

SB 1191



February 10, 2009
1:15pm
Conference room 016

To: Sen. Suzanne Chun Oakland, Chair
Sen. Les Ihara, Jr., Vice Chair
Senate Human Services Committee

Sen. David Ige, Chair
Sen. Josh Green, M.D., Vice Chair
Senate Health Committee

From: Paula Arcena
Legislative and Community Liaison

Re: **SB1191 Relating to the Purchases of Health and Human Services**
(Specifies that proposals for purchases of health and human services must be submitted by duly licensed providers and for the exact amount to be expended by the State)

My name is Paula Arcena, I am the Legislative and Community Liaison for AlohaCare.

AlohaCare is a non-profit health insurance company, founded by community health centers, to serve the most medically fragile populations in Hawaii. These groups include low-income families, the aged, the disabled and many other groups. Serving the healthcare needs of the people of Hawaii with aloha is our mission. AlohaCare has more than 60,000 health plan members, 1,200 of which are Medicare members.

Thank you for the opportunity to testify in strong support of SB1191.

We support this measure because we believe it will provide transparency and clarity and correct problems that occurred in Department of Human Services bidding process for Medicaid contracts.

First, SB1191 would insure that entities contracted to provide health and human services are appropriately licensed to provide those services.

- It is warranted that insurers for the aged, blind and disabled population, the QUEST Expanded Access program, be held to higher more regulated standard such as those required by Health Maintenance Organization (HMO) licensure as defined by HRS Chapter 432D or a mutual benefit society licensed as defined HRS Chapter 432.
- Currently, one QUEST Expanded Access program insurer is operating under the indemnity license of its parent company.
- This is of concern because indemnity licensure requirements are less stringent than HMO licensure requirements.

Second, SB1191 is important to insure that the legislature's authority to tax or rebate a tax is upheld.

- On December 18, 2008, the Hawaii Supreme Court decided in the case of Hawaii Insurers Council vs. Lingle (No. 27840), that only the Hawaii State Legislature is empowered to tax or not tax persons or entities, and that the Executive Branch does not have the power to waive or otherwise rebate taxes imposed by the Legislature.
- DHS has rebated or paid for-profit insurers contracted for the QUEST Expanded Access Program either state excise tax or insurance premium taxes.
- This bill is necessary to prevent the Executive Branch from waiving or exempting the payment of existing or future tax levies.
- This bill will make it clear that taxes will be fully paid.

Thank you for this opportunity to testify.



STATE OF HAWAII
DEPARTMENT OF HUMAN SERVICES
P. O. Box 339
Honolulu, Hawaii 96809-0339

February 10, 2009

MEMORANDUM

TO: Honorable Suzanne Chun Oakland, Chair
Senate Committee on Human Services

Honorable David Y. Ige, Chair
Senate Committee on Health

FROM: Lillian B. Koller, Director

SUBJECT: **S.B. 1191 – RELATING TO THE PURCHASES OF HEALTH AND HUMAN SERVICES**

Hearing: Tuesday, February 10, 2009, 1:15 PM.
Conference Room 016, State Capitol

PURPOSE: The purposes of this bill is to specify that proposals for purchases of health and human services must be submitted by duly licensed providers and for the exact amount to be expended by the State.

DEPARTMENT'S POSITION: The Department of Human Services (DHS) strongly opposes this bill because it is unfair to non-profit contracting entities and decreases fair competition among potential bidders.

This bill adds a barrier to fair competition in the bidding process by disadvantaging the entry of new insurers into the Hawaii market. Decreased competition negatively impacts the potential enrollees and the taxpayers.

DHS seeks fair competition to ensure the highest quality care for its clients and best value to the State taxpayers.

The licensure process can be time consuming and expensive. Bidders should not be required to have gone through that process ahead of time; however, if a contract is awarded, then DHS ensures that ample time is provided for the winning bidder(s) to obtain appropriate licensure.

The Request For Proposal (RFP) specifies timelines for requiring licensure based on DHS' requirements. Since this issue is already addressed in the procurement process, there is no need to change procurement law. If the start date is expected to be shortly after the award, then DHS may require licensure at the time of bidding, but the timing should be designed to meet DHS needs without disincentivizing potential bidders.

The second part of the bill requiring proposals to list the exact amount to be expended by the State is unclear. Ignoring the return to the State through taxes creates an incomplete and unfair picture.

For contracts with for-profit entities, the net amount expended by the State is the amount of the contract less the amount collected in taxes. This equals the pre-tax amount.

This bill would, in fact, disadvantage non-profit entities. Because approximately 55% of the taxes collected by the State from for-profit entities is Federally funded, the net State expenditure is reduced and would be below the pre-tax amount.

However, if the intent is to create a barrier for for-profits to contract with the State by considering only contract expenditures and not consider tax revenue, then for-profits will be required to operate at a more than 4% discount compared to non-profits.

DHS has contracts with numerous for-profit small businesses. This provision, if applied as described in the previous paragraph, would substantially impact their ability to be competitive in a bidding process. As a result of this bill, people will likely lose jobs and many small businesses may go out of business.

Thank you for the opportunity to testify.



STATE OF HAWAII
DEPARTMENT OF HUMAN SERVICES
OFFICE OF YOUTH SERVICES
820 Milliani Street, Suite 817
Honolulu, Hawaii 96813

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February 10, 2009

TO: The Honorable Suzanne Chun-Oakland, Chair
Senate Committee on Human Services

The Honorable David Y. Ige, Chair
Senate Committee on Health

FROM: Martha T. Torney, Executive Director

SUBJECT: **SB1191, RELATING TO THE PURCHASES OF HEALTH AND
HUMAN SERVICES**

Hearing: Tuesday, February 10, 2009, 1:15 a.m.
State Capitol, Conference Room 016

The Office of Youth Services does not support SB1191 as it would be costly to implement and not beneficial for the process of purchasing services. The OYS awards contracts for a variety of services for youth and families to multiple provider agencies for which there are currently no state licensing requirements. As written, this bill would greatly restrict the number of providers qualified to respond to a request for proposals issued by the OYS since the majority of current provider agencies would be prohibited from submitting proposals. The development of a licensing system for all service agencies could be very costly and not practical or prudent given the current economic situation.

The current procurement process requires the applicant propose a dollar amount to provide the proposed services and the State determines the amount of the award for the services based on the availability of funds and the quality of the proposal. During the contract negotiations, proposed budgets may be revised downward. It would not be in the

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Senate Committees on Human Services
And Health
February 10, 2009
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best interest of the State to make contracts for the exact amount of the proposals submitted in response to a request for services.

Thank you for the opportunity to present this testimony.



Waianae Community Outreach

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**HOPE for a New Beginning Shelter
(Helping Our People Excel)**

*Bldg 50 Belleau Woods, Kapolei, Hi 96707
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Partnerships in Building Community

Mission

Provide Comprehensive services with Aloha to individuals & families in need so they can become Self-Sufficient

Vision

Healthy Self-Sufficient Resilient Individuals & Families

Values

- U**nderstanding
- R**espect
- R**esponsibility
- I**ntegrity
- C**ompassion
- H**onesty

"I put my hand in your hand, what I cannot do alone, we will do together"

Date: February 9, 2009

To: Sen. S. Chun-Oakland, Chair Human Services
Sen. L. Ihara Jr., Vice Chair Human Services
Sen. D. Ige, Chair Health Committee
Sen. J. Green, Vice Chair Health Committee

Hearing: February 10, 2009 at 1:15pm Rm: 016

Measure: **SB 1191: TO THE PURCHASE OF HEALTH AND HUMAN SERVICES**

Aloha Chairs, Vice Chairs and committee members:

My name is Kanani Kaaiawahia Bulawan. I'm a retired executive director and currently the board of directors's advisor for Waianae Community Outreach, a non-profit organization serving the houseless and needy of our community. For more than 8 years we have been contracted by the State of Hawaii, Homeless branch to provide homeless outreach and housing services. Most currently we operate the HOPE for a New Beginning shelter at Onelau'ena in Kalaeloa, a State owned facility.

We are **NOT IN SUPPORT OF THIS BILL** and request that **YOU NOT SUPPORT THE PASSAGE**. The bill does not clarify "provider duly licensed" and therefore may imply that orgainziations like ours may not be qualified to contract for services based on the naure of our agency and the services being offered to the public. We are a "training" organziation / employment and depend on building relationships in the community to assure the delivery of needed services are provided by the "experters".

Mahalo for your time and consideration in hearing this bill; I ask that you not waste anymore valuable time to consider measure such as this without understained the total impact that would affect our communities. Should you have questions or need additional information feel free to call me at 682-4673, 426-4647 or 783-9302,

Mahalo,