

MAR 07 2008

SENATE CONCURRENT RESOLUTION

REQUESTING THE AUDITOR TO CONDUCT A FINANCIAL AND MANAGEMENT
AUDIT OF THE HAWAII DISABILITY RIGHTS CENTER.

1 WHEREAS, Congress created a nationwide protection and
2 advocacy system for individuals with developmental disabilities
3 under the Developmental Disabilities Assistance and Bill of
4 Rights Act, as amended, to aid individuals with developmental
5 disabilities or mental illness and their families in gaining
6 access to appropriate support and services; and
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8 WHEREAS, States are required to designate an agency or
9 entity to provide advocacy services to persons with
10 developmental disabilities and mental illness in order to
11 receive federal funds for programs for these persons; and
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13 WHEREAS, the Hawaii Disability Rights Center is the agency
14 designated under section 333F-8.5, Hawaii Revised Statutes, to
15 provide advocacy services to persons with developmental
16 disabilities or mental illness; and
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18 WHEREAS, Section 333F-8.5(c), Hawaii Revised Statutes,
19 grants the Hawaii Disability Rights Center access to all records
20 of any person with developmental disabilities or mental illness,
21 to the extent required by federal law; and
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23 WHEREAS, there are also federal and state statutes, such as
24 the Health Insurance Portability and Accountability Act, which
25 were enacted to protect the privacy of patient records; and
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27 WHEREAS, there is an ongoing dispute as to whether the law
28 that provides the Center access to records overrides the privacy
29 rights of persons receiving services and their families, with or
30 without the appropriate waivers of these privacy rights, and, if
31 so, what justification is necessary for the center to demand
32 access to records of persons with disabilities; and
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1 WHEREAS, providers of services to individuals with
2 disabilities are uncertain as to their obligation to disclose
3 patient records to an entity such as the Hawaii Disability
4 Rights Center; and

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6 WHEREAS, concerns have been raised about the Center's
7 approach to resolving the conflict between a patient's right to
8 privacy and its need for access to the patient and the patient's
9 records; and

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11 WHEREAS, the Department of Health has jurisdiction over
12 state funding for the Hawaii Disability Rights Center and has
13 responsibility for the performance of the Center; and

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15 WHEREAS, the Hawaii Disability Rights Center is a "quasi-
16 public institution" within the scope of section 23-4, Hawaii
17 Revised Statutes, because it is supported in whole or in part by
18 and handles state or public funds; and

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20 WHEREAS, the Hawaii Disability Rights Center is therefore
21 subject to regular audits by the Auditor, but to date has never
22 been audited by the Auditor; now, therefore,

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24 BE IT RESOLVED by the Senate of the Twenty-fourth
25 Legislature of the State of Hawaii, Regular Session of 2008, the
26 House of Representatives concurring, that the Auditor is
27 requested to perform a financial and management audit of the
28 Hawaii Disability Rights Center; and

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30 BE IT FURTHER RESOLVED that the Auditor is also requested
31 to determine whether the Hawaii Disability Rights Center:

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- 33 (1) Is fulfilling its mission in a proper, objective, and
34 effective manner, including an evaluation of how the
35 Center exerts its authority over organizations subject
36 to the Center's purview;
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 - 38 (2) Is abusing its authority over its access to persons
39 with developmental disabilities or mental illness and
40 their records;
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 - 42 (3) Has in place appropriate grievance procedures and
43 alternative remedies to litigation for agencies over
44 which it has jurisdiction; and



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(4) Is being appropriately overseen by any state or federal authority, and the scope of that authority; and

BE IT FURTHER RESOLVED that, in the course of conducting the audit, the Auditor is requested to obtain and review any audits done or other reports produced by federal agencies with jurisdiction over the Hawaii Disability Rights Center; and

BE IT FURTHER RESOLVED that the Auditor is requested to report any findings and recommendations to the Legislature not later than twenty days prior to the convening of the Regular Session of 2009; and

BE IT FURTHER RESOLVED that certified copies of this Concurrent Resolution be transmitted to the Hawaii Disability Rights Center, the Director of Health, and the Auditor.

OFFERED BY: Shiranne Chun Oaliland
Robert Kim
David Fukushima
Richard [unclear]
Jim

