

ACT 139

S.B. NO. 791

A Bill for an Act Relating to a Continuum of Health Care Settings.

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

SECTION 1. The legislature finds the need to ensure the availability of appropriate settings for persons recovering from substance abuse and believes it appropriate to establish a continuum of these settings within the community that would be consistent with current laws. This Act clarifies current law relating to settings for persons requiring therapeutic or rehabilitative services and care, including persons recovering from substance abuse.

SECTION 2. Chapter 321, Hawaii Revised Statutes, is amended by adding two new sections to be appropriately designated and to read as follows:¹

“§321- Special treatment facilities. (a) All special treatment facilities shall be licensed to ensure the health, safety, and welfare of the individuals placed therein.

(b) The director shall adopt rules, in accordance with chapter 91, regarding special treatment facilities that shall be designed to:

(1) Provide a therapeutic residential program for care, diagnosis, treatment, or rehabilitation for socially or emotionally distressed persons, mentally ill persons, persons suffering from substance abuse, and developmentally disabled persons. Special treatment facilities shall include a short-term crisis residential program or a long-term residential treatment program;

(2) Comply with applicable federal laws and regulations; and

(3) Provide penalties for the failure to comply with any rule.

(c) For the purposes of this section:

“Long-term residential” means a residential treatment program for persons whose duration of stay is thirty days or longer.

“Short-term crisis residential” means a residential treatment program for persons who are in crisis and whose duration of stay is less than thirty days.

“Socially or emotionally distressed person” means an individual who is experiencing psychiatric symptomatology that may be acute or chronic in nature, which requires therapeutic or rehabilitative services.

§321- Therapeutic living programs. (a) All therapeutic living programs shall be licensed to ensure the health, safety, and welfare of the individuals placed therein.

(b) The director shall adopt rules regarding therapeutic living programs in accordance with chapter 91 that shall be designed to:

- (1) Comply with applicable federal laws and regulations; and
- (2) Provide penalties for the failure to comply with any rule.

(c) For the purposes of this section, “therapeutic living program” means a supervised living arrangement that provides mental health, substance abuse services, or supportive services for individuals or families who do not need the structure of a special treatment facility and are transitioning to independent living. The program aids residents in meeting basic needs and provides supportive services through a required service plan.”

SECTION 3. Section 46-4, Hawaii Revised Statutes, is amended as follows:
1. By amending subsection (e) to read:

“(e) No permit shall be issued by a county agency for the operation of a halfway house, a clean and sober home, or a drug rehabilitation home unless a public informational meeting is first held in the affected community. The State shall provide notification and access to relevant information, as required, under chapter 846E.

A clean and sober home shall be considered a residential use of property and shall be a permitted or conditional use in residentially designated zones, including but not limited to zones for single-family dwellings.”

2. By adding two new definitions to subsection (f) to be appropriately inserted and to read:

““Clean and sober home” means a house that is operated pursuant to a program designed to provide a stable environment of clean and sober living conditions to sustain recovery and that is shared by unrelated adult persons who:

- (1) Are recovering from substance abuse;
- (2) Share household expenses; and
- (3) Do not require twenty-four-hour supervision, rehabilitation, or therapeutic services or care in the home or on the premises. The home shall meet all applicable laws, codes, and rules of the counties and State.

“Drug rehabilitation home” means:

- (1) A residential treatment facility that provides a therapeutic residential program for care, diagnosis, treatment, or rehabilitation for socially or emotionally distressed persons, mentally ill persons, persons suffering from substance abuse, and developmentally disabled persons; or
- (2) A supervised living arrangement that provides mental health services, substance abuse services, or supportive services for individuals or families who do not need the structure of a special treatment facility and are transitioning to independent living;

provided that drug rehabilitation homes shall not include halfway houses or clean and sober homes.”

SECTION 4. Section 46-15.39, Hawaii Revised Statutes, is repealed.

SECTION 5. The amendments in this Act, including the repeal of section 46-15.39, Hawaii Revised Statutes, shall not apply to any halfway house, clean and sober home, or any other setting that assists individuals in transition to live independently that is in existence prior to the effective date of this Act.

SECTION 6. Notwithstanding the repeal of section 46-15.39, Hawaii Revised Statutes, any drug rehabilitation home established pursuant to, and in compliance with, section 46-15.39, Hawaii Revised Statutes, shall continue to be a

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permitted use in residentially designated zones, including zones for single family dwellings.

SECTION 7. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.¹

SECTION 8. This Act shall take effect upon its approval.

(Approved June 21, 2005.)

Note

1. Edited pursuant to HRS §23G-16.5.