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PRESENTATION OF
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
REGULATED INDUSTRIES COMPLAINTS OFFICE

TO THE HOUSE COMMITTEE ON
CONSUMER PROTECTION AND COMMERCE

TWENTY-FIFTH STATE LEGISLATURE
REGULAR SESSION, 2010

WEDNESDAY, MARCH 24, 2010
2:00 P.M.

TESTIMONY ON SENATE BILL NO. 2898 S.D.1 H.D.1
RELATING TO DIVERSION PROGRAM FOR CHEMICALLY DEPENDANT NURSES

TO THE HONORABLE ROBERT N. HERKES, CHAIR,
AND TO THE HONORABLE GLENN WAKAI, VICE CHAIR,
AND MEMBERS OF THE COMMITTEE:

The Department of Commerce and Consumer Affairs' Regulated Industries Complaints Office ("RICO") appreciates the opportunity to testify on Senate Bill No. 2898 S.D.1 H.D.1, Relating To Diversion Program For Chemically Dependant Nurses. My name is Jo Ann Uchida, RICO's Complaints and Enforcement Officer. RICO takes no position on Sections 1 and 2 of the bill, but offers the following comments on Sections 3 and 4 of the bill.

Senate Bill No. 2898 S.D.1 H.D.1 amends Chapter 334D, Hawaii Revised Statutes ("HRS"), to allow the Board of Nursing to recognize alternative sponsors

for diversion programs for chemically dependent nurses. The bill also clarifies disciplinary and reporting requirements.

Section 3 of the bill, at page 4 lines 7-11, expands the function of the diversion program to include, in addition to rehabilitation and where appropriate, the assessment of whether a nurse can or should continue the practice of nursing in a manner that is beneficial to the public. The added function will strengthen the diversion program for the safety of consumers.

The bill, at page 5 lines 15-20, also clarifies that only those nurses who have fully complied with Chapter 334D, HRS, and its administrative rules, and who have completed all the requirements of the diversion program are not subject to further disciplinary action under §334D-12(a)(4), HRS.

Section 4 of the bill, at page 6 lines 10-18, provides that the records of a nurse participating in a diversion program are privileged and excluded from discovery or subpoena by persons or entities other than a law enforcement agency investigating the conduct of the nurse, the Board, or RICO. Since RICO cannot pursue disciplinary action unless it has evidence of a violation or violations, the language authorizing disclosure of records to RICO will enable it to obtain the treatment records relating to a nurse who fails to comply with the diversion program or who suffers a lapse after a "successful" completion of the program.

Thank you for this opportunity to testify on Senate Bill No. 2898 S.D.1 H.D.1. I will be happy to answer any questions that the members of the Committee may have.



UNIVERSITY OF HAWAII SYSTEM

Legislative Testimony

Written Testimony Presented Before the
House Committee on Consumer Protection and Commerce

March 24, 2010, 2:00 p.m.

by

Virginia S. Hinshaw, Chancellor
and

Mary G. Boland, DrPH, RN, FAAN
Dean and Professor

School of Nursing and Dental Hygiene
University of Hawai'i at Mānoa

SB 2898 SD1 HD1 RELATING TO DIVERSION PROGRAM FOR CHEMICALLY DEPENDANT NURSES

Chair Herkes, Vice Chair Wakai, and members of the House Committee on Consumer Protection and Commerce, thank you for this opportunity to provide testimony in support of this bill, SB 2898 SD1 HD1, amending requirements of the diversion program for chemically dependent nurses to allow the Board of Nursing to recognize alternative program sponsors.

We support the Board of Nursing's role to recognize additional third-party sponsors to provide expertise and treatment support to chemically-dependent nurses in their rehabilitation process. This bill clarifies the conditions regarding disciplinary action to protect the consumer while supporting the nurse's rehabilitation. By implementing this act, the foundation for a non-punitive approach that balances treatment, monitoring and commitment to patient safety will be established. The Board of Nursing will be able to identify and establish working relationships with peer assistance and diversion programs for the nursing community.

We appreciate your continuing support of nursing and healthcare in Hawai'i. Thank you for the opportunity to testify.

**PRESENTATION OF THE
BOARD OF NURSING**

TO THE HOUSE COMMITTEE ON
CONSUMER PROTECTION AND COMMERCE

TWENTY-FIFTH LEGISLATURE
Regular Session of 2010

Wednesday, March 24, 2010
2:00 p.m.

**TESTIMONY ON SENATE BILL NO. 2898, S.D. 1, H.D. 1, RELATING TO DIVERSION
PROGRAM FOR CHEMICALLY DEPENDANT NURSES.**

TO THE HONORABLE ROBERT N. HERKES, CHAIR,
AND MEMBERS OF THE COMMITTEE:

My name is Kathy Yokouchi and I am the Executive Officer of the Board of Nursing ("Board"). I thank you for the opportunity to present testimony in strong support of Senate Bill No. 2898, S.D. 1, H.D. 1. Relating to Diversion Program for Chemically Dependant Nurses.

This bill amends the requirements for diversion programs for chemically dependent nurses to allow the Board to recognize alternative program sponsors. It clarifies disciplinary and report requirements. It includes the amendments proposed by the Department of Commerce and Consumer Affairs' Regulated Industries Complaints Office when this bill was heard by the Senate Committee on Commerce and Consumer Protection.

For these reasons, the Board of Nursing strongly supports Senate Bill No. 2898, S.D. 1, H.D.1, Relating to Diversion Program for Chemically Dependant Nurses. Thank you for the opportunity to testify.



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The Twenty-Fifth Legislature, State of Hawaii
Hawaii State House of Representatives
Regular Session of 2010
Committee on Consumer, Protection & Commerce

Testimony by
Hawaii Government Employees Association
March 24, 2010

S.B. 2898, S.D.1, H.D. 1 – RELATING TO DIVERSION PROGRAM FOR
CHEMICALLY DEPENDENT NURSES

The Hawaii Government Employees Association, AFSCME Local 125, AFL-CIO supports the purpose and intent of S.B. 2898, S.D. 1, H.D. 1 – Relating to Diversion Program for Chemically Dependent Nurses. In 1993 Session Laws of Hawaii, the legislature established a diversion program for nurses with chemical dependency problems and placed the program under the oversight of the Board of Nursing. Under existing law, only nurses who have been reported by the Hawaii Nurses Association (HNA) are able to participate in the diversion program. Allowing the Board of Nursing to recognize programs provided by additional sponsors that meet the board's requirements would better serve the public.

The current law precludes the Board of Nursing from disciplining nurses who abide by the terms and conditions of the diversion program. Continuing this policy of no disciplinary action against a nurse who has successfully complied with the diversion program and has been rehabilitated would be encouraging to nurses rather than nurses considering rehabilitation to be negative.

The intent of the diversion program established by this bill is to develop a voluntary alternative to traditional disciplinary actions that provides adequate protections for the health, safety and welfare of the public. The function of the diversion program to rehabilitate nurses whose competencies become impaired due to abuse of drugs or alcohol would provide treatment so nurses are able to return to or continue the practice of nursing that would be beneficial to the public.

The field of nursing is always in demand, and having the diversion program would encourage nurses who have a chemical dependency problem to seek help and allow this state to retain our nurses in continuing to service the public.

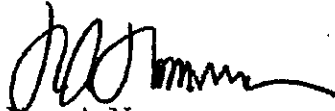
Hawaii State House of Representatives – Committee on Consumer Protection & Commerce
Re: S.B. 2898, S.D. 1, H.D. 1 – Relating to Diversion Program for Chemically Dependent
Nurses

March 24, 2010

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Thank you for allowing us to provide testimony in support of S.B. 2898, S.D. 1, H.D. 1.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read 'Nora A. Nomura', with a long horizontal flourish extending to the right.

Nora A. Nomura
Deputy Executive Director

TO THE HOUSE COMMITTEE ON CONSUMER PROTECTION AND COMMERCE

TWENTY-FIFTH LEGISLATURE
Regular Session of 2010

Wenesday , March 24 2010
2 p.m.

TESTIMONY ON SENATE BILL NO. 2898, S.D. 1, H.D. 1, RELATING TO DIVERSION PROGRAM FOR CHEMICALLY DEPENDANT NURSES.

TO THE HONORABLE ROBERT N. HERKES, CHAIR,
AND MEMBERS OF THE COMMITTEE:

My name is Glenda Tali and I am the Campus College Chair for the College of Nursing, University of Phoenix, Hawaii campus. I thank you for the opportunity to present testimony in strong support of Senate Bill No. 2898, S.D. 1, H.D.1 relating to Diversion Program for Chemically Dependant Nurses.

This bill amends the requirements for diversion programs for chemically dependent nurses to allow the Board to recognize alternative program sponsors. It clarifies disciplinary and report requirements. It includes the amendments proposed by the DCCA Regulated Industries Complaints Office when this bill was heard by the Senate Committee on Commerce and Consumer Protection.

For these reasons, I strongly support Senate Bill No. 2898, S.D. 1., H.D.1 Thank you for the opportunity to testify.

wakai2-Daniel

From: mailinglist@capitol.hawaii.gov
Sent: Sunday, March 21, 2010 10:18 AM
To: CPCtestimony
Cc: muraiz3@aol.com
Subject: Testimony for SB2898 on 3/24/2010 2:00:00 PM

Testimony for CPC 3/24/2010 2:00:00 PM SB2898

Conference room: 325
Testifier position: support
Testifier will be present: No
Submitted by: Amy Stone Murai
Organization: Individual
Address:
Phone:
E-mail: muraiz3@aol.com
Submitted on: 3/21/2010

Comments:

wakai2-Daniel

From: mailinglist@capitol.hawaii.gov
Sent: Monday, March 22, 2010 9:53 PM
To: CPCtestimony
Cc: wailua@aya.yale.edu
Subject: Testimony for SB2898 on 3/24/2010 2:00:00 PM

Testimony for CPC 3/24/2010 2:00:00 PM SB2898

Conference room: 325
Testifier position: support
Testifier will be present: No
Submitted by: Wailua Brandman APRN-Rx BC
Organization: Individual
Address: 615 Piikoi Street, Suite 1509 Honolulu, HI 96814
Phone: 808-255-4442
E-mail: wailua@aya.yale.edu
Submitted on: 3/22/2010

Comments:

Thank you for the opportunity to testify in STRONG SUPPORT of this bill.

Wailua Brandman APRN-Rx BC, President
Hawai'i Association of Professional Nurses Member, APRN Advisory Committee to the Hawai'i
Board of Nursing Director-at-Large, American Psychiatric Nurses Association Hawai'i Chapter
Clinical Director, Ke'ena Mauiola Nele Paia, LLC Medical Co-Director, Freedom Recovery
Services, Inc.