

TESTIMONY

SB2105

HTH Committee Hearing 1/27/2012



NEIL ABERCROMBIE
GOVERNOR

BRIAN SCHATZ
LT. GOVERNOR

**STATE OF HAWAII
INSURANCE DIVISION
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS**

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KEALI'I S. LOPEZ
DIRECTOR

GORDON I ITO
INSURANCE COMMISSIONER

TO THE SENATE COMMITTEE ON HEALTH

TWENTY-SIXTH LEGISLATURE
Regular Session of 2012

Friday, January 27, 2012
2:45 p.m.

TESTIMONY ON SENATE BILL NO. 2105 – RELATING TO HEALTH.

TO THE HONORABLE JOSH GREEN, M.D., CHAIR, AND MEMBERS OF THE
COMMITTEE:

My name is Gordon Ito, State Insurance Commissioner, testifying on behalf of the Department of Commerce and Consumer Affairs ("Department").

This bill requires the director of health to convene a working group to reconcile federal and state mental health and substance abuse parity laws. The Department takes no position on this bill and respectfully defers to the Department of Health.

We thank the Committee for the opportunity to present testimony on this matter.

Charlotte A. Carter-Yamauchi
Acting Director

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LEGISLATIVE REFERENCE BUREAU
State of Hawaii
State Capitol, Room 446
415 S. Beretania Street
Honolulu, Hawaii 96813

LATE

Written Testimony

SB2105

RELATING TO HEALTH

Testimony by the Legislative Reference Bureau
Charlotte A. Carter-Yamauchi, Acting Director

Presented to the Senate Committee on Health

Friday, January 27, 2012, 2:45 p.m.
Conference Room 229

Chair Green and Members of the Committee:

The purpose of this measure is to require the Director of Health to convene a mental health and substance abuse parity working group to determine how the State can come into compliance with federal mental health and substance abuse parity laws and regulations and enhance its existing parity laws. The working group is to submit a report of its findings and recommendations, including proposed any legislation, no later than twenty days prior to the convening of the regular session of 2014. Section 2 (c) of the measure directs the Bureau to assist the working group with drafting any appropriate legislation.

The Bureau takes no position on the merits of the measure, but notes that, as the measure is presently drafted, the functions required of us appear to be manageable and we would undertake them to the best of our ability.

However, to minimize interference with our ability to draft bills for legislators during this very busy period in the run-up to the start of session, we respectfully request that the measure be amended to direct the working group to transmit a draft of its proposed legislation to the Bureau no later than November 1, 2013. Also, if you decide to pass this measure, we would be happy to assist you in drafting the committee report and any amendments to the measure.

Thank you again for allowing us to comment on this measure.

NEIL ABERCROMBIE
GOVERNOR OF HAWAII



LORETTA J. FUDDY, A.C.S.W., M.P.H.
DIRECTOR OF HEALTH

STATE OF HAWAII
DEPARTMENT OF HEALTH
P.O. Box 3378
HONOLULU, HAWAII 96801-3378

In reply, please refer to:
File:

LATE

Senate Committee on Health

January 27, 2012

**Testimony of Loretta J. Fuddy, A.C.S.W., M.P.H.
Director of Health**

SB2105, Relating to Health

1 **Department's Position:** Comments.

2 **Fiscal Implications:** Undetermined staff resources.

3 **Purpose and Justification:** The Department of Health lauds the intent of this bill and offers comments.

4 • The bill or portions of the bill as currently drafted may be unnecessary since HRS 431M-6
5 codified the responsibility of the Insurance Commissioner to organize and implement mental
6 health and substance abuse benefit statutes, in conjunction with state agencies, insurers,
7 providers, and consumers. The Commissioner is granted authority to implement rules governing
8 medical or psychological necessity criteria, quantity of benefits, and levels of care.

9 • Hawaii has achieved parity in serious mental illness and substance abuse in practice as codified
10 in HRS 431M-5(c). DOH recommends the Legislature 1) consider expanding parity diagnoses
11 by amending existing statute, and 2) reinstitute the substance abuse parity provisions in Part V
12 (Sections 15-18) of Act 44 Session Laws of Hawaii 2004, which lapsed on June 30, 2011.

13 • Coordination with health transformation and systems planning in the Governor's Office will
14 produce more desirable and informed results, as opposed to a stand-alone working group. We

"Promoting Lifelong Health and Wellness"

1 must organize our planning in a way consistent with our desired outcomes: an integrated and
2 coordinated healthcare system.

- 3 • In the event that this working group is established we respectfully suggest adequate funding.

4 Significant resources will be needed to synthesize the quantity and quality of data to transform
5 and integrate behavioral health care. Stakeholders should be encouraged to share existing data,
6 for example between payers and providers, but this will likely yield little new information. The
7 opportunity is investments in systems that focus on data we do not have such as those related to
8 social determinants of health. Another option is to focus the working group strictly on parity,
9 which is more within the Insurance Commissioner's scope as defined in 431M, and remove
10 workforce development, education, and research issues.

- 11 • Any recommendations on our behavioral health system should emphasize primary and secondary
12 prevention and de-stigmatization. These cost-effective and evidence-based strategies are not a
13 deliverable of this bill as currently drafted.

- 14 • Lastly, regarding the composition of the working as presently drafted:

- 15 ○ The specificity of a psychiatrist as the representative from the DOH Adult Mental Health
16 Division predisposes input from a medical model perspective. AMHD should be given
17 discretion over its representative.

- 18 ○ Representatives from the medical, psychological, and clinical social work professional
19 groups are absent.

20

21 Thank you for the opportunity to provide this testimony.

HMSA



An Independent Licensee of the Blue Cross and Blue Shield Association

January 27, 2012

The Honorable Josh Green M.D., Chair
The Honorable Clarence K. Nishihara., Vice Chair
Senate Committee on Health

Re: SB 2105 – Relating to Health

Dear Chair Green, Vice Chair Nishihara and Members of the Committee:

The Hawaii Medical Service Association (HMSA) appreciates the opportunity to testify on SB 2105 which would require the Department of Health to convene a mental health and substance abuse parity working group. HMSA supports the purpose and intent of SB 2105.

In 2010, HMSA, as well as all plans in the state, were required to implement the federal government's interim final rules pertaining to the Mental Health Parity and Addiction Equity Act of 2008. This Act requires health plans to offer the same level of coverage for mental health and substance use disorder benefits as that offered for medical and surgical benefits. Due to the extensive scope of the discussion that the working group is directed to discuss, we appreciate the inclusion of a health insurance provider in the workgroup's membership.

We appreciate this legislation's intent to convene a community-wide dialogue on this important issue.

Sincerely,

Jennifer Diesman
Vice President
Government Relations



DOING THE
MOST GOOD

Founded in 1865

William Booth
Founder

Linda Bond
General

James Knaggs
Territorial Commander

Edward Hill
Divisional Commander

Lawrence Williams
Executive Director

The Salvation Army

Addiction Treatment Services

Topic: SB2105 Relating to Health. Behavioral health parity working group to facilitate state compliance with federal parity laws.

To: SENATE COMMITTEE ON HEALTH:
Senator Green, M.D., Chair;
Senator Nishihara, Vice Chair

When: Friday, Jan. 27, 2012 at 2:45 p.m.

Place: Conference Room 229

WRITTEN TESTIMONY IN SUPPORT OF SB2105

ALOHA CHAIR GREEN, VICE CHAIR NISHIHARA, AND HEALTH COMMITTEE MEMBERS:

My name is Lawrence Williams, executive director of The Salvation Army Addiction Treatment Services, which provides a comprehensive continuum of substance abuse treatment services for more than one thousand adults annually. I support **Senate Bill No. 2105** for the following reasons:

The federal Mental Health Parity and Addiction Equity Act of 2008 requires health insurance companies to be in parity between medical services and behavioral health services with respect to

The Director of Health needs to convene a working group comprised of insurers, state agencies, and various providers in order to develop legislation to facilitate state compliance with federal parity laws and regulations.

State parity legislation is needed to address scope of coverage, quality of care cost-effectiveness, as well as developing consensus regarding definition of terms, medical cost-sharing rules, deductibles and out-of-pocket limits, non-quantitative treatment limitations, disclosure of medical criteria, qualifications of service providers, etc.

Effective state parity legislation will facilitate positive change to individuals, health care plans, and managed behavioral health care organizations and other key stakeholders.

I respectfully request that the **Senate Committee on Health support SB2105 by passing it out of committee.**

Thank you for the opportunity to provide testimony regarding this important matter.

Participating Agency



Aloha United Way

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Visit us at: www.SalvationArmyHawaii.org



HAWAII SUBSTANCE ABUSE COALITION

SB2105 Relating to Health Director of Health to convene a behavioral health parity working group to comply with federal parity laws and enhance existing state parity laws.

- ✦ SENATE COMMITTEE ON HEALTH: Senator Green, M.D. Chair; Senator Nishihara, Vice Chair
- ✦ Friday, Jan. 27, 2012; 2:45 p.m.
- ✦ Conference Room 229

HAWAII SUBSTANCE ABUSE COALITION Supports SB2105

GOOD MORNING CHAIR GREEN, VICE CHAIR NISHIHARA AND DISTINGUISHED COMMITTEE MEMBERS. My name is Alan Johnson. I am the current chair of the Hawaii Substance Abuse Coalition (HSAC), a statewide hui of more than twenty non-profit treatment and prevention agencies.

SUMMARY

While the Mental Health Parity and Addiction Equity Act (MHPAEA) of 2008 puts coverage of mental health and substance abuse benefits on an equal footing with general medical benefits, the State definition of benefit disorder terms could limit coverage. Further, the State is responsible for enforcement provisions. We support a workgroup of insurers, state agencies, and various providers to prepare a bill for legislation that addresses both quality of care and cost-effectiveness.

SUPPORTING INFORMATION

Key to the inclusion of benefits under the Affordable Care Act (ACA) is enforcement of the parity law. The State would provide further guidance on scope of service, disclosure of medical criteria, and non-quantitative treatment limitations. Without such legislation, expensive legal action would be the determining means to define parity implementation.

The variety of terms that may be used for alcoholism, substance abuse, substance use, chemical dependency, mental illness, mental health disorder, mental health condition, mental or nervous condition, etc. needs to be evaluated and defined as what is applicable to the new law. A task force that would involve various stakeholders, including Substance Abuse providers, could help define Hawaii's preferences.

State law must be revised to at least meet the intent of federal law. In addition, Hawaii has the option to legislate parity law that coincides with Federal law. While State law can be more comprehensive if the particular state has more expansive preferences for treatment, there are guidelines recommended by Federal agencies such as using the International Classification of Diseases Manual and/or the Diagnostic and Statistical Manual of Disorders. Further, the Task Force would address more clarity with respect to:

- Service limits, cost-sharing requirements, and annual/lifetime spending limits.
- Minimum benefit packages pertaining to whether there are no annual limit on outpatient visits and/or specify minimal financial coverages by insurers for outpatient visits.
- Whether coverage levels include allowable institutional and professional charges for inpatient psychiatric care, outpatient psychotherapy, intensive outpatient crisis management, partial hospitalization, and residential care and treatment.
- Address requirements with respect to whether inpatient, day treatment, and outpatient services must be provided.
- Address whether diagnosis and treatment would be provided, or at least supervised, by qualified mental health providers and what is defined as "qualified substance abuse provider." For example, definitions for "providers" could include licensed physicians, accredited public hospitals or psychiatric hospitals, certified counselors and community agencies licensed at the comprehensive service level by the Department of Health.
- Address whether there are specified exemptions for Medicare and Medicaid, federal employee health insurance plans, and employer self-insured plans, which are not regulated by state health insurance laws as well as private employers who are self-insured are exempt from state health insurance laws under the federal Employee Retirement Income Security Act of 1974 (ERISA).
- Address whether parity is limited to only those plans that offer behavioral health benefits or else to mandate the coverage for mental health illnesses and substance use disorders for all plans. Some states are adding to Federal law to remove any limit to groups under a certain size claiming that discrimination is prohibited regardless of the size of the employer group.
- Address whether out of state plans are subject to state laws.

CONCLUSION

There are many complex changes happening in the health care arena in our time. The Paul Wellstone-Pete Domenici Mental Health Parity and Addiction Equity Act of 2008 requires health insurance companies to be in parity between medical services and behavioral health services with respect to medical cost-sharing rules, deductibles and out-of-pocket limits. Working together for the sake of our shared community, the effects of parity legislation will bring about a positive change to individuals, health care plans, and managed behavioral health care organizations (MHBOs) and other key stakeholders.

As substance use and mental disorder treatment centers, we very much appreciate the opportunity to be part of this work group.

We appreciate the opportunity to provide testimony and are available for questions.

**LATE
TESTIMONY
SB2105**

HTH Committee Hearing 1/27/2012



the
**Drug Policy
Forum**
of hawai'i

LATE

Dedicated to safe, responsible, humane and effective drug policies since 1993

January 27, 2012

To: Senator Josh Green, M.D., Chair
Senator Clarence Nishihara, Vice Chair and
Members of the Committee on Health

From: Jeanne Y. Ohta, Executive Director

RE: SB 2105 Relating to Health
Hearing: Friday, January 27, 2012, 2:45 p.m., Room 229

POSITION: SUPPORT

The Drug Policy Forum of Hawai'i writes in support of SB 2105 which requires the director of the Department of Health to convene a working group to determine how the State can come into compliance with federal mental health and substance abuse parity laws and regulations and enhance current state parity laws.

The definition of benefit disorder terms used by the state could limit coverage for mental health and substance abuse treatment. The variety of terms that may be used for alcoholism, substance abuse, substance use, chemical dependency, etc. need to be evaluated and defined for applicability to the new law.

DPFH believes that such a working group of stakeholders must include Substance Abuse providers, as they will have valuable input in this critical determination. We further believe that every effort should be made to make substance abuse and addiction treatment an integral part of Hawai'i's health care.

We urge the committee to pass this measure. Thank you for this opportunity to provide testimony.