine
18 program or constitutes the main purpose of the
19 facility, as defined in section 346-16 under "child
20 [+]caring[+] institution" [-]; provided that the
21 department shall deem occupational therapists licensed



1 under chapter 457G as qualified mental health
2 professionals. For the purpose of this paragraph,
3 "adult foster home" has the same meaning as provided
4 in section 321-11.2;

5 (11) Hotels, rooming houses, lodging houses, apartment
6 houses, tenements, and residences for persons with
7 developmental disabilities including those built under
8 federal funding;

9 (12) Laboratories;

10 (13) Any place or building where noisome or noxious trades
11 or manufacturing is carried on, or intended to be
12 carried on;

13 (14) Milk;

14 (15) Poisons and hazardous substances, the latter term
15 including any substance or mixture of substances that:

16 (A) Is corrosive;

17 (B) Is an irritant;

18 (C) Is a strong sensitizer;

19 (D) Is inflammable; or

20 (E) Generates pressure through decomposition, heat,
21 or other means,



- 1 if the substance or mixture of substances may cause
2 substantial personal injury or substantial illness
3 during or as a proximate result of any customary or
4 reasonably foreseeable handling or use, including
5 reasonably foreseeable ingestion by children;
- 6 (16) Pig and duck ranches;
- 7 (17) Places of business, industry, employment, and
8 commerce, and the processes, materials, tools,
9 machinery, and methods of work done therein; and
10 places of public gathering, recreation, or
11 entertainment;
- 12 (18) Any restaurant, theater, market, stand, shop, store,
13 factory, building, wagon, vehicle, or place where any
14 food, drug, or cosmetic is manufactured, compounded,
15 processed, extracted, prepared, stored, distributed,
16 sold, offered for sale, or offered for human
17 consumption or use;
- 18 (19) Foods, drugs, and cosmetics, and the manufacture,
19 compounding, processing, extracting, preparing,
20 storing, selling, and offering for sale, consumption,
21 or use of any food, drug, or cosmetic;



- 1 (20) [+]Device[+] as defined in section 328-1;
- 2 (21) Sources of ionizing radiation;
- 3 (22) Medical examination, vaccination, revaccination, and
4 immunization of school children. No child shall be
5 subjected to medical examination, vaccination,
6 revaccination, or immunization, whose parent or
7 guardian objects in writing thereto on grounds that
8 the requirements are not in accordance with the
9 religious tenets of an established church of which the
10 parent or guardian is a member or adherent, but no
11 objection shall be recognized when, in the opinion of
12 the department, there is danger of an epidemic from
13 any communicable disease;
- 14 (23) Disinsectization of aircraft entering or within the
15 State as may be necessary to prevent the introduction,
16 transmission, or spread of disease or the introduction
17 or spread of any insect or other vector of
18 significance to health;
- 19 (24) Fumigation, including the process by which substances
20 emit or liberate gases, fumes, or vapors that may be
21 used for the destruction or control of insects,



1 vermin, rodents, or other pests, which, in the opinion
2 of the department, may be lethal, poisonous, noxious,
3 or dangerous to human life;

4 (25) Ambulances and ambulance equipment;

5 (26) Development, review, approval, or disapproval of
6 management plans submitted pursuant to the Asbestos
7 Hazard Emergency Response Act of 1986, Public Law 99-
8 519; and

9 (27) Development, review, approval, or disapproval of an
10 accreditation program for specially trained persons
11 pursuant to the Residential Lead-Based Paint Hazard
12 Reduction Act of 1992, Public Law 102-550.

13 The department of health may require any certificates,
14 permits, or licenses that it may deem necessary to adequately
15 regulate the conditions or businesses referred to in this
16 section."

17 SECTION 2. Section 346-14, Hawaii Revised Statutes, is
18 amended to read as follows:

19 "§346-14 Duties generally. Except as otherwise provided
20 by law, the department of human services shall:



- 1 (1) Establish and administer programs and standards, and
2 adopt rules as deemed necessary for all public
3 assistance programs;
- 4 (2) Establish, extend, and strengthen services for the
5 protection and care of abused or neglected children
6 and children in danger of becoming delinquent to make
7 paramount the safety and health of children who have
8 been harmed or are in life circumstances that threaten
9 harm;
- 10 (3) Establish and administer programs, and adopt rules as
11 deemed necessary, for the prevention of domestic and
12 sexual violence and the protection and treatment of
13 victims of domestic and sexual violence;
- 14 (4) Assist in preventing family breakdown;
- 15 (5) Place, or cooperate in placing, abused or neglected
16 children in suitable private homes or institutions and
17 place, or cooperate in placing, children in suitable
18 adoptive homes;
- 19 (6) Have authority to establish, maintain, and operate
20 receiving homes for the temporary care and custody of
21 abused or neglected children until suitable plans are



1 made for their care; and accept from the police and
2 other agencies, for temporary care and custody, any
3 abused or neglected child until satisfactory plans are
4 made for the child;

5 (7) Administer the medical assistance programs for
6 eligible public welfare and other medically needy
7 individuals by establishing standards, eligibility,
8 and health care participation rules, payment
9 methodologies, reimbursement allowances, systems to
10 monitor recipient and provider compliance, and
11 assuring compliance with federal requirements to
12 maximize federal financial participation; provided
13 that the department shall deem occupational therapists
14 licensed under chapter 457G as qualified mental health
15 professionals;

16 (8) Cooperate with the federal government in carrying out
17 the purposes of the Social Security Act and in other
18 matters of mutual concern pertaining to public
19 welfare, public assistance, and child welfare
20 services, including the making of reports, the
21 adoption of methods of administration, and the making



1 of rules as are found by the federal government, or
2 any properly constituted authority thereunder, to be
3 necessary or desirable for the efficient operation of
4 the plans for public welfare, assistance, and child
5 welfare services or as may be necessary or desirable
6 for the receipt of financial assistance from the
7 federal government;

8 (9) Carry on research and compile statistics relative to
9 public and private welfare activities throughout the
10 State, including those dealing with dependence,
11 defectiveness, delinquency, and related problems;

12 (10) Develop plans in cooperation with other public and
13 private agencies for the prevention and treatment of
14 conditions giving rise to public welfare problems;

15 (11) Adopt rules governing the procedure in hearings,
16 investigations, recording, registration, determination
17 of allowances, and accounting and conduct other
18 activities as may be necessary or proper to carry out
19 this chapter;

20 (12) Supervise or administer any other activities
21 authorized or required by this chapter, including the



1 development of the staff of the department through in-
2 service training and educational leave to attend
3 schools and other appropriate measures, and any other
4 activities placed under the jurisdiction of the
5 department by any other law;

6 (13) Make, prescribe, and enforce policies and rules
7 governing the activities provided for in section 346-
8 31 it deems advisable, including the allocation of
9 moneys available for assistance to persons assigned to
10 work projects among the several counties or to
11 particular projects where the apportionment has not
12 been made pursuant to other provisions of law, if any,
13 governing expenditures of the funds;

14 (14) Determine the appropriate level for the Hawaii
15 security net, by developing a tracking and monitoring
16 system to determine what segments of the population
17 are not able to afford the basic necessities of life,
18 and advise the legislature annually regarding the
19 resources required to maintain the security net at the
20 appropriate level;



- 1 (15) Subject to the appropriation of state funds and
- 2 availability of federal matching assistance, expand
- 3 optional health care to low-income persons as follows:
- 4 (A) Pregnant women and infants under one year of age
- 5 living in families with incomes up to one hundred
- 6 eighty-five per cent of the federal poverty level
- 7 and without any asset restrictions;
- 8 (B) Children under six years of age living in
- 9 families with incomes up to one hundred thirty-
- 10 three per cent of the federal poverty level and
- 11 without any asset restrictions;
- 12 (C) Older children to the extent permitted under
- 13 optional federal medicaid rules;
- 14 (D) Elder persons;
- 15 (E) Aliens;
- 16 (F) The homeless; and
- 17 (G) Other handicapped and medically needy persons;
- 18 and
- 19 (16) Subject to the appropriation of state funds and
- 20 availability of federal matching assistance, establish
- 21 the income eligibility level for the medically needy



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1 program at one hundred thirty-three per cent of the
 2 assistance allowance."

3 SECTION 3. This Act does not affect rights and duties that
 4 matured, penalties that were incurred, and proceedings that were
 5 begun before its effective date.

6 SECTION 4. Statutory material to be repealed is bracketed
 7 and stricken. New statutory material is underscored.

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

9

INTRODUCED BY:

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Report Title:

DHS; DOH; Qualified Mental Health Care Professionals;
Occupational Therapists

Description:

Requires DHS and DOH to deem occupational therapists as
qualified mental health care professionals.

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not legislation or evidence of legislative intent.*

