

ACT 259

H. B. 212.

A Bill for an Act Relating to Mental Health, Mental Illness, Drug Addiction and Alcoholism.

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

SECTION 1. Enactment of mental health chapter. Chapter 81, Revised Laws of Hawaii 1955, is repealed, and a new Chapter 81 enacted to read:

**“CHAPTER 81. MENTAL HEALTH, MENTAL ILLNESS,
DRUG ADDICTION AND ALCOHOLISM**

PART I. GENERAL AND ADMINISTRATIVE PROVISIONS

Sec. 81-1. Definitions. As used in this chapter unless otherwise indicated by the context:

‘Department’ means the department of health.

‘Director’ means the director of health.

‘Psychiatric facility’ means a public or private hospital or other type of facility or part thereof which is licensed by the State or operated by the United States to provide inpatient or outpatient care, custody, diagnosis, treatment or rehabilitation services for mentally ill persons or persons habituated to the excessive use of drugs or alcohol.

‘Community mental health center’ means one or more facilities which alone or in conjunction with other facilities, public or private, are part of a coordinated program providing a variety of mental health services principally for persons residing in a community or communities in or near which the center is located.

‘Administrator’ means the person in charge of a public or private hospital.

‘Licensed physician’ means a physician and surgeon licensed by the State to practice medicine, including a physician and surgeon granted a limited and temporary license under section 64-2.5 (a), (b) and (e) or a resident physician and surgeon granted a limited and temporary license under subsection (d) thereof, or a medical officer of the United States while in this State in the performance of his official duties.

‘Mentally ill person’ means a person having psychiatric disorder or other disease which substantially impairs his mental health.

‘Person habituated to the excessive use of drugs or alcohol’ means a person who repeatedly and compulsively uses narcotic, stimulant, depressant

or hallucinogenic drugs or alcohol to an extent which interferes with his personal, social, family or economic life.

'Patient' means a person under observation, care or treatment at a psychiatric facility.

'Admission procedures' mean the various methods for admission of mentally ill persons or of persons habituated to the excessive use of drugs or alcohol to public and private psychiatric facilities.

'Authorized absence' means absence of a patient from a psychiatric facility for any period of time with permission.

'Unauthorized absence' means absence of a patient from a psychiatric facility for any period of time without permission.

'Discharge' means the formal termination on the records of a psychiatric facility of a patient's period of treatment at the facility.

Sec. 81-2. Mental health program. The department shall foster and coordinate a mental health program in the State and shall administer such mental health services and facilities as may be provided by the State to promote, protect, preserve, care for and improve the mental health of the people.

Sec. 81-3. Functions of department in mental health. (a) The department is authorized to promote and provide for the establishment and operation of community mental health programs which shall include but not be limited to the following:

(1) informational and educational services to the general public and to lay and professional groups;

(2) collaborative and cooperative services with public and private agencies and groups for prevention of mental illness, drug addiction and alcoholism;

(3) consultation services to the judiciary, to educational institutions, and to health and welfare agencies;

(4) clinical, hospital and rehabilitation services and facilities for children, adolescents and adults with mental illness, drug addiction or alcoholism.

(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.

Sec. 81-4. Personnel for mental health program. The director

shall appoint such professional and nonprofessional staff as he deems necessary to carry out the state mental health program and for which appropriations are available. Positions for psychiatrists are exempted from the provisions of chapters 3 and 4. The director may employ such psychiatrists as may be needed by the department on a contractual basis, the contract being subject to the approval of the governor.

Sec. 81-5. Confidentiality of records. All certificates, applications, records and reports made for the purposes of this chapter and directly or indirectly identifying a person subject hereto shall be kept confidential and shall not be disclosed by any person except so far (1) as the person identified, or his legal guardian, consents, or (2) as disclosure may be deemed necessary by the director or by the administrator of a private psychiatric facility to carry out any of the provisions of this chapter, or (3) as a court may direct upon its determination that disclosure is necessary for the conduct of proceedings before it and that failure to make the disclosure would be contrary to the public interest. Nothing in this section shall preclude disclosure, upon proper inquiry, of any information relating to a particular patient and not apparently adverse to the interests of the patient, to the patient's family, legal guardian or relatives, nor, except as provided above, affect the application of any other rule or statute of confidentiality. The use of the information disclosed shall be limited to the purposes for which the information was furnished.

Sec. 81-6. Fees; payment of expenses of patients. (a) The director may make reasonable charges for outpatient professional and other personal services rendered to patients. In making such charges, the director shall take into consideration the financial circumstances of the patient, and no charges shall be made where, in the judgment of the director, the same might tend to make the patient a public charge or to deprive the patient's dependents of necessary support.

(b) Every person not indigent or medically indigent hospitalized at a psychiatric facility under the jurisdiction of the State or a county, or at a psychiatric facility which derives more than fifty per cent of its revenues from the general fund of the State, shall be liable for the expenses attending his reception, maintenance and treatment at the facility, and any property not exempt from execution belonging to such person shall be subject to sequestration for the payment of such expenses. The director may adjust the amount of the liability, taking into consideration the financial circumstances of the patient, so that the charges imposed will not tend to make the patient a public charge or deprive the patient's dependents of necessary support.

(c) The director may defray the hospital expenses of indigent or medically indigent persons needing hospital treatment for mental illness, drug addiction or alcoholism.

(d) The director may furnish medicines and other supplies with or without charge to any medically indigent patient as deemed appropriate by him.

(e) The director may pay the expenses of transportation of a medically

indigent person who is mentally ill or who is habituated to the excessive use of drugs or alcohol, and of the accompanying attendant, from anywhere within and without the State to and from any psychiatric facility within or without the State.

Sec. 81-7. Donations or grants to department. The department is authorized to accept donations or grants from individuals and other agencies, public and private, to further the purposes of the mental health program. Any such donations or grants shall in fact be used for the mental health program and for the intended purpose, if specified.

Sec. 81-8. Grants-in-aid. In carrying out his duties under this chapter: (a) The director is authorized to enter into agreements with the United States and with other state departments, agencies and political subdivisions and to enter into assistance agreements with private nonprofit groups, institutions or corporations and to allocate and expend any fund appropriated for the purposes of such agreements and to do all things necessary to accomplish the purposes and provisions thereof.

(b) The director may require the recipient of any state grant-in-aid to contribute money, facilities or services to the program or project for which the grant is made.

(c) The director shall establish standards and review procedures to assure that recipients of state grants-in-aid provide the services and facilities necessary to accomplish the purposes for which the grants are made.

Sec. 81-9. Rules and regulations. The director may make rules and regulations in accordance with the provisions of the Hawaii Administrative Procedure Act to carry out the provisions of this chapter.

PART II. OPERATION OF PSYCHIATRIC FACILITIES

Sec. 81-20. Licensing of psychiatric facilities. No person, association or corporation shall establish, maintain or operate a psychiatric facility for compensation or hire without first obtaining a license therefor from the department. Such license may be for a definite period and shall be subject to revocation as hereinafter provided. The issuance of a license shall be based upon an application which shall be in such form and shall contain such information as the department may require. The facility must be able to provide adequate care and treatment in conformance with standards established by the department. The department may, at any and all times, examine and ascertain whether a licensed facility is being conducted in compliance with the license and applicable rules and regulations. Subject to the provisions of the Hawaii Administrative Procedure Act, the department may, if the interests of the public or of the patients of a facility so demand, for just and reasonable cause then appearing and to be stated in its order, amend or revoke a license by an order to take effect within such time as the department shall determine.

Sec. 81-21. Penalty. Any person who and any association or corporation which establishes, maintains or operates a psychiatric facility for compensation or hire without holding a valid license issued under this part,

and any officer of any association or corporation who participates in such violation, shall be fined not more than \$1,000 or, in the case of an individual, imprisoned not more than six months, or both.

Sec. 81-22. Money belonging to patients. Whenever small amounts of cash come into the hands of the administrator of a psychiatric facility, he may, without seeking the appointment of a guardian, deposit the money in a bank or other financial institution and from time to time as he may determine apply the same or any part thereof for the benefit of the patient, provided that so long as a guardian is not appointed, the administrator shall not apply any part of such cash for the maintenance of the patient in the facility.

Sec. 81-23. Admission and discharge of patients generally. No person shall be admitted to, detained at, or discharged from any psychiatric facility except as provided in this chapter and in chapters 249, 258 and 333.

PART III. STATE HOSPITAL

Sec. 81-30. Establishment of state hospital. There shall be, in the city and county of Honolulu, under the department of health, a suitable hospital for the care, custody, diagnosis, treatment and rehabilitation of mentally ill persons and of persons habituated to the excessive use of drugs or alcohol, for the training of mental health personnel, and for research in mental illness, drug addiction and alcoholism.

Sec. 81-31. Special wards. There may be special or separate wards of the state hospital, of such number and at such locations, either at the main hospital or elsewhere, as the director shall order, including wards for the reception and care of persons whose recovery or improvement would, in the judgment of the administrator, be facilitated by hospitalization separate and apart from other patients of the state hospital.

Sec. 81-32. Qualifications of administrator. The administrator of the state hospital shall be a licensed physician and a specialist in psychiatry and certified in psychiatry by the American Board of Psychiatry and Neurology. He shall have had at least five years' experience as a psychiatrist since conclusion of his residency training, including experience in mental hospital administration. He may be required to obtain an approved diploma in hospital administration.

Sec. 81-33. Custody of patients. The director shall be responsible for the safekeeping of all patients who may be admitted to the state hospital and for the enforcement of proper order among and concerning such patients. Any patient of the state hospital, other than a voluntary patient, who leaves or remains away from the hospital, without permission, may be apprehended and returned to the hospital by any employee of the hospital or by any police officer without any warrant or further proceeding.

Sec. 81-34. Examination and treatment of patients; medical records. The director shall (1) see that every patient receives care and treatment commensurate with his needs and the means available for such

treatment, (2) make periodic re-examination of each patient and review his records, (3) in suitable cases, discharge patients or place them on authorized absence, and (4) keep a medical record of every patient.

Sec. 81-35. Private physician. A patient in a psychiatric facility operated by the State or a county who desires treatment by a private physician may have this privilege upon his request or upon the request of his relatives on his behalf if approved by the administrator. Such treatment shall be subject to the continuing approval of the administrator, shall not put the facility to unnecessary expense or inconvenience or hazard, shall conform to its established practices and regulations, and shall be without cost to the facility for the services of the private physician. If such private treatment is discontinued, the administrator shall be notified immediately by the private physician.

Sec. 81-36. Voluntary contributions to patients. The administrator of a psychiatric facility operated by the State or a county may accept voluntary contributions for and on behalf of any patient. A detailed account shall be kept of all expenditures from each such contribution, which account shall be open to inspection by the donor at any time. A donor may at any time demand the unexpended balance of his contribution, which balance shall be paid to such donor immediately. If a patient in whose behalf a contribution has been made is discharged or dies and no demand for any unexpended balance is made by the donor within one year thereafter, such unexpended balance shall then be deposited in the general fund of the State or county, as the case may be.

Sec. 81-37. Disposition of proceeds of agricultural and industrial pursuits. All moneys arising from agricultural and industrial pursuits or activities at the state hospital, and all moneys arising from the sale of produce from any public lands of the State which have been duly set apart by executive order for use by the state hospital or from the sale of produce of animal husbandry conducted by the state hospital, upon receipt thereof, shall be deposited in the general fund of the State.

PART IV. ADMISSION TO PSYCHIATRIC FACILITY

Sec. 81-40. Admission generally. (a) Any person may be admitted to and detained at a psychiatric facility as a patient by compliance with any one of the following admission procedures:

- (1) on voluntary application as provided in section 81-41;
 - (2) on certificates of two physicians as provided in section 81-42;
 - (3) on certificate of one physician or application of a police officer as provided in section 81-43;
 - (4) on court order as provided in chapters 249, 258 and 333;
 - (5) by transfer as provided in part V.
- (b) The director shall prescribe and furnish forms for use in admission procedures.

Sec. 81-41. Voluntary admission. (a) The administrator of a psychiatric facility or his deputy may admit to the facility for observation, care

and treatment as a voluntary patient any person with a psychiatric disorder or habituated to the excessive use of drugs or alcohol, to an extent requiring hospitalization, who voluntarily makes application therefor.

(b) By making the application, the applicant agrees that, while remaining in the facility, he will be subject to and abide by all the rules of the facility and such regulations applicable to or concerning his conduct, care and treatment as shall from time to time be prescribed by the administrator of the facility, and that he may be subject to discharge from the facility for any failure therein.

(c) The admitting facility may require as a condition of admission of any person habituated to the excessive use of drugs or alcohol that such person shall agree to remain for not less than 90 days.

(d) A voluntary patient other than one habituated to the excessive use of drugs or alcohol shall not be required to be detained at the facility more than five days after he makes written request for his discharge unless continued hospitalization is authorized by law, including but not limited to sections 81-42 and 81-43.

(e) If the patient is a minor, such application, agreement and request for discharge shall be made by the parent or legal guardian.

Sec. 81-42. Admission on certificates of two physicians. (a) The administrator of a psychiatric facility or his deputy may admit to and detain at the facility for observation, care and treatment as a patient any person mentally ill or habituated to the excessive use of drugs or alcohol, to an extent requiring hospitalization, upon the certificates of two licensed physicians accompanied by an application. The certificates and application must have been executed within ten days prior to admission. The application may be made by any one of the following: either of the certifying physicians, the patient's spouse or guardian, any relative or friend of the patient, or any responsible person.

(b) Completion of the application and the certificates of two physicians and approval of the admission by the administrator or his deputy shall constitute legal authority to transport the patient to the facility by any available means, to detain the patient at the facility as long as hospitalization is needed, and to return the patient to the facility if he is absent therefrom with or without permission.

A valid approved application under this section shall authorize the immediate apprehension of the patient, without a warrant or further proceeding, by a police officer or by any employee of a psychiatric facility or ambulance service or by either of the certifying physicians. The police shall assist in transporting the patient to the facility for admission or in returning him to the facility if he is absent therefrom after admission, at the request of the administrator of a public psychiatric facility or at the request of either of the certifying physicians or at the request of the physician assuming medical responsibility for the patient.

(c) The administrator or his deputy shall cause written notice of the application for admission to be given to the patient upon admission. The

notice shall set forth the patient's rights under this chapter. A copy of the application shall be delivered personally or by mail to the spouse, relative or friend identified in the application. If there is no such person named in the application, or if the person named is not residing in the State, a copy of the application shall be filed with the family court of the circuit in which the psychiatric facility is located, and the family court shall review the circumstances of the admission and take appropriate action.

Sec. 81-43. Emergency admission on certificate of one physician.

(a) The administrator of a psychiatric facility or his deputy may admit to and detain at the facility for examination, observation, care and treatment as a patient any person whose condition or actions are such that it is necessary that he receive an immediate examination or immediate care and treatment at a psychiatric facility, upon the certificate of any licensed physician or upon the application of any police officer acting pursuant to subsection (c). The certificate or application must have been executed within five days prior to admission.

(b) Completion of the certificate by a licensed physician shall constitute legal authority to transport the patient to the facility by any available means, to detain the patient at the facility for a period not to exceed 48 hours, and to return the patient to the facility if he is absent therefrom with or without permission during the authorized period of detention. A valid certificate under this section shall authorize the immediate apprehension of the patient, without a warrant or further proceeding, by a police officer or by any employee of a psychiatric facility or ambulance service or by the certifying physician. The police shall assist in transporting the patient to the facility for admission or in returning him to the facility if he is absent therefrom after admission, at the request of the administrator of a public psychiatric facility or at the request of the certifying physician or at the request of the physician assuming medical responsibility for the patient.

(c) Any police officer may take into custody and transport to a public psychiatric facility, any person apparently mentally ill and conducting himself in a manner which in a mentally well person would be disorderly, and make application for the examination, observation, diagnosis, and, if appropriate, certification of the person. The application shall state or shall be accompanied by a statement of the circumstances under which the person was taken into custody and the reasons therefor. Acceptance of the person as a patient by the psychiatric facility shall terminate the responsibility of the police officer for the person taken into custody.

(d) The administrator or his deputy shall make every effort to notify immediately the spouse, parents, legal guardian, or other nearest known relative or friend of the patient that the patient has been admitted to the facility under this section. The patient shall be given reasonable opportunity to communicate with any person.

(e) A patient admitted under this section shall be examined as soon as practicable at the facility by a licensed physician who practices in the specialty of psychiatry, other than the certifying physician. In the event

this examining psychiatrist fails to certify that continued hospital treatment is necessary, the patient shall be discharged forthwith, except as otherwise provided in subsection (f).

(f) Admission under this section may be converted into a voluntary admission under section 81-41 if the patient voluntarily makes application therefor in accordance with the procedures set forth in that section, or may be converted into an admission under section 81-42 if an application and certificates of two physicians are executed in accordance with the procedures set forth in that section. The certificate executed by a licensed physician under this section may be used as one of the two certificates required under section 81-42 if the certificate meets the requirements of section 81-45 (a) and was executed within ten days prior to the new admission.

Sec. 81-44. Applications. An application for the admission to a psychiatric facility of any person mentally ill or habituated to the excessive use of drugs or alcohol shall be made to the administrator of the facility. The administrator or his deputy may approve the application. The application shall set forth sufficient facts to identify the person to be admitted, the type of admission, the certifying physicians, if any, and the applicant, and shall set forth the name and address, if known, of a responsible spouse, relative or friend of the patient other than the applicant. The director may require additional information to be contained in the application. The application shall be executed subject to the penalties of perjury but need not be sworn to before a notary public.

Sec. 81-45. Certificates. (a) Certificates required to be made under section 81-42 shall show:

- (1) the physician made an examination of the person to be admitted;
 - (2) the person is mentally ill or is habituated to the excessive use of drugs or alcohol, to an extent requiring hospitalization;
 - (3) the facts and circumstances upon which the determination is based;
 - (4) such other information as the director may require.
- (b) Certificates required to be made under section 81-43 shall show:
- (1) whether or not the physician made an examination of the person to be admitted and if not the reasons why an examination was not made;
 - (2) the person is or may be mentally ill or habituated to the excessive use of drugs or alcohol, to an extent requiring psychiatric examination or hospitalization;
 - (3) the condition or actions of the person are such that it is necessary that he receive an immediate examination or immediate care and treatment at a psychiatric facility;
 - (4) the facts and circumstances upon which the determination is based, and if no examination was made, the source of the information and the reasons why the information is considered to be reliable;
 - (5) such other information as the director may require.
- (c) Certificates shall be executed subject to the penalties of perjury but need not be sworn to before a notary public.

Sec. 81-46. Presumption; civil rights. No presumption of insanity

or legal incompetency shall exist with respect to any patient by reason of his admission to a psychiatric facility under the provisions of this chapter. The fact of such admission shall not in itself modify or vary any civil right of any such person, including but not limited to civil service status or rights relating to the granting, forfeiture or denial of a license, permit, privilege or benefit pursuant to any law, or the right to dispose of property, execute instruments, make purchases, enter into contractual relationships, and vote. If the administrator of a psychiatric facility or his deputy is of the opinion that a patient should not exercise any civil right, he may from time to time temporarily suspend that right whereupon he shall immediately notify the patient's attorney, legal guardian, spouse, parent, or other nearest known relative, of that fact.

Sec. 81-47. Service of process and papers upon patients. Neither the administrator nor anyone connected with a psychiatric facility shall accept service of process or papers on behalf of a patient. A legal process or paper served on a patient in a facility shall be filed with the records of the patient, and the administrator or his deputy shall immediately inform the court or other agency out of which the processor paper issued, in writing, of the date of service and of the mental and physical condition of the patient. In the event service of process or papers is made upon a patient on authorized absence, service thereof shall also be made upon the administrator of the psychiatric facility from which the patient is on authorized absence; otherwise, the service upon the patient shall be incomplete and shall not give the issuing court or agency jurisdiction over the person of the patient. Upon being served, the administrator or his deputy shall immediately inform the court or other agency out of which the process or paper issued, in writing, of the mental and physical condition of the patient.

PART V. TRANSFER, LEAVE AND DISCHARGE

Sec. 81-50. Transfer of patients between facilities. (a) A patient at a psychiatric facility, admitted on the certificates of two physicians, may be transferred to another psychiatric facility when the administrator of the sending facility determines that it would be in the best interests of the patient that the patient be transferred and the administrator of the receiving facility agrees to accept the patient.

(b) The director may negotiate with the governing bodies of hospitals which derive more than fifty per cent of their revenues from the general fund of the State for the transfer of patients at the state hospital to such other hospitals. Upon consummation of negotiations and after consent by such hospitals to transfers of such patients is obtained, the director may make such transfers.

(c) Transfers made in accordance with this section shall not require recertification, and the receiving facility after the transfer shall have the same authority to admit and detain the patient as the sending facility had prior to the transfer. The administrator of the sending facility or his deputy shall make reasonable efforts to notify the spouse, parents, legal guardian,

or other nearest known relative or friend of the patient, or if there is no such person readily available the family court of the circuit in which the receiving facility is located, that a transfer has been made.

Sec. 81-51. Transfer of veterans. (a) Upon receipt of a certificate of the Veterans Administration or other agency of the United States that facilities are available for the care and treatment of a person previously admitted to a psychiatric facility and that the person is eligible for such care and treatment, the administrator of the psychiatric facility or his deputy may transfer the person to the Veterans Administration or other agency of the United States for care and treatment, except a person admitted or committed on court order or transferred under section 81-53. The administrator of the sending facility or his deputy shall make reasonable efforts to notify the spouse, parent, legal guardian, or other nearest known relative or friend of the patient, or if there is no such person readily available the family court of the circuit in which the sending facility is located, that such a transfer has been effected. A person transferred under this section shall be deemed to be admitted for hospitalization to any facility of the Veterans Administration or other agency of the United States pursuant to the provisions of section 81-42. Such person, when admitted to a facility operated by or contracting with the Veterans Administration or other agency of the United States, within or without this State, shall be subject to the rules and regulations of the Veterans Administration or other agency of the United States. The chief officer of the Veterans Administration or of the institution operated by any other agency of the United States to which the person is so admitted shall with respect to such person be vested with the same powers as administrators of licensed psychiatric facilities within this State with regard to detention, transfer, authorized absence or discharge. Jurisdiction is retained in this State and specifically in the family court of the circuit in which the sending facility was located to inquire at any time into the mental and physical condition of the person so admitted and to determine the necessity for his continued hospitalization, and all transfers under this section are so conditioned.

(b) The judgment or order of hospitalization by a court of competent jurisdiction of another state, the District of Columbia, Guam or Puerto Rico, hospitalizing a person with the Veterans Administration or other agency of the United States for care and treatment shall have the same force and effect with respect to the hospitalized person while in this State with the Veterans Administration or other agency of the United States as in the state or district in which the judgment or order was made, and the court making the judgment or order shall be deemed to have retained jurisdiction of the person so hospitalized for the purpose of inquiring into the mental and physical condition of such person and of determining the necessity for his continued hospitalization. Consent is hereby given to the application of the law of such state or district with respect to the authority of the chief officer of the Veterans Administration or of the institution operated by any other agency of the United States in which the person is hospitalized to de-

tain, transfer, place on authorized absence or discharge the hospitalized person.

(c) Nothing in this section shall be construed as conferring upon the department of health or any other agency or officer of this State any power of licensing, supervision, inspection, or control over hospitals or other institutions operated by the Veterans Administration or other agency of the United States or over any officers or employees thereof.

Sec. 81-52. Patients from without the State. (a) A lawful admission or commitment of a person to a psychiatric facility without the State made in accordance with the laws of the place where the person was admitted or committed and by virtue of which such person is still subject to hospital treatment shall constitute sufficient legal authority for the apprehension, transportation and detention of such person to the same extent as if such person is being admitted under section 81-43 whenever such person arrives or is found in this State.

(b) A person transferred pursuant to law from a psychiatric facility without the State to a psychiatric facility within the State for continuing hospital treatment may be apprehended, transported, admitted and detained to the same extent as if admitted thereto under section 81-42.

Sec. 81-53. Transfer of residents of correctional facilities and county jails. If any resident of a state correctional facility or of a county jail is in need of hospital treatment for mental illness or for habituation to the excessive use of drugs or alcohol, the director of social services or the officer in charge of a county jail may file with the director of health an application for the transfer of the resident to the state hospital, together with the certificate of a psychiatrist employed by the department of health showing the need for such hospital treatment, and, upon approval of the application by the director of health, the official having custody of the resident shall transfer the resident to the state hospital for care and treatment. The official effecting the transfer of the resident shall keep the administrator of the state hospital informed of the maximum period of commitment of the resident to the director of social services or of confinement in a county jail, and, if the continued hospitalization of the resident beyond the expiration of such period is deemed necessary, the administrator of the state hospital shall institute the admission procedures required to detain the resident as a patient notwithstanding the resident's release from the state correctional facility or county jail. In the event that discharge from the hospital occurs before the expiration of such maximum period of commitment or confinement, the resident shall be returned to the appropriate state correctional facility or county jail. As used in this section, 'resident' means any person serving a sentence in a county jail or state correctional facility or any child or minor detained in a state correctional facility.

Sec. 81-54. Authorized absence. The administrator of a psychiatric facility or his deputy may grant authorized absence from the facility to any patient upon such terms and conditions as the administrator or his deputy may deem advisable, and, as to a patient admitted or committed on

court order, with the prior approval of the court, or, as to a patient transferred under section 81-53, with the prior approval of the official effecting the transfer.

Sec. 81-55. Discharge. Subject to any special requirements of law with respect to patients admitted or committed on court order, the administrator of a psychiatric facility or his deputy or the physician assuming medical responsibility for the patient:

(1) shall discharge a patient when, in the judgment of the administrator, deputy or physician, the patient is no longer mentally ill or habituated to the excessive use of drugs or alcohol; and

(2) may discharge a patient when, in the judgment of the administrator, deputy or physician (a) the patient has received maximum benefit from hospitalization, and (b) the patient's discharge will not be detrimental to the public welfare or injurious to himself.

PART VI. APPEAL AND REVIEW

Sec. 81-60. Request for hearing. At any time after the admission of a patient to a psychiatric facility under section 81-42 or after the transfer of a patient to another psychiatric facility under section 81-50, he or, on his behalf, any member of his family, relative, friend, or responsible person, may obtain a judicial determination of the regularity of his admission or of the need for his continued hospitalization by filing a written request therefor in the family court of the circuit in which the psychiatric facility is located. The form of the request shall be prescribed and supplied free of charge by the court, and the proceedings in connection therewith shall be styled 'In the Interests of (the named patient).' The administrator of the psychiatric facility shall assist the patient to forward such a request to the court if the patient objects to his admission or continued hospitalization.

Sec. 81-61. Order to show cause; guardian ad litem. Immediately upon receipt of a request, the court shall issue an order to show cause directed to the administrator of the facility and commanding him to show cause at a date and time certain not later than five days thereafter why the patient should not be discharged forthwith. A copy of the request shall be attached to the order to show cause. The form of the order to show cause shall be prescribed and supplied free of charge by the court. The order to show cause shall issue without cost and may be served as any other civil process or by any responsible person appointed by the court for that purpose. At any stage of the proceedings, the court may appoint a guardian ad litem for the patient. The guardian ad litem may be a member of the bar of the court or any other responsible person. Service on the administrator may be effected by leaving certified copies of the order to show cause and request at the facility with any person exercising authority.

Sec. 81-62. Hearing. The court may take testimony and may examine the patient at any place within the circuit, and after a full and complete hearing shall render a decision in writing setting forth its findings of fact and conclusions of law. The court may award a fee to the guardian ad

litem to be paid out of any property of the patient or funds of the court available therefor.

Sec. 81-63. Order. If it is determined that the admission of the patient is regular and that the patient needs continued hospitalization, the court shall issue an order authorizing the detention of the patient at the facility. If it is determined that the admission of the patient is not regular or that the patient does not need continued hospitalization, the court shall issue an order requiring the immediate discharge of the patient from the facility.

Sec. 81-64. Further hearings. A judicial determination under this part regarding the detention of a patient at the same psychiatric facility may not be demanded as of right more often than once in a period of six months.

Sec. 81-66. Status of patient pending hearing. Unless otherwise ordered by the court, the authority of the psychiatric facility to detain a patient shall not be diminished by the institution of proceedings under this part until a final order requiring the discharge of the patient.”

SECTION 2. Repeal and other amendments. Upon the effective date of this Act, all laws or parts of laws which are inconsistent with or included in the provisions of this Act are repealed or amended to conform herewith. Without limiting the generality of the foregoing: (a) the following statutes in the Revised Laws of Hawaii 1955 are repealed: sections 46-25 to 46-25.4, part IV* of chapter 46, part III of chapter 52, section 56-2, section 80-34, sections 83-18 and 83-19;

(b) section 56-1, Revised Laws of Hawaii 1955, is amended (1) by deleting the words “persons with mental disorders, or of mental defectives” in the first paragraph thereof and inserting in lieu thereof the words “mental retardates” and (2) by deleting the third paragraph thereof;

(c) section 56A-1 is amended by deleting the terms “mental health” and “mental illness” wherever they appear therein.

SECTION 3. Preservation of rights and liabilities. The repeal of any Act or part of an Act affected by this Act shall not affect any act done, ratified or confirmed, or any right accruing or accrued or established, or any action, suit or proceeding had or commenced in any civil cause, prior to said repeal, but all rights and liabilities under any statute embraced in chapter 81 as enacted by this Act or so repealed shall continue and may be enforced in the same manner and with the same effect as if said repeal had not been effected; nor shall said repeal in any manner affect the right to any office or change the tenure or term thereof.

SECTION 4. Severability. The provisions of chapter 81 as enacted by this Act are declared to be severable, and if any portion of said chapter 81 or the application thereof to any person, circumstances or property is held invalid for any reason, the validity of the remainder of the chapter or

* So in original. Should probably read “part VI”.

the application thereof to any other person, circumstance or property shall not be affected.

SECTION 5. Effective date. This Act shall take effect on January 1, 1968, and the provisions of chapter 81 as enacted hereby with respect to observation, care and treatment of mentally ill persons or persons habituated to the excessive use of drugs or alcohol shall apply to all admissions on and after January 1, 1968, and to the continued observation, care and treatment on and after January 1, 1968 of patients lawfully admitted to a psychiatric facility prior to January 1, 1968, under the provisions of law then in effect.

(Approved June 7, 1967.)