



**HO'OLA LĀHUI HAWAI'I**  
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**February 6, 2012**

**COMMITTEE ON HEALTH**

Senator Josh Green, M.D., Chair  
Senator Clarence K. Nishihara, Vice Chair

**Testimony in Support of SB 2145**  
**Relating to Mental Health**

Ho'ola Lahui Hawaii strongly supports this bill to require the Department of Health to see patients with appropriate diagnosis that have private or public insurance and to bill for those services. Currently, the Department only accepts uninsured patients with the appropriate mental health diagnosis or under Quest Expanded Access.

Given the lack of psychiatric care on neighbor islands like Kauai, the department, by not accepting patients with coverage, has only increased the lack of access to appropriate psychiatric services putting an undue burden on our organization and patients.

Currently, the health plans to assist with the limited number of island based psychiatrists are providing additional but limited psychiatric access on island on select dates. Often times, patients need access to services when those psychiatrists are off-island and end up in the emergency room.

The continuity of care for these patients is critical to remaining stable. Further, if increased psychiatric services are provided on island, it will reduce the need for costly acute episodic care.

Finally the ability of the state to bill for qualifying patients will increase the revenues that are associated with this critical program.

We strongly urge the committee to pass out SB 2145.

Respectfully Requested,

David Peters  
Chief Executive Officer

**HAWAII DISABILITY RIGHTS CENTER**

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**THE TWENTY-SIXTH LEGISLATURE**

**REGULAR SESSION OF 2012**

**THE SENATE**

**Committee on Health**

**Testimony in Support of S.B. 2145**

**Relating to Mental Health**

**Friday, February 10, 2012, 1:30 P.M.**

**Conference Room 229**

Chair Green and Members of the Committee:

The Hawaii Disability Rights Center is in strong support of this bill, which restores a wide range of mental health diagnoses as qualifying for eligibility for AMHD services

Our agency has had a lot of concerns regarding changes in services and programs of the Adult Mental Health Division over the past several years. There has been reduction after reduction in services provided to individuals with mental illnesses. That included the elimination of services such as the ACT teams and the drastic reduction in the number of case management hours. In the larger picture, it is clear to us that ever since the Department of Health was deemed to be relieved from the provisions of the Consent Decree in the case brought by the Department of Justice, (*USA v. State of Hawaii*, Civil No. 91-00137) there has been a constant "backsliding" in the effort by the state to comply with the terms of the Decree.

In many respects, the final blow, so to speak, occurred in July, 2009, when the Department of Health unilaterally eliminated several psychiatric diagnoses as qualifying for eligibility for services. These diagnoses had been developed as part of the consent decree and were an Attachment to the Plan for Community Mental Health. As a result of the Department's internal action, diagnoses of anxiety disorders and personality disorders were eliminated as diagnoses which qualify an individual to receive AMHD services. This has resulted in some seriously mentally ill individuals not being able to obtain any assistance for their mental health needs.

We always felt that this action was not only bad policy, but also procedurally failed to comply with legal requirements. The eligibility guidelines for AMHD services should have long ago been developed through the rulemaking process. Clearly, the elimination of eligible diagnoses should have been addressed in that fashion. This would have allowed for public input so that the Department could have received information from professionals in the community as to the effect these policy changes would have on mental health consumers and providers. Despite an official request from us when we met with DOH officials to ask that a rulemaking hearing be held, the Department failed to act until HDRC filed a lawsuit in the Circuit Court, claiming that the Department was in violation of the Hawaii Administrative Procedure Act. The lawsuit was filed as a class action, and sought for relief to have the eligibility policies invalidated on the basis that they were improperly adopted and should have been promulgated as rules. The suit also sought to restore the eligibility of all individuals who would have been eligible under the prior guidelines, as well as remedial relief and services for those individuals wrongfully denied.

Subsequent to the commencement of the litigation, the Department implicitly acknowledged the validity of the argument because they then scheduled a hearing to promulgate rules. However, the hearing that was held was a bit of a sham in that despite the fact that the testimony unanimously opposed the rules, the Department hurried the process and literally promulgated them and had them signed on the last day of Governor Lingle's term.

As to the underlying issue of the elimination of the eligible diagnoses themselves, it really is an artificial distinction to say that only those individuals with what the Department terms a "Serious and Persistent Mental Illness" (SPMI) diagnosis should receive help, while all others are excluded. This narrow universe effectively excludes many individuals who may REALLY need services that can be provided by AMHD. This is not just the receipt of psychiatric care, but all the attendant services that come as a benefit to being eligible for AMHD. This would include case management; the supported housing opportunities, such as independent apartments or group homes; and admission to the clubhouse program. All these benefits are available only to those in the AMHD system.

We had hoped that the new Administration, which took office on December 6, 2010 would have revisited this ill advised policy and opened up AMHD eligibility to a larger, more inclusive group of individuals. Certainly the Governor gave indications of that during a specific "talk story" session held on the issues of mental health during the campaign. However, to date, they have taken no action in that direction and seem content to have thousands of fewer individuals in their system.

For these reasons, we thank the Legislature for introducing this measure and holding this hearing. This bill will statutorily supersede the administrative rules and open up eligibility to many individuals who need, but are not receiving, services. To the extent that additional resources may need to be allocated to the Department, we would suggest an amendment to add an appropriation clause for that purpose.

We also are requesting an amendment as described more fully and attached at the end of our testimony, to address an anomalous situation currently created by AMHD and their new rules. In addition to the restrictive list of diagnoses, an individual is not eligible for AMHD services if they have any insurance. On the surface this may seem reasonable and when it was first presented to the public it appeared to make sense, inasmuch as if someone has private insurance which can pay for their medical or psychiatric needs, the state should certainly be the payer of last resort. We support that very much. However, while private insurance or even QUEST or Quest Expanded Access may cover the cost of psychiatric care, frequently those policies do not cover the other services offered by AMHD. This rule results in an arbitrary, irrational situation whereby an individual who otherwise has a severe and persistent mental illness will not receive any services from the adult mental health division (such as case management, clubhouse or supported housing) simply because they happen to have private insurance, notwithstanding the fact that the private insurance they possess does not cover those services they may be seeking.

A vivid example is the clubhouse program, which happens to be one of the most economical of all services provided. In addition to being very cost effective, it also provides what may be the only socialization that some mental health consumers ever receive. It is a lifeline and a portal to the rest of the world. It is also a program that is rarely, if ever, covered by private insurance. So, this means that someone could have a very serious persistent mental illness and even have one of the very serious, restrictive diagnoses now required for eligibility and yet not be able to attend the clubhouse because they also have private insurance. We have specific clients in that situation. The mere possession of private insurance will automatically disqualify the individual for any AMHD eligibility. The fact that the insurance does not cover the clubhouse or any other ancillary AMHD services is irrelevant under the current AMHD rules. It is an automatic disqualification, regardless of whether it covers the service the individual is seeking.

This is absurd, and without any logical basis. For that reason, the essence of the proposed amendment is to continue the practice that the state will be the payer of last resort, but to provide that if someone otherwise has a qualifying diagnosis, they are eligible to receive services provided by AMHD that are not otherwise covered by any insurance policy held by them or on their behalf.

It is our hope that this session, the Legislature will take action as may be appropriate to ensure that the mental health consumers of our state receive the appropriate care and treatment to which they are legally entitled. This bill and the amendment we are proposing will go a long way towards restoring services for many of these individuals and we strongly urge the legislature to support this effort.

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

**Proposed Amendment to SB 2145**

**Add to Page 1 line 7**

The legislature further finds that the administrative rules implemented by the department of health provide that even if an individual otherwise has a qualifying diagnosis, that individual is ineligible for any services if the individual has any form of health insurance coverage. Yet, most health insurance policies pay only for medical or psychiatric treatment as opposed to the range of services otherwise offered by the department of health. Certainly it is appropriate for the state to be the payer of last resort, such that if private insurance can cover the cost of psychiatric treatment there is no reason for the department of health to provide or pay for such treatment. However, this rule results in an arbitrary, irrational situation whereby an individual who otherwise has a severe and persistent mental illness will not receive any services from the adult mental health division (such as case management, clubhouse or supported housing ) simply because they happen to have private insurance, notwithstanding the fact that the private insurance they possess does not cover those services they may be seeking.

**Add to page 1 after line 18 and add a subsection (4) under the purposes of the Act**

(4) Provide that an individual, otherwise eligible to receive services from the adult mental division, shall be eligible for any services offered by the adult mental division that are not covered by that individual's health insurance plan.

**Add after section 4 as section 5 and then change sections 5 and 6 to 6 and 7 respectively**

Notwithstanding any other law or administrative regulation, an individual who has a qualifying diagnosis shall be eligible to receive any services offered by the department of health adult mental health division that are not covered by any insurance policy held by or for the benefit of that individual.



## THE QUEEN'S HEALTH SYSTEMS

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1301 Punchbowl Street • Honolulu, Hawaii 96813 • Phone (808) 691-5900

To: Senator Josh Green, M.D., Chair  
Senator Clarence K. Nishihara, Vice Chair  
Committee on Health

From: Karen Schultz, RN, MS  
Vice President, Patient Care /Behavioral Health Services, Surgical Services,  
Orthopedics and Transplant

Hearing Date: February 10, 2012; 1:30 p.m.

### Testimony in SUPPORT of S.B. 2145, Relating to Mental Health

The Queen's Medical Center (QMC) supports S.B. 2145.

The Queen's Medical Center (QMC) cares for mental health patients based on *Diagnostic and Statistical Manual of Mental Disorders (DSM IV)*. The definitions of mental illness in DSM IV encompass the proposed "qualifying diagnosis" in this bill. Although this bill would not assist QMC financially for patients seeking treatment without funds, it would assist in the discharge process to access options as they would qualify for services by the Adult Mental Health Division (AMHD) under this bill.

The ability for AMHD to bill insurers for services would assist in reducing the tax burden to the people of Hawaii.

I strongly urge you to support S.B. 2145.

Thank you for this opportunity to provide testimony.

# HMSA



An Independent Licensee of the Blue Cross and Blue Shield Association

February 10, 2012

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

**Re: SB 2145 – Relating to Mental Hawaii**

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

Hawaii Medical Service Association (HMSA) appreciates the opportunity to comment on SB 2145 which would require the Adult Mental Health Division (AMHD) of the State Department of Health (SDOH) to provide certain mental health services and allows AMHD to bill for those services.

HMSA already reimburses the SDOH for services rendered, and we do not anticipate that provision of the Bill to be a concern. However, we would want to ensure that, in its billing for reimbursement, AMHD is subject to the same requirements we have of all other behavioral health providers, such as precertification requirements and filing deadlines. Consequently, we suggest that Section 334-6c in Section 4 of SB 2145 be amended as follows:

*§334-6(c) The department:*

- (1) May bill an insurer for treatment services rendered by the State pursuant to this chapter; and*
- (2) Shall be eligible to receive reimbursement from an insurer billed in accordance with this section and in accordance with billing requirements of the insurer.*

Thank you for allowing us to comment on this legislation.

Sincerely,

A handwritten signature in black ink, appearing to read "JD", with a long horizontal flourish extending to the right.

Jennifer Diesman  
Vice President  
Government Relations

Testimony for HTH 2/10/2012 2:45:00 PM SB2145

Conference room: 229

Testifier position: Support

Testifier will be present: No

Submitted by: Brenda Kosky

Organization: Individual

E-mail: [Brenda.Kosky@gmail.com](mailto:Brenda.Kosky@gmail.com)

Submitted on: 2/5/2012

Comments:



THE SENATE  
THE TWENTY-SIXTH LEGISLATURE  
REGULAR SESSION OF 2012

COMMITTEE ON HEALTH  
Senator Josh Green, M.D., Chair  
Senator Clarence K. Nishihara, Vice Chair

**Testimony of Shelly-Ann Ramos**

SB2145 Relating to Mental Health

NOTICE OF HEARING

DATE: Friday, February 10, 2012  
TIME: 2:45 p.m.  
PLACE: Conference Room 229  
State Capitol  
415 South Beretania Street

Chair Senator Josh Green, M.D., Vice Chair Senator Clarence K. Nishihara, and other committee members, I am writing to you as a concerned citizen, graduate student, and advocate in SUPPORT of bill SB2145 Relating to Mental Health.

According to the 2010 National Alliance on Mental Illness (NAMI) State Advocacy report, it reflects the lack of services and treatment to individuals with mental health conditions. In Hawaii there are approximately 32,000 individuals that live with serious mental illness. The Hawaii public mental health system only provides mental health service to 45% of the approximated 32,000 who are in need of mental health services. Based on these numbers there are roughly 14,000 individuals who live with serious mental illnesses that go untreated.

These individuals who are not treated often reap the consequences of their actions and behaviors related to their mental health condition. The state of Hawaii is setting these individuals up for failure as we the state, lack in providing the necessary treatment and services needed for these individuals living with serious mental illnesses. Some of the consequences these individuals face include, but are not limited to; incarceration, poverty, unemployment, and the lack of life skills necessary to maintain and promote independence.

S.B. No. 2145 will ensure that the Department of Health conduct statewide assessments necessary to determine the need for prevention, treatment, and rehabilitation services in the area for mental health. S.B. No. 2145 is a key step in implementing appropriate services to those individuals who live with serious mental illnesses. We must as a state, assume the responsibility for addressing this issue. I strongly support S.B. No. 2145.

Thank you for your time and consideration for my testimony in regards to S.B. No. 2145

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