

**STATE OF HAWAII**  
STATE COUNCIL  
ON DEVELOPMENTAL DISABILITIES  
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March 27, 2008

The Honorable Suzanne Chun Oakland, Chair  
Senate Committee on Human Services and Public Housing  
Twenty-Fourth Legislature  
State Capitol  
State of Hawaii  
Honolulu, Hawaii 96813

Dear Senator Chun Oakland and Members of the Committee:

**SUBJECT: SCR 98 – REQUESTING THE AUDITOR TO CONDUCT A  
FINANCIAL AND MANAGEMENT AUDIT OF THE HAWAII  
DISABILITY RIGHTS CENTER**

The position and views expressed in this testimony do not represent nor reflect the position and views of the Department of Health.

The State Council on Developmental Disabilities (DD) would like to offer comments on **SCR 98**. The purpose of the measure is to request the Auditor to conduct a financial and management audit of the Hawaii Disability Rights Center (HDRC).

We appreciate the Legislature's concern about HDRC's handling of State funds and its approach to resolving the conflict between a patient's right to privacy and its need for access to the patient and the patient's records. The Council does not feel that a financial and management audit is necessary for the following reasons:

- 1) The Council, HDRC and the University of Hawaii, Center on Disability Studies (UH-CDS) have specific roles and responsibilities under the DD Assistance and Bill of Rights Act of 2000 (P.L. 106-402). In summary, DD Councils are required to engage in advocacy, capacity-building, and systemic change activities; Protection and Advocacy (P&A) systems (HDRC) are required to protect the legal and human rights of individuals with DD and their families; University Centers for Excellence in DD education, research and service (UH-CDS) are required to provide interdisciplinary pre-service preparation and continuing education, community service, research, and disseminate information.

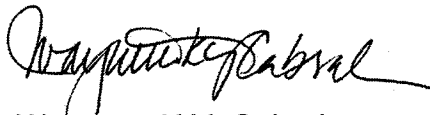
All three agencies are required to submit an annual program performance report and semi-annual financial status reports to the U.S. Department of Health and Human Services, Administration on DD.

- 2) With regard to the P&A systems, the law [Sec.143. (a)(2)(A)(B)] provides that the system shall have the authority to: a) pursue legal, administrative, and other appropriate remedies or approaches to ensure the protection of, and advocacy for the rights of individuals with DD; and b) to investigate incidents of abuse and neglect (see attached).
- 3) Sec. 143. (a)(2)(l) of the law provides access to all records of any individual with DD (see attached).

It is our understanding that HDRC also operates other P&A programs which require them to complete and submit program and financial reports. Should the Legislature decide that it is still necessary to add another financial and management review of HDRC, we are confident that they will fully cooperate in the audit.

Thank you for the opportunity to submit testimony and offer comments on SCR 98.

Sincerely,



Waynette K.Y. Cabral  
Executive Administrator

An Act

To improve service systems for NOTE: Oct. 30, 2000 - [S. 1809] individuals with developmental disabilities, and for other purposes.

Be it enacted by the Senate and House of NOTE: Developmental Disabilities Assistance and Bill of Rights Act of 2000. Representatives of the United States of America in Congress assembled.

SUBTITLE C- PROTECTION AND ADVOCACY OF INDIVIDUAL RIGHTS

SEC. 143. NOTE: 42 USC 15043. SYSTEM REQUIRED.

- (a) System Required.--In order for a State to receive an allotment under subtitle B or this subtitle--
- (1) the State shall have in effect a system to protect and advocate the rights of individuals with developmental disabilities;
  - (2) such system shall--
    - (A) have the authority to--
      - (i) pursue legal, administrative, and other appropriate remedies or approaches to ensure the protection of, and advocacy for, the rights of such individuals within the State who are or who may be eligible for treatment, services, or habilitation, or who are being considered for a change in living arrangements, with particular attention to members of ethnic and racial minority groups; and
      - (ii) provide information on and referral to programs and services addressing the needs of individuals with developmental disabilities;
    - (B) have the authority to investigate incidents of abuse and neglect of individuals with developmental disabilities if the incidents are reported to the system or if there is probable cause to believe that the incidents occurred;
    - (C) on an annual basis, develop, submit to the Secretary, and take action with regard to goals (each of which is related to 1 or more areas of emphasis) and priorities, developed through data driven strategic planning, for the system's activities;
    - (D) on an annual basis, provide to the public, including individuals with developmental disabilities attributable to either physical impairment, mental impairment, or a combination of physical and mental impairment, and their representatives, and as appropriate, non-State agency representatives of the State Councils on Developmental Disabilities, and Centers, in the State, an opportunity to comment on--
      - (i) the goals and priorities established by the system and the rationale for the establishment of such goals; and
      - (ii) the activities of the system, including the coordination of services with the entities carrying out advocacy programs under the Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.), the Older Americans

Act of 1965 (42 U.S.C. 3001 et seq.), and the Protection and Advocacy for Mentally Ill Individuals Act of 1986 (42 U.S.C. 10801 et seq.), and with entities carrying out other related programs, including the parent training and information centers funded under the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.), and activities authorized under section 101 or 102 of the Assistive Technology Act of 1998 (29 U.S.C. 3011, 3012);

- (E) establish a grievance procedure for clients or prospective clients of the system to ensure that individuals with developmental disabilities have full access to services of the system;
- (F) not be administered by the State Council on Developmental Disabilities;
- (G) be independent of any agency that provides treatment, services, or habilitation to individuals with developmental disabilities;
- (H) have access at reasonable times to any individual with a developmental disability in a location in which services, supports, and other assistance are provided to such an individual, in order to carry out the purpose of this subtitle;
- (I) have access to all records of--
  - (i) any individual with a developmental disability who is a client of the system if such individual, or the legal guardian, conservator, or other legal representative of such individual, has authorized the system to have such access;
  - (ii) any individual with a developmental disability, in a situation in which--
    - (I) the individual, by reason of such individual's mental or physical condition, is unable to authorize the system to have such access;
    - (II) the individual does not have a legal guardian, conservator, or other legal representative, or the legal guardian of the individual is the State; and
    - (III) a complaint has been received by the system about the individual with regard to the status or treatment of the individual or, as a result of monitoring or other activities, there is probable cause to believe that such individual has been subject to abuse or neglect; and
  - (iii) any individual with a developmental disability, in a situation in which--
    - (I) the individual has a legal guardian, conservator, or other legal representative;
    - (II) a complaint has been received by the system about the individual with regard to the status or treatment of the individual or, as a result of monitoring or other activities, there is probable cause to believe that such individual has been subject to abuse or neglect;
    - (III) such representative has been contacted by such system, upon receipt of the name and address of such representative;...