



STATE OF HAWAII
DEPARTMENT OF HEALTH
P.O. Box 3378
HONOLULU, HAWAII 96801-3378

In reply, please refer to:
File:

House Committee on Health

H.B. 2173, H.D. 1, RELATING TO HEALTH

**Testimony of Chiyome Leinaala Fukino, M.D.
Director of Health**

February 13, 2008, 8:00 a.m.

1 **Department's Position:** The department supports this measure.

2 **Fiscal Implications:** None.

3 **Purpose and Justification:** The purpose of this bill is to authorize the disclosure of mental health
4 certificates, applications, records, and reports made by a person's health care provider to another health
5 care provider for the purpose of continued care, treatment, health care operations, or monitoring
6 activities.

7 Chapter 334-5, Hawaii Revised Statutes is more stringent than federal Health Information
8 Privacy and Portability Act (HIPAA) laws in terms of sharing of information across providers,
9 consequently inhibiting the continuity of care for individuals in need and utilizing mental health
10 services. Currently, when a person is receiving mental health services from healthcare providers that are
11 not under the same administrative control, releases of information must be signed allowing the providers
12 to share information. Since releases of information only permit an entity to release information to
13 another entity, two releases are necessary. Obtaining consent can be challenging. Sometimes, a
14 person's psychiatric symptoms may interfere with their ability to provide informed consent. In those
15 instances, information can only be provided only during a crisis.

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1 The proposed changes in law will permit any two healthcare providers who are treating the
2 individual to share information. This will include providing information about medication, current
3 condition and relevant history without first obtaining a release of information. Continuity of care from
4 hospital to outpatient services will be improved with the outpatient provider is aware that an inpatient
5 stay has occurred. This promotes the best possible care and safety for both the individual and
6 community. It will simplify the process for hospitals and other providers to determine who to bill for
7 services. These changes will also allow Quality Improvement and Utilization Management staff to be
8 more involved in coordination of care both for ongoing care and for releasing referral information for
9 providers so they can be prepared to start services effectively. Overall, continuity of care will be
10 enhanced when sharing of information is less complicated.

11 Thank you for the opportunity to testify on this measure.

LINDA LINGLE
GOVERNOR



STATE OF HAWAII
DEPARTMENT OF PUBLIC SAFETY
919 Ala Moana Boulevard, 4th Floor
Honolulu, Hawaii 96814

CLAYTON A. FRANK
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No. _____

TESTIMONY ON HOUSE BILL 2173, HD1
RELATING TO HEALTH

by
Clayton A. Frank, Director
Department of Public Safety

House Committee on Health
Representative Josh Green, Chair

Wednesday, February 13, 2008, 8:00 a.m.
State Capitol, Conference Room 329

Representative Green and Members of the Committee:

The Department of Public Safety supports Senate Bill 2173, which proposes to authorize the disclosure of mental health certificates, applications, records, and reports made by a person's health care provider to another health care provider for the purpose of continued care, treatment, health care operations, or monitoring activities.

The Department supports this measure, as it would greatly improve our ability to provide continued health care services to persons in our custody. Passage of this measure would enable the Department's health care staff to quickly obtain the necessary health care information and history to ensure continued care of the patient, assist in completing more accurate assessments and making diagnoses, and in developing appropriate treatment plans. It has been difficult for the Department to obtain health care information for inmates from health care providers.

This measure will also minimize potential health care risks associated with pertinent undisclosed health care conditions. There have been many instances in which persons refuse to allow the Department access to previous health care records that may impact the safety of the inmate, other inmates, and the correctional and health care staff.

Thank you for this opportunity to provide testimony on this important matter.



Hawai'i Primary Care Association
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To: **The House Committee on Health**
The Hon. Josh Green, MD, Chair
The Hon. John Mizuno, Vice Chair

The House Committee on Human Services & Housing
The Hon. Maile S. L. Shimabukuro, Chair
The Hon. Karl Rhoads, Vice Chair

Testimony in Support of House Bill 2173, HD 1
Relating to Health
Submitted by Beth Giesting, CEO
February 13, 2008, 8:00 a.m. agenda, Room 329

The Hawai'i Primary Care Association strongly supports this measure. While it is quite clear that all medical information needs to be appropriately safe-guarded, our health care system relies on the ability of primary care, specialty, and in-patient providers to share key diagnostic and treatment information quickly and freely. This is in the best interests of the patient because tragic mistakes in treatment can be made by clinicians who do not have all the relevant facts. Occasionally, this is also necessary for the protection of public interests.

Thank you for the opportunity to support this bill.

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HAWAII PSYCHIATRIC MEDICAL ASSOCIATION

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Ph: (808) 263-3070 Fax: (808) 262-5966 www.Hawaiiipsychiatric.org

To: Rep. Josh Green, MD, Chair
Rep. John Mizuno, Vice-Chair
Members of the House Health Committee

From: Wm Sheehan, MD, President
Steven Williams, MD, Legislative Chair

*Please deliver
5 copies to Rm. 436 for
HLT Hearing
2/13/08 at 8:00 am
Conf. Rm 329*

Re: HB 2173 HD1, Relating to Health
(Authorizes the disclosure of mental health certificates, applications, records, and reports made by a person's health care provider to another health care provider for the purpose of continued care, treatment, health care operations or monitoring activities).

POSITION: SUPPORT

The Hawaii Psychiatric Medical Association submits its testimony in support of HB 2173, HD1.

The current protections required by law regarding the health records of mental health patients are over and above what is required by HIPPA. This bill seeks to modify the law to make the protections the same as HIPPA standards.

The current policy hinders patient care by requiring a consent form be signed to share health care information on the same patient admitted to psychiatric unit in the state. Most patients do sign the consent form, however there are always some patients who will not sign thereby not allowing providers in the psychiatric units to discuss health issues with any of the patient's other providers. This includes not knowing what medications the patient may be on, or medications that the patient has been prescribed but not taking. Prescribed medications could be important heart or seizure medications that clearly the current provider must be informed.

Thank you for your consideration to pass this measure.

HAWAII PSYCHIATRIC MEDICAL ASSOCIATION

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Testimony of
Phyllis Dendle
Director of Government Affairs

Before:
House Committee on Health
The Honorable Josh Green M.D., Chair
The Honorable John Mizuno, Vice Chair

February 13, 2008
8:00 am
Conference Room 329

RE: HB 2173 HD1 RELATING TO HEALTH

Chair Green and committee members, thank you for this opportunity to provide testimony on HB2173HD1 which permits the limited disclosure of mental health medical records for continued care and treatment.

Kaiser Permanente Hawaii supports this bill.

In Act 22 Session Laws of Hawaii 2004, the legislature amended section 334-5 to permit health care providers to release limited medical information about a person being treated for mental illness to health care insurers for the purpose of being reimbursed. This has been useful for facilitating part of the transactions necessary for a health care provider to provide appropriate service to these patients however it is only half of the solution. Health care providers have found that Hawaii law does not permit the disclosure of information for the continued care of a person being treated for mental illness unless the patient consents to the disclosure. It is not always possible to get this consent regardless of how much it may benefit the patient.

This amendment will permit the release of medical information from one health care provider to another health care provider specifically for the purpose of continued care and treatment. This is consistent with what is permitted under federal law and we believe this will greatly improve the care we are able to give these patients.

We urge you to pass this bill and thank you for your consideration.

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people of Hawaii. We appreciate this committee's support in amending HRS 334-5 through the passage of HB 2173 HD1 so as to allow mental health providers to share relevant mental health information for continuity and treatment purposes without specific consent.

Thank you for this opportunity to testify.



THE QUEEN'S MEDICAL CENTER

1301 Punchbowl Street • Honolulu, Hawaii 96813 • Phone (808) 538-9011 • Fax:
(808) 547-4646

To: Representative Josh Green, M.D., Chair
Representative John Mizuno, Vice Chair
HOUSE COMMITTEE ON HEALTH

From: Loraine Fleming APRN, BC, MA, Director, Behavioral Health
Services, The Queen's Medical Center

Date: Wednesday, February 13, 2008

Subject: In STRONG SUPPORT of House Bill 2173 H.D.1,
Relating to Health

The Queen's Medical Center (QMC) strongly supports HB 2173 HD1.

Currently, the use and disclosure of mental health information requires the patient's specific consent, except for emergency situations. HB 2173 HD1 adds broader exception language, allowing providers to share mental health information for continuing care and treatment purposes. Communication between providers is an essential aspect of continuity of care, and is a basic element of quality mental health service. Without the ability to share information about someone's medication regimen, psychiatric history, or special needs and concerns, care givers are unable to assure that the most appropriate treatment will be provided. Unfortunately, due to the nature of mental illness, people suffering from psychiatric disorders may be reluctant to share information. This reluctance may be due to paranoid thoughts or confusion. Their refusal to sign a consent for release of information can have significant negative effects on their recovery.

If a patient refuses to allow information about his or her medical history or allergies to be communicated, it is possible that he/she could inadvertently receive medications that could cause serious harm.

Clearly, the best possible treatment for a patient involves a seamless continuum of care, through which providers are able to share necessary and relevant information while respecting the patient's dignity and privacy. The current consent requirement does not serve the best interests of the patient.

The Queen's Medical Center is the largest private, non-profit provider of mental health services in the State of Hawaii. During 2007, QMC had 1,400 inpatient admissions and over 20,000 outpatient visits for patients with mental health conditions. We see these services as filling a critical need in the state and part of our mission to take care of the



THE QUEEN'S MEDICAL CENTER

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To: Representative Josh Green, M.D., Chair
Representative John Mizuno, Vice Chair
HOUSE COMMITTEE ON HEALTH

From: Karen Schultz, RN, MSN, CARN, Vice President, Patient
Care/Behavioral Health Services
Laura Sherrill, MPH, Privacy Officer/Manager, Medical
Records

Date: Wednesday, February 13, 2008

Subject: In STRONG SUPPORT of House Bill 2173 H.D.1,
Relating to Health

The Queen's Medical Center (QMC) strongly supports House Bill 2173 HD1.

The purpose of this bill is to provide an exception to the strict confidentiality of mental health information to allow the sharing of mental health information between providers for the patient's continuing care and treatment. Such an exception is currently allowed by statute for HIV/AIDS information (HRS §325-101) and the language in this bill is similar to that statute. Federal privacy rules already permit the sharing of health information for patient treatment.

The inability of providers in Hawaii to share mental health information without patient consent presents patient safety and community safety issues. Below are just a few examples of the struggles that our providers face in providing a community network of care for Hawaii's mental health population.

A seriously-ill mental health patient is involuntarily committed (the patient refuses to sign admission papers). QMC's ED notifies the AMHD crisis hotline to obtain information about the patient under the emergency exception. The AMHD case manager contacts QMC the next day to obtain information about the patient's admission and discharge plans. QMC cannot release the patient's information to the case manager, as the patient has not specifically consented to the release (still won't sign any papers) and the emergency situation does not apply. The patient is eventually released when he or she no longer presents an immediate threat to self or others, but the discharge had to occur without the case manager's knowledge and assistance in setting up community support and follow-up care due to lack of patient consent.

A patient is discharged from the inpatient psych unit with instructions to follow-up with his/her community provider. The patient is paranoid and so refused to sign any papers at all, therefore QMC is not able to forward discharge information to the primary provider, as is the normal procedure with medical patients. The patient visits the provider but does not tell the provider of the inpatient stay. The provider is unaware that the patient was given certain medications at discharge and prescribes other medications that, if taken in conjunction with the discharge medications, could result in adverse drug interaction reactions. Alternatively, maybe the patient never shows up for the follow-up visits and no outreach is made as the community provider is unaware the patient's condition had deteriorated enough to warrant hospitalization. The patient continues to decompensate and eventually ends up back in the hospital, or even worse commits suicide or acts out against the community.

The best possible treatment for a patient occurs when his/her providers are able to provide a seamless continuum of care from acute to outpatient, and when providers have complete and timely information about their patients. The consent requirement in the current mental health statute leaves many gaps in the provider community's ability to provide that continuity of care for the mental health population.

The Queen's Medical Center is the largest private, non-profit provider of mental health services in the State of Hawaii. Our mental health services run the continuum of care and include emergency services, acute inpatient, residential child and adolescent hospitalization, day treatment, and outpatient counseling. We see these mental health services as filling a critical need in the State, and thus part of our mission to take care of the people of Hawaii.

We respectfully ask that you support the passage of HB 2173 HD1; thereby removing a major legal barrier that prevents providers from sharing health information so critical to the provision of effective community-based mental health treatment. Thank you for this opportunity to testify



HOUSE COMMITTEE ON HEALTH
Rep. Josh Green, M.D., Chair

Conference Room 329
February 13, 2008 at 8:00 a.m.

Testimony in support of HB 2173 HD 1.

I am Rich Meiers, President and CEO of the Healthcare Association of Hawaii, which represents the entire spectrum of health care, including acute care hospitals, two-thirds of the long term care beds in Hawaii, as well as home care and hospice providers. Thank you for this opportunity to testify in support of HB 2173, HD 1, which allows health care providers to transfer the records of mental health patients for treatment purposes without patient consent.

A federal privacy rule authorizes providers to share protected health information for treatment without patient consent. However, the rule gives states the option of making laws that are more stringent. Hawaii has more stringent laws for three categories of information, namely HIV/AIDS, mental health, and substance abuse treatment.

HRS 325-101 protects the confidentiality of medical records of patients with HIV/AIDS, making an exception for providers to transfer information for the purpose of continued care or treatment without the patient's consent. This exception has been working well.

Mental health is covered by HRS 334-5, which does not have an exception to the consent requirement for information transfer for treatment purposes. This bill adds the treatment exemption so that it is consistent with the language for HIV/AIDS.

HB 2173 HD 1 removes barriers to the timely treatment of mental health patients without interfering with patient rights.

For the foregoing reasons, the Healthcare Association of Hawaii strongly supports HB 2173 HD 1.

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