

# **HAWAII STATE COUNCIL ON MENTAL HEALTH BYLAWS**

## **ARTICLE I: NAME**

The name of this organization shall be the Hawaii State Council on Mental Health as established in Chapter 334-10, Hawaii Revised Statutes (HRS). “Council”, “State Council” or “SCMH” may be used hereafter in place of the full name to refer to the organization.

## **ARTICLE II: PURPOSE**

The purpose of the Council is (1) to advise agencies and policy makers in their efforts to establish a comprehensive community-based mental health system, utilizing public and private resources that aim to prevent, reduce, and heal mental disorders and substance abuse among children and adults; (2) to advocate for the mental health needs of each County in partnership with the County Service Area Boards on Mental Health and Substance Abuse (SABs); and (3) to represent recipients of mental health services in our communities.

## **ARTICLE III: RESPONSIBILITIES**

1. The role of the Council is to serve as an advisory body to the Department of Health (DOH). “Department” or “DOH” may be used hereafter in place of the full name. The role of the Council shall not include any clinical, administrative, or supervisory functions of the Department (Hawaii Administrative Rules (HAR) 11-175-3).
2. The functions of the Council (U.S. Code, Title 42, 300x-4, Public Law 102-321, ADAMHA Reorganization Amendments, Public Health Service Act 106, Stat. 382); HRS 334-10(c) are to:
  - a. advise the department on allocation of funds and resources, statewide needs, and programs affecting two or more service areas (HAR 11-175-03);
  - b. review and comment on the statewide comprehensive integrated service plan (SCISP) and report of the statewide plan that is included in Hawaii’s Substance Abuse and Mental Health Services Administration (SAMHSA) Mental Health Block Grant (MHBG) application, submitted by the DOH Adult Mental Health Division (AMHD);
  - c. serve as an advocate for adults with serious mental illness, children diagnosed with a serious emotional disturbance (SED), and other individuals with mental illness or substance use disorder, and in collaboration with the Hawaii Advisory Commission on Drugs and Controlled Substances (HACDACS); and
  - d. monitor, review and evaluate not less than once each year, the allocation and adequacy of mental health services within the State.
3. The Council shall, with the assistance of the Department, produce two documents annually:
  - a. A letter from the Chairperson of the Council to SAMHSA, of member comment and recommendation of their review of the Statewide Comprehensive Service Area Plan (September); and
  - b. An annual report to the Governor and Legislature on implementation of the Statewide Comprehensive Service Area Plan (October) and Council activities.
4. Meet at least quarterly and conduct all council meetings in accordance with HRS, Chapter 92 (Sunshine Law).

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## ARTICLE IV: MEMBERSHIP

### 1. Council composition.

The Council shall be entitled to twenty-one members appointed by the Governor as provided in HRS 26-34. Of the twenty-one members:

- a. The majority of members shall be residents of the state; non-providers of mental health or other health services and a majority of the members shall be consumers and family members (not state employees or provider members.)<sup>1</sup>
- b. The Council shall be composed of individuals representing (U.S. Code, Title 42, Section 300x-3(c)):
  - i. The principal state agencies with respect to mental health, education, vocational rehabilitation, housing, criminal justice, and social services (six (6) positions);
  - ii. The principal state agency with respect to human services, specifically oversight of the development of the plan submitted pursuant to title XIX of the Social Security Act (Medicaid) (one (1) position);
  - iii. A mental health provider representative (one (1) position);
  - iv. Public and private entities concerned with the need, planning, operations, funding, and use of mental health services and related support services;
  - v. Adults with serious mental illnesses who are receiving or have received mental health services;
  - vi. Student and youth mental health advocates;
  - vii. Family members of adults with serious mental illnesses;
  - viii. Family members of children requiring Support for Emotional and Behavioral Development (SEBD) and;
  - ix. The Hawaii Advisory Commission on Drug Abuse and Controlled Substances (HACDACS), provided that the one HACDACS representative shall be knowledgeable about the community and the relationships among mental illness and substance abuse (one (1) position).
- c. Each of the four County Service Area Boards (SAB) on Mental Health and Substance Abuse shall be represented on the Council by one designated Council member who is also a Service Area Board member (HAR 11-175-04a).
- d. The Deputy Director of Behavioral Health Administration (BHA) or designee will serve as ex-officio (non-voting) member.

### 2. Terms of Membership

- a. Members of the Council shall be nominated with the advice and consent of the senate, appointed by the Governor (HRS 26-34).
- b. Terms of the members shall be for four years, provided that the Governor may reduce the terms of those initially appointed to provide, as nearly as can be, for the expiration of an equal number of terms at intervals of one year.

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<sup>1</sup> U.S. Department of Health and Human Services, Substance Abuse and Mental Health Service Administration (SAMHSA), Center for Mental Health Services (CMHS), Community Mental Health Services Block Grant Application Guidance and Instructions, 2008-2101 CDFA No. 93.958.

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- c. No member shall be appointed consecutively to more than two terms; provided that membership does not exceed eight consecutive years inclusive of terms served in completing the term of a member unable to serve her or his full term.
  - d. Terms shall expire at the end of the State fiscal year.
  - e. Members of the Council may be considered as “interim” members when they have been appointed by the Governor to officially serve for a period of time prior to the Senate Health Committee hearing or advise and consent.
  - f. Members of the Council may be considered as “holdover” members when they are an existing member and have either submitted their application (re-applied) and are pending confirmation to a continuing term or have served the maximum period, but a new member has not yet applied/been selected.
3. Privileges of Membership.  
All members of the Council shall be eligible to vote, hold office, serve on the committees and Permitted Interaction Groups (PIGs), and participate in activities as established by the Council.
4. General Conditions of Membership.  
All members shall agree to abide by these bylaws as adopted by the Council.
5. Vacancies.
- a. Vacancies shall exist on the death, resignation, or removal of any member.
  - b. Resignation of members will take effect upon receipt notification of resignation by the Governor.
  - c. Members must submit a copy of a resignation letter to the Council to be forwarded to the Adult Mental Health Division Planning Office and to the Governor.
  - d. A member appointed to fill a vacancy shall hold office for the remainder of the unexpired term of his or her predecessor in accordance with HRS 26-34, subject to Article V, Section 6 of the Constitution of the State.
  - e. In accordance with Article V, Section 6 of the Constitution of the State, when the Senate is not in session and a vacancy occurs, the Governor may fill the vacancy, which shall, unless confirmed by the Senate, expire at the end of the next session of the Senate.
  - f. A person receiving an interim appointment such as this paragraph provides shall not be eligible for another interim appointment to such a vacancy if the appointment shall have failed to receive confirmation by the Senate.
  - g. The Governor may remove or suspend for cause any member after due notice and public hearing in accordance with HRS 26-34.
6. Attendance.  
Compliance with HRS 92-15.5 Nonattendance of board member; expiration of term.
- a. Notwithstanding any law to the contrary, the term of a board member shall expire upon the failure of the member, without valid excuse, to attend two consecutive meetings duly noticed to all members of the board and where the board failed to constitute quorum necessary to transact board business.
  - b. The Chairperson or acting Chairperson of the board shall determine if the absence of the member is excusable. The expiration of the member's term shall be effective immediately

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- after the second consecutive unattended meeting and unexcused absence. The vacancy shall be filled in the same manner as the original appointment.
- c. This section shall not apply to ex-officio members of a board.
  - d. Notwithstanding the definition of "board" in section 92-2, this section shall apply only to a state board and shall not apply to a board of any political subdivision of the State or whose authority is strictly advisory. [L 2004, c 234, §1]
    - i. If a member does not attend meetings for a certain amount of time without providing an excuse that counts as an excused absence, the Chairperson should contact the member by phone or e-mail to inquire about their attendance. If no contact is established by phone or e-mail, the Chairperson should send a letter to the member suggesting that they resign.
    - ii. Valid Excuse and Notification of Chairperson. It is incumbent on each Council member to contact the Chairperson if they will not attend a meeting (in absence of the Chairperson, member shall contact the Vice-Chairperson). Illnesses, being out of State or urgent conflicting meetings are valid reasons to be excused if the Chairperson is notified ahead of time. An absence for which the Chairperson has not been contacted with valid reasons will be an unexcused absence.
    - iii. Contacting the Chairperson or Vice Chairperson to Request Excused Absence. Whenever possible, Council members should request excused absences in writing via e-mail correspondence to [DOH.SCMHChairperson@doh.hawaii.gov](mailto:DOH.SCMHChairperson@doh.hawaii.gov) prior to the start time of the meeting. If e-mail is not possible, Council members should contact the assigned Council support staff by phone to request excused absences.
    - iv. Recording of all SCMHC Meeting Excused/Unexcused Absences and Quorums. A record will be kept of each Council meeting in which the attendance of all 21 members is noted, including those with excused absences and unexcused absences and those in which a quorum was present. This record will be provided to each Council member on a monthly basis.
7. Compensation.
- Members shall serve without compensation, but shall be reimbursed for expenses, including travel expenses, necessary for attending meetings of the Council and for performance of their duties.

### ARTICLE V: MEETINGS

- 1. General
  - a. All meetings of the Council shall be open to the public and all persons shall be permitted to attend any meeting unless otherwise provided in the constitution or as closed pursuant to sections HRS 92-4 and HRS 92-5, except to those who willfully disrupt a meeting (HRS 92-3; Attorney General, Dec. 1985).
  - b. Each Council meeting shall be held virtually and at least one in-person physical location in accordance with HRS (Sunshine Law).
  - c. Notification and conduct of meetings shall be in compliance with HRS 92 (Sunshine Law).
  - d. Conduct of meetings will be in accordance with Roberts' Rules of Order except as precluded by Hawaii laws and as dispensed with by the Chairperson for efficient conduct of meetings.
  - e. A regular meeting date will be established according to the votes of a majority of the membership.

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- f. Regular meetings shall be three hours in duration. Council members are allowed to excuse themselves for brief breaks during the meeting so long as, for the purpose of quorum, the Council member notifies the Chairperson prior to briefly excusing themselves.
- 2. Emergency.
  - a. Meetings shall be conducted at least quarterly but shall generally be held monthly unless cancelled for particular reasons or inability to attain a quorum. Indication from the Council Secretary or Behavioral Health [Services] Administration staff that a quorum will not be achieved is sufficient reason for the Chairperson to cancel, postpone or reschedule a meeting.
  - b. A regular meeting date will be established according to the votes of a majority of the membership.
- 3. Agenda.
  - a. The Chairperson or designee will provide the agenda to the staff 10 days prior to the meeting to allow staff time to meet the requirement of getting meeting notices posted, sent to the Governor, and posted on the State online public meetings calendar at least six calendar days prior to the meeting date.
  - b. The agenda cannot be changed without the approval of two-thirds of the Council's membership via a recorded vote (HRS 92-7, and Attorney General, December 1995).
  - c. The agenda shall be deemed that proper notice is given by:
    - i. E-mail distribution (preferred) to the e-mail address indicated by those who have registered their name and e-mail address with the DOH BHA or, if no e-mail address is available or upon request,
    - ii. U.S. postal mail to the address indicated by those who have registered their name and address with the BHA for receipt of notices.
- 4. Quorum.
  - a. A quorum for the purposes of doing business shall consist of a majority of the members serving on the council immediately before a meeting begins.
  - b. If a quorum is present when a vote is taken, the affirmative vote of a majority of the members present shall constitute a valid act of the council unless this chapter, part I of chapter 92, or the articles of incorporation, or the bylaws require a greater number of affirmative votes.
- 5. Passing Motions.

Pursuant to [Act 137-18 \(SB 203\)](#), Chapter 92, Hawaii Revised Statutes:

"(f) A quorum for purposes of doing business shall consist of a majority of the members serving on the council immediately before a meeting begins. (g) if a quorum is present when a vote is taken, the affirmative vote of a majority of members present shall constitute a valid act of the council unless this chapter, part I of chapter 92, the articles of incorporation, or the bylaws require a greater number of affirmative votes.

  - a. A majority vote of the Council's members in a meeting where quorum is established is required to make any action of the Council valid (HRS 92-15, and Attorney General, September 28, 1975, and December 1985).

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- b. The Law does not allow absentee balloting (Attorney General, September 1990).
- 6. Confidentiality.  
The Chairperson determines when confidential matters will exclude public hearing pursuant to HRS 92-5.
- 7. Conflict of Interest.  
Members of the Council will not vote on any question in which they have a conflict of interest (HAR 11-175-09).
- 8. Testimony.  
The Council shall accept all written testimony and may not limit oral testimony to less than three minutes per person for each agenda item (HAR 11-175-03c).
- 9. Minutes.
  - a. Written minutes will be maintained of the date, time, and place of each meeting;
  - b. The members present or absent;
  - c. The substance of the matters proposed, discussed, or decided;
  - d. A record by individual member of any vote taken; and,
  - e. Any other information that any member of the Council requests be included in the minutes (HRS 92-9).

### **ARTICLE VI: OFFICERS**

- 1. Eligibility.
  - a. The officers of the Council shall be the Chairperson, First Vice Chairperson, Second Vice Chairperson, and Secretary.
  - b. All shall be elected from among its members [of the Council].
- 2. Term.
  - a. Officers will normally be elected for a term of one year to coincide with the appointment of a new member (normally in conjunction with the calendar year, i.e. January).
  - b. If an officer vacancy should occur for any reason, such as loss of an officer (death, vacancy), the Council may vote to initiate an election to fill the officer vacancy or to elect a new slate. The duration will normally be to the end of the calendar year, but other circumstances may call for other terms to be decided by the Council.
- 3. Nomination.
  - a. At least one month before the election, the Chairperson will place nominations on the agenda as a New Business item.
  - b. Nominations will be made at least 15 days prior to the meeting at which the vote for officers is taken.
  - c. At any of these meetings in which voting for officers are an agenda item, any member may make a nomination, including a self-nomination.

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4. Election. Officers shall be elected by ballot, usually at the first meeting of the calendar year. The Law does not allow absentee voting (Attorney General, September 1990).
5. Removal of Officers. Officers may be removed for non-performance of duties or misconduct, as voted upon by a majority of Council members.
6. Duties of Officers.  
Chairperson. The Chairperson shall:
  - (a) Represent the Council as its official spokesperson.
  - (b) Sign all legal documents/correspondence for the Council.
  - (c) Preside at meetings of the Council.
  - (d) Prepare agenda items for Council meetings.
  - (e) Assign members and chairpersons to committees.
  - (f) Request the resignation of members not in compliance with the By-laws.

First Vice Chairperson. The First Vice Chairperson shall:

- (a) Assume all the Chairpersons' responsibilities when the Chairperson is absent or unable to represent the Council.
- (b) Perform other duties as requested by the Chairperson.

Second Vice Chairperson. The Second Vice Chairperson shall:

- (a) Assume all of the Chairperson's responsibilities when the Chairperson and First Vice Chairperson are absent or unable to represent the Council.
- (b) Ensure minutes of meetings are being recorded, review minutes for accuracy and relevance, and have the minutes for the last twelve months available at Council meetings.
- (c) Add names to and delete names from the mailing a list as indicated by the Chairperson.

Secretary. The Secretary shall:

- (a) Ensure all attendees at the Council meetings have signed the attendance sheet and Neighbor Island guests are accounted for.
- (b) Ensure quorum is achieved at the beginning of each Council meeting.
- (c) Check the accuracy of the Attendance Log for each Council meeting.
- (d) Ensure that the Council meeting is held in accordance with Part I of Chapter 92, Hawaii Revised Statutes (Sunshine Law).
- (e) Repeat verbally each motion made during the Council meeting indicating the names of who made the motion and who seconded it; provide the number of "yeas," "nays," and abstentions.

### **ARTICLE VII: COMMITTEES AND PERMITTED INTERACTION GROUPS**

Committees and Permitted Interaction Groups (PIGs) may be composed of Council members and members of the community. Chairpersons of committees and PIGs shall be members appointed to the Council. The Council Chairperson shall assign Council members to committees and PIGs. Council members will decide via majority vote the standing committees and PIGs that will exist. Members of standing committees and PIGs will decide, under the guidance of committee and PIG chairpersons,

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the issues that they will address, keeping in mind the tasking of the Council under law. The Council Chairperson shall create ad hoc committees as special needs arise or as the Council requests.

### **ARTICLE VIII: CONFLICTS OF INTEREST**

Members of the Council shall not vote on questions in which such members have a financial interest pursuant to HRS 84-3: "an interest held by an individual, the individual's spouse, or dependent children, which is:

- (1) An ownership interest in a business.
- (2) A creditor interest in an insolvent business.
- (3) An employment or prospective employment for which negotiations have begun.
- (4) An ownership interest in real or personal property.
- (5) A loan or other interest.
- (6) A directorship or officership in a business.

Nor shall members participate in discussions or decisions that directly affect their financial interests or its direct competitors. The criteria for conflict of interest as established by the State Ethics Commission shall be followed pursuant to HRS 84-14 and 84-15 and as clarified by written communication from the State Ethics Commission dated April 2, 1986. A majority vote of the Council's members in a meeting where quorum is established is still necessary to make any action of the Council valid pursuant to HRS 92-15 and as clarified by written communication from the Attorney General dated September 28, 1979 and December, 1985.

### **ARTICLE IX: AMENDMENT OF BYLAWS**

These bylaws may be revised or amended by a majority vote of the Council's members in a meeting where quorum is established, if notice of intent to revise or amend is given to Council members at a preceding Council meeting, or by U.S. postal mail fifteen days before the meeting at which the revision or amendment is to be considered. A revision or amendment shall take effect immediately upon its adoption.

### **ARTICLE X: LIABILITIES**

Nothing herein shall constitute members of the Council as partners for any purpose. No member or officer shall be liable for the acts or failure to act, of any other member or officer of the Council (HRS 26-35.5).