

ACT 200

S.B. NO. 2682-82

A Bill for an Act Relating to Mental Health.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 334E-2, Hawaii Revised Statutes, is amended to read as follows:

“§334E-2 Rights of in-patients. (a) Any patient in a [licensed] psychiatric facility [may] shall be afforded [the following rights, as provided by the institution. All such rights of in-patients are to be qualified by reasonableness, in view of the circumstances and the availability of resources and are to include but not be limited to the following:] rights; and any psychiatric facility shall provide the rights to all patients; provided that when a patient is not able to exercise the patient’s rights, the patient’s legal guardian or legal representative shall have the authority to exercise the same on behalf of the patient. The rights shall include, but not be limited to, the following:

- (1) Access to written rules and regulations with which the patient is expected to comply;
- (2) Access to the facility’s grievance procedure[;] or to the department of health as provided in section 334-3;
- (3) Freedom from reprisal;
- [(3)] (4) Privacy, respect, and personal dignity;
- [(4)] (5) A humane environment;
- [(5)] (6) Freedom from discriminatory treatment based on race, color, creed, national origin, age, and sex;
- [(6)] Uncensored communication;]
- (7) A written treatment plan based on the individual patient;
- (8) Participation in the planning of the patient’s treatment plan;
- (9) Refusal of treatment except in emergency situations or where a court order exists;
- (10) Refusal to participate in experimentation;
- [(7)] (11) The choice of physician if the physician chosen agrees;
- [(8)] Appropriate treatment and care;
- (9) (12) A qualified, competent staff;
- [(10)] (13) A medical examination before initiation of non-emergency treatment;
- [(11)] Participation in the treatment plan;]
- (14) Confidentiality of the patient’s records;
- (15) Access to the patient’s records;
- [(12)] (16) Knowledge of rights withheld or removed by a court or by law;
- [(13)] (17) Physical exercise and recreation;
- [(14)] (18) Adequate diet;
- [(15)] (19) Knowledge of the names and titles of staff members with whom the patient has frequent contact;
- [(16)] (20) The right to work at the facility and fair compensation for work done; provided that work is available and it is part of the patient’s treatment plan;
- (21) Visitation rights, unless the patient poses a danger to self or others; provided that where visitation is prohibited, the legal guardian or legal representative shall be allowed to visit the patient upon request;
- (22) Uncensored communication;
- [(17)] (23) Notice of and reasons for an impending transfer;
- [(18)] (24) Freedom from seclusion or restraint, except:
 - (A) When necessary to prevent injury to self or others; or

(B) When part of the treatment plan; or

(C) When necessary to preserve the rights of other patients or staff;

[(19)] (25) Disclosure to a court, at an involuntary civil commitment hearing, of all treatment procedures which have been administered prior to the hearing;

[(20)] (26) Receipt by the patient and his guardian[,] or legal guardian, if he has one, of this enunciation of rights[,] at the time of admission.

(b) All the rights of in-patients are to be qualified by reasonableness in view of the circumstances.

(c) The department of health shall investigate any complaints brought to them concerning this section, except as provided in subsection (d). The department shall report in writing its findings and recommendation to the originator of the complaint, no later than thirty days from the date the complaint is submitted.

(d) The office of the ombudsman shall be responsible for all investigations of complaints against any public psychiatric facility, as provided under chapter 96."

SECTION 2. Section 334-3, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) The department shall:

- (1) Establish standards and regulations for and license psychiatric facilities;
- (2) Evaluate preventive and treatment services in the field of mental health within the State;
- (3) Promote and conduct research, demonstration projects, and studies concerned with the nature, treatment, and consequences, of mental illness, drug addiction, and alcoholism within the State;
- (4) Cooperate with public and private groups, agencies, and institutions in establishing coordinated services to meet the mental health needs of the people;
- (5) Keep records, statistical data, and other information as may be necessary in carrying out the functions of the mental health program and the provisions of this chapter[.]; and
- (6) Advocate patients' rights in all psychiatric facilities in the State and investigate any grievances submitted to them by any patient in a psychiatric facility, except as provided in section 334E-2(d). The department shall establish rules and procedures for the purpose of this subsection within one year of the enactment of this subsection and post the rules in a conspicuous manner and accessible place."

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored.

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

(Approved June 10, 1982.)