



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

In reply, please refer to:  
File:

## Committees on Health and Human Services & Housing

### H.B. 2859, Relating to Certificate of Need

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

February 13, 2008

- 1 **Department's Position:** The Department of Health is opposed to passage of H.B. 2859
- 2 **Fiscal Implications:** None
- 3 **Purpose and Justification:** The Department of Health appreciates the intent of H.B. 2859 but prefers
- 4 the Administration Bill, H.B. 3123, which streamlines the certificate of need process in a more thorough
- 5 and comprehensive manner. Firstly, the proposed bill appears to be inconsistent with Section 323D-49,
- 6 HRS which provides that "No permit or license shall be issued by any county or state officer for the
- 7 development, construction, expansion, alteration, conversion, initiation, or modification of a health care
- 8 facility or health care service, other than an existing hospital, or for the operation of a new health care
- 9 facility or health care service unless there is submitted in connection with the application for such permit
- 10 or license a current certificate of need issued by the state agency..." Accordingly, there may be many
- 11 situations where it would be impossible for an applicant to meet the conditions of the proposed bill since
- 12 the applicant may not be able to obtain a land use or zoning change permit until after a certificate of
- 13 need was issued. Secondly, the bill states that the state agency shall issue a decision with "no more than
- 14 one public hearing". While the intent of the bill is to expedite certain applications, the inclusion of one
- 15 public hearing would appear to add an additional step to the certificate of need process. Chapter 323D,

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1 as it is currently written, does not contain any requirement for the holding of any public hearings prior to  
2 issuing a decision. The current 323D does require that the agency's community boards meet to provide  
3 recommendations to the Administrator. These meetings are open to the public; however, there are

TO: House Committee on Health  
The Hon. Joshua B. Green, M.D., Chair  
The Hon. John Mizuno, Vice Chair

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

**Testimony In Opposition to House Bill 2859**  
**Relating to Certificate of Need**  
**Submitted by Jane Gibbons, Executive Vice President**  
**February 13, 2008, 8:00 a.m., Conf. Rm. 329**

Thank you for this opportunity to submit written testimony before your committees. My name is Jane Gibbons, and I am the Executive Vice President for Liberty Dialysis – Hawaii Region. I am testifying in opposition to House Bill 2859 in its current form relating to Certificate of Need.

This bill amends subsection (b) of HRS 323D-44 by requiring the State health planning and development agency to issue a decision on a Certificate of Need application with no more than one public hearing and within 30 days if an applicant is required to and has obtained an environmental impact statement or a finding of no significant impact, and all necessary county land use and zoning change permits. The amendment to section 323D-44(b) is effective only until January 1, 2010.

Liberty Dialysis and its affiliates develop, own and operate dialysis clinics throughout the United States. Its primary goal is patient-focused care, which is accomplished through well-trained and experienced staff, state-of-the-art equipment, and modern amenities to provide a quality and comfortable patient experience.

There are twenty-two Liberty Dialysis clinics that are partnered with hospitals. Liberty Dialysis acquired the St. Francis Medical Center's dialysis operations after receiving a Certificate of Need for the purchase from the State health planning and development agency. It has continued to expand dialysis services throughout the State of Hawaii, again after demonstrating that a need exists for such expanded services through the Certificate of Need process.

Liberty Dialysis opposes this bill in its current form because it believes that the bill was drafted to benefit the proposed new hospital to be built in West Maui. However, the proposed legislation is vague in its wording, and may open the door for other entities to rush through their Certificate of Need applications for projects that have no relation to the proposed new West Maui hospital. If this legislation is passed without amendment, it will have this unintended effect of benefiting various for-profit and non-profit health care businesses by allowing them to circumvent the Certificate of Need process, which should not be allowed.

On behalf of Liberty Dialysis, I urge you to clarify the language in this bill to make it applicable only to the proposed new hospital to be built in West Maui. Thank you for the opportunity to testify regarding this bill.



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

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

**Testimony in opposition to HB 2859.**

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 opposition to HB 2859, which changes the certificate of need (CON) process.

CON requires certain health care providers to obtain state approval before offering certain new or expanded services. It is designed to help ensure that new services proposed by health care providers are needed for quality patient care within a particular region or community. CON prevents unnecessary duplication of services by selecting the best proposal among competing applicants who wish to provide a particular health service.

The Healthcare Association recognizes that CON is not perfect, but any changes should be initiated from within SHPDA or the Statewide Health Coordinating Council.

For the foregoing reasons, the Healthcare Association opposes HB 2859.

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The Twenty-Fourth Legislature  
Regular Session of 2008

HOUSE OF REPRESENTATIVES  
Committee on Health  
Rep. Josh Green, M.D., Chair  
Rep. John Mizuno, Vice Chair

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

**STATEMENT OF THE ILWU LOCAL 142 ON H.B. 2859  
RELATING TO CERTIFICATE OF NEED**

The ILWU Local 142 opposes H.B. 2859, which requires a decision regarding issuance of a Certificate of Need at only one public hearing and within 30 days if an applicant is required to and has obtained: (1) an environmental impact statement or a finding of no significant impact, and (2) all necessary county land use and zoning change permits.

This bill is intended to expedite the Certificate of Need (CON) process so that new facilities or services can be implemented quickly. However, we believe a few things need to be considered.

First of all, the CON process was implemented many years ago because of a need to control the proliferation of medical facilities, services and technology in Hawaii. Our population is relatively small and cannot support unlimited services entering our market. Letting the market dictate who survives and who does not may not be a wise or prudent course of action. Competition may not bring down costs and, instead, may mean higher prices, ultimately hurting those of us in the general public who must use these services.

Secondly, the CON process includes several public hearings to allow for input from as many people as possible. Those who make a decision in the hearing do not decide the fate of the CON and only make a recommendation to the SHPDA administrator, who makes the final decision as to whether or not a CON is issued. Limiting the number of public hearings and the time to hold them will not necessarily expedite granting of the CON if the administrator needs additional information.

Thirdly, the CON process should not be speeded up simply because a business wants to start building or acquire a new piece of equipment. The State Health Planning and Development Agency is charged with *planning* for health care in Hawaii and should be allowed sufficient time to consider thoroughly all aspects of the Certificate of Need application.

The ILWU urges that H.B. 2859 be shelved. Thank you for the opportunity to provide testimony on this matter.