

ACT 156

S.B. NO. 2714

A Bill for an Act Relating to Hansen's Disease.

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

SECTION 1. The purpose of this Act is to revise chapter 326, Hawaii Revised Statutes, to make it compatible with current medical practices for Hansen's disease and the State's services and operations of the Hansen's disease facilities.

SECTION 2. Chapter 326, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§326- Patients living in the community; policy on services. It is the policy of the State that all persons who were institutionalized for segregation by order of the department of health because of Hansen's disease and who live in the community shall be accorded adequate health care and other medical treatment and services for the remainder of their lives as provided under sections 326-1 and 326-13, as long as they reside in the State; provided that the department of health shall be the payor of last resort for medical treatment and services not related to the treatment and care of Hansen's disease."

SECTION 3. Section 326-1, Hawaii Revised Statutes, is amended to read as follows:

"§326-1 Establishment of [hospitals, etc.]; facilities for the treatment and care of persons [affected] with Hansen's disease. The department of health, subject to the approval of the governor, shall establish [hospitals, facilities, and places] and maintain facilities and services as [it deems] are necessary for the care and treatment of persons [affected] with Hansen's disease[.] and persons who were institutionalized for segregation by order of the department of health because of Hansen's disease.

[At every] Every such [hospital,] facility[, and place there] or service provider shall [be exercised] exercise every reasonable effort to effect a cure of [such] those persons[, and all]. All such persons shall be cared for as well as circumstances will permit, [and given such liberties as may be deemed compatible with public safety and in the light of advances in medical science and] in accordance with accepted medical practices [elsewhere]. Every patient shall be encouraged to take complete treatment so that prompt recovery can be attained [and shall be discharged as soon as possible. The]. Isolation and treatment shall be compulsory only in those cases where, in the opinion of the department, [such] that treatment is necessary to [save life, prevent obvious physical suffering, or] protect the health of the public, and the department may take such measures as may be necessary to enforce this section[.], including the adoption of rules pursuant to chapter 91."

SECTION 4. Section 326-3, Hawaii Revised Statutes, is amended to read as follows:

"§326-3 Care in other hospitals, homes, etc. Notwithstanding any [of the provisions of this chapter or of any other chapter] law relating to this subject matter, the department of health may make arrangements for the care and

treatment of any person within the [jurisdiction] State at any hospital, nursing home, or [convalescent home] other residential facility in the State, either public or private, and bear all expenses of the hospitalization and treatment and any other necessary expenses in the same manner as though the person were staying at any [hospital,] facility[, or place] for the care and treatment of persons [affected] with Hansen's disease established under section 326-1. Any moneys at any time appropriated for the care of patients or maintenance of [the hospital,] a facility[, or place] established under section 326-1 may be used by the department to pay any hospital, nursing home, or [convalescent home] other residential facility with which the department has made [such] those arrangements. When [such] those arrangements have been made the other provisions of this chapter relating to the examination, care, treatment, and discharge of patients shall [be applicable] apply to the institution and patient involved in the same manner as they apply to [the hospital,] a facility[, or place] established under section 326-1."

SECTION 5. Section 326-21, Hawaii Revised Statutes, is amended to read as follows:

"§326-21 Employment of patients. [The department of health, with the consent of a patient, and the patient's attending physician, may employ that patient to perform labor or service as may be approved by the attending physician, at] At any [hospital,] facility[, or place] for the care and treatment of persons [suffering from] with Hansen's disease[.], the department of health, with the consent of a patient, may employ that patient to perform labor or service.

When there are vacancies in positions, classified under chapters 76 and 77, [which are of such nature that the health of the public or of other nonpatient staff members will not be in danger by their being filled by individuals living with or associating closely with active patients,] at [any hospital,] a facility[, or place] exclusively for the care and treatment of persons [suffering from] with Hansen's disease, employment preference shall be given to temporary release patients and discharged patients from [any such hospital, facility, or place;] those facilities; provided that the persons so hired shall be otherwise qualified under chapters 76 and 77.

Discharged patients who have been employed prior to December 30, 1960, under chapters 76 and 77 in accordance with the second paragraph of this section shall be eligible to receive the same rights and privileges as those enjoyed by temporary release patients employed under the second paragraph of this section."

SECTION 6. Section 326-23, Hawaii Revised Statutes, is amended to read as follows:

"§326-23 Pensions for patient employees at [hospitals, etc.] facilities. All patient employees or patient laborers at every [hospital,] facility[, and place] maintained for the treatment and care of persons [affected] with Hansen's disease shall be entitled, upon retirement after twenty years or more service with the department of health, [at the hospital, facility, or place,] to a pension[, payable monthly,] in an amount which shall be equal to sixty-six and two-thirds per cent of the monthly wage or salary which the patient was receiving at the time of retirement, or to a pension[, payable monthly,] in an amount which shall be equal to sixty-six and two-thirds per cent of the average monthly wage or salary which the patient employee was receiving during the last twelve months of employment at the [hospital, facility, or place,] department of health, whichever is higher.

Patient employees may use service with any state department or agency not exceeding five years which has not been credited under the state retirement system in lieu of service with a [hospital,] facility[, and place] maintained for the treatment and care of persons [affected] with Hansen's disease to satisfy the requirements of the preceding paragraph; provided that the service shall be authenticated by official records of the department where service was performed.

When work is available at Kalaupapa which may be fulfilled by patient residents of the facility under section 326-21 and there are no applicants for [such] those positions from among the eligible patients, pensioned patients who are in residence at Kalaupapa may be reemployed, not to exceed nineteen hours per week, without relinquishing the pension granted to them under this section. Furthermore, notwithstanding any [provision of this chapter or of any other chapter] other law relating to this subject [matter, such], that reemployment shall not result in suspension or termination of payment of the pension granted originally or serve to increase, decrease, or alter [said] the pension in any way."

SECTION 7. Section 326-30, Hawaii Revised Statutes, is amended to read as follows:

"§326-30 Making or taking of pictures without permission prohibited. [Except for professional purposes, no] (a) No person shall [take photographs of] photograph, film, or videotape any patient [confined] at any [hospital,] facility[, or place] maintained by the department of health for the care and treatment of persons [affected] with Hansen's disease, without the written permission of the patient.

(b) Any person violating this section shall be fined not more than \$1,000 per incident."

SECTION 8. Section 326-40, Hawaii Revised Statutes, is amended to read as follows:

"§326-40 Kalaupapa; policy on residency. The legislature finds that Hawaii's Hansen's disease victims have in many ways symbolized the plight of those afflicted with this disease throughout the world. Their sufferings and social deprivations helped eventually to bring the story of the disease and an understanding of its health ravages to people everywhere. Those patients who settled in Kalaupapa remain a living memorial to a long history of tragic separation, readjustment, and endurance.

It is the policy of the State that the patient residents of Kalaupapa shall be accorded adequate health care and other services for the remainder of their lives. Furthermore, it is the policy of the State that any patient resident of Kalaupapa desiring to remain at the facility shall be permitted to do so for as long as that patient may choose, regardless of whether or not the patient has been successfully treated. A patient resident of Kalaupapa desiring to take leave may do so without loss of financial allowance or coverage of health care costs given those who remain at Kalaupapa."

SECTION 9. Section 326-6, Hawaii Revised Statutes, is repealed.

SECTION 10. Section 326-16, Hawaii Revised Statutes, is repealed.

SECTION 11. Section 326-20, Hawaii Revised Statutes, is repealed.

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SECTION 12. Statutory material to be repealed is bracketed. New statutory material is underscored.¹

SECTION 13. This Act shall take effect upon its approval.

(Approved June 8, 1992.)

Note

- 1. Edited pursuant to HRS §23G-16.5.