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

February 4, 2010

MEMORANDUM

TO: Honorable John M. Mizuno, Chair
House Committee on Human Services

Honorable Ryan I. Yamane, Chair
House Committee on Health

FROM: Lillian B. Koller, Director

SUBJECT: H.B. 2155, RELATING TO CASE MANAGEMENT

Hearing: Thursday, February 4, 2010, 9:00 a.m.
Conference Room 329, State Capitol

PURPOSE: The purposes of H.B. 2155 are to require case management agencies and case managers to adhere to a professional code of conduct, and to establish the requirements for this code of conduct.

DEPARTMENT'S POSITION: The Department of Human Services (DHS) respectfully opposes this bill.

Codes of professional conduct are developed and enforced by professional and national accrediting organizations. For Home and Community-Based Case Management Agencies licensed by DHS, case managers are required to be Registered Nurses or licensed Social Workers. Both professions have their own licensing

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requirements specified by State statutes. Professional codes of conduct are not included in any of these State statutes.

Because this bill does not provide a definition of case managers, it is not clear which individuals in the public and private sectors are affected by its provisions.

Thank you for this opportunity to testify.

COMMITTEE ON HUMAN SERVICES

Rep. John M. Mizuno, Chair
Rep. Tom Brower, Vice Chair

HB2155

Rep. Della Au Belatti Rep. Maile S.L. Shimabukuro
Rep. Joe Bertram, III Rep. Ryan I. Yamane
Rep. Mele Carroll Rep. Gene Ward
Rep. Scott Y. Nishimoto

COMMITTEE ON HEALTH

Rep. Ryan I. Yamane, Chair
Rep. Scott Y. Nishimoto, Vice Chair

Rep. Della Au Belatti Rep. John M. Mizuno
Rep. Joe Bertram, III Rep. Maile S.L. Shimabukuro
Rep. Tom Brower Rep. Lynn Finnegan
Rep. Mele Carroll

NOTICE OF HEARING

DATE: Thursday, February 4, 2010
TIME: 9:00am
PLACE: Conference Room 329
 State Capitol
 415 South Beretania Street

Chair Mizuno, Chair Yamane, members of the committees:

My name is Donna Schmidt. I am President of Case Management, Inc. a group of case managers met through out 2009 discussing the issue of state wide standards. Following are the final recommendations for that group.

Adopting state wide standards for case managers working with individuals at an ICF/SNF level of care in a community based setting would provide consumer protection and set a uniform standard of care for those being served by professional case managers.

1. Professional geriatric care management is a growing specialty and
2. increasing numbers of elderly consumers are required to hire case managers to reside in residential care and
3. residential care as an alternative to nursing home care must expand in order to meet the growing needs of Hawaii's frail elders and
4. consumers are not aware of the role and function of a case manager and
5. increasing numbers of individuals are establishing private practice as case managers and
6. consumers are at risk of being exploited in times of need
7. Adopting statewide standards of care for case managers serving those who are residing in residential settings at an intermediate or skilled level of nursing care will establish minimum standards of practice.
8. The Case Management Society of America is a national organization whose standards of care are widely accepted across case management practice settings. (attached)
9. The Case Management Society of America defines case management as: "a collaborative process of assessment, planning, facilitation and advocacy for options and services to meet an individual's health needs through communication and available resources to promote quality cost-effective outcomes."
10. Adopting statewide standards of care will provide consumer protection and set a uniform standard of care for those being served by professional care managers.

Thank you for the opportunity to submit testimony.

Best Regards,

Donna Schmidt, LCSW
President
Case Management, Inc.

Kanani Kaaiawahia Bulawan

TESTIMONY – SUPPORT AS WRITTEN
HB 2155: RELATING TO CASE MANAGEMENT

TO: **Rep. John Mizuno, Chair**, Rep. T. Brower, Vice Chair, and Members, House Committee on Human Services

Rep. R. Yamane, Chair, Rep. S. Nishimoto, Vice Chair, and Members, House Committee on Health

HEARING: **Thursday, February 4, 2010 9:00 AM CR: 329**

Aloha Chairs Mizuno and Yamane, Vice Chairs Brower and Nishimoto, and members of the committees:

Thank you for the opportunity to provide testimony on this bill. I'm Kanani Kaaiawahia Bulawan, a case manager and a retired executive director of an organization that primarily provides comprehensive case management services to homeless and at risk of homeless individuals and families in the Leeward Community. I **SUPPORT** this bill which would assure every case manager operates under a "Code of Conduct" and holds the non-professionals and para-professionals who work with clients needing case management services accountable and responsible for the outcome of services and success of the clients managed cared.

As a retired professional who have been blessed with the responsibility of training the non-professional and para-professional in serving the homeless and at risk of homeless population in our community, I found that individuals who are task with case management services to a client maintains a code of conduct that relates to roles and responsibilities, and relationships and accountable between the case manager, the client, other involved, and the agencies involved with meeting the holistic plans for wellness.

I commend the committee and chair for taking on this challenge to give our clients professional services. Mahalo for giving me this time and for hearing my testimony.

To: COMMITTEE ON HUMAN SERVICES
COMMITTEE ON HEALTH

Re: HB 2155 - RELATING TO CASE MANAGEMENT

My name is Debbie Borgonia. I am a Registered Nurse now a full time foster home primary caregiver, and a member of Adult Foster Home Association of Hawaii. I have been an active provider in this program for over 8 years. I am very grateful to this particular Case Management Agency (CMA), the Case Management Inc. for giving me the chance to work with them in such a long time. I started and experienced with them and became a part of their growing team. They never let me down.

As years passed by, I had the chance of working from one CMA to another. Admitting clients/patients were not easy and more so, finding the right patient/family for the home is a real challenge. It was good to have that opportunity to move from one CMA to another in that I get to learn from different agencies' staff and know them better. It was fun and exciting at first...but not anymore.

My personal experience is no different from any other caregiver. The only thing that makes me different is that, I express myself, but most of them don't. They have reasons to be intimidated...they don't want to lose their patients, they don't want CMA's to know they are against them and they'd rather keep their mouth shut than losing their only source of income.

Many of us are unable to attend meetings from time to time therefore we rely on what we hear and what is read from our newsletter. Aside from the newsletter, it's also a habit to call each other and communicate by phone. During this process, caregivers talk of their current situation, problems, concerns and dilemmas. We listen to each other and give advice or suggest what we think is right. I myself always encourage my care giving friends to ask assistance from their respective CMAs. Caregivers do that.. We help each other, but not all things are possible with CMAs, not all help is helpful and effective, not all friends are friendly. Problems come and stay...we feel we don't have anyone to turn to when we have problems with our care giving jobs.

My experience as a caregiver is almost too good to be put in a book...a short story book. This was my first challenging ordeal. My client was private pay. We agreed that I get paid \$3,500 each month until the client's money is exhausted (spend-down). The client's funds ran out and so the family and CMA worked together to apply for Medicaid benefits. CMA notified me that the client is on Medicaid and while waiting for the Medicaid number (proof of approval), client will pay at Medicaid rate (\$2,500) instead of Private pay rate. The application was denied at that time due to client's more than enough assets to be qualified for Medicaid, and the client through her daughter who handles her financial activities, should still be responsible for paying for my service fees. It is not only that the client owed me for my service fees, she also owed me for prescriptions' co-payments. I paid for the co-pay because the family promised for refunds as I show them the receipts from the Pharmacy. My CMA claimed she did everything to help me get paid from the family to no avail, client's family claimed they should pay what CMA requires them to pay ignoring the service fee agreement. It took me more than a year to figure out what to do. I called so many people from Department of Health, Department of Human Services (DHS), Ombudsman, Liaison Officers, Social Workers, none was able to help me. Community Ties of America (CTA) which is an agent of DHS, said they don't deal with private pay problems and suggested to see a counselor or a lawyer if

payment can't be resolved between client/family and me. I felt so alone. I was surprised nobody could help me, because per Hawaii Administrative Rules, Title 17, 1454-20(5), "case management service responsibilities, such as but not limited; Client budgetary procedures", is this not to be complied with and implemented by State agency? So we ended up in Small Claims Court. CMA was not happy I dragged them in the court along with client's family...not proud of it but someone had to. Never the less, I must say the judgment was in my favor. No, I did not get paid, unfortunately, the family believed it was the client (their mother) who was to pay me (although it was very clear that the daughter manages the client's funds by the checks I received from her in the past months), she passed away and the family did not say anything to me...God will reward me for it.

Then a good friend of mine had the same problem. Patient ran out of money, unable to pay the caregiver and Medicaid doesn't pay until patient is approved for Medicaid benefits...her and another and another caregivers. How many more of us will undergo the same ordeal before somebody has to take charge. We feed patients whether they pay us or not, care continues, services remain the same. Yet the people we expect to help are not capable or not willing of help when we need it most. This experience prompted me to make this letter and make someone hear that this thing among others is really happening. What about a caregiver having problems with transporting patient to the hospital due to eligibility problem due to negligence of CMA processing necessary documentation? Also, Logisticare/TMS (Medicaid non-emergency transport contractors) require us to call at least 3 days prior to transport arrangement, but if something happens during the weekend or after office hours, CMA's are not there to assist us. What about a caregiver who did not get paid in months, a caregiver who's having problem with CTA? What about a CMA who asks \$500 from a caregiver prior to providing her private-pay patient? What about a CMA threatening her caregiver of not giving her patient especially private pay until said caregiver buys the product she's selling? Latest I heard is a caregiver giving gifts to CMA-bribing to get the best patient? Is there any disciplinary action for such conduct? Is there anything specific as to what CMA's can and can't do?

CMA's conducts and behavior have become our concern. It's not heard, it's not known, all because caregivers are intimidated by their CMA's, they are afraid to lose a patient and not able to replace only because said caregiver opened her mouth. Some are humiliated and embarrassed in front of others, some are being laughed at and looked down. We know this is happening as we talk to each other in secrecy. **And most of all, due to non-existence of specific law that governs the professional conduct of case management agencies and case managers.** Now this is the chance to voice out. With this letter, I am hoping someone will put it into consideration and assess the situations. As a caregiver myself, it hurts to hear about my fellow caregivers' grief and yet I just can't do anything to help them. We think CMA's are getting paid well enough to be able to handle problems when it arise and be there for us when we need them. Not all CMAs are negligent to their responsibilities, but with H.B. No. 2155, this will be deterrence to unscrupulous CMAs who are preying clients and caregivers with strict oversight by concerned State Department/s.

Please pass H.B. No. 2155.

AFHA - ADULT FOSTER HOMECARE ASSOCIATION

P.O. Box 970092
Waipahu, Hawaii 96797

February 3, 2009

Testimony in **Strong Support of HB 2155** – HUS/HLT - Feb. 4, 2009, 9:00 a.m., Rm. 329

Chairs Mizuno and Yamane, and Members of the Committees:

The Adult Foster Home Association (AFHA) **strongly supports HB 2155**. AFHA applauds this collective effort among stakeholders including the case management industry. Certainly, caregivers need case management, and many case managers are dedicated, conduct their business with integrity, and provide quality support. As in any industry, however, “bad apples” many times can ruin an entire profession. Therefore, case management standards, which are currently inadequate, must be enacted.

First, AFHA believes case management standards are necessary for consumer protection and to prevent fraud and abuse. Caregivers sometimes complain about the inequitable standards used by case managers in placing clients/residents. Allegations of fraud surface from time to time. Specifically, as case managers can have significant control in placing clients/residents in specific homes, some unscrupulous case managers would accept expensive gifts like *Louis Vuitton* bags in return for placement of a “good” client. A lack of a “gift” may sometimes mean the lack of a placement or referral.

Second, this bill will standardize services provided by case managers. Currently, there is a great disparity between the standards of each agency. As noted above, many case managers provide valuable services to clients and their families as well as to caregivers. Some case managers, however, provide a much lower level of support, including those that will visit their clients only once a month and spend a mere hour per month on a client. The disparity is simply unfair to agencies that provide a high level of service.

Finally, this bill will go a long way to further legitimize the case management industry. Many people question, “what do case managers do? Why do we need them?” These standards provide concrete answers to these questions and set the bar for agencies. Hence, these standards will guide the expectations of consumers, end-users, caregivers, and case managers themselves.

For these reasons, AFHA strongly supports HB 2155.

Very truly yours,

Adult Foster Home Association

Lani Akee, President

Nancy Atmospera-Walch, RN, BSN, MPH, LNHA, CHES, CCHN, CMC
n.walch@yahoo.com

Testimony in Strong SUPPORTS of HB 2155 requiring case management agencies and case managers to adhere to a professional code of conduct. Establishes requirements for code of conduct.

Chairman Mizuno, I request that it be amended to follow the “Code of Professional Conduct for Case Managers with Standards, Rules, Procedures, and Penalties.”

February 4, 2010
9:00 am, Thursday
Hawai'i State Capitol Conference Room 329

Relating to Case Management:

LATE
Testimony

COMMITTEE ON HUMAN SERVICES

Honorable Rep. John M. Mizuno, Chair
Honorable Rep. Tom Brower, Vice Chair
Honorable House Committee on Human Services Members
Rep. Della Au Belatti
Rep. Joe Beltram, III
Rep. Mele Carroll
Rep. Scott Y. Nishimoto
Rep. Maile S. L. Shimabakuro
Rep. Ryan Yamane
Rep. Gene Ward

Hon. Chair John M. Mizuno, Hon. Vice-Chair Tom Brower, Committee on Human Services Members, Good Morning and ALOHA!

I am Nancy Atmospera-Walch, a Licensed Registered Nurse and a Certified Case Manager. I am here this morning in Strong Support of HB 2155 as it relates to requiring case management agencies and case managers to adhere to a professional code of conduct.

However, I am requesting that it be amended to follow the “Code of Professional Conduct for Case Managers with Standards, Rules, Procedures, and Penalties” as adopted by the Commission for Case Manager Certification for the following reasons:

- ❖ Evidenced Based Standards and Initiatives– This is the 3rd revision, (1995, 2002 & 2009) and it is based on research and practice with full references.

- ❖ Developed by highly educated professionals and practitioners of Case Management – “They have learned the knowledge and skills and they have walked the talk!”
- ❖ Nationally developed Standards that is Encompassing the Professional CM Practice, Qualification, Accountability and Ethics
- ❖ Healthcare Consumer Outcome Focused
- ❖ Encompassing of all the Practices and Qualifications a CM does or must have in regardless of settings
- ❖ National & International Multidisciplinary Memberships, Chapters and Alliances
- ❖ Networking, Educational and Legislative Initiatives for Case Management as a Profession
- ❖ Strong in Advocacy for CM in Washington DC for:
 - Payment of CM services (not bundled)
 - CM as a part of the Health Care Strategy
 - Up to Date with ongoing health care changes

Following the Code of Professional Conduct for Case Managers with Standards, Rules, Procedures, and Penalties” as adopted by the Commission for Case Manager Certification will support the statement on page 7, line 8 section K item (1) which states “Report promptly to the Commission for Case Manager Certification.....” It would really be odd to be reporting any violation of conduct when it is not really their “Code of Conduct.”

Some would probably say, that the Code of Professional Conduct for Case Managers with Standards, Rules, Procedures, and Penalties” by the Commission for Case Manager Certification, but are we not supposed to set the highest standards in pursuit of excellence especially for quality care of the patients that we care. Therefore, I say to those that have that thinking that let us ALL DO THE RIGHT THING FOR THE RIGHT REASON. This means that our decision or recommendation should not be self-serving and instead, it should be made based on what is good for the Case Management Profession, in order that the people that we serve will ultimately be the beneficiary of “Quality and Safe Care.” Let us support and make a recommendation that would really be the "Best Practice" for Case Managers as opposed to supporting or recommending with what we personally like.

Honorable Chair and all members of the Committee, thank you for giving me the opportunity to testify!

Catherine Hage
P.O. Box 283131
Honolulu, HI 96828
hage@hawaii.edu

Master's Degree Student at the Myron B. Thompson School of Social Work, UH Manoa

To: Joint House Committee on Human Services and Health
Representative Mizuno, Chair
Representative Yamane, Chair
Date: February 4, 2010- Conference Room 329 - 9:00 am

LATE
Testimony

Re: HB 2155, RELATING TO CASE MANAGEMENT

Dear Chairs Mizuno and Yamane, and Committee Members:

Aloha, my name is Catherine Hage, and I am a master's degree student at the Myron B. Thompson School of Social Work at UH Manoa. I testify today in favor of House Bill 2155.

The National Association of Social Workers sets forth a code of ethics that honors diversity and protects populations from discrimination based on such characteristics as ethnicity, gender, ability level, religion and sexual orientation. Clients are vulnerable, needing favorable reports to law enforcement officials, family court judges, schools, or prospective employers, as well as goods and services from case managers who are in positions of power.

Clients are often in the care of case managers because of serious life challenges such as poverty, abuse, addictions, learning disabilities, and suffering at the physical, mental, emotional, and spiritual levels. The intention in receiving the assistance of case managers is to remove blocks from clients to leading happy and beneficial lives for themselves and those around them. If instead they are discriminated against, used as pawns in business deals, or sexualized, they not only lose essential resources, they may become disenfranchised with the system, at risk of dropping out of society, becoming homeless or turning to criminal activities due to a betrayal of trust when they were at a pivotal point.

I am impressed that this bill protects lesbian, gay, bisexual, transgender, and intersex clients by including "sexual orientation" in its anti-discrimination clause. LGBTI youth are a significant percentage of the homeless, having found no safe haven at home, school, or within the agencies they come in contact with. On the streets they are subject to the horrors of sexual predators and violence, as well as deprivation. House Bill 2155 could provide agencies and case managers needed guidance in preventing either intentional or unknowing harm to clients, which would benefit those individuals, their families, and our community as they are given an opportunity to safely discover and share their gifts and talents.

Mahalo for this opportunity to testify in favor of HB 2155.

From: mailinglist@capitol.hawaii.gov
Sent: Wednesday, February 03, 2010 5:49 PM
To: HUSTestimony
Cc: bryan@andayalaw.com
Subject: Testimony for HB2155 on 2/4/2010 9:00:00 AM

LATE
Testimony

Testimony for HUS/HLT 2/4/2010 9:00:00 AM HB2155

Conference room: 329
Testifier position: support
Testifier will be present: No
Submitted by: MARIA ETRATA
Organization: The Primary Care Providers
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Submitted on: 2/3/2010

Comments: