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DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
REGULATED INDUSTRIES COMPLAINTS OFFICE

TO THE HOUSE COMMITTEE ON HEALTH

TWENTY-FIFTH STATE LEGISLATURE
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TUESDAY, MARCH 9, 2010
10:00 A.M.

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

TO THE HONORABLE RYAN I. YAMANE, CHAIR,
AND TO THE HONORABLE SCOTT Y. NISHIMOTO, 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, 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 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 8-14, expands the purpose of the diversion program to include, in addition to rehabilitation, 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 purpose will strengthen the diversion program for the safety of consumers.

The bill, at page 5 lines 18-22, 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.

Section 4 of the bill, at page 6 lines 12-19, 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 the Board or RICO. Since RICO cannot pursue disciplinary action unless it has evidence of a violation or violations, this language will enable RICO 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. I will be happy to answer any questions that the members of the Committee may have.