
A BILL FOR AN ACT

RELATING TO ORDERS FOR TREATMENT OVER OBJECTION.

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

1 SECTION 1. The legislature finds that the initiation of
2 treatment for patients admitted to the Hawaii state hospital
3 needs to be expedient in order to address patients' psychiatric
4 symptoms and protect the safety of the patient and others. The
5 legislature further finds that the Hawaii state hospital is
6 utilized primarily for forensic commitments, and that addressing
7 patients' psychiatric symptoms quickly at the initiation of
8 treatment will help maintain a safe and secure therapeutic
9 environment for patients and staff as well as have a positive
10 impact on patients' length of stay.

11 The legislature notes that the current method to obtain an
12 authorization to provide treatment over a patient's objection is
13 by a judicial hearing. Although unpredictable, on average the
14 time between petition and judicial hearing is nearly seventeen
15 days. Other states have responded to such unpredictability and
16 delay by developing a non-judicial, administrative mechanism to
17 review and authorize requests for treatment over a patient's
18 objection.



1 The purpose of this Act is to permit an administrative
2 order to overcome a patient's objection to psychiatric
3 treatment, establish criteria for issuance of the administrative
4 order, and establish criteria for an administrative
5 authorization process to determine whether the administrative
6 order should be issued.

7 SECTION 2. Chapter 334, Hawaii Revised Statutes, is
8 amended by adding a new part to be appropriately designated and
9 to read as follows:

10 **"PART . ADMINISTRATION OF TREATMENT OVER OBJECTION**

11 **§334-A Criteria for issuance of administrative order for**
12 **treatment over objection.** A patient who has been committed to a
13 psychiatric facility for involuntary hospitalization or who is
14 in the custody of the director and residing in a psychiatric
15 facility or special treatment facility may be ordered to receive
16 treatment over the patient's objection, including the taking or
17 application of medication, if the administrative panel finds,
18 through the administrative authorization process established
19 pursuant to section 334-B, that:

- 20 (1) The patient suffers from a physical or mental disease,
21 disorder, or defect;



- 1 (2) The patient is dangerous to self or others;
- 2 (3) Treatment with medication is medically appropriate;
- 3 and
- 4 (4) There is no less intrusive treatment for the patient's
- 5 condition, and the treatment is essential to forestall
- 6 the danger posed by the patient's condition.

7 **§334-B Criteria for administrative authorization process.**

8 (a) The administrative authorization process to determine
9 whether an administrative order for treatment over objection
10 should be issued shall include the following due process
11 safeguards:

- 12 (1) The facility shall give notice to the patient of the
- 13 authorization process and the reasons for initiating
- 14 the process;
- 15 (2) The administrative panel shall consist of three
- 16 members with relevant clinical training and
- 17 experience, and who are not involved with the current
- 18 treatment of the patient;
- 19 (3) The patient shall have the right to attend the
- 20 hearing, receive assistance from an advisor, and



1 contest the proposed order with testimony, exhibits,
2 witnesses, and cross examination; and

3 (4) The patient shall have the right to appeal the
4 decision of the administrative panel.

5 (b) The department may adopt rules, pursuant to chapter
6 91, consistent with this part to effectuate this part."

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

9 "(a) Any patient in a psychiatric facility shall be
10 afforded rights; and any psychiatric facility shall provide the
11 rights to all patients; provided that when a patient is not able
12 to exercise the patient's rights, the patient's legal guardian
13 or legal representative shall have the authority to exercise the
14 same on behalf of the patient. The rights shall include, but
15 not be limited to, the following:

16 (1) Access to written rules and regulations with which the
17 patient is expected to comply;

18 (2) Access to the facility's grievance procedure or to the
19 department of health as provided in section 334-3;

20 (3) Freedom from reprisal;

21 (4) Privacy, respect, and personal dignity;



- 1 (5) A humane environment;
- 2 (6) Freedom from discriminatory treatment based on race,
- 3 color, creed, national origin, age, and sex;
- 4 (7) A written treatment plan based on the individual
- 5 patient;
- 6 (8) Participation in the planning of the patient's
- 7 treatment plan;
- 8 (9) Refusal of treatment except in emergency situations or
- 9 where a court order or administrative order issued
- 10 pursuant to section 334-A exists;
- 11 (10) Refusal to participate in experimentation;
- 12 (11) The choice of physician if the physician chosen
- 13 agrees;
- 14 (12) A qualified, competent staff;
- 15 (13) A medical examination before initiation of non-
- 16 emergency treatment;
- 17 (14) Confidentiality of the patient's records;
- 18 (15) Access to the patient's records;
- 19 (16) Knowledge of rights withheld or removed by a court or
- 20 by law;
- 21 (17) Physical exercise and recreation;



- 1 (18) Adequate diet;
- 2 (19) Knowledge of the names and titles of staff members
- 3 with whom the patient has frequent contact;
- 4 (20) The right to work at the facility and fair
- 5 compensation for work done; provided that work is
- 6 available and is part of the patient's treatment plan;
- 7 (21) Visitation rights, unless the patient poses a danger
- 8 to self or others; provided that where visitation is
- 9 prohibited, the legal guardian or legal representative
- 10 shall be allowed to visit the patient upon request;
- 11 (22) Uncensored communication;
- 12 (23) Notice of and reasons for an impending transfer;
- 13 (24) Freedom from seclusion or restraint, except:
- 14 (A) When necessary to prevent injury to self or
- 15 others; or
- 16 (B) When part of the treatment plan; or
- 17 (C) When necessary to preserve the rights of other
- 18 patients or staff;
- 19 (25) Disclosure to a court, at an involuntary civil
- 20 commitment hearing, of all treatment procedures which
- 21 have been administered prior to the hearing;



1 (26) Receipt by the patient and the patient's guardian or
2 legal guardian, if the patient has one, of this
3 enunciation of rights at the time of admission."

4 SECTION 4. In codifying the new sections added by section
5 2 of this Act, the revisor of statutes shall substitute
6 appropriate section numbers for the letters used in designating
7 the new sections in this Act.

8 SECTION 5. New statutory material is underscored.

9 SECTION 6. This Act shall take effect on July 1, 2050.

10



Report Title:

Psychiatric Treatment; Treatment Over Objection; Administrative Authorization Process; Administrative Order

Description:

Permits an administrative order to overcome a patient's objection to psychiatric treatment. Establishes criteria for treatment over objection and the administrative authorization process for administratively ordering treatment over objection. Effective 7/1/2050. (SD1)

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