

ACT 311

H.B. NO. 3105

A Bill for an Act Relating to Psychotropic Medication.

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

SECTION 1. The legislature passed Act 239, Session Laws of Hawaii 2005, in recognition of the importance of providing open access to medications used to treat mental illness. Act 239, Session Laws of 2005, applied to medicaid eligible individuals. The legislature finds that Act 239 has improved the ability of mentally ill persons to obtain treatment for mental illness.

The purpose of this Act is to improve access to psychotropic medication for Hawaii medicaid clients.

SECTION 2. Act 239, Session Laws of Hawaii 2005, is amended by amending sections 2 and 3 to read as follows:

“SECTION 2. Chapter 346, Hawaii Revised Statutes, is amended by adding two new sections to be appropriately designated and to read as follows:

“**§346- Psychotropic medication.** (a) The department shall not impose any restriction or limitation on the coverage for, or a recipient’s access to, psychotropic medication; provided that the psychotropic medication shall be prescribed by a licensed psychiatrist or by a [licensed] physician [in consultation with a psychiatrist] duly licensed in the State.

(b) As used in this section:

[“Consultation” means communication by telephone, electronically, or face to face by a licensed psychiatrist and a licensed physician, during which the psychiatrist concurs with the prescription made. The psychiatrist’s concurring opinion shall be documented in the recipient’s medical record.]

“Psychotropic medication” means only those agents approved by the United States Food and Drug Administration for the treatment of mental or emotional disorders.

~~(c) This section shall not apply to QUEST medical plans.~~

~~§346— Pre-authorization exemption for psychotropic medication. (a) A licensed physician may prescribe psychotropic medication pursuant to the laws of this State to an individual who is medicaid eligible without the requirement of any preauthorization procedure otherwise required by any other provision of this chapter; provided that the individual is in need of emergency psychiatric or psychological service.~~

~~(b) As used in this section:~~

~~“Emergency psychiatric or psychological service” means immediate administration or prescription of psychotropic medication not to exceed seven days by a licensed physician is required to avoid or mitigate significant adverse effects to the individual’s mental or emotional condition.~~

~~“Psychotropic medication” means only those agents approved by the United States Food and Drug Administration for the treatment of mental or emotional disorders.~~

~~(c) This section shall not apply to QUEST medical plans.’]~~

SECTION 3. The department of human services shall report to the legislature no later than twenty days before the convening of the regular session of 2007, and annually thereafter.¹ The report shall include:

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- (1) The number of prescriptions written pursuant to this Act;
- (2) The cost and impact of psychiatrists or physicians prescribing medications pursuant to this Act that are not part of the existing formulary; and
- (3) The overall utilization under chapter 346, Hawaii Revised Statutes.’’

SECTION 3. Act 239, Session Laws of Hawaii 2005, is amended by amending section 5 to read as follows:

“SECTION 5. This Act shall take effect on July 1, 2005, and shall be repealed as it applies to QUEST plans only, on June 30, [~~2007.~~] 2008.”

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

SECTION 5. This Act shall take effect on July 1, 2006.

(Became law on July 11, 2006, without the Governor’s signature, pursuant to Art. III, §16, State Constitution.)

Note

1. The “, and annually thereafter” should be underscored.