

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

In reply, please refer to:  
File:

## House Committee on Consumer Protection and Commerce

### HB 0120, HD1, Relating to Health

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

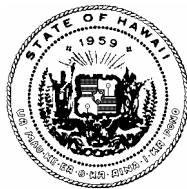
February 13, 2013

1 **Department's Position:** Appreciates the intent with request for resources.

2 **Fiscal Implications:** Requires an initial and ongoing appropriation of \$46,000 per year and the  
3 approval of a 1.0 FTE to implement and sustain.

4 **Purpose and Justification:** The department appreciates the intent to make licensure inspection report  
5 information more accessible to the public and requests amending the bill to include appropriations for  
6 new computer equipment, web site and database development, and staff support since the requirements  
7 of the bill cannot be absorbed with current resources. However, any appropriation must not adversely  
8 impact priorities in the Governor's Executive Budget.

9 The department also respectfully recommends that Section 3 be stricken since Act 93, Relating  
10 to Health Care, Session Laws of Hawaii 2012, will transfer programs of the Department of Human  
11 Services relating to home and community-based case management, community care foster family  
12 homes, and adult day care to the Department of Health on July 1, 2014. As a result, several references  
13 to the Department of Human Services in Section 1 also require correction.



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

February 12, 2013

**MEMORANDUM**

TO: The Honorable Angus L. K. McKelvey, Chair  
House Committee on Consumer Protection & Commerce

FROM: Patricia McManaman, Director

SUBJECT: **H.B. 120, H.D.1 - RELATING TO HEALTH**

Hearing: Wednesday, February 13, 2013; 2:30 p.m.  
Conference Room 325, State Capitol

**PURPOSE:** The purpose of H.B.120, H.D.1 is to require the Department of Health and Department of Human Services to post on their respective websites reports of all inspections in which a violation was discovered at certain care facilities by January 1, 2015. HB 120 also amends the requirements for a substitute caregiver working in a Community Care Foster Family Home (CCFFH) certified to care for three clients.

**DEPARTMENT'S POSITION:** The Department of Human Services (DHS) defers to the Department of Health (DOH) regarding Section 2 of this bill which pertains to facilities under DOH's jurisdiction.

With respect to Sections 3(a) and 3(b), the certification functions for the Adult Day Care Centers and the Community Care Foster Family Homes (CCFFHs) will transfer to the DOH effective July 1, 2014. Accordingly, the DHS will not have jurisdiction over these facilities on the effective date of this bill July 1, 2015.

The DHS suggests the provisions in Section 3, subsection (c), pertaining to the definition of a "community care foster family home" simply reference the statutory definition

contained in HRS sections 346-331. This definition may sunset effective June 30, 2013 and is the subject of other legislative proposals.

Thank you for the opportunity to testify.

NEIL ABERCROMBIE  
GOVERNOR OF HAWAII



WESLEY LUM, PhD, MPH  
DIRECTOR

LORETTA FUDDY, ACSW, MPH  
DIRECTOR OF HEALTH

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STATE OF HAWAII  
EXECUTIVE OFFICE ON AGING  
NO. 1 CAPITOL DISTRICT  
250 SOUTH HOTEL STREET, SUITE 406  
HONOLULU, HAWAII 96813-2831

**Committee on Consumer Protection and Commerce**

**HB120, HD1 RELATING TO HEALTH**

**Testimony of John G. McDermott, LSW, ACSW, M. Div  
State Long Term Care Ombudsman**

**Wednesday, February 13, 2013; Conference Room 325**

**2:30 p.m.**

1 **Position:** The Office of the Long Term Care Ombudsman supports this measure.

2 **Purpose and Justification:** The purpose of this bill is to require the Department of Health and  
3 the Department of Human Services to post on their respective websites reports of all inspections in  
4 which a violation was discovered at certain care facilities by January 1, 2015.

5 I believe this bill is very much needed. This bill is about transparency, consumer  
6 education and consumer protection. Hawaii's senior and disabled populations are rapidly  
7 increasing while our nursing home bed capacity has remained approximately the same. When  
8 there are no nursing home beds available, people have to consider community based options - but  
9 there is currently no quick or easy way for the public to attain information on the quality of care of  
10 these facilities.

11 Today, finding information on a nursing home is easy. Just type [www.medicare.gov](http://www.medicare.gov) and  
12 click on "*Nursing Home Compare*." It will give you the annual inspections for every nursing  
13 home in the country. But if someone prefers an adult residential care home or community care  
14 foster family home or assisted living facility, where is that website? Nowhere. It does exist in at

1 least 27 other states, but not Hawaii. Please check out the Washington, D.C. website as an  
2 example: of what we could do in Hawaii:

3 <http://doh.dc.gov/service/health-care-facility-inspection-reports>

4 Our State and Federal Governments requires inspections in order to protect the public.  
5 And these inspections are done by state workers...so paid by us, the taxpayers. So if we already  
6 paid for the inspections and they are done for our protection, shouldn't they also be easily  
7 available so we can more quickly move our loved ones out of expensive hospitals and into a home  
8 or facility where we are now more confident our loved ones will get good care??

9 The current requirement is that a person must write a letter to the Office of Health Care  
10 Assurance, specify the home or facility, and then wait for some state worker to manually pull the  
11 file, redact the names, make a copy, charge for the copying and you will get the information you  
12 need NOW in 10 to 15 days. That is too slow and unacceptable. It's also costly for the family and  
13 the State if a hospital patient refuses to move until he has some information that his proposed new  
14 home is safe and has a history of providing good care. We need to move into the 21<sup>st</sup> century.  
15 Hawaii can do better than that!

16 Thank you for this opportunity to testify.



**STATE OF HAWAII**  
STATE COUNCIL  
ON DEVELOPMENTAL DISABILITIES  
919 ALA MOANA BOULEVARD, ROOM 113  
HONOLULU, HAWAII 96814  
TELEPHONE: (808) 586-8100 FAX: (808) 586-7543  
February 13, 2013

The Honorable Angus L.K. McKelvey, Chair  
House Committee on Consumer Protection and Commerce  
Twenty-Seventh Legislature  
State Capitol  
State of Hawaii  
Honolulu, Hawaii 96813

Dear Representative McKelvey and Members of the Committee:


SUBJECT: HB 120 HD1 – RELATING TO HEALTH

The State Council on Developmental Disabilities **SUPPORTS HB 120 HD1**. The bill requires the Department of Health and Department of Human Services to post on their respective websites reports of all inspections in which a violation was discovered at certain care facilities by January 1, 2015.

The passage of this bill would enable the public to easily access reports of inspections and provide valuable information about the quality of care and conditions of State-licensed facilities and violations of relevant State laws and rules. The reports would be useful to individuals, family members, case managers, and others who work with individuals who are elderly and individuals with disabilities who are considering a move into a State-licensed care facility.

Thank you for the opportunity to submit testimony in **support of HB 120 HD1**.

Sincerely,

  
Waynette K.Y. Cabral, MSW  
Executive Administrator

  
J. Curtis Tyler III  
Chair

## kawakami2 - Rise

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**From:** CPN Testimony  
**Sent:** Tuesday, February 12, 2013 8:16 AM  
**To:** CPCtestimony  
**Subject:** FW: HB 120

This one too.

-----Original Message-----

From: Anthony Lenzer [mailto:TLenzer@hawaii.rr.com]  
Sent: Monday, February 11, 2013 8:37 PM  
To: CPN Testimony  
Subject: HB 120

Chair McKelvey and Committee Members:

My name is Anthony Lenzer. I am chair of the legislative committee of the policy advisory board for elder affairs (PABEA). Our board is advisory to the executive office on aging, and advocates on behalf of Hawaii's older citizens. My testimony reflects the views of the board, and not necessarily those of the executive office on aging.

PABEA has long believed that consumers need greater access to information about residential care facilities, when faced with decisions about placing loved ones in such facilities. On Oahu alone there are hundreds of care homes and adult foster homes. How does the consumer make a reasoned choice in the face of so many facilities and so little information? At present, families are forced to rely on advice from neighbors, friends or perhaps the discharge planner at a local hospital. To gain information about a particular facility, a consumer must make a written request to the Department of Health, wait 10 days, and pay the cost of duplicating facility information. This is totally unacceptable, especially to those who must make an immediate decision due to the imminent discharge of a loved one from the hospital. We therefore believe that online information about a wide range of care facilities covered in this legislation is the best way to help the consumers make this necessary but difficult decision. This bill would provide online information about violations of existing laws by license care facilities. While this is not all that a family needs to know, it does at least provide some guidelines about acceptable facilities and those to avoid.

If 27 states and the District of Columbia can provide online information about residential care facilities, why not Hawaii? Do we care less for our families and our Kupuna? PABEA therefore strongly urges that you endorsed this legislation. Thank you for the opportunity to express our board's support for House Bill 120.

To: Committee on Consumer Protection and Commerce

Date: Wednesday, February 13, 2013

Time: 2:30 p.m.

Place: Conference Rm. 325

Testifier: Eudice Schick, Member  
Policy Advisory Board for Elder Affairs

Bill: HB 120, HD1  
In Strong Support

To: the Members of the Committee on Consumer Protection & Commerce.  
This testimony does not represent the opinion of the Executive Office on Aging but that of myself as a board member of the Policy Advisory Board for Elder Affairs.

On line inspections are necessary for the protection of the consumer. What other way can a loved one find a care home, of any level, suitable for their family member. Most times there is a very limited amount of time to do so. The luxury of waiting two weeks for the Department of Health to make a copy, charge a loved one for the copy, and send it to them just does not work. It is time that we caught up to 27+ other states and start to post these inspection notices.

Your vote in favor of on line inspections for all care facilities is a vote for our vulnerable population.

Thank you for your consideration of my testimony for HB 120.

Sincerely,

Eudice Schick





Twenty-Seventh Legislature  
Regular Session of 2013

HOUSE OF REPRESENTATIVES  
Committee on Consumer Protection & Commerce  
Rep. Angus L.K. McKelvey, Chair  
Rep. Derek S.K. Kawakami, Vice Chair  
State Capitol, Conference Room 325  
Wednesday, February 13, 2013; 2:30 p.m.

**STATEMENT OF THE ILWU LOCAL 142 ON H.B. 120, HD1  
RELATING TO HEALTH**

The ILWU Local 142 supports H.B. 120, HD1, which requires the Department of Health and the Department of Human Services to post on their respective websites reports of all inspections in which violations were discovered at certain care facilities.

This measure will provide the public with information to help family members and others assess placement options for those needing services in adult day health centers, care homes, foster care homes, and other long-term care facilities. Before placement is considered, an understanding of the track record of the facility, including reports of violations, would be desired to help the family make an informed decision about placement.

However, posting of a violation in and of itself should not be grounds to disqualify a facility from consideration. How the violation was remedied and the operator's explanation of the circumstances of the violation are essential information in evaluating placement.

We have two suggestions to amend the bill. The first is that the report of the inspection should include how the violation was corrected and when. If the problem was remedied, the public should know about it. The second is that a timeframe should be established after which the violation would no longer be posted on the website. Leaving a black mark on a facility for something that has long been resolved would be unfair to the facility.

We hope the committee would consider these suggestions and move H.B. 120, HD1 on to the next committee. Thank you for considering our testimony and our suggestions.

RICHARD S. MILLER  
PROFESSOR OF LAW, EMERITUS  
315 Iliaina St., Kailua, HI 96734

E-Mail: [rmiller@aya.yale.edu](mailto:rmiller@aya.yale.edu)  
Phone: (808) 254-1796

To: Committee on Consumer Protection and Commerce

Rep. Angus L.K. McKelvey, Chair; Rep. Derek S. K. Kawakami, Vice Chair and Distinguished Committee Members

Subject: HB 120, HD1 – Requires DOH and DHS to post on their respective websites reports of all inspections in which violations were discovered at certain care facilities.

Date: Wed., Feb. 12, 2013; Time: 2:30PM; Place: Conference Room 325, State Capitol

Dear Committee Members:

It is ***absolutely essential*** that information about violations at care homes and care facilities be made available ***without any delay*** to seniors (and others) in need, very often under emergency conditions, and their care providers who are seeking appropriate care facilities.

While it may be possible that such information, in particular cases, may be inaccurate and subject to correction after investigation, the potential harm to patients who are denied such information far exceeds the possible harm to the care facility.

It is impossible to understand why the potential harm to the care facility – which is only financial and limited because of the facility's ability to correct erroneous violations – should be given more weight than the potentially very serious physical or mental harm to persons seeking a care home under emergency conditions.

A failure to vote in favor of prompt and timely reporting of violations by DPH and DSH as required by HB 120, HD1 cannot be justified. With the thousands of care homes and considering the likely urgency of selecting one of them under the emergency conditions which often require prompt selection by the elderly and their caregivers (if they are fortunate enough to have one) it is essential that unfavorable reports immediately be posted and available.

At the risk of repeating myself: Having such information can be absolutely essential to our kupuna and those that are trying to assist them!

Thank you for considering my testimony. At 82 years of age, I am the member of a class of those who could very well be adversely affected by the failure to pass this bill.

With Aloha,





Hawaii's Voice for a Better Future

COMMITTEE ON CONSUMER  
PROTECTION & COMMERCE  
Rep. Angus L.K. McKelvey, Chair  
Rep. Derek S.K. Kawakami, Vice Chair

February 12, 2013

**Re: HB120 Care Facility Violations; Posting on Websites; DOH; DHS**

**In Support**

Dear Rep. McKelvey, Rep. Kawakami and members of the Committee:

At present, copies of care home inspection reports are available to the public, but it is a manual process that can take up to two weeks. Someone must pull and redact the records in order to provide the information requested.

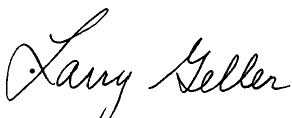
At the same time, the family requesting the information is almost always on a time crunch, having to make a decision within a short period of days, if that. Hospitals are also anxious to free up beds as soon as possible.

Why not use computer technology and post this essential information online? The cost to do that should be more than made up to the state simply by freeing up hospital beds sooner.

This bill is clearly in the interests of consumer protection, and also benefits the state.

Since nursing home records have been available online for some time without problems, it makes little sense to withhold this information from public access. Regardless of the predictable opposition of some providers, It is inevitable that information of this nature will become routinely available online. Why wait--let's do it now.

Kokua Council recommends that the Committee approve this bill.

  
Larry Geller  
President, Kokua Council

Kokua Council c/o Harris U

The **Kokua Council** is one of Hawaii's oldest advocacy groups. Kokua Council seeks to empower seniors and other concerned citizens to be effective advocates in shaping the future and well-being of our community, with particular attention to those needing help in advocating for themselves. "We embrace diversity and extend a special invitation to any senior or intergenerational minded individual interested in advocating for these important issues in Hawaii."

HB120  
CPC  
Wednesday, February 13, 2013  
2:30 p.m.  
Room 325

To: Representative Rida T. R. Cabanilla, Chair  
Della Au Belatti, Chair

From: Wendy Silverthorne

My name is Wendy Silverthorne and I am a former Kailua resident of many years. My parents have been residents of Kailua for fifty years and live in House District 50. I am writing in **support of H.B 120.**

Two years ago, my mother was hospitalized at Castle Medical Center in Kailua. I flew out to be a support to my parents. My mother was so ill, that after a week we were told that she needed to stay in a Skilled Nursing Facility. I was sent out the door of the hospital at 4:00 in the afternoon to find a place for my mother to stay as she was being discharged the next morning.

In June of 2012, my mother's health started to decline rapidly. The Fire Department had to come to the house many times to either pick her up off the ground when she had fallen and/or take her to Castle Medical Center for evaluation. It was no longer safe for her to be at home.

My father was told that he should find a licensed foster home or care home for my mother. He visited half a dozen of these homes, I became increasingly concerned about some of the things that he was being told. One home offered to go to Court and have my mother declared a family member so that they could take her in as a private pay patient to get around Medicaid ratio requirements.

And, yet another home told my father, that if my mother fell out of bed during the night, they would give her a pillow and "make her as comfortable as possible on the floor until another employee came in to assist in the next morning", but they would not call the fire department to get her up off the floor.

I thought the most sensible thing to do would be to check with State Department of health to see if there were founded complaints against the homes that we were considering placing my mother in. I was shocked to find out that the procedure is to submit a request in writing and then after the request is received, the Department of Health is allowed ten days to provide the information. In most states, this information can be obtained online.

When a family has a loved one that needs to be placed, you rarely have the luxury of time to make a decision. Often, when being discharged from a hospital, you have about 24 hours to make that decision.

Please pass **H.B. 120** to protect the vulnerable elderly and disabled citizens of Hawaii. It is the right thing to do.

Sincerely, Wendy Silverthorne  
[wsilverthorne@comcast.net](mailto:wsilverthorne@comcast.net)  
360-450-7445

To: Angus L.K. McKelvey, Chair  
Derek S.K. Kawakami, Vice Chair

From: Malia Silverthorne

My name is Malia Silverthorne and I am a former resident of Kailua. My grandparents have been residents of Kailua for fifty years and live in House District 50. I am writing in **support** of **H.B 120**.

Two years ago, my Tutu was hospitalized at Castle Medical Center in Kailua. I supported my mother while she was in Hawaii trying to make arrangements for care following my Tutu's stay at Castle.

I am a licensed medical professional and tried to give my mother good advice about what to look for while was looking for a placement. In the state I work and live in, the information regarding inspections of homes licensed under the department of health are readily available online. This makes it easier for the consumer to gather the information necessary to make an informed decision about the placement of their loved ones.

This summer while visiting my grandparents I noticed that my Tutu's status was beginning to decline quickly. Within the first week of our visit, we had to call the Fire Department to come to the house to pick her up off the ground when she had fallen. We then spent a long night in the Emergency Room, followed by a day of doctors and an additional trip back to the Emergency Room. This fall, things continued to decline and even with home health care, she was no longer able to stay in the house with my TutuKane.

I became increasingly concerned as my TutuKane looked for a placement for my Tutu. Some of the things he was told were frightening and heartbreaking. Being on the mainland I had never felt like I lived so far away. I felt helpless and when I was told we would need to submit our request for information in writing and then wait for the information to be provided.

Please pass **H.B. 120** to protect the vulnerable elderly and disabled citizens of Hawaii. It is the right thing to do.

Sincerely, Malia Silverthorne  
malia\_silverthorne@yahoo.com  
360-977-2530

From: David Hubbard, former resident of Kailua, hubbard@lifesci.ucsb.edu  
Re: Hearing date 2:30 p.m., 13 February 2013,  
**David Hubbard IN SUPPORT, HB 120, HD1**

Dear Committee Chair Angus L.K. McKelvey, Vice Chair, Derek S.K. Kawakami, and Representatives Della Au Belatti, Ken Ito, Tom Brower, Chris Lee, Rida T.R. Cabanilla, Clift Tsuji, Romy M. Cachola, Ryan I. Yamane, Mele Carroll, Bob McDermott, Cindy Evans, Cynthia Thielen, Sharon E. Har,

**David Hubbard IN SUPPORT, HB 120, HD1.** When we found out that we had to turn to alternatives outside our home in Kailua (House District 50) to care for my mother, the challenges were unlike any we had faced before. The decision had to be made quickly, and it had major health and financial consequences.

We asked for advice from professionals, friends and people that had recently gone through the similar challenges. We searched for resources and tried to understand all the alternatives that were available. Information is limited. No single resource gives a broad, up-to-date, overview of the options.

This is a very stressful and emotional time for families, and while we encountered many outstanding professional caregivers, we were also discouraged and confused by some of the interactions we had while trying to make the best decisions for a loved one.

Our family encountered some unsettling situations while trying to find an appropriate professional facility for my mother. One place offered to sign my mother up as a family member because they did not have the correct ratio of Medicaid to private pay patients to accept her through normal channels. At a second facility, we found out, after asking a long series of questions that they were not regulated by the Department of Health, and there would be no way to check for complaints or violations, because they had set up an alternative legal structure for running their business. At a third place with a single staff person at night, we asked what would happen if a patient fell out of bed. We were told that they would make the patient comfortable on the floor with pillows and wait for the day staff to arrive. These interactions and others caused us to have serious doubts about which facilities would provide quality care, and that made decision-making very difficult.

The Hawai'i Department of Health has information on the quality of facilities under their jurisdiction, but they do not currently make it easy for the public to get access to in a timely manner. Many other states have programs that make this information available immediately on the internet. Please **SUPPORT HB 120, HD1** and make it a little easier for families to make good decisions in a timely manner for their loved ones.

Mahalo,  
David Hubbard, hubbard@lifesci.ucsb.edu

**kawakami2 - Rise**

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Tuesday, February 12, 2013 12:15 PM  
**To:** CPCtestimony  
**Cc:** raytanv@aol.com  
**Subject:** \*Submitted testimony for HB120 on Feb 13, 2013 14:30PM\*

**HB120**

Submitted on: 2/12/2013

Testimony for CPC on Feb 13, 2013 14:30PM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Raytan K. Vares	Individual	Oppose	No

Comments:

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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**kawakami2 - Rise**

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Tuesday, February 12, 2013 12:26 PM  
**To:** CPCtestimony  
**Cc:** uilani1950@aol.com  
**Subject:** Submitted testimony for HB120 on Feb 13, 2013 14:30PM

**HB120**

Submitted on: 2/12/2013

Testimony for CPC on Feb 13, 2013 14:30PM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
hildegard akee	Individual	Oppose	Yes

Comments: my name is Hildegard Akee I oppose this bill because it is a very negative impact to our industry and to the good caregivers who work very hard.

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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**TO:** HOUSE COMMITTEE ON CONSUMER PROTECTION AND COMMERCE  
Rep. Angus I.K. McKelvey, Chair

**FROM:** Eldon L. Wegner, Ph.D.

**HEARING:** 2:30 pm Wednesday, February 13, 2013  
Conference Room 325, Hawaii State Capitol

**SUBJECT:** HB 120 HD1 Relating to Health

**POSITION:** I **support** HB 120 HD 1 which would post on the DOH and DHS websites the results of inspections of certain long-term care residential facilities.

**RATIONALE:**

Families and others typically a difficult time to select an appropriate residential arrangement for their loved one. They often have little time for such as critical decision and have no easy means of learning about the quality of care of different options open to them. Inspections are required by the state and it is only reasonable that the results of those inspections should be available on the website of the Department of Health to consumers in making this very important decision.

I strongly support passage of this HB 120 HD 1.

Thank you for allowing me to testify.