



**TESTIMONY OF  
THE DEPARTMENT OF THE ATTORNEY GENERAL  
TWENTY-SIXTH LEGISLATURE, 2012**

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**ON THE FOLLOWING MEASURE:**  
S. B. No. 2935, S. D. 2, RELATING TO HEALTH CARE COORDINATION.

**LATE**

**BEFORE THE:**  
HOUSE COMMITTEE ON HEALTH

**DATE:** Friday, March 16, 2012 **TIME:** 9:30 a. m.  
**LOCATION:** State Capitol, Room 329  
**TESTIFIER(S):** David M. Louie, Attorney General, or  
Ann Andreas, Deputy Attorney General

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Chair Yamane and Members of the Committee:

The Department of the Attorney General has the following comments on this measure.

This bill establishes a public-private partnership in a county with a population between 100,000 and 170,000 to develop an integrated system to deliver health care across the spectrum of care, and to address the current crisis in acute care. Pursuant to the public-private partnership, section 3 of the bill permits Hale Makua Health Services (Hale Makua) to become a membership corporation with the Hawaii health systems corporation (HHSC) as its sole member. Hale Makua Health Services is presently organized as a Hawaii nonprofit corporation without members, with 501(c)(3) tax-exempt status. This public-private partnership would be administratively attached to HHSC. The bill also includes an appropriation to HHSC for the purposes of the measure. We understand the intent of the bill to be to allow an arrangement between HHSC and Hale Makua that will permit post-acute patients to be discharged to appropriate placements, to support adequate numbers of placements, and to coordinate multiple levels of care.

The bill specifies four conditions for the new entity that will result if Hale Makua and HHSC proceed as envisioned by the bill. We suggest clarifications in two of those conditions in order for the bill to achieve its purpose.

In the first condition, at page 10, lines 1 through 4, the extent of the powers that HHSC would delegate to the Maui regional system board of directors is not clear as the bill is currently drafted. We suggest that it be amended as follows:

- (1) The rights and duties of the Hawaii health systems corporation  
~~[relating to health care issues]~~ as a member of the nonprofit

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corporation on Maui shall be delegated to the Maui regional system board of directors;

While we believe that the intention is for Hale Makua to remain a private non-profit corporation, the third condition, at page 10, lines 9 through 13, seems to confuse the issue by exempting it from the state collective bargaining and procurement statutes, but not other statutes that pertain to state agencies. To address this problem, we suggest the following amendment to the third condition. Depending on the Legislature's intent, the list of statutory exemptions may be changed.

- (3) To the extent that statutes applicable to state agencies might be interpreted to pertain to the sole membership corporation [~~established~~] permitted under this section, the sole membership corporation shall be exempt from [~~collective bargaining under~~] chapter [~~89, Hawaii Revised Statutes, and the procurement code under chapter 103D, Hawaii Revised Statutes~~] 102 and section 103-53, Hawaii Revised Statutes. The purchase of goods and services by or on behalf of the sole membership corporation shall be exempt from chapters 103D and 103F. Employees of the sole membership corporation shall be exempt from chapters 76, 87A, 88, and 89, and shall not be considered as employees of the State. None of the liabilities of the sole membership corporation permitted under this section shall become liabilities of the corporation; and

We request that these amendments be made if the committee passes this measure.