



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

In reply, please refer to:  
File:

**House Committee on Health and Human Services**

**SB 2126, SD 2, Relating to Health Care**

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

**Tuesday, March 20, 2012**

1 **Department's Position:** The Department of Health supports the intent of this measure provided that its  
2 enactment does not reduce or replace funding priorities within our Supplemental Budget Request or in  
3 future years.

4 **Fiscal Implications:** DOH would require a total of an additional approximately \$80,000 for the  
5 following: \$50,000 to manage the adult day care licensing program and approximately \$30,000 in  
6 staffing in addition to monies agreed to by DHS to create a full time position, and the legislature's  
7 approval of the addition of a full-time position within DOH. However, these resources will be needed  
8 by fiscal year 2015 when the transfer occurs on July 1, 2014.

9 **Purpose and Justification:** The DOH and Department of Human Services have been discussing the  
10 merits of consolidating the certification of the adult community care foster family homes, adult day care  
11 centers, and case management agencies into the DOH program that currently performs the state  
12 licensing functions of adult residential care homes, assisted living facilities, and other community based  
13 residential care facilities. Both departments believe consolidation to be a prudent way of contributing to  
14 the governor's New Day initiatives of improving and streamlining government. The DOH has also  
15 reviewed and agrees with DHS's recommended amendments to the SD1 draft now contained in SD2.

*Promoting Lifelong Health and Wellness*

1 Nevertheless, as can often happen with matters of this magnitude, upon further review of SD2 the DOH  
2 suggests the following amendments:

- 3 1. The definition of an “expanded adult residential care home” already exists in DOH statute  
4 (section 321-15.1). Therefore, at page 5 of the draft bill, lines 14 through 20, omit the definition  
5 of “expanded adult residential care home”.
- 6 2. Under new Section 321-D Background checks, DOH would search DHS records to determine  
7 whether an adult abuse perpetrator is known to DHS. Therefore, at page 16, line 7 and line 10,  
8 correctly identify the department as the department of human services.
- 9 3. At page 20, line 1, change the word “people” to “those persons” in order to correctly reference  
10 those persons identified earlier in the sentence.
- 11 4. At page 21, line 18, insert text on criminal history record checks for personnel and adult  
12 volunteers at adult day care centers using mostly the same text contained in statute allowing for  
13 record checks by DHS. The text is edited to conform to with the intent of this bill and is follows:

14 **§321-K Criminal history record checks.** (a) For the purposes of  
15 this section:

16 "Conviction for a relevant crime" means any federal or state  
17 conviction for any relevant crime as defined in this section.

18 "Criminal history record name inquiry" means a search by name,  
19 and other identifying information, using the state computerized  
20 criminal history record information system.

21 "Department" means the department of health.

22 "Name inquiry" means a criminal history record check conducted  
23 by using the name and other identifying information of the  
24 individual, in lieu of a fingerprint check.

1 "Relevant crime" means:

2 (1) Any offense described in 42 United States Code §1320a-7  
3 (section 1128(a) of the Social Security Act); or

4 (2) A crime of such a serious nature or circumstance that the  
5 department finds its perpetrator to pose a risk to the  
6 health, safety, or well-being of a patient or resident.

7 This includes but is not limited to murder, manslaughter,  
8 assault, sex offenses, domestic violence, theft or forgery,  
9 arson, kidnapping, or possession, use, sale, manufacture,  
10 or distribution of dangerous drugs or controlled  
11 substances.

12 (b) The department shall adopt rules pursuant to chapter 91  
13 establishing standards regarding the reputable and responsible  
14 character of service providers who have direct contact with  
15 individuals receiving services under this part, including licensed  
16 adult day care center operators, employees, new employees,  
17 subcontracted service providers and their employees, and adult  
18 volunteers.

19 (c) Individuals identified in subsection (b) shall:

20 (1) Meet the standards regarding the reputable and responsible  
21 character of service providers;

22 (2) Be subject to criminal history record checks in accordance  
23 with section 846-2.7;

1           (3) Sign a waiver form stating that the department shall not be  
2           liable to the individual; and

3           (4) Provide consent to the department or its designee to obtain  
4           criminal history record information for verification.

5 New employees and adult volunteers shall consent to be fingerprinted,  
6 shall supply the necessary information to enable the criminal history  
7 record check prior to the start of employment or volunteering, and  
8 shall sign a waiver form stating that the department shall not be  
9 liable to the employee or volunteer.

10          (d) The department or its designee shall obtain criminal  
11 history record information through the Hawaii criminal justice data  
12 center on individuals identified in subsection (b) for the first two  
13 years that an individual identified in subsection (b) is required to  
14 have such checks, and shall conduct a criminal history record name  
15 inquiry into the state criminal history records annually or  
16 biennially thereafter.

17          (e) The department may take appropriate action if it finds that  
18 the criminal history of the individual identified under subsection  
19 (b) may pose a risk to the health, welfare, and safety of service  
20 recipients. Such action may include denying a certificate of  
21 approval to operate an adult day care center.

22          (f) Notwithstanding any other law to the contrary, for purposes  
23 of this section, the department shall be exempt from section 831-3.1

1 and need not conduct investigations, notifications, or hearings under  
2 this section in accordance with chapter 91.

3 (g) The costs of processing fingerprints and the state criminal  
4 history record checks may be borne by the employer or by the employee  
5 or individual who is being screened.

6 (h) The department, in obtaining and relying upon the results  
7 of the state criminal history record checks, is presumed to be acting  
8 in good faith and shall be immune from civil liability for taking or  
9 recommending action based upon the criminal history record  
10 information. The good faith presumption may be rebutted upon a  
11 showing by the person or entity alleging a lack of good faith, and by  
12 a preponderance of the evidence, that the department relied upon  
13 information or opinion that it knew was false or misleading.

14 (i) Nothing in this section shall affect the rights,  
15 obligations, remedies, liabilities, or standards of proof under  
16 chapters 368 and 378.

17 (j) The criminal history record information obtained under this  
18 section shall be used exclusively by the department for the purpose  
19 of establishing the reputable and responsible character of the  
20 individuals identified in subsection (b) such that the health,  
21 welfare, and safety of service recipients will not be at risk.

22 5. At page 21, beginning at line 18 and ending at page 25, line 17, section 3 of the bill proposed an  
23 amendment to DHS' confidentiality statute. However, DOH understands that DHS will testify  
24 they do not want that amendment and DOH would agree. Therefore, the current section 3 is no

1 longer needed and should be deleted. Subsequent and remaining sections of the bill will need to  
2 be re-numbered.

3 6. At page 35, line 5, the citation is incorrect. With the insertion of language, above, the correct  
4 citation for background checks related to adult day care is to section 321-K.

5 7. At page 41, beginning at line 18 through page 41 line 4, the DOH was advised that a request for  
6 money for fiscal years well in the future cannot be made. Therefore, the text in this section  
7 should be deleted. However, the DOH feels that it is important for the legislature to know the  
8 potential funding necessary for the DOH to absorb the duties and responsibilities beginning on  
9 July 1, 2014 included in this bill.

10 In short, DOH supports this bill with the above amendments and only if full funding and a full-  
11 time position count accompany the transfer on July 1, 2014, but not at the expense of the department's  
12 other priorities.

13 Thank you for the opportunity to testify.



STATE OF HAWAII  
DEPARTMENT OF HUMAN SERVICES  
P. O. Box 339  
Honolulu, Hawaii 96809-0339

March 20, 2012

**MEMORANDUM**

TO: The Honorable Ryan I. Yamane, Chair  
House Committee on Health  
  
The Honorable John M. Mizuno, Chair  
House Committee on Human Services

FROM: Patricia McManaman, Director

SUBJECT: **S.B. 2126, S.D. 2 - RELATING TO HEALTH CARE**

Hearing: Tuesday, March 20, 2012, 10:00 a.m.  
Conference Room 329, State Capitol

**PURPOSE:** The purposes of S.B. 2126, S.D.2 are to consolidate the authority, duties, responsibilities, and jurisdiction of the Department of Human Services (DHS) and the Department of Health (DOH) as they relate to various health care services; to transfer the programs of DHS relating to home and community-based case management, community care foster family homes, and adult day care to DOH; and to appropriate funds to DOH for the duties which are not wholly covered by the transfer of funds from DHS.

**DEPARTMENT'S POSITION:** The Department of Human Services (DHS) strongly supports the provisions of S.B. 2126, S.D.2.

DHS and DOH have been in discussion regarding the transfer of licensure and certification authority for adult day care centers, community care foster family homes (CCFFH), and case management agencies (CMA) from DHS to DOH. The two

departments are in agreement that the consolidation of these functions within one department will improve efficiency and capacity in the health care settings.

Funds currently being expended by DHS for these functions will be transferred to DOH upon the effective date of the transfer. These funds include the contract amounts for licensure/certification of the health care services, for background checks required by state statutes, and for a half-time position to oversee the functions being transferred.

DHS is recommending that the following changes be made to the language of this bill for clarity:

- **Section 2, §321-G, Definitions:** The definition for “Day care center” should be amended to read as follows:

**“Day care center” includes a place designated for group care for four or more adults or a family home providing care for two or ~~three~~ more adults.**

This language will bring the state statute in line with county zoning laws that permit a family home licensed as a day care center to provide care up to a specified number of individuals. Because zoning laws may vary from county to county, the maximum number of individuals being provided care in a family home licensed as a day care center may also vary. The suggested amendment to the definition of “day care center” will allow flexibility in family home licensure as long as applicable county laws are met.

- **Section 3, §346-10(a)(7), HRS:** Delete Section 3 in its entirety and retain the language in paragraph (7) because it gives DHS the authority to share information with law enforcement agencies engaged in the detection, investigation, or prosecution of violations of applicable state, county, and federal laws or regulations, as they pertain to the licensure or operation of



adult day care centers. If this paragraph is deleted, it will take away the authority for DHS to provide the police and prosecutors information on adult day care centers that DHS has licensed. With no amendments being proposed for HRS §346-10(a)(7), Section 3 is no longer necessary and should be deleted. Subsequent and remaining sections of the bill will need to be re-numbered.

The Department also recommends that the appropriation section in this bill, SECTION 17, be deleted since funding will not be needed until the FY 2014 implementation.

The Department of Human Services is committed to continue working with the DOH to ensure an efficient transition. We respectfully request that **July 1, 2014** be identified as the effective date for the transfer of the licensure/certification functions and the funds associated with the transfer.

Thank you for the opportunity to provide comments on this bill.



To: Committee on Health  
Representative Ryan I. Yamane, Chair

Committee on Human Services  
Representative John M. Mizuno, Chair

Date: March 20, 2012, Conference Room 329, 10:00 a.m.

Re: **SB2126, SD2 – RELATING TO HEALTH CARE**

Chair Yamane, Chair Mizuno and Committee Members:

AARP is a membership organization of people 50 and older with nearly 150,000 members in Hawaii. We are committed to championing access to affordable, quality health care for all generations, providing the tools needed to save for retirement, and serving as a reliable information source on issues critical to Americans age 50+.

AARP **supports** SB2126, SD2 which consolidates the authority, duties, responsibilities, and jurisdiction of the Department of Human Services (DHS) and the Department of Health (DOH), as they relate to various health care services, transfers the programs of DHS relating to home and community-based case management; community care foster family homes; and adult day care, to the DOH; and appropriates funds to DOH for the duties that are not wholly covered by the transfer of funds from DHS.

The consolidation of these programs is a step towards a less fragmented and a more effective and efficient long-term care system as responsibilities for oversight, regulation, monitoring and licensing of health care services is moved under the jurisdiction of a single state department. This consolidation is consistent with a recommendation of the State Long-Term Care Commission, in its 2012 report to the Legislature.

Thank you for the opportunity to testify.

# Hawai'i Alliance for Retired Americans

An affiliate of the Alliance for Retired Americans  
c/o AFSCME · 888 Mililani Street, Suite 101 · Honolulu, Hawaii 96813

*AFT Hawaii Retirees  
HGEA Retirees  
HSTA – Retired  
ILWU Retirees  
Kokua Council  
Machinists Union Retirees  
UPW Retirees  
ADA/Hawaii  
Hawaii Family Caregivers Coalition  
Kupuna Education Center*

*(Submitted by email to: HLTtestimony@Capitol.hawaii.gov March 16, 2012)*

## House Committee on Health and House Committee on Human Services

**March 20, 2012, 10:00 a.m. Conference Room 329**

Testimony of Al Hamai on SB2126, SD2, Relating to Health Care

Chair Ryan I Yamane, Vice Chair Dee Morikawa and HLT Committee Members,

Chair John Mizuno, Vice Chair Jo Jordan and HUS Committee Members

HARA supports SB2126, SD2 which purposes to consolidate the authority, duties, responsibilities, and jurisdiction of the Department of Human Services and Department of Health, as they relate to various health care services. We believe that the consumers of these services will benefit by this consolidation into the Department of Health. This will mean one fewer department and its policies and procedures to deal with. Hopefully this consolidation will be user friendly.

Please approve SB2126, SD2.

Mahalo and Aloha.

# Filipino American Citizens League

Jake Manegdeg, President  
P. O. Box 270126 \* Honolulu, Hawai'i 96827

Testimony in Strong Support of SB 2126 SD2  
House Committee on Health & House Committee on Human Services  
Hawai'i State Capitol, Room 329  
March 20, 2012, 10:00 a.m.

To: House Committee on Health Chair Rep. Ryan I. Yamane, Rep. Dee Morikawa, Vice Chair; and Members  
House Committee on Human Services Chair Rep. John M. Mizuno, Rep. Jo Jordan, Vice Chair, and Members  
From: Jake Manegdeg, President, Filipino American Citizens League

Report Title: RELATING TO HEALTH CARE.

Description: Consolidates the authority, duties, responsibilities, and jurisdiction of the DHS and DOH, as they relate to various health care services; transfers the programs of DHS relating to home and community-based case management, community care foster family homes, and adult day care to DOH on 7/1/2014. Appropriates funds to DOH for the duties that are not wholly covered by the transfer of funds from DHS. Effective 1/1/50. (SD2)

Dear Chair Rep. Yamane and Vice Chair Morikawa of the House Committee on Health, Chair Rep. Mizuno and Vice Chair Jordan of the House Committee on Human Services, and Committee Members:

My name is Jake Manegdeg. I am proud to strongly support this bill. The League was formed over ten years ago to contribute to the advancement of civil rights and social justice for minority groups, underserved populations, and vulnerable communities through education, advocacy, and social action.

Long term care issues are of utmost concern to our state and nation. This bill and its amendments for consolidation and transfer of community-based health care responsibilities will provide needed infrastructure changes under one roof, the Dept. of Health. Our League sees the good intentions of these provisions, but cautions that this should not come at the expense of compromising the quality of care and accountability to our frail population, nor diminish the support and respect of those who have taken up the noble profession as community-based caregivers, nor sacrifice the current delivery of services by the Dept. of Health. We are grateful to the Dept. of Health and the Dept. of Human Services, and congratulate Governor Abercrombie for undertaking courageous systems changes as a navigator toward a civil society that still cares for its sick, especially during these trying times in Hawai'i's economic recovery. Thank you for the opportunity to provide support for this bill.

Very Sincerely,

Jake Manegdeg  
President, Filipino American Citizens League

## **morikawa2 - Grant**

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Sunday, March 18, 2012 11:00 AM  
**To:** HLTtestimony  
**Cc:** Tlenzer@hawaii.rr.com  
**Subject:** Testimony for SB2126 on 3/20/2012 10:00:00 AM

Testimony for HLT/HUS 3/20/2012 10:00:00 AM SB2126

Conference room: 329  
Testifier position: Support  
Testifier will be present: No  
Submitted by: Anthony Lenzer, Ph.D  
Organization:  
E-mail: [Tlenzer@hawaii.rr.com](mailto:Tlenzer@hawaii.rr.com)  
Submitted on: 3/18/2012

### Comments:

My name is Anthony Lenzer. I'm testifying on behalf of the policy advisory board for elder affairs (PABEA), a body which advises the executive office on aging, and advocates on behalf of Hawaii's older adults. My testimony reflects only the views of the board and not of the executive office on aging.

PABEA strongly supports Senate Bill 2126, which transfers the programs relating to home and community-based case management, adult foster homes, and adult day care from the department of human services to the department of health, effective July 2014. The purpose of this transfer of programs is to consolidate regulation and monitoring all long-term service providers under one agency. PABEA has long believed that such consolidation will have several beneficial effects. First, it will allow comprehensive review of all existing rules and regulations affecting these service providers, with removal of inconsistencies or inappropriate provisions. Second, it will encourage the development of a true long-term care services system. Third, it will greatly reduce confusion on the part of consumers and providers as to where to obtain information about the range of available long-term care services. I might add that this consolidation was a major recommendation of the state's long-term care commission in its recent report to the legislature.

For these reasons, PABEA hopes that your committees will give this measure your strong support. Thank you for the opportunity to testify in support of SB 2126.

TO: The Honorable Ryan I. Yamane, Chair  
Committee on Health  
The Honorable John M. Mizuno, Chair  
Committee on Human Services

Subject: SB 2126 SD 2  
Hearing: Tuesday, March 20<sup>th</sup>, 2012, 10 a.m.  
Conference Room 329, State Capitol

Chair Yamane, Chair Mizuno and Committee Members:

My name is Samantha ZumMallen, Program Coordinator at Goodwill Industries of Hawaii and a student at University of Hawaii Manoa. I am testifying in favor of SB 2126, which consolidates the authority, duties, responsibilities, and jurisdiction of the Department of Human Services (DHS) and the Department of Health (DOH), as they relate to various health care services, by transferring from the DHS the programs relating to home and community-based case management; community care foster family homes; and adult day care, to the DOH.

The consolidation of these programs will allow for a comprehensive review of all existing rules and regulations that govern service providers and help to create a more uniform set of standards that will best serve our aging and disabled community. Consolidation of these programs will also assist consumers in obtaining much needed assistance with less confusion.

A number of the rules governing these providers have not been updated or readdressed in a number of years. For example; Title 11 Chapter 148 Administrative Rules for Adults Foster Homes, was last updated in July of 1987 and effective April 29<sup>th</sup>, 1988, Title 11 Chapter 89 Administrative Rules for DD-DOM Homes has not been updated since February 2, 1992, and Title 11 Chapter 99 Administrative Rules for ICF/MR has not been updated since April 29<sup>th</sup>, 1985. The most recently updated, Title 11 Chapter 100.1 Administrative Rules for Adult Residential Care Homes was updated on September 18<sup>th</sup>, 2006 and give the most detailed and comprehensive set of rules for adult residential care homes to follow, but still requires attention. Each set of administrative rules varies greatly in its requirements for service standards and consist of vague terms that leave substantial room for personal interpretation. This causes unequal treatment of consumers despite similar settings.

I am testifying in favor of SB 2126 in the hopes that consolidating authority of these programs will allow DOH to review all standards and remove inconsistencies within programs relating to home and community-based case management; community care foster family homes; and adult day care and help mend this fragmented system.

Thank you for the opportunity to provide comments.

Samantha ZumMallen

To: House Committee on Health Chair Rep. Ryan I. Yamane, Rep. Dee Morikawa, Vice Chair; and Members  
House Committee on Human Services Chair Rep. John M. Mizuno, Rep. Jo Jordan, Vice Chair, and Members

From: **Eugene Dashiell, Concerned Citizen**, District 50-Kailua, Kane`ohe Bay  
728 Nunu Street  
Kailua, HI 96734

Subject: **Testimony in Strong Support of SB 2126 SD2**  
House Committee on Health & House Committee on Human Services  
Hawai`i State Capitol, Room 329  
March 20, 2012, 10:00 a.m.

Report Title:  
RELATING TO HEALTH CARE.

Description:

Consolidates the authority, duties, responsibilities, and jurisdiction of the DHS and DOH, as they relate to various health care services; transfers the programs of DHS relating to home and community-based case management, community care foster family homes, and adult day care to DOH on 7/1/2014. Appropriates funds to DOH for the duties that are not wholly covered by the transfer of funds from DHS. Effective 1/1/50. (SD2)

My name is Eugene Dashiell. I am currently a sole proprietor of environmental planning services and have been in business for over thirty years. I live and vote in District 50, Kailua/Kane`ohe Bay. I am happy to strongly support this bill.

For over forty years, I have supported four sets of families as a caregiver. For six of my eight family members, I have seen them through the long, agonizing, yet rewarding journeys to their end of life.

Like President Barack Obama, I have nothing but praise for the caregivers who have helped me and my families through the range of long-term care services in community-based and institutional settings. Like President Obama, I can relate to the frustration and sheer exhaustion of learning how to navigate and understand the maze of policies and procedures of health care in the public and private sectors. And like generations of family caregivers, I worry that my own health holds up, as I struggle to manage the rising health care costs.

That is why I support this bill. I believe its provisions and robust review that resulted in these amendments take into account the needs of providers, health consumers, family members, and our government officials.

As a family member, I critique this bill by asking "Is it perfect?" No. As a businessman,

I ask, "Is it a step in the right direction?" Yes.

Thanks to our Governor and his directors of Health and Human Services, this consolidation and transfer is in the right direction. But please do not forget the human touch in this proposed transition. Respect, ongoing communication, and sufficient resources to carry out the bill's intent will go a long way to make sure that all parties responsible for ironing out the wrinkles work well together to serve our most vulnerable and cherished members of society~our families.

I am encouraged and hopeful by your leadership to address these long-term care issues. I still have two more family members in my direct care and oversight. At the same time, I am of the age, where I, myself, may benefit from this legislation, sooner rather than later.

Thank you for the opportunity to provide testimony as a caregiver in strong support of this bill. Congratulations to you for hearing and vetting this important bill.

Sincerely,

Eugene Dashiell  
Concerned Citizen and Caregiver