

1 regions, have less opportunity for additional revenue
2 generation.

3 While the need for long-term care beds on Oahu has
4 decreased in recent years, a study completed by the department
5 of business, economic development, and tourism has projected
6 that the population aged sixty-five and older will grow by one
7 hundred forty-eight per cent over the next twenty-five years.
8 On Oahu, this translates to an estimated shortfall of one
9 thousand one hundred long-term care beds in the next five to ten
10 years alone. Thus, despite the costs of long-term care, it is
11 vital that state facilities continue to operate to ensure that
12 beds remain available for our aging population.

13 Similar to the Oahu region, the department of health
14 operates the Hawaii state hospital, a facility that does not
15 generate revenue, but is nonetheless necessary to provide care
16 and treatment for mentally ill patients in Hawaii. In recent
17 years, the Hawaii state hospital has experienced a challenge in
18 providing sufficient bed space for admitted patients. As of
19 September 2019, two hundred twenty patients - well over the
20 maximum capacity of two hundred two - occupied beds at the
21 Hawaii state hospital. To meet its needs, the Hawaii state



1 hospital was also required to contract with Kahi Mohala, a
2 privately-run facility, to care for an additional forty-six
3 patients.

4 Beyond the Hawaii state hospital, the department of health
5 has also been charged with addressing the significant gap in the
6 behavioral health care system between acute psychiatric care
7 facilities and low-acuity residential treatment. Data collected
8 in the State estimates that more than half of all individuals
9 experiencing a mental health crisis, or fifty-four per cent,
10 have needs that align better with services delivered within a
11 subacute level of care facility rather than an emergency room.

12 The legislature finds that Act 90, Session Laws of Hawaii
13 2019, established the involuntary hospitalization task force and
14 Act 263, Session Laws of Hawaii 2019, established a working
15 group to evaluate current behavioral health care and related
16 systems, including existing resources, systems gaps, and
17 identification of action steps that would be taken to improve
18 the overall system of care. The findings from these initiatives
19 highlight the need in Hawaii for a coordinated network of
20 stabilization beds that will allow triage, clinical assessment,
21 and recommendation for the next level of care for those



1 struggling with substance use, mental health conditions, and
2 homelessness.

3 The National Coalition for the Homeless has found that
4 sixty-four per cent of homeless individuals are dependent on
5 alcohol or other substances. In Hawaii, the Oahu homeless point
6 in time count reported that 36.4 per cent of homeless single
7 adults suffer from some type of mental illness. The
8 intersection of homelessness and behavioral health conditions
9 are a crisis in Hawaii, which contributes to Hawaii having the
10 second highest rate of homelessness in the nation.
11 Unfortunately, there is currently no coordinated system of
12 stabilization from the streets that assesses for and links to
13 the next level of clinical care.

14 The legislature additionally finds that the current options
15 for those needing stabilization from substance use, mental
16 health, and homelessness are overburdened and inadequate, and
17 emergency facilities throughout the State have experienced
18 substantial increases in psychiatric emergency admissions, which
19 has resulted in overcrowding and unsafe environments for
20 patients and medical staff.



1 The legislature also finds that comprehensive crisis
2 response and stabilization services are crucial elements of the
3 continuum of care. Reducing unnecessary transportation to
4 emergency departments and appropriately placing clients in more
5 suitable levels of care will improve outcomes for consumers,
6 reduce inpatient hospital stays, and facilitate access to other
7 behavioral health services.

8 Subacute residential stabilization services have been a
9 missing component of a comprehensive behavioral health continuum
10 of care, which would bridge the gap between acute
11 hospitalization and lower-level residential and community
12 resources. Many individuals who are taken to the emergency room
13 on a MH-1, or for emergency examination and hospitalization, are
14 often not acute enough in their illness to warrant psychiatric
15 hospitalization. On the other hand, their symptomology is too
16 acute for them to be admitted to a group home, shelter, or other
17 existing low-acuity residential programs, or, if they are
18 admitted, they are often unsuccessful in those environments.
19 More often than not, they fail because they have not had time to
20 stabilize in an environment in which they can be closely
21 monitored. This lack of post-acute care contributes to the poor



1 outcomes of both acute behavioral health inpatient and
2 community-based services because many individuals are not
3 appropriate for either level, but fall somewhere in the middle.

4 The legislature further finds that there exists state
5 facilities that have underutilized space that could accommodate
6 these services with minimal effort and adjustments and reduce
7 certain burdens and barriers. Therefore, assertive efforts
8 should be undertaken to make use of these resources and to
9 organize them in a way that is beneficial to the State.

10 Through discussions with the Oahu region, it was determined
11 that some of the Oahu region's health care facilities,
12 particularly at Leahi hospital, are currently underutilized and
13 have the potential to be re-purposed for other important health
14 care and social service needs.

15 The legislature further finds that, while statutorily tied
16 to the Hawaii health systems corporation, the Oahu region
17 operates mostly autonomously and its functions - including
18 target population - are unique from those of the other regional
19 health care systems. As such, there is little necessity to keep
20 the Oahu regional health care system a part of the Hawaii health
21 systems corporation. With proper planning and implementation,



1 the Oahu regional health care system could be strategically
2 assimilated into the department of health and its facilities
3 could be used, in addition to long-term care, to help alleviate
4 the need for subacute residential mental health stabilization
5 and other subacute care services.

6 The purpose of this Act is to:

- 7 (1) Commence the transfer of the Oahu regional health care
8 system in its entirety from the Hawaii health systems
9 corporation to the department of health, beginning
10 with the transfer of the Oahu regional health care
11 system's budget and position count into the department
12 of health; and
- 13 (2) Enable the Oahu regional health care system,
14 department of health, Hawaii health systems
15 corporation, and other state agencies to manage and
16 implement the processes required to effectuate the
17 completion of such transition.

18 PART II

19 SECTION 2. Section 323F-2, Hawaii Revised Statutes, is
20 amended by amending subsection (b) to read as follows:



1 "(b) The corporate organization shall be divided into
2 ~~[five]~~ four regional systems, as follows:
3 ~~[-(1) The Oahu regional health care system,~~
4 ~~-(2)]~~ (1) The Kauai regional health care system;
5 ~~[-(3)]~~ (2) The Maui regional health care system;
6 ~~[-(4)]~~ (3) The east Hawaii regional health care system,
7 comprising the Puna district, north Hilo district,
8 south Hilo district, Hamakua district, and Kau
9 district; and
10 ~~[-(5)]~~ (4) The west Hawaii regional health care system,
11 comprising the north Kohala district, south Kohala
12 district, north Kona district, and south Kona
13 district;
14 and shall be identified as regional systems I, II, III, and IV,
15 ~~[and V,~~ respectively."

16 SECTION 3. Section 323F-3, Hawaii Revised Statutes, is
17 amended to read as follows:

18 "~~§323F-3~~ Corporation board. (a) The corporation shall be
19 governed by ~~[an eighteen-member]~~ a seventeen-member board of
20 directors that shall carry out the duties and responsibilities
21 of the corporation other than those duties and responsibilities



1 relating to the establishment of any captive insurance company
2 pursuant to section 323F-7(c)(20) and the operation thereof.

3 (b) The members of the corporation board shall be
4 appointed as follows:

5 (1) The director of health as an ex officio, voting
6 member;

7 (2) The [~~five~~] four regional chief executive officers as
8 ex officio, nonvoting members;

9 (3) Three members who reside in the county of Maui, two of
10 whom shall be appointed by the Maui regional system
11 board and one of whom shall be appointed by the
12 governor, all of whom shall serve as voting members;

13 (4) Two members who reside in the eastern section of the
14 county of Hawaii, one of whom shall be appointed by
15 the East Hawaii regional system board and one of whom
16 shall be appointed by the governor, both of whom shall
17 serve as voting members;

18 (5) Two members who reside in the western section of the
19 county of Hawaii, one of whom shall be appointed by
20 the West Hawaii regional system board and one of whom



1 shall be appointed by the governor, both of whom shall
2 serve as voting members;

3 (6) Two members who reside on the island of Kauai, one of
4 whom shall be appointed by the Kauai regional system
5 board and one of whom shall be appointed by the
6 governor, both of whom shall serve as voting members;

7 (7) Two members who reside on the island of Oahu, one of
8 whom shall be appointed by the Oahu regional system
9 board and one of whom shall be appointed by the
10 governor, both of whom shall serve as voting members;

11 and

12 (8) One member who shall be appointed by the governor and
13 serve as an at-large voting member.

14 The appointed board members who reside in the county of
15 Maui, in the eastern section of the county of Hawaii, in the
16 western section of the county of Hawaii, on the island of Kauai,
17 and on the island of Oahu shall each serve for a term of four
18 years; provided that the terms of the initial appointments of
19 the members who are appointed by their respective regional
20 system boards shall be as follows: one of the initial members
21 from the county of Maui shall be appointed to serve a term of



1 two years and the other member shall be appointed to serve a
2 term of four years; the initial member from East Hawaii shall be
3 appointed to serve a term of two years; the initial member from
4 West Hawaii shall be appointed to serve a term of four years;
5 the initial member from the island of Kauai shall be appointed
6 to serve a term of two years; and the initial member from the
7 island of Oahu shall be appointed to serve a term of four years;
8 and provided further that the terms of the initial appointments
9 of the members who are appointed by the governor shall be four
10 years. The at-large member appointed by the governor shall
11 serve a term of two years.

12 Any vacancy shall be filled in the same manner provided for
13 the original appointments. The corporation board shall elect
14 its own chair from among its members. Appointments to the
15 corporation board shall be as representative as possible of the
16 system's stakeholders as outlined in this subsection. The board
17 member appointments shall strive to create a board that includes
18 expertise in the fields of medicine, finance, health care
19 administration, government affairs, human resources, and law.

20 (c) The selection, appointment, and confirmation of any
21 nominee shall be based on ensuring that board members have



1 diverse and beneficial perspectives and experiences and that
2 they include, to the extent possible, representatives of the
3 medical, business, management, law, finance, and health sectors,
4 and patients or consumers. Members of the board shall serve
5 without compensation but may be reimbursed for actual expenses,
6 including travel expenses incurred in the performance of their
7 duties.

8 (d) Any member of the board may be removed for cause by
9 vote of a two-thirds majority of the board's members then in
10 office. For purposes of this section, cause shall include
11 without limitation:

- 12 (1) Malfeasance in office;
- 13 (2) Failure to attend regularly called meetings;
- 14 (3) Sentencing for conviction of a felony, to the extent
15 allowed by section 831-2; or
- 16 (4) Any other cause that may render a member incapable or
17 unfit to discharge the duties required under this
18 chapter.

19 Filing nomination papers for elective office or appointment to
20 elective office, or conviction of a felony consistent with



1 section 831-3.1, shall automatically and immediately disqualify
2 a board member from office.

3 (e) With regard to all corporation board matters
4 concerning the Oahu regional health care system, the director of
5 health shall have sole decision-making authority over those
6 matters, commencing on June 30, 2021, and continuing until the
7 transition of the Oahu regional health care system into the
8 department of health is complete. Upon completion of the
9 transition, the corporation board shall have no legal
10 relationship with the Oahu regional health care system or its
11 facilities."

12 SECTION 4. Section 323F-7.6, Hawaii Revised Statutes, is
13 amended to read as follows:

14 "[~~f~~]§323F-7.6[+] Transition of Hawaii health systems
15 regional system or health facility to a new entity. (a)
16 Notwithstanding any other law to the contrary, including but not
17 limited to section 27-1 and chapter 171, any of the regional
18 systems or individual facilities of the Hawaii health systems
19 corporation is hereby authorized to transition into a new legal
20 entity in any form recognized under the laws of the State,
21 including but not limited to:



- 1 (1) A nonprofit corporation;
- 2 (2) A for-profit corporation;
- 3 (3) A municipal facility;
- 4 (4) A public benefit corporation; [~~ex~~]
- 5 (5) A division or branch under a state executive
- 6 department; or

7 [~~4~~] (6) Any two or more of the entities in paragraphs (1)

8 through [~~4~~] (5).

9 A transition shall occur through the sale, lease, or transfer of

10 all or substantially all of the assets of the facility or

11 regional system, except for real property, which shall only be

12 transferred by lease [~~or~~], unless such transfer is effectuated

13 under paragraph (5), in which case real property shall

14 transition to the executive department. Any transition shall

15 comply with chapter 323D.

16 (b) A transition shall only occur upon approval of the

17 appropriate regional system board in the case of a regional

18 system or individual facility transition, or upon approval of

19 the regional system boards and the corporation in the case of

20 the transition of the entire corporation. Any transition shall

21 be subject to legal review by the attorney general, who shall



1 approve the transition if satisfied that the transition conforms
2 to all applicable laws, subject to the review of the director of
3 ~~[the department of budget and]~~ finance, who shall approve the
4 transition if it conforms to all applicable financing
5 procedures, and subject to the governor's approval. In
6 addition, the transition shall be subject to the following terms
7 and conditions:

8 (1) All proceeds from the sale, lease, or transfer of
9 assets shall be used for health care services in the
10 respective regional system or facility, except that
11 real property shall only be transferred by lease [+],
12 unless such transfer is effectuated under subsection
13 (a) (5), in which case real property shall transition
14 to the executive department;

15 (2) Any and all liabilities of a regional system or
16 facility transitioning into a new entity that were
17 transferred to the Hawaii health systems corporation
18 upon its creation by Act 262, Session Laws of Hawaii
19 1996, and all liabilities of the regional system or
20 facility related to collective bargaining contracts



1 negotiated by the State, shall become the
2 responsibility of the State; and

3 (3) During the period of transition:

4 (A) The State shall continue to fund the provision of
5 health care services provided for by the regional
6 system or individual facility; and

7 (B) All applicable provisions of this chapter shall
8 continue to apply.

9 Upon the completion of the transition of all the facilities
10 in a regional system to a new entity, the regional system board
11 for that regional system shall terminate; provided that if not
12 all of a regional system's facilities are transitioned to a new
13 entity, the existing regional system board shall not terminate
14 but shall continue to retain jurisdiction over those facilities
15 remaining in the regional system."

16 PART III

17 SECTION 5. (a) The transfer of the Oahu regional health
18 care system to the department of health shall commence with the
19 transfer of the budget and position count associated with the
20 Oahu region as follows:



- 1 (1) On June 30, 2021, the budget of the Oahu regional
2 health care system shall be transferred from the
3 Hawaii health systems corporation to the department of
4 health; provided that:
- 5 (A) The Oahu regional health care system's budget
6 codes and all related allocated funds of the Oahu
7 region shall be reflected in the state budget and
8 all other related tables and documents under the
9 program code HTH ; and
- 10 (B) The program code HTH shall be known as the
11 behavioral and elder care facilities division
12 within the department of health's behavioral
13 health administration. The organizational
14 structure of the Oahu regional health care system
15 shall remain unchanged, unless modified and
16 approved by the transition working group
17 identified in this Act, and as approved by the
18 conditions established in this part or as
19 required by law; and
- 20 (2) On June 30, 2021, the total position count and class
21 specifications of the Oahu region shall be transferred



1 in their entirety to the department of health and
2 associated with HTH ; provided that:

3 (A) All employees of the Oahu region who occupy civil
4 service positions shall be transferred to the
5 department of health by this Act and retain their
6 civil service status, whether permanent or
7 temporary, and shall maintain their respective
8 functions as reflected in their current position
9 descriptions during the transition period;
10 provided that any changes determined necessary by
11 the working group established pursuant to this
12 Act shall follow standard union consultation
13 process prior to implementation;

14 (B) Employees shall be transferred without loss of
15 salary; seniority, except as prescribed by
16 applicable collective bargaining agreements;
17 retention points; prior service credit; any
18 vacation and sick leave credits previously
19 earned; and other rights, benefits, and
20 privileges, in accordance with state employment
21 laws;



- 1 (C) The personnel structure of the Oahu regional
2 health care system shall remain unchanged, unless
3 modified and approved by the working group and as
4 approved by the conditions established pursuant
5 to this Act;
- 6 (D) Any employee who, prior to this Act, is exempt
7 from civil service or collective bargaining and
8 is transferred as a consequence of this Act shall
9 be transferred without loss of salary and shall
10 not suffer any loss of prior service credit,
11 contractual rights, vacation or sick leave
12 credits previously earned, or other employee
13 benefits or privileges and shall be entitled to
14 remain employed in the employee's current
15 position for a period of no less than one year
16 after the transition of the Oahu regional health
17 care system into the department of health is
18 complete;
- 19 (E) The wages, hours, and other conditions of
20 employment shall be negotiated or consulted, as
21 applicable, with the respective exclusive



1 representative of the affected employees, in
2 accordance with chapter 89, Hawaii Revised
3 Statutes; and
4 (F) The rights, benefits, and privileges currently
5 enjoyed by employees, including those rights,
6 benefits, and privileges under chapters 76, 78,
7 87A, 88, and 89, Hawaii Revised Statutes, shall
8 not be impaired or diminished as a result of
9 these employees being transitioned to the
10 department of health pursuant to this Act. The
11 transition to the department of health shall not
12 result in any break in service for the affected
13 employees. The rights, benefits, and privileges
14 currently enjoyed by employees shall be
15 maintained under their existing collective
16 bargaining or other agreements and any successor
17 agreement.

18 (b) Upon effectuation of subsection (a), the Oahu regional
19 board shall be placed within the department of health pursuant
20 to section 26-35, Hawaii Revised Statutes, for the purposes of
21 facilitating the transition of the Oahu region into the



1 department of health as part of the working group established
2 pursuant to this Act and to effectuate the assignment of all
3 contracts and agreements in which the Oahu region is a party to
4 the department of health.

5 SECTION 6. (a) There is established a working group of
6 the Oahu regional health care system and department of health to
7 develop, evaluate, and implement any additional steps necessary
8 to complete the transition of the Oahu regional health care
9 system into the department of health.

10 (b) The working group shall consist of the following
11 members:

12 (1) The director of health, or the director's designee,
13 who shall serve as co-chair, and who, along with the
14 chair of the Oahu regional health care system, or the
15 chair's designee, shall have final authority over
16 transfer activities to be implemented by the working
17 group;

18 (2) The chair of the Oahu regional health care system
19 board, or the chair's designee, who shall serve as co-
20 chair, and who, along with the director of health, or
21 the director's designee, shall have final authority



- 1 over transfer activities to be implemented by the
2 working group;
- 3 (3) The chief executive officer of the Oahu regional
4 health care system, or the chief executive officer's
5 designee;
- 6 (4) One or more department of health staff members as
7 deemed necessary by the director of health, or the
8 director's designee; and
- 9 (5) One or more Oahu regional health care system staff
10 members as deemed necessary by the chief executive
11 officer of the Oahu regional health care system, or
12 the chief executive officer's designee.
- 13 (c) In addition, the working group shall include the
14 following members, who shall serve in a consultative capacity:
- 15 (1) One representative from the behavioral health services
16 administration of the department of health;
- 17 (2) One representative from the department of human
18 resources development;
- 19 (3) One representative from the department of accounting
20 and general services;



- 1 (4) The chair of the Hawaii health systems corporation
- 2 board, or the chair's designee;
- 3 (5) One representative from the Hawaii health systems
- 4 corporation human resources department;
- 5 (6) One representative from the Hawaii health systems
- 6 corporation finance department;
- 7 (7) One representative from the state procurement office;
- 8 (8) One representative from the Hawaii Government
- 9 Employees Association;
- 10 (9) One representative from the United Public Workers; and
- 11 (10) Other members, as recommended and invited by the co-
- 12 chairs.
- 13 (d) In carrying out its purpose, the working group shall
- 14 develop a transfer framework to govern and manage the additional
- 15 steps necessary to complete the transfer of the Oahu region into
- 16 the department of health. The transfer framework shall include
- 17 but not be limited to the following steps:
- 18 (1) Identification and preparation of proposed additional
- 19 legislation to address any matters not covered by this
- 20 Act that may be necessary to complete the transfer of
- 21 the Oahu region into the department of health;



- 1 (2) Identification of all real property, appropriations,
2 records, equipment, machines, files, supplies,
3 contracts, books, papers, documents, maps, and other
4 property made, used, acquired, or held by the Oahu
5 regional health care system and effectuation of the
6 transfer of the same to the department of health;
7 provided that in all cases applicable and appropriate,
8 section 26-35, Hawaii Revised Statutes, shall apply;
- 9 (3) Identification of all debts and other liabilities that
10 will remain with the Hawaii health systems corporation
11 and transfer of any remaining debts and liabilities to
12 the department of health; provided that in all cases
13 applicable and appropriate, section 26-35, Hawaii
14 Revised Statutes, shall apply;
- 15 (4) Identification of all contractual arrangements and
16 obligations of the Oahu region, including but not
17 limited to those related to personal service
18 contracts, vendor contracts, and capital improvement
19 projects; provided that in all cases applicable and
20 appropriate, section 26-35, Hawaii Revised Statutes,
21 shall apply;



- 1 (5) Development and implementation of any and all policies
2 and procedures necessary to ensure that the facilities
3 within the Oahu regional health care system remain
4 compliant with all federal, state, and local laws and
5 regulations; provided that in all cases applicable and
6 appropriate, section 26-35, Hawaii Revised Statutes,
7 shall apply; and
- 8 (6) Development and implementation of procedures to
9 extricate the Oahu region from system-wide services
10 secured or provided by the Hawaii health systems
11 corporation or enable the Oahu region to continue to
12 utilize such services on a temporary or permanent
13 basis through interagency agreement; provided that in
14 all cases applicable and appropriate, section 26-35,
15 Hawaii Revised Statutes, shall apply.
- 16 (e) Members of the working group shall serve without
17 compensation but shall be reimbursed for reasonable expenses
18 necessary for the performance of their duties, including travel
19 expenses. No member of the working group shall be subject to
20 chapter 84, Hawaii Revised Statutes, solely because of the
21 member's participation in the working group.



1 (f) The working group shall submit an interim report to
2 the legislature no later than twenty days prior to the convening
3 of the regular session of 2022 that outlines all components of
4 the transition that have been effectuated to date and any
5 legislative action needed to complete the transfer pursuant to
6 this Act.

7 (g) The working group shall be dissolved on June 30, 2023,
8 or upon completion of the transition of the Oahu regional health
9 care system into the department of health, whichever is later.
10 Prior to its dissolution, the working group shall submit a final
11 report to the legislature that documents the completion of the
12 transfer and dissolution of the Oahu regional health care
13 system.

14 SECTION 7. All transition actions, with the exception of
15 those covered under section 5(a) of this Act, shall be subject
16 to the following conditions:

17 (1) The attorney general shall approve the legality and
18 form of any material transition actions created by the
19 working group prior to implementation, and the
20 director of finance shall evaluate and approve any



1 expenditure of public funds determined to be in
2 accordance with the budget laws and controls in force;
3 (2) Liabilities of the Oahu regional health care system
4 that were transferred to the Hawaii health systems
5 corporation upon its creation by Act 262, Session Laws
6 of Hawaii 1996, or to the Oahu regional health care
7 system upon its establishment by Act 290, Session Laws
8 of Hawaii 2007, and all other contractual liabilities
9 of the Oahu regional health care system, including
10 those related to collective bargaining contracts
11 negotiated by the State in existence at the time they
12 are transferred to the department of health, shall
13 become the responsibility of the State; and
14 (3) In all cases applicable and appropriate, section
15 26-35, Hawaii Revised Statutes, shall apply to
16 questions of legal authority.

17 PART IV

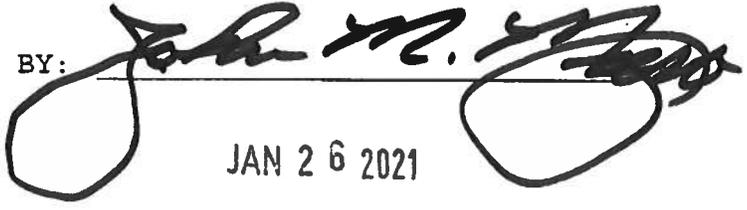
18 SECTION 8. Statutory material to be repealed is bracketed
19 and stricken. New statutory material is underscored.



1 SECTION 9. This Act shall take effect upon its approval;
2 provided that part II of this Act shall take effect on June 30,
3 2021.

4

INTRODUCED BY:


JAN 26 2021



H.B. NO. 1226

Report Title:

Hawaii Health Systems Corporation; Oahu Region; Department of Health; Transition; Working Group

Description:

Commences the transfer of the Oahu regional health care system in its entirety from the Hawaii health systems corporation to the department of health, beginning with the transfer of the Oahu regional health care system's budget and position count into the department of health. Enables the Oahu regional health care system, department of health, Hawaii health systems corporation, and other state agencies to manage and implement the processes required to effectuate the completion of such transition. Part II takes effect on 6/30/2021.

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

