

ACT 202

S.B. NO. 986

A Bill for an Act Relating to Insurance.

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

SECTION 1. The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read as follows:

**“CHAPTER
MENTAL HEALTH AND ALCOHOL AND
DRUG ABUSE TREATMENT INSURANCE BENEFITS**

§ -1 **Definitions.** Whenever used in this chapter, unless the context otherwise requires:

“Alcohol dependence” means any use of alcohol which produces a pattern of pathological use causing impairment in social or occupational functioning or produces physiological dependency evidenced by physical tolerance or withdrawal.

“Alcohol or drug dependence outpatient services” means alcohol or drug dependence nonresidential treatment provided on an ambulatory basis to patients with alcohol or drug dependence problems that includes psychiatric or psychological interventions prescribed and performed by state licensed physicians or psychologists who have been certified pursuant to chapter 321.

“Certified substance abuse staff” means professionals and paraprofessionals with current full certification as substance abuse counselors or program administrators under chapter 321.

“Day treatment services” means treatment services provided by a hospital, mental health outpatient facility, or nonhospital facility to patients who, because of their conditions, require more than periodic hourly service. Day treatment services shall be prescribed by a physician or licensed psychologist and carried out under the supervision of a physician or licensed psychologist. Day treatment services require less than twenty-four hours of care and a minimum of three hours in any one day.

“Detoxification services” means the process whereby a person intoxicated by alcohol or drugs or both or a person who is dependent upon alcohol or drugs or both is assisted through the period of time necessary to eliminate, by metabolic or other means, the intoxicating alcohol or drug dependency factors, as determined

by a licensed physician, while keeping the physiological risk to the person at a minimum.

"Drug dependence" means any pattern of pathological use of drugs causing impairment in social or occupational functioning and producing psychological or physiological dependency or both, evidenced by physical tolerance or withdrawal.

"Hospital" means a facility licensed as a hospital by the department of health and accredited by the Joint Commission on Accreditation of Health Care Organizations.

"In-hospital services" means the provision of medical, nursing, or therapeutic services twenty-four hours a day in a hospital.

"Mental illness" means a syndrome of clinically significant psychological, biological, or behavioral abnormalities that results in personal distress or suffering, impairment of capacity for functioning, or both. For the purposes of this chapter, the terms "mental disorder" and "mental illness" shall be used interchangeably and shall include the definitions identified in the most recent publications of the Diagnostic and Statistical Manual of the American Psychiatric Association or International Classification of Disease. Epilepsy, senility, mental retardation, or other developmental disabilities and addiction to or abuse of intoxicating substances do not in and of themselves constitute a mental disorder.

"Mental health outpatient facility" means a mental health establishment, clinic, institution, center, or community mental health center, that provides for the diagnosis, treatment, care, or rehabilitation of mentally ill persons, that has been accredited by the Joint Commission on Accreditation of Health Care Organizations or the Commission on Accreditation of Rehabilitation Facilities.

"Mental health outpatient services" means mental health nonresidential treatment provided on an ambulatory basis to patients with mental illness that includes psychiatric or psychological interventions prescribed and performed by the physician or licensed psychologist.

"Nonhospital facility" means a facility for the care or treatment of alcohol dependent, drug dependent, or mentally ill persons, which has been accredited by the Joint Commission on Accreditation of Health Care Organizations or the Commission on Accreditation of Rehabilitation Facilities and, if residential, has been licensed as a special treatment facility by the department of health.

"Nonhospital residential services" means the provision of medical, psychological, nursing, counseling, or therapeutic services to patients suffering from alcohol dependence, drug dependence, or mental illness by a nonhospital residential facility, according to individualized treatment plans.

"Partial hospitalization services" means treatment services provided by a hospital or mental health outpatient facility to patients who, because of their conditions, require more than periodic hourly service. Partial hospitalization services shall be prescribed by a physician or licensed psychologist. Partial hospitalization services require less than twenty-four hours of care and a minimum of three hours in any one day.

"Substance abuse services" means the provision of medical, psychological, nursing, counseling, or therapeutic services in response to a treatment plan for alcohol or drug dependence or both which shall include, when appropriate, a combination of aftercare and individual, group and family counseling services provided by certified substance abuse staff.

"Treatment episode" means one admission to an accredited hospital or nonhospital facility, or office of a state-licensed physician or psychologist certified pursuant to chapter 321 for treatment of alcohol or drug dependence or both as stipulated in a prescribed treatment plan and which would generally produce remission in those who complete the treatment. The prescribed treatment plan may include the provision of substance abuse services in more than one location and

may include in-hospital, nonhospital residential, day treatment or alcohol or drug dependence outpatient services or any combination thereof. An admission for only detoxification services shall not constitute a treatment episode.

§ -2 **Policy coverage.** All individual and group accident and sickness insurance policies issued in this State, individual or group hospital or medical service plan contracts, and nonprofit mutual benefit association and health maintenance organization health plan contracts shall include within their hospital and medical coverage the benefits of alcohol dependence, drug dependence, and mental illness treatment services provided in section -4 except that this section shall not apply to insurance policies that are issued solely for single diseases, or otherwise limited, specialized coverage.

§ -3 **Peer review.** (a) Covered benefits for alcohol dependence, drug dependence, or mental illness insurance policies, hospital or medical service plan contracts, and health maintenance organization health plan contracts shall be limited to those services certified by the insurance or health care plan carrier's licensed physician or licensed psychologist as medically or psychologically necessary at the least costly appropriate level of care.

(b) All alcohol dependence, drug dependence, or mental illness treatment or services as set forth in this chapter shall be subject to peer review procedures as a condition of payment or reimbursement, to assure that reimbursement is limited to appropriate utilization under criteria incorporated into insurance policies or health or service plan contracts either directly or by reference. Review may involve prior approval, concurrent review of the continuation of treatment, post-treatment review or any combination of these. However, if prior approval is required, provision shall be made to allow for payment of urgent or emergency admissions, subject to subsequent review.

§ -4 **Mental illness, alcohol and drug dependence benefits.** (a) The covered benefit under this chapter shall not be less than thirty days of in-hospital services per year. Each day of in-hospital services may be exchanged for two days of nonhospital residential services, two days of partial hospitalization services or two days of day treatment services. Physician or psychologist visits shall not be less than thirty visits per year to hospital or nonhospital facilities or to mental health outpatient facilities for day treatment or partial hospitalization services. In addition, the covered benefit for outpatient services under this chapter shall not be less than twelve visits per year. The covered benefit under this chapter shall apply to any of the services in subsections (b) or (c). In the case of alcohol and drug dependence benefits, the insurance policy may limit the number of treatment episodes but may not limit the number to less than two treatment episodes per lifetime.

(b) Alcohol and drug dependence benefits.

(1) Detoxification services as a covered benefit under this chapter shall be provided either in a hospital or in a nonhospital facility which has a written affiliation agreement with a hospital for emergency, medical, and mental health support services. The following services shall be covered under detoxification services:

- (A) Room and board;
- (B) Diagnostic X-rays;
- (C) Laboratory testing; and
- (D) Drugs, equipment use, special therapies, and supplies.

Detoxification services shall be included as part of the covered in-hospital services, but shall not be included in the treatment episode limitation, as specified in subsection (a).

- (2) Alcohol or drug dependence treatment through in-hospital, nonhospital residential or day treatment substance abuse services as a covered benefit under this chapter shall be provided in a hospital or nonhospital facility. Before a person qualifies to receive benefits under this subsection, a licensed physician or psychologist certified pursuant to chapter 321 shall determine that the person suffers from alcohol or drug dependence or both. The substance abuse services covered under this paragraph shall include those services which are required for licensure and accreditation, and shall be included as part of the covered in-hospital services as specified in subsection (a). Excluded from alcohol or drug dependence treatment under this subsection are detoxification services, educational programs to which drinking or drugged drivers are referred by the judicial system, and services performed by mutual self-help groups.
- (3) Alcohol or drug dependence outpatient services as a covered benefit under this chapter shall be provided under an individualized treatment plan approved by a licensed physician or psychologist certified pursuant to chapter 321 and must be reasonably expected to produce remission of the patient's condition. Services covered under this subparagraph shall be included as part of the covered outpatient services as specified in subsection (a).
- (c) Mental illness benefits.
 - (1) Covered benefits for mental health services set forth in this subsection shall be limited to coverage for diagnosis and treatment of mental disorders. All mental health services shall be provided under an individualized treatment plan approved by a licensed physician or psychologist and must be reasonably expected to improve the patient's condition.
 - (2) In-hospital and nonhospital residential mental health services as a covered benefit under this chapter shall be provided in a hospital or a nonhospital residential facility. The services to be covered shall include those services required for licensure and accreditation, and shall be included as part of the covered in-hospital services as specified in subsection (a).
 - (3) Mental health partial hospitalization as a covered benefit under this chapter shall be provided by a hospital or a mental health outpatient facility. The services to be covered under this paragraph shall include those services required for licensure and accreditation and shall be included as part of the covered in-hospital services as specified in subsection (a).
 - (4) Mental health outpatient services shall be a covered benefit under this chapter and shall be included as part of the covered outpatient services as specified in subsection (a).

§ -5 Nondiscrimination in deductibles, copayment plans, and other limitations on payment. (a) Deductible or copayment plans may be applied to benefits paid to or on behalf of patients during the course of treatment as described in section -4, but in any case the proportion of deductibles or copayments shall be not greater than those applied to comparable physical illnesses generally requiring a comparable level of care in each policy.

(b) Notwithstanding subsection (a), health maintenance organizations may establish reasonable provisions for enrollee cost-sharing so long as the amount the enrollee is required to pay does not exceed the amount of copayment and deductible customarily required by insurance policies which are subject to the provisions of

this chapter for this type and level of service. Nothing in this chapter prevents health maintenance organizations from establishing durational limits which are actuarially equivalent to the benefits required by this chapter. Health maintenance organizations may limit the receipt of covered services by enrollees to services provided by or upon referral by providers associated with the health maintenance organization.

§ -6 **Rules.** The insurance commissioner, after consultation with all interested parties including the director of health, the board of medical examiners, the board of psychology, and representatives of insurance carriers, nonprofit mutual benefit associations, health maintenance organizations, public and private providers, consumers, employers, and labor organizations shall adopt rules pursuant to chapter 91 as are deemed necessary for the effective implementation and operation of this chapter. The rules shall include criteria and guidelines to be used in determining the appropriateness and medical or psychological necessity of services covered under this chapter, including the appropriate level of care or place of treatment and the number or quantity of services, and the objective and quantifiable criteria for determining when a health maintenance organization meets the conditions and requirements of section -5, and shall include an appeals process.

§ -7 **Preservation of certain benefits.** Nothing in this chapter shall serve to prevent the offering or acceptance of benefits required by this chapter."

SECTION 2. Evaluation. The department of health shall consult with the insurance commissioner and with all interested parties, to include the board of medical examiners, the board of psychology, and representatives of insurance carriers, nonprofit mutual benefit associations, health maintenance organizations, public and private providers, consumers, employers and labor organizations, and state agencies which implement policies under the authority of this Act, to gather information to report to the 1991 and 1994 sessions of the legislature. The purpose of the information shall be to:

- (1) Describe the extent to which the options under this Act have been exercised;
- (2) Identify savings and expenses attributable to the exercise of the options;
- (3) Identify problems which interfere with or arise from exercise of the options, and evaluate alternative solutions to such problems; and
- (4) Recommend and describe desirable characteristics of other approaches to cost containment which may be appropriate for legislative action.

SECTION 3. This Act shall take effect on July 1, 1989; provided that insurance or health or service plan contracts shall be amended to reflect the provisions required under this Act at the first anniversary date following the effective date, but no later than July 1, 1990; provided further that section -6 shall take effect upon the approval of this Act; and provided further that this Act shall be repealed on July 1, 1994.

(Approved June 7, 1988.)