

Honolulu, Hawaii

Feb 2, 2006

RE: H.B. No. 2076

H.D. 1

Honorable Calvin K.Y. Say
Speaker, House of Representatives
Twenty-Third State Legislature
Regular Session of 2006
State of Hawaii

Sir:

Your Committee on Health, to which was referred H.B. No. 2076
entitled:

"A BILL FOR AN ACT RELATING TO MINORS,"

begs leave to report as follows:

The purpose of this bill is to improve the provision of
medical services to youths who do not have a parent or guardian to
authorize medical procedures.

Hawaii Primary Care Association, Healthy Mothers Healthy
Babies, Waikiki Health Center, Hawaii Youth Services Network,
Blueprint for Change, Planned Parenthood of Hawaii, and Hale Kipa
supported this bill. Hawaii Medical Association supported the
intent of this measure.

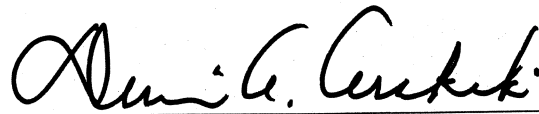
Your Committee finds that there is a population of teens who
are unable to receive necessary medical assistance due to the fact
that they are without a parent or guardian to act on their behalf.
Many of these youths have fled homes to free themselves from
physical, sexual, and mental abuses, or have been thrown out by
their parent or guardian. It is important that these troubled
individuals be provided the medical treatments they need to ensure
their health and survival. To better provide services to minors
without parents or guardians to authorize medical attention, your
Committee has amended this bill by:



- (1) Repealing the language excluding surgery or treatment to induce abortion;
- (2) Clarifying that elective-cosmetic surgery is not included in medical procedures a minor may authorize without the approval of a parent or guardian; and
- (3) Making technical, nonsubstantive changes for clarity, consistency, style, and to correct drafting style.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2076, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2076, H.D. 1, and be referred to the Committee on Consumer Protection & Commerce.

Respectfully submitted on
behalf of the members of the
Committee on Health,



DENNIS A. ARAKAKI, Chair



A BILL FOR AN ACT

RELATING TO MINORS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that minors who are
2 living on their own without parental support or guidance find it
3 difficult, if not impossible, to obtain general medical care
4 without the consent of a parent or guardian. Minors living on
5 their own who cannot obtain parental consent for medical
6 treatment include runaway, homeless, and street youth, as well
7 as young people from Micronesia and other Pacific Islands who
8 have moved to Hawaii on their own. Physicians or clinics that
9 provide treatment to minors without parental consent face
10 possible legal action. Without consent from a parent or
11 guardian, this population of young people is left suffering when
12 in need of medical treatment.

13 Currently in this state, youth aged fourteen and older may
14 consent to family planning and contraceptive care,
15 pregnancy-related care, and treatment for sexually transmitted
16 diseases. Approximately forty-nine per cent of the fifty states
17 and the District of Columbia allow minors some form of access to
18 general medical care.



1 The purpose of this Act is to allow a minor to consent to
2 the provision of medical care and services if a licensed
3 physician determines that the minor has sufficient mental
4 capacity to understand the nature and consequence of the
5 proposed medical care and services and if the medical care and
6 services are for the minor's benefit.

7 SECTION 2. Section 577A-1, Hawaii Revised Statutes, is
8 amended by amending the definition of "medical care and
9 services" to read as follows:

10 "Medical care and services" means [~~the diagnosis,~~
11 ~~examination, and administration of medication in the treatment~~
12 ~~of venereal diseases, pregnancy, and family planning services.~~
13 ~~It shall not include surgery or any treatment to induce~~
14 ~~abortion]~~ any care, treatment, service, or procedure, including
15 the administration of medication, to maintain, diagnose, or
16 otherwise affect a person's physical condition; provided it
17 shall not include elective-cosmetic surgery."

18 SECTION 3. Section 577A-2, Hawaii Revised Statutes, is
19 amended to read as follows:

20 "**§577A-2 Consent valid.** [~~The consent]~~ (a) A minor may:
21 (1) Consent to the provision of medical care and services
22 in the treatment of venereal diseases, pregnancy, or



1 family planning services by public and private
2 hospitals or public and private clinics, or the
3 ~~[performance]~~ provision of medical care and services
4 in the treatment of venereal diseases, pregnancy, or
5 family planning services by a physician licensed to
6 practice medicine~~[, when executed by a]~~ if the minor
7 is:

8 (A) A female minor who is or professes to be
9 pregnant~~[, or by a]~~;

10 (B) A minor who is or professes to be afflicted with
11 a venereal disease~~[, or a]~~; or

12 (C) A minor seeking family planning services;
13 and

14 (2) Consent to the provision of all other forms of medical
15 care and services by public and private hospitals or
16 public and private clinics, or the provision of
17 medical care and services by a physician licensed to
18 practice medicine if the physician determines that:

19 (A) The minor understands the significant benefits
20 and risks of the proposed medical care and
21 services and can communicate a decision; and



1 (B) The medical care and services are for the minor's
2 benefit.

3 (b) Any consent given under this section shall be valid
4 and binding as if the minor had [~~achieved his or her~~] reached
5 the age of majority [~~as the case may be; that is, a female minor~~
6 ~~who is, or professes to be pregnant, or a minor who is, or~~
7 ~~professes to be afflicted with a venereal disease, or a minor~~
8 ~~seeking family planning services~~] and the minor shall be deemed
9 to have, and shall have the same legal capacity to act, and the
10 same legal obligations with regard to the giving of such consent
11 [~~to such hospitals and such clinics or medical care and services~~
12 ~~to be provided by a physician licensed to practice medicine,~~] as
13 a person of full legal age and capacity, the infancy of the
14 minor, and any contrary provisions of law notwithstanding[, and
15 such].

16 (c) The consent given under this section shall not be
17 subject to later disaffirmance by reason of [~~such~~] the patient's
18 minority[, and the].

19 (d) No consent of [~~no~~] any other person or persons,
20 [+]including [, ~~but not limited to~~] a spouse, parent, custodian,
21 or guardian[+], shall be necessary [~~in order~~] to authorize
22 [~~such~~] hospitals or [~~such~~] clinics to provide care to, or



1 medical care and services to be provided by a physician licensed
2 to practice medicine, to [~~such~~] a minor under this section.

3 (e) Any person who in good faith renders medical care and
4 services to a minor in reliance upon a physician's determination
5 made in accordance with subsection (a)(2) shall have immunity
6 from any civil or criminal liability based on that
7 determination; provided that a person may be liable for any
8 damages resulting from the person's gross negligence or wanton
9 acts or omissions."

10 SECTION 4. Section 577A-4, Hawaii Revised Statutes, is
11 amended by amending subsection (a) to read as follows:

12 "(a) If a minor consents to receive medical care and
13 services, the spouse, parent, custodian, or guardian of the
14 minor patient shall not be liable for the legal obligations
15 resulting from the furnishing of medical care and services
16 provided by the public and private hospital, or public and
17 private clinic or physician licensed to practice medicine. A
18 minor who consents to the provision of medical care and services
19 under this [~~section~~] chapter shall assume financial
20 responsibility for the costs of such medical care and services.
21 Any other law to the contrary notwithstanding, no spouse,
22 parent, custodian, or guardian whose consent has not been



1 obtained or who has no prior knowledge that the minor has
2 consented to the provision of such medical care and services
3 shall be liable for the costs incurred by virtue of the minor's
4 consent."

5 SECTION 5 Statutory material to be repealed is bracketed
6 and stricken. New statutory material is underscored.

7 SECTION 6. This Act shall take effect upon its approval.



Report Title:

Minor; Legal Capacity; Medical Care and Services

Description:

Allows a minor under certain circumstances to consent to the provision of medical care and services. (HB2076 HD1)

