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DEPARTMENT OF HUMAN SERVICES  
P. O. Box 339  
Honolulu, Hawaii 96809

March 31, 2008

MEMORANDUM

TO: Honorable Marcus R. Oshiro, Chair  
House Committee on Finance

FROM: Lillian B. Koller, Director

SUBJECT: S.B. 2150, S.D.2, H.D.1 - RELATING TO ADULT PROTECTION  
Hearing: Monday, March 31, 2008, 3:30 p.m.  
Conference Room 308, State Capitol

**PURPOSE:** The purposes of S.B. 2150, S.D.2, H.D.1, are to expand the adult protective services law to include vulnerable adults and to appropriate funds to the Department of Human Services.

**DEPARTMENT'S POSITION:** The Department of Human Services (DHS) supports the intent of this bill to expand adult protective services to include vulnerable adults. This bill is similar to Administration bills, S.B. 3049 and H.B. 3127, that also propose expansion of the adult protective services program.

S.B. 2150, S.D.2, H.D.1, appropriates State funds to DHS to implement the proposed amendments to Chapter 346, Part X, HRS, in this bill. DHS is hopeful that no appropriation of general funds would be needed to implement this bill if the Department's existing resources can be successfully redescribed and staffed.

AN EQUAL OPPORTUNITY AGENCY

We will be in a better position to evaluate this situation in April.

If DHS cannot utilize existing resources as hoped, then the Department will need a total of \$1,714,332 for the first year of implementation. This total includes \$1,589,332 in personnel costs for 24 new adult protective services positions and \$125,000 for client resources and services needed during crisis intervention. For the second year of implementation and every year thereafter, DHS will need a total of \$1,591,485, including \$1,466,485 per year for personnel costs and \$125,000 per year for client resources and services.

Therefore, DHS cannot support this bill at this time as written because it would adversely impact or replace the priorities in the Executive Supplemental Budget.

In consultation with the Department of the Attorney General, DHS offers the following friendly amendments to the proposed changes in section 346-222, Definitions:

1. DHS is in agreement with the proposed language for the definition of "abuse" that lists the different types of abuse for clarity. The period at the end of this listing should be retained as follows:

"...each as further defined in this chapter."

2. Paragraph (3) within the definition for "financial exploitation" specifies that the misappropriation, misuse, or unauthorized transfer of moneys belonging to the vulnerable adult from a personal or joint account

are all forms of financial exploitation. DHS recommends that the phrase "unauthorized transfer" be deleted from this paragraph because it is redundant. The terms "misappropriation" and "misuse" as they pertain to moneys belonging to the vulnerable adult are adequate to describe this type of abuse. Paragraph (3) should read as follows:

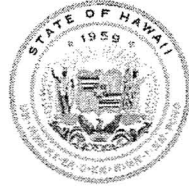
"(3) The misappropriation or misuse of moneys belonging to the vulnerable adult from a personal or joint account; or..."

3. Paragraph (2) within the definition for "self-neglect" describes conditions that would identify the vulnerable adult as being self-neglectful. DHS recommends deleting the phrase "concerning the vulnerable adult's well-being" as a descriptor for self-neglect. It is generally understood that the vulnerable adult's well-being would be in jeopardy if the vulnerable adult does not appear to understand or have the capacity to make or communicate responsible decisions and is exposed to an immediate risk of death or serious physical harm. Paragraph (2) should read as follows:

"(2) The vulnerable adult appears to lack sufficient understanding or capacity to make or communicate responsible decisions and appears to be exposed to a situation or

condition that poses an immediate risk of  
death or serious physical harm."

Thank you for this opportunity to testify.



**STATE OF HAWAII**  
STATE COUNCIL  
ON DEVELOPMENTAL DISABILITIES  
919 ALA MOANA BOULEVARD, ROOM 113  
HONOLULU, HAWAII 96814  
TELEPHONE: (808) 586-8100 FAX: (808) 586-7543  
March 31, 2008

The Honorable Marcus R. Oshiro, Chair  
House Committee on Finance  
Twenty-Fourth Legislature  
State Capitol  
State of Hawaii  
Honolulu, Hawaii 96813

Dear Representative Oshiro and Members of the Committee:

SUBJECT: SB 2150 SD2 HD1 – RELATING TO ADULT PROTECTION

The position and views expressed in this testimony do not represent nor reflect the position and views of the Department of Health and Department of Human Services (DHS).

The State Council on Developmental Disabilities (DD) **SUPPORTS SB 2150 SD2 HD1**. The purpose of SB 2150 SD2 HD1 is to extend protections to vulnerable adults by expanding the adult protective services law and to appropriate funds for DHS to implement the bill.

The Council supports the efforts of DHS in expanding its authority to investigate allegations of vulnerable adult abuse, neglect, and financial exploitation when there is reason to believe that a vulnerable adult has been abused or is in danger of being abused if immediate action is not taken. Changing the term “dependent adult” to “vulnerable adult” will expand DHS’ authority to respond, monitor and intervene, and provide protections for a broader population of vulnerable adults.

The Council also supports clarifying that both licensed social workers and non-licensed persons in social worker positions as mandated reporters and supports, including a representative of the facility in which the vulnerable adult resides or is a patient as a party, are required to be issued notice of adult protective services proceedings.

The Council would be willing to work with DHS and other stakeholders to develop a plan to build the capacity of community-based services to help with the provision of services under this bill.

The Honorable Marcus R. Oshiro  
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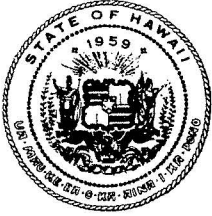
The Council defers to DHS for the appropriation necessary for FY 2008-2009 to implement the provision of the bill.

Thank you for the opportunity to submit testimony in support of SB 2150 SD2 HD1.

Sincerely,

A handwritten signature in black ink, appearing to read "Waynette K.Y. Cabral". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Waynette K.Y. Cabral  
Executive Administrator



## DISABILITY AND COMMUNICATION ACCESS BOARD

919 Ala Moana Boulevard, Room 101 • Honolulu, Hawaii 96814  
Ph. (808) 586-8121 (V/TDD) • Fax (808) 586-8129

March 31, 2008

### TESTIMONY TO THE HOUSE COMMITTEE ON FINANCE

Senate Bill 2150, SD2, HD1 – Relating to Adult Protection

The Disability and Communication Access Board (DCAB) is a statewide board with seventeen (17) members appointed by the Governor, thirteen (13) of whom are persons with disabilities or family members. The Board's mission is to advocate and promote full integration, independence, equal access, and quality of life for persons with disabilities in society. This testimony represents a position voted upon by the Legislative Committee of the Board.

We support Senate Bill 2150, SD 2, HD1 which increases adult protective services available to adults in the State who are victims of abuse or neglect. Individuals with disabilities who are eighteen years of age or older function in a wide range varying from independent to those who cannot make decisions for themselves and are in need of guardianship to assist with decision-making. Some of these individuals with disabilities may fit the definition of "vulnerable adult" but may not technically be "dependent" to be protected by this statute.

Regarding clarifying the types of social workers that are required to report abuse of vulnerable adults on page 15, lines 9-11, we defer to the National Association of Social Workers to ensure that it is consistent with their licensing standards.

We defer to the Department of Human Services regarding the appropriation in Section 30 of the bill.

Thank you for the opportunity to testify.

Respectfully submitted,

PATRICIA M. NIELSEN  
Chairperson  
Legislative Committee

FRANCINE WAI  
Executive Director



HOUSE COMMITTEE ON FINANCE

Rep. Marcus Oshiro, Chair

Conference Room 308

March 31, 2008 at 3:30 p.m. (Agenda #2)

**Testimony in support of SB 2150 SD 2 HD 1.**

I am Coral Andrews, Vice President 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 SB 2150 SD 2 HD 1, which amends Hawaii's adult protection law. Significantly, this bill extends the class of protected individuals from dependent adults to vulnerable adults.

The abuse, exploitation and neglect of vulnerable adults is well-documented as a national problem. Abuse happens everywhere -- in poor, middle class, and upper income households; in cities, suburbs, and rural areas.

Hawaii's adult protection law was originally passed in 1989. Since then, much has changed. We know much more about the reasons for the abuse of vulnerable adults and how to address it. This bill advances Hawaii's approach to protect vulnerable adults.

In 2007, the House and Senate passed different forms of a bill similar to the bill under consideration today, but the conference committee could not come to a compromise agreement. Hopefully, this bill will be successful this year.

Since the bill expands the State's authority, adequate staffing and training are needed to investigate cases and develop protective orders and service plans. The Healthcare Association supports funding for these purposes.

Last session's report by the House Committee on Human Services & Housing urges the affected agencies to develop a single form to report suspected cases of abuse or neglect. The law requires health care professionals, employees of health care providers, and certain others to report suspected cases of adult abuse. For each suspected case, three separate reports must be submitted to three separate government agencies, each of which has a different format. These reports can take hours to write. Much of the information is duplicative. The Healthcare Association agrees that a single format should be developed so that the report may be used by all three agencies.

For the foregoing reasons, the Healthcare Association supports SB 2150 SD 2 HD 1.



National Association of Social Workers

Hawaii Chapter

March 28, 2008

TO: Rep. Marcus Oshiro, Chair  
And members of the House Finance Committee

FROM: Debbie Shimizu, LSW, Executive Director  
National Association of Social Workers (NASW)

RE: SB 2150 SD2 HD1 Relating to Adult Protective Services- **STRONG SUPPORT**

Chair Oshiro and members of the House Finance Committee, I am Debbie Shimizu, Executive Director of the National Association of Social Workers, Hawaii Chapter. I am testifying in **STRONG SUPPORT of SB 2150 SD2 HD 1 relating to Adult Protective Services.**

Last session, NASW worked with advocates and the Kupuna Caucus on SB 1184 to amend HRS 346 to protect our state's vulnerable adults, however, that bill did not pass out of conference committee. During the interim, the Department of Human Services worked on a draft that incorporated many of the concerns that were expressed as we worked on SB 1184. NASW was invited to review DHS's initial draft and we were able to come to an agreement on a compromise draft. **SB 2150 SD2 HD1 represents a compromise between DHS and NASW relating to changes in Adult Protective Services.**

SB 2150 SD2 HD1 includes the following important changes:

- Adds definition of "vulnerable adult";
- Changes the definition of "abuse";
- Adds new definitions for "caregiver", "caregiver neglect", "financial exploitation", "physical abuse", "psychological abuse", "self neglect", and "sexual abuse";
- Mandates the department to investigate "upon receiving a report that abuse of a vulnerable adult has occurred OR is in danger of occurring if immediate action is not taken"; and
- Adds social workers to the list of mandated reporters when abuse of an elder is suspected.

We appreciate all the work the department has put into this new draft and the efforts the department is making to reorganize so positions can be transferred to implement these proposed changes. We respectfully request your favorable consideration of this bill.

Thank you for the opportunity to testify.



CATHOLIC CHARITIES HAWAII

TO: Representative Marcus R. Oshiro, Chair  
Representative Marilyn B. Lee, Vice Chair  
Committee on Finance

FROM: Diane M. Terada, Division Administrator

DATE: Monday, March 31, 2008 (3:30 p.m., Room 308)

RE: **Support of SB 2150, SD2, HD1, Relating to Adult Protection**

Catholic Charities Hawaii (CCH), is a tax exempt, non-profit agency that has been providing social services in Hawaii for 60 years. **We strongly support SB 2150, SD2, HD1, Relating to Adult Protection.**

The Agency has been providing supportive home and community based services to elders since 1973 and currently serves approximately 5,000 older persons each year with services ranging from professional counseling and case management to transportation services.

It has been our general experience that when APS accepts a case, they do an excellent job of addressing the needs of the abused/neglected individual. The challenge for provider agencies, like Catholic Charities Hawaii, is the restrictive definition of the current law, which limits the ability of APS to accept cases. SB 2150, SD2 would make it possible for APS to address problems at an earlier point, without having to wait for elders/other vulnerable adults to become abused, neglected and lose all hope.

**It is important that the bill retain the provision for funding to ensure that APS clients can receive the services they will need to remain safe in the community.**

Catholic Charities Hawaii asks for your support of SB 2150, SD2, HD1, Relating to Adult Protection. Thank you.