

L A T E

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**THE SENATE  
THE TWENTY-FIFTH LEGISLATURE  
REGULAR SESSION OF 2010**

**Committee on Health  
Testimony in Support of SCR 155  
Friday, March 19, 2010, 3:00 P.M.  
Conference Room 016**

Chair Ige and Members of the Committee:

I am Louis Erteschik, Staff Attorney at the Hawaii Disability Rights Center, and am testifying in support of the intent of this Concurrent Resolution.

We have had a long interest in the issue of waitlisted patients and have been very supportive of efforts to secure community placements on their behalf. The Healthcare Association has stated that there are such patients who are ready for discharge and for whom placements have been identified, but who cannot be discharged because they are not competent to consent to the new placement. In those cases, guardianship is being pursued to effectuate those placements. In that context, we certainly support measures to streamline the process.

We do, however, need to express some concerns regarding our direct experience with hospitals that were pursuing guardianships. In the past, hospitals have done so for the purpose of having guardians appointed merely to consent to out of state transfers, to which the patient was otherwise opposed. We certainly would not support streamlining the process in such a scenario, and would hope that any resulting changes which came from this Resolution would apply only to transfers to which the patient was in support.

We also recently represented a patient at a hospital that was pursuing an involuntary guardianship for a woman who was competent. She was ready to be discharged and wanted to be discharged but the hospital refused to allow her to leave, because of liability concerns. We were eventually successful in convincing them to dismiss the petition. However, it demonstrated to us the degree to which imposition of a guardianship is an infringement of a person's liberty. We certainly hope that any

streamlining which occurs in the process does not come at the expense of protecting the legal rights of these individuals.

Thank you for the opportunity to testify in support of this measure.