

ACT 62

S.B. NO. 1441

A Bill for an Act Relating to the Transition of the Oahu Regional Health Care System from the Hawaii Health Systems Corporation into the Department of Health.

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

PART I

SECTION 1. The legislature finds that Act 212, Session Laws of Hawaii 2021, required the transfer of the Oahu regional health care system (Oahu region) from the Hawaii health systems corporation to the department of health due to the logistical complexities of the Oahu region facilities and the limited but crucial nature of the services these facilities, Leahi Hospital and Maluhia, currently provide. The legislature further finds that it is more appropriate for the department of health and Oahu region to form a partnership to assist with the needs of patients from the Hawaii state hospital.

Accordingly, the purpose of this Act is to:

- (1) Repeal the requirement to transfer the Oahu region from the Hawaii health systems corporation to the department of health;
- (2) Repeal certain changes to the Hawaii Revised Statutes that were made by Act 212, Session Laws of Hawaii 2021;
- (3) Require the Oahu region and the department of health to enter into a formal memorandum of agreement regarding the care of certain psychiatrically stable patients transferred or discharged from the

- Hawaii state hospital to an appropriate Oahu region facility, subject to certain conditions; and
- (4) Require the Oahu region to submit a report to the legislature.

PART II

SECTION 2. Act 212, Session Laws of Hawaii 2021, as amended by section 2 of Act 150, Session Laws of Hawaii 2022, is amended as follows:

1. By amending sections 2 and 3 to read:

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

~~“(b) The corporate organization shall be divided into four regional systems, as follows:~~

- ~~(1) The Kauai regional health care system;~~
- ~~(2) The Maui regional health care system;~~
- ~~(3) The east Hawaii regional health care system, comprising the Puna district, north Hilo district, south Hilo district, Hamakua district, and Kau district; and~~
- ~~(4) The west Hawaii regional health care system, comprising the north Kohala district, south Kohala district, north Kona district, and south Kona district;~~

~~and shall be identified as regional systems I, II, III, and IV, respectively.”]~~
Repealed.

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

~~“§323F-3—Corporation board. (a) The corporation shall be governed by a fifteen-member board of directors that shall carry out the duties and responsibilities of the corporation other than those duties and responsibilities relating to the establishment of any captive insurance company pursuant to section 323F-7(c)(20) and the operation thereof.~~

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

- ~~(1) The director of health as an ex officio, voting member;~~
- ~~(2) The four regional chief executive officers as ex officio, nonvoting members;~~
- ~~(3) Three members who reside in the county of Maui, two of whom shall be appointed by the Maui regional system board and one of whom shall be appointed by the governor, all of whom shall serve as voting members;~~
- ~~(4) Two members who reside in the eastern section of the county of Hawaii, one of whom shall be appointed by the East Hawaii regional system board and one of whom shall be appointed by the governor, both of whom shall serve as voting members;~~
- ~~(5) Two members who reside in the western section of the county of Hawaii, one of whom shall be appointed by the West Hawaii regional system board and one of whom shall be appointed by the governor, both of whom shall serve as voting members;~~
- ~~(6) Two members who reside on the island of Kauai, one of whom shall be appointed by the Kauai regional system board and one of whom shall be appointed by the governor, both of whom shall serve as voting members;~~
- ~~(7) One member who shall be appointed by the governor and serve as an at-large voting member.~~

The appointed board members who reside in the county of Maui, eastern section of the county of Hawaii, western section of the county of Hawaii, and on the island of Kauai shall each serve for a term of four years; provided that the terms of the initial appointments of the members who are appointed by their respective regional system boards shall be as follows: one of the initial members from the county of Maui shall be appointed to serve a term of two years and the other member shall be appointed to serve a term of four years; the initial member from East Hawaii shall be appointed to serve a term of two years; the initial member from West Hawaii shall be appointed to serve a term of four years; and the initial member from the island of Kauai shall be appointed to serve a term of two years; and provided further that the terms of the initial appointments of the members who are appointed by the governor shall be four years. The at-large member appointed by the governor shall serve a term of two years.

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

(c) The selection, appointment, and confirmation of any nominee shall be based on ensuring that board members have diverse and beneficial perspectives and experiences and that they include, to the extent possible, representatives of the medical, business, management, law, finance, and health sectors, and patients or consumers. Members of the board shall serve without compensation but may be reimbursed for actual expenses, including travel expenses, incurred in the performance of their duties.

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

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

Filing nomination papers for elective office or appointment to elective office, or conviction of a felony consistent with section 831-3.1, shall automatically and immediately disqualify a board member from office.

(e) Upon completion of the transition of the Oahu regional health care system into the department of health, the corporation board shall have no legal relationship with the Oahu regional health care system or its facilities." Repealed."

2. By amending sections 6 to 10 to read:

"SECTION 6. [(a) The budget of the Oahu regional health care system shall be transferred from the Hawaii health systems corporation to the department of health; provided that:

- (1) The Oahu regional health care system's budget codes and all related allocated funds of the Oahu region shall be reflected in the state budget and all other related tables;
- (2) The organizational structure of the Oahu regional health care system shall remain unchanged, unless modified and approved by the working group established pursuant to section 9 of this Act, and as

approved by the conditions established in this part or as required by law; and

- (3) ~~During the transition period, all]~~ All requests for operational funds necessary for the Oahu regional health care system to maintain its operations at Leahi hospital and Maluhia shall be made by the Oahu regional health care system and shall be submitted with budget requests made by the Hawaii health systems corporation; provided further that, when appropriated, funding for the Oahu regional health care system shall be designated under HTH 215, the program ID assigned to the Oahu regional health care system.

~~[(b) The transfer of positions and respective class specifications of the Oahu region from the Hawaii health systems corporation's personnel system to the department of health, as set forth in the transition documents submitted by the working group established pursuant to section 9 of this Act no later than twenty days prior to the convening of the regular sessions of 2022 and 2025, shall be completed no later than December 31, 2025; provided that:~~

- (1) All employees of the Oahu region who are employed as of December 31, 2025, shall be transferred to the department of health before the transition of the Oahu regional health care system into the department of health is complete;
- (2) All employees of the Oahu region who occupy civil service positions shall be transferred to the department of health by this Act and retain their civil service status, whether permanent or temporary, and shall maintain their respective functions as reflected in their current position descriptions during the transition period; provided that any changes determined necessary by the working group established pursuant to section 9 of this Act shall follow standard union consultation process prior to implementation;
- (3) Employees shall be transferred without loss of salary; seniority, except as prescribed by applicable collective bargaining agreements; retention points; prior service credit; any vacation and sick leave credits previously earned; and other rights, benefits, and privileges, in accordance with state employment laws;
- (4) The personnel structure of the Oahu regional health care system shall remain unchanged, unless modified and approved by the working group and as approved by the conditions established pursuant to this Act;
- (5) Any employee who, prior to this Act, is exempt from civil service or collective bargaining and is transferred as a consequence of this Act shall be transferred without loss of salary and shall not suffer any loss of prior service credit, contractual rights, vacation or sick leave credits previously earned, or other employee benefits or privileges, and, except in the instance of discipline, shall be entitled to remain employed in the employee's current position for a period of no less than one year after the transition of the Oahu regional health care system into the department of health is complete;
- (6) The wages, hours, and other conditions of employment shall be negotiated or consulted, as applicable, with the respective exclusive representative of the affected employees, in accordance with chapter 89, Hawaii Revised Statutes; and
- (7) The rights, benefits, and privileges currently enjoyed by employees, including those rights, benefits, and privileges under chapters 76, 78, 87A, 88, and 89, Hawaii Revised Statutes, shall not be impaired or diminished as a result of these employees being transitioned to

the department of health pursuant to this Act. The transition to the department of health shall not result in any break in service for the affected employees. The rights, benefits, and privileges currently enjoyed by employees shall be maintained under their existing collective bargaining or other agreements and any successor agreement.]

SECTION 7. ~~[(a) The Oahu regional board shall, through the Oahu regional board chair, facilitate the transition of the Oahu region into the department of health as part of the working group established pursuant to section 9 of this Act and effectuate the assignment of all contracts and agreements in which the Oahu region is a party to the department of health.~~

~~(b) Notwithstanding any law to the contrary, the terms of the following members of the board of directors of the Hawaii health systems corporation shall expire on December 31, 2025:~~

- ~~(1) The regional chief executive officer of the Oahu regional health care system; and~~
- ~~(2) The two board members residing on the island of Oahu appointed pursuant to section 323F-3(b)(7), Hawaii Revised Statutes.]~~
Repealed.

SECTION 8. ~~[(a) During the transition planning period commencing on July 1, 2021, to and including the completion of the transition of the Oahu regional health care system into the department of health no later than December 31, 2025, the Oahu regional system board may:~~

- ~~(1) Develop and implement its own policies, procedures, and rules necessary or appropriate to plan, operate, manage, and control its facilities without regard to chapter 91, Hawaii Revised Statutes;~~
- ~~(2) Enter into and perform any contract, lease, cooperative agreement, partnership, or other transaction whatsoever that may be necessary or appropriate in the performance of its purposes and responsibilities, and on any terms the regional system board may deem appropriate with either:~~
 - ~~(A) Any agency or instrumentality of the United States, or with any state, territory, possession, or subdivision thereof; or~~
 - ~~(B) Any person, firm, association, partnership, or corporation, whether operated on a for-profit or not-for-profit basis; provided that the transaction furthers the public interest;~~
- ~~(3) Conduct activities and enter into business relationships the regional system board deems necessary or appropriate, including but not limited to:~~
 - ~~(A) Creating nonprofit corporations, including but not limited to charitable fundraising foundations, to be controlled wholly by the regional system board or jointly with others;~~
 - ~~(B) Establishing, subscribing to, and owning stock in business corporations individually or jointly with others; and~~
 - ~~(C) Entering into partnerships and other joint venture arrangements, or participating in alliances, purchasing consortia, health insurance pools, or other cooperative agreements, with any public or private entity; provided that any corporation, venture, or relationship entered into under this subsection shall further the public interest;~~
- ~~(4) Execute, in accordance with all applicable bylaws, rules, and laws, all instruments necessary or appropriate in the exercise of any powers of the regional system board;~~

- (5) Make and alter regional system board bylaws and rules for its organization and management without regard to chapter 91, Hawaii Revised Statutes;
- (6) Enter into any contract or agreement whatsoever, not inconsistent with the laws of the State, execute all instruments, and do all things necessary or appropriate in the exercise of the powers granted under chapter 323F, Hawaii Revised Statutes, including securing the payment of bonds; provided that contracts or agreements executed by the regional system board shall only encumber the regional subaccounts of the regional system board;
- (7) Own, purchase, lease, exchange, or otherwise acquire property, whether real, personal, or mixed, tangible or intangible, and any interest therein, in the name of the regional system board; provided that the regional system board shall be subject to the requirements of section 323F-3.5, Hawaii Revised Statutes;
- (8) Contract for and accept any gifts, grants, and loans of funds or property, or any other aid in any form from the federal government, the State, any state agency, or any other source, or any combination thereof, in compliance, subject to chapter 323F, Hawaii Revised Statutes, with the terms and conditions thereof; provided that the regional system board shall be responsible for contracting for and accepting any gifts, grants, loans, property, or other aid if intended to exclusively benefit the Oahu region public health facilities and operations;
- (9) Provide health and medical services to the public directly or by agreement or lease with any person, firm, or private or public corporation, partnership, or association through or in the health facilities of the regional system board or otherwise; provided that the regional system board shall be responsible for conducting the activities under this paragraph solely within the Oahu regional system;
- (10) Approve medical staff bylaws, rules, and medical staff appointments and reappointments for all public health facilities of the regional system board, including but not limited to determining the conditions under which a health professional may be extended the privilege of practicing within a health facility, as determined by the regional system board, and adopting and implementing reasonable rules, without regard to chapter 91, Hawaii Revised Statutes, for the credentialing and peer review of all persons and health professionals within the facility; provided that the regional system board shall be the governing body responsible for all medical staff organization, peer review, and credentialing activities to the extent allowed by law;
- (11) Enter into any agreement with the State, including but not limited to contracts for the provision of goods, services, and facilities for the support of the regional system board's programs, and contracting for the provision of services to or on behalf of the State;
- (12) Develop internal policies and procedures for the procurement of goods and services, consistent with the goals of public accountability and public procurement practices, and subject to management and financial legislative audits; provided that the regional system board shall enjoy the exemptions under section 103-53(e) and chapter 103D, Hawaii Revised Statutes;
- (13) Authorize, establish, and abolish positions; and

- (14) ~~Employ or retain any attorney, by contract or otherwise, for the purpose of representing the regional system board in any litigation, rendering legal counsel, or drafting legal documents for the regional system board.~~

(b) ~~During the transition period commencing on July 1, 2021, to and including the completion of the transition of the Oahu regional health care system into the department of health no later than December 31, 2025, the Oahu regional system board shall continue to enjoy the same sovereign immunity available to the State.~~

(c) ~~During the transition period commencing on July 1, 2021, to and including the completion of the transition of the Oahu regional health care system into the department of health no later than December 31, 2025, the Oahu regional system board shall be exempt from chapters 36, 37, 38, 40, 41D, 103D, 103F, part I of chapter 92, and section 102-2, Hawaii Revised Statutes.] Repealed.~~

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

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

- ~~(1) The director of health or the director's designee, who shall serve as co-chair and who, along with the chair of the Oahu regional system board or the chair's designee, shall have final authority over transfer activities to be implemented by the working group;~~
- ~~(2) The chair of the Oahu regional system board or the chair's designee, who shall serve as co-chair and who, along with the director of health or the director's designee, shall have final authority over transfer activities to be implemented by the working group;~~
- ~~(3) The chief executive officer of the Oahu regional health care system or the chief executive officer's designee;~~
- ~~(4) One or more department of health staff members as deemed necessary by the director of health or the director's designee; and~~
- ~~(5) One or more Oahu regional health care system staff members as deemed necessary by the chief executive officer of the Oahu regional health care system or the chief executive officer's designee.~~

~~(c) In addition, the working group shall include the following members who shall serve in a consultative capacity:~~

- ~~(1) One representative from the behavioral health administration of the department of health;~~
- ~~(2) One representative from the department of human resources development;~~
- ~~(3) One representative from the department of accounting and general services;~~
- ~~(4) One representative from the department of the attorney general;~~
- ~~(5) One representative from the department of budget and finance;~~
- ~~(6) One representative from the office of planning;~~
- ~~(7) The chair of the Hawaii health systems corporation board or the chair's designee;~~
- ~~(8) One representative from the Hawaii health systems corporation human resources department;~~
- ~~(9) One representative from the Hawaii health systems corporation finance department;~~

- (10) One representative from the state procurement office;
 - (11) One representative from the Hawaii Government Employees Association, who shall be invited to participate;
 - (12) One representative from the United Public Workers, who shall be invited to participate;
 - (13) Community representatives as recommended and invited by the co-chairs; and
 - (14) Others as recommended and invited by the co-chairs.
- (d) In carrying out its purpose, the working group shall develop a comprehensive business plan and transfer framework to govern and manage the additional steps necessary to complete the transfer of the Oahu region into the department of health. The comprehensive business plan and transfer framework shall include but not be limited to the following:
- (1) Preparation of a five-year pro forma operating plan and budget for the continuing operations of Leahi hospital and Maluhia;
 - (2) Preparation of a ten-year pro forma capital improvement plan and budget for the continuing operations of Leahi hospital and Maluhia;
 - (3) Identification and preparation of proposed legislation to address any matters not covered by this Act that may be necessary to complete the transfer of the Oahu regional health care system into the department of health;
 - (4) Identification of all real property, appropriations, records, equipment, machines, files, supplies, contracts, books, papers, documents, maps, and other property made, used, acquired, or held by the Oahu regional health care system to effectuate the transfer of the same to the department of health;
 - (5) Identification of all debts and other liabilities that will remain with the Hawaii health systems corporation and the remaining debts and liabilities to be transferred to the department of health;
 - (6) Identification of all contractual arrangements and obligations of the Oahu regional health care system, including but not limited to those related to personal service contracts, vendor contracts, and capital improvement projects;
 - (7) Development and implementation of any and all policies and procedures necessary to ensure that the facilities within the Oahu regional health care system remain compliant with all federal, state, and local laws and regulations; and
 - (8) Development and implementation of procedures to extricate the Oahu regional health care system from system-wide services secured or provided by the Hawaii health systems corporation or enable the Oahu region to continue to utilize those services on a temporary or permanent basis through interagency agreement.
- (e) Members of the working group shall serve without compensation but shall be reimbursed for reasonable expenses necessary for the performance of their duties, including travel expenses. No member of the working group shall be subject to chapter 84, Hawaii Revised Statutes, solely because of the member's participation in the working group.
- (f) The working group shall submit reports to the legislature no later than twenty days prior to the convening of the regular sessions of 2022 and 2025 that shall include the five-year pro forma operating and budget plan, ten-year pro forma capital improvement plan, proposed legislation to address any matters not covered by this Act that may be necessary to complete the transfer of the

Oahu regional health care system into the department of health, and a timeline of major milestones necessary to effectuate the transfer of personnel, assets, liabilities, and contracts needed to complete the transfer pursuant to this Act. The reports shall also document the completion of the transfer and dissolution of the Oahu regional health care system.

(g) ~~The working group shall be dissolved on December 31, 2025, or upon completion of the transition of the Oahu regional health care system into the department of health, whichever is first.~~

(h) ~~The working group may hold executive sessions in compliance with the procedures set out in section 92-4, Hawaii Revised Statutes, to discuss individually identifiable information that could affect patient privacy or information that could identify prospective bidders.] Repealed.~~

SECTION 10. ~~[All transition actions shall be subject to the following conditions:~~

- ~~(1) The attorney general shall approve the legality and form of any material transition actions created by the working group prior to implementation; the director of finance shall evaluate and approve any expenditure of public funds determined to be in accordance with the budget laws and controls in force; the director of human resources development and comptroller shall approve the transition of employee positions and payroll in accordance with all applicable laws, rules, policies and procedures; and the director of accounting and general services shall approve transition actions in accordance with all applicable laws, rules, policies, and procedures; and~~
- ~~(2) Liabilities of the Oahu regional health care system that were transferred to the Hawaii health systems corporation upon its creation by Act 262, Session Laws of Hawaii 1996, or to the Oahu regional health care system upon its establishment by Act 290, Session Laws of Hawaii 2007, and all other contractual liabilities of the Oahu regional health care system, including those related to collective bargaining contracts negotiated by the State in existence at the time they are transferred to the department of health, shall become the responsibility of the State.] Repealed.~~

3. ~~By amending section 14 to read:~~

~~“SECTION 14. This Act shall take effect on July 1, 2021[; provided that part II of this Act shall take effect on December 31, 2025].”~~

PART III

SECTION 3. Section 323F-7.6, Hawaii Revised Statutes, is amended to read as follows:

“§323F-7.6 Transition of Hawaii health systems regional system or health facility to a new entity. (a) Notwithstanding any other law to the contrary, including but not limited to section 27-1 and chapter 171, any of the regional systems or individual facilities of the Hawaii health systems corporation is hereby authorized to transition into a new legal entity in any form recognized under the laws of the State, including but not limited to:

- (1) A nonprofit corporation;
- (2) A for-profit corporation;
- (3) A municipal facility;
- (4) A public benefit corporation; or

- ~~[(5) A division or branch under a state executive department; or~~
~~(6)] (5) Any two or more of the entities in paragraphs (1) through [(5)-]~~
~~(4).~~

A transition shall occur through the sale, lease, or transfer of all or substantially all of the assets of the facility or regional system, except for real property, which shall only be transferred by lease; ~~provided that under a transfer that is effectuated pursuant to paragraph (5), real property shall transfer in its then-existing state, whether in lease, fee, or otherwise, to the department of land and natural resources].~~ Any transition shall comply with chapter 323D.

(b) A transition shall only occur upon approval of the appropriate regional system board in the case of a regional system or individual facility transition, or upon approval of the regional system boards and the corporation in the case of the transition of the entire corporation. Any transition shall be subject to legal review by the attorney general, who shall approve the transition if satisfied that the transition conforms to all applicable laws, subject to the review of the director of the department of budget and finance, who shall approve the transition if it conforms to all applicable financing procedures, and subject to the governor's approval. In addition, the transition shall be subject to the following terms and conditions:

- (1) All proceeds from the sale, lease, or transfer of assets shall be used for health care services in the respective regional system or facility, except that real property shall only be transferred by lease; ~~provided that under a transfer that is effectuated pursuant to subsection (a)(5), real property shall transfer in its then-existing state, whether in lease, fee, or otherwise, to the department of land and natural resources;]~~
- (2) Any and all liabilities of a regional system or facility transitioning into a new entity that were transferred to the Hawaii health systems corporation upon its creation by Act 262, Session Laws of Hawaii 1996, and all liabilities of the regional system or facility related to collective bargaining contracts negotiated by the State, shall become the responsibility of the State; and
- (3) During the period of transition:
 - (A) The State shall continue to fund the provision of health care services provided for by the regional system or individual facility; and
 - (B) All applicable provisions of this chapter shall continue to apply.

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

SECTION 4. Chapter 321, part XLVI, Hawaii Revised Statutes, is repealed.

PART IV

SECTION 5. (a) No later than November 30, 2025, the Oahu regional health care system and the department of health shall enter into a formal memorandum of agreement by which the Oahu regional health care system shall accept psychiatrically stable patients who are transferred or discharged from the Hawaii

state hospital and who meet institutional level of care. The formal memorandum of agreement shall include the following:

- (1) Oahu regional health care system staff shall clinically assess all patients referred for admission by the Hawaii state hospital; and
- (2) Hawaii state hospital staff shall support Oahu regional health care system staff as medically necessary for patients admitted to Leahi hospital from the Hawaii state hospital, by providing on-call access to psychiatric and related services and on-site psychiatric consultations on a twenty-four-hour, seven-day-a-week basis.
- (b) The Oahu regional health care system shall submit a report to the legislature no later than twenty days prior to the convening of the regular session of 2027. The report shall cover the period of December 1, 2025, through November 30, 2026, and shall include:
 - (1) The total number of patients referred to the Oahu regional health care system from the Hawaii state hospital;
 - (2) The number of referred patients who were admitted to Leahi hospital;
 - (3) For each referred patient who was not admitted:
 - (A) The date the referral was made;
 - (B) The date the Oahu regional health care system staff conducted a clinical assessment of the referred patient;
 - (C) The date the Oahu regional health care system notified the Hawaii state hospital that the patient was not accepted for admission;
 - (D) Leahi hospital nursing facility patient census on the date the Hawaii state hospital was notified the patient was not accepted for admission; and
 - (E) A deidentified summary explaining why the patient was not accepted;
 - (4) The minimum and maximum Leahi hospital nursing patient census for each month; and
 - (5) Recommendations on how the Oahu regional health care system will be able to admit more patients referred from the Hawaii state hospital.

SECTION 6. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 7. This Act shall take effect on July 1, 2025.

(Approved May 16, 2025.)