

JAN 17 2014

A BILL FOR AN ACT

RELATING TO HEALTH CARE.

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

1 Part I.

2 General Provisions

3 SECTION 1. There shall be established at the John A. Burns
4 school of medicine at the University of Hawaii a five-year pilot
5 program for the treatment of traumatic brain injury or post-
6 traumatic stress disorder for residents of this State.

7 SECTION 2. As used in this Act, the following terms shall
8 mean as follows:

9 "Center" means the veterans recovery plan and traumatic
10 brain injury treatment center at the John A. Burns school of
11 medicine at the University of Hawaii.

12 "Hyperbaric oxygen treatment" means treatment, with a valid
13 prescription, in a hyperbaric chamber cleared by the United
14 States Food and Drug Administration or a device with an
15 appropriate investigational device exemption that is approved by
16 the United States Food and Drug Administration, at a location in
17 compliance with applicable county fire codes, and delivered by



1 authorized, licensed, or nationally certified health care
2 providers.

3 "Insurance division" means the insurance division of the
4 department of commerce and consumer affairs.

5 "School of medicine" means the John A. Burns school of
6 medicine at the University of Hawaii.

7 "Special fund" means the veterans recovery plan special
8 fund.

9 SECTION 3. There is established in the John A. Burns
10 school of medicine at the University of Hawaii a veterans
11 recovery plan and traumatic brain injury treatment center. The
12 center shall exercise the duties described under parts 2 and 3
13 of this Act.

14 SECTION 4. (a) There is created in the state treasury a
15 special fund to be known as the veterans recovery plan special
16 fund to be expended by the insurance division to reimburse
17 practitioners and health care providers at the center who are
18 seeking payment for services to persons who received services
19 under part II or III of this Act.

20 (b) Revenue sources for the special fund shall consist of:

21 (1) Fees collected under this Act;

22 (2) Legislative appropriations;



1 (3) General obligation bond issuances;

2 (4) Funds transferred from other sources in the state
3 budget as needed during the year to meet the needs of
4 residents seeking treatment; and

5 (5) Collections from third-party payers.

6 (c) Practitioners and health care providers at the center
7 shall be paid for their services at the medicare published rates
8 for those services, less the appropriate administrative fees,
9 program fees, and capital improvement or training fees
10 applicable to each site. If no medicare published rate is in
11 effect, payment shall be made at a fair market rate, to be
12 determined by the director of health.

13 (d) If an individual qualifies for state medicaid,
14 workers' compensation, or other public health assistance, or is
15 covered by private carrier insurance, the school of medicine
16 shall seek reimbursement at standard published facility
17 reimbursement rates for the treatment for each carrier, or the
18 medicare reimbursement rate, whichever is higher.

19 (e) Expenditures under the veterans recovery plan special
20 fund may be made under part III for:

21 (1) Medical treatment and adjunctive therapies provided at
22 the school of medicine for, in order of priority:



1 (A) All current and former members of the Hawaii
2 national guard, military reserves, and all
3 current and former active duty United States
4 military personnel residing within the State; and

5 (B) All state residents who are not current or former
6 members of the Hawaii national guard, military
7 reserves, or current or former active duty United
8 States military personnel residing within the
9 State;

10 (2) Expenditures at the center related to receiving
11 treatment, including travel and housing when treatment
12 is not locally available or specialized care is needed
13 for a qualified person to receive treatment;

14 (3) Purchase or lease and installation of durable medical
15 equipment at the center needed to carry out treatment
16 under paragraphs (1) and (2); and

17 (4) Education or training expenses for personnel at the
18 center necessary to provide treatments under
19 paragraphs (1) and (3).

20 Part II.

21 Veterans Recovery Plan



1 SECTION 5. (a) The center shall make effective biological
2 repair treatments and other therapies available for treatment of
3 brain insults and post-traumatic stress disorder, and other
4 military service-connected injuries, to residents of this State
5 who qualify for treatment under this Act.

6 (b) The school of medicine shall seek to recover the
7 center's costs for delivering those treatments.

8 SECTION 6. (a) No payment shall be denied by a third-
9 party payer when treatment is delivered pursuant to this Act
10 under a valid prescription for hyperbaric oxygen treatment
11 approved by the United States Food and Drug Administration.

12 (b) The requirement for physician supervision shall permit
13 the use of telemedicine tools by the center to provide the
14 required supervision. The physical presence of a physician at
15 the center is preferred but shall not be necessary.

16 (c) Physician supervision at the center shall be
17 reimbursed at the medicare part B facility rate as published by
18 the Centers for Medicare and Medicaid Services. Of this fee,
19 not less than fifty per cent of the published rate shall be paid
20 to the physician who actually provides the supervision, after
21 contractual or institutional fees are subtracted from the gross
22 payment.



1 (d) Any physician supervision provided by telemedicine
2 shall be considered the equivalent of physician supervision
3 provided by the physical presence of a physician under this
4 requirement.

5 (e) The purpose of physician supervision shall be to
6 validate that:

- 7 (1) The treatment protocol is being followed;
8 (2) Clearly indicated patient risks are being avoided;
9 (3) Symptoms of rare side effects are not being
10 manifested; and
11 (4) Treatment was provided in accordance with the required
12 research protocols approved by the United States Food
13 and Drug Administration, as applicable.

14 (f) The physician shall:

- 15 (1) Examine the patient or consult with the patient's
16 caregiver prior to treatment to ensure that the
17 patient is making adequate progress anticipated under
18 the specified treatment protocol;
19 (2) Perform, or cause to be performed by a qualified
20 person, any appropriate pre-dive examination if
21 questions arise during the pre-treatment interview
22 that warrant the examination;



- 1 (3) Record patient progress notes appropriately;
- 2 (4) Validate that the treatment given was in accordance
- 3 with the patient prescription or protocol;
- 4 (5) Ensure that the treatment is proceeding smoothly;
- 5 (6) Be available post-treatment, if any concerns arose
- 6 treatment; and
- 7 (7) Enter data into the patient's treatment record
- 8 appropriately, validating the date of treatment, the
- 9 protocol followed, the duration of treatment, and any
- 10 expected or unexpected adverse events, in accordance
- 11 with best practices guidelines.

12 (g) Other physician responsibilities to other duties
13 during the time of treatment shall not be restricted.

14 (h) No third-party payer shall impose requirements that
15 are more restrictive than the requirements established by this
16 Act and placed upon a practitioner or health care provider
17 providing treatment at the center pursuant to this Act.

18 SECTION 7. The school of medicine shall independently
19 validate all treatment results and certify the receipt of those
20 results before authorizing payment, as well as track long-term
21 outcome measures that impact state budget expenditures such as
22 education, labor, substance abuse, homelessness, incarceration,



1 healthcare outcomes, and entitlement program utilization. The
2 school of medicine shall automatically receive a per-treatment
3 fee payment from the veterans recovery plan special fund, when
4 payment is received for a given patient.

5 Part III.

6 Traumatic Brain Injury Treatment

7 SECTION 8. (a) Payment for treatments at the center
8 received by residents of this State under this part, including
9 diagnostic testing, for brain insults, including traumatic brain
10 injury or post-traumatic stress disorder, shall be paid in
11 accordance with this part.

12 (b) The approval of a treatment payment shall be subject
13 to the following conditions:

14 (1) Any drug or device used in the treatment shall be
15 approved or cleared by the United States Food and Drug
16 Administration for any purpose; provided that all
17 adjunctive therapies under the protocols or treatments
18 described in this subsection shall be available
19 without regard to other oversight by the United States
20 Food and Drug Administration;

21 (2) The protocol or treatment shall be approved by an
22 institutional review board operating in accordance



1 with applicable rules adopted by the director of
2 health;

3 (3) The treatment, including any patient disclosure
4 requirements, shall be used by the health care
5 provider delivering the treatment at the center;

6 (4) The patient receiving the treatment at the center
7 shall demonstrate an improvement as a result of the
8 treatment on one or more of the following:

- 9 (A) Standardized independent pre-treatment and post-
10 treatment neuropsychological testing;
- 11 (B) Accepted survey instruments;
- 12 (C) Neurological imaging; and
- 13 (D) Clinical examination; and

14 (5) The patient receiving the treatment at the center
15 receives the treatment voluntarily.

16 (c) No restriction or condition for reimbursement may be
17 placed by any third-party payer on any health care provider
18 providing treatment at the center pursuant to this Act with
19 respect to the receipt of payment under this part.

20 (d) Where a third-party payer is not involved, the
21 insurance division shall make a payment for a treatment pursuant
22 to this section not later than thirty days after a member of the



1 armed forces, a veteran, or a civilian submits to the insurance
2 division documentation from the school of medicine regarding the
3 treatment. The school of medicine shall ensure that the
4 documentation required under this subsection shall not be an
5 undue burden on the patient or on the health care provider.

6 (e) The database containing data from each patient case
7 involving the use of a treatment under this part shall be
8 accessible to all relevant policy makers and policy-making
9 bodies, as well as to payers. The school of medicine shall
10 ensure that the database preserves confidentiality and be made
11 available only:

12 (1) For third-party payer examination; and

13 (2) To the appropriate governmental organizations,
14 congressional committees and employees of the
15 Department of Defense, the Department of Veterans
16 Affairs, the Department of Health and Human Services,
17 and appropriate state agencies.

18 (f) The adjutant general shall notify each veteran and
19 member of the armed forces residing in State who has a service-
20 connected injury or disability of the opportunity to receive
21 treatment pursuant to this part.



1 (g) Not less than twenty days prior to the convening of
2 the regular sessions of 2015 to 2019, the school of medicine and
3 the insurance division shall jointly submit to the legislature
4 an annual report on the implementation of this part. The report
5 shall include:

- 6 (1) The number of individuals for whom the insurance
7 division has provided payments under this part;
- 8 (2) The condition for which each individual receives
9 treatment for which payment is provided under this
10 part and the success rate of each treatment; and
- 11 (3) Treatment methods that are used by entities receiving
12 payment provided under this part and the respective
13 rate of success of each method.

14 (h) The insurance division shall collect payments from the
15 third-party payer responsible for a given patient's treatment.
16 These payments shall be paid to the veterans recovery plan
17 special fund. Any requirement of medical necessity or
18 preapproval shall be deemed as having been met regardless of a
19 third-party payer's objection. Medical necessity shall have
20 been determined by whether positive health outcomes were
21 achieved under the treatment requirements of this part. To
22 prevent retaliation against those who received treatment under



1 this part, patient confidentiality shall be maintained. The
2 insurance division shall establish independent verification
3 procedures, such as independent auditing of patient records
4 validating the third-party payer's responsibility by rules
5 adopted in accordance with chapter 91, Hawaii Revised Statutes.

6 (i) The purchase or lease of equipment and facility
7 installation by the center is authorized under this part in
8 order to meet the needs of injured individuals covered under
9 this part. The school of medicine shall approve these
10 expenditures and collect a fee of fifty dollars from each
11 treatment payment to reimburse the veterans recovery plan
12 special fund. The purchase lease, and installation contracts
13 shall not be subject to chapter 103D, Hawaii Revised Statutes.

14 SECTION 9. The director of finance is authorized to issue
15 general obligation bonds in the sum of \$ or so much
16 thereof as may be necessary and the same sum or so much thereof
17 as may be necessary is appropriated for fiscal year 2014-2015
18 for deposit into the veterans recovery plan special fund for the
19 purpose of purchasing hyperbaric chambers for the hyperbaric
20 oxygen treatment authorized under this Act.

21 SECTION 10. The appropriation made for the project
22 authorized by this Act shall not lapse at the end of the fiscal



1 biennium for which the appropriation is made; provided that all
2 moneys from the appropriation unencumbered as of June 30, 2016,
3 shall lapse as of that date.

4 SECTION 11. This Act shall take effect on July 1, 2014 and
5 shall be repealed on July 1, 2019.

6

INTRODUCED BY:

Will Szew

Ronny de Bel



S.B. NO. 2604

Report Title:

JABSOM; Veterans; Traumatic Brain Injury Treatment; GO Bonds; Appropriation

Description:

Establishes a five-year pilot program at UH-JABSOM for the medical treatment of veterans and traumatic brain injury treatment of residents. Establishes a special fund within the Insurance Division to reimburse health care providers and purchase medical equipment. Prohibits third-party payors from denying reimbursement for hyperbaric oxygen treatment. Authorizes the Insurance Division to seek reimbursement from third-party payors. Authorizes GO bonds. Appropriates funds.

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

