

William P. Kenoi  
Mayor



Alan R. Parker  
Executive on Aging

## County of Hawai'i

### OFFICE OF AGING

Aging and Disability Resource Center, 1055 Kino'ole Street, Suite 101, Hilo, Hawai'i 96720-3872  
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March 17, 2014

TESTIMONY TO: **Committee on Health**  
**Rep. Della Au Belatti, Chair**  
**Rep. Dee Morikawa, Vice Chair**

SUBJECT: **S.B. 2264, SD2**  
**"RELATING TO CAREGIVING**  
**Wednesday, March 19, 2014**  
**08:30 a.m.; Conference Room 329**

Honorable Chairs and Members of the Committee:

The Hawaii County Office of Aging supports **S.B. 2264, SD2** as well as AARP's recommendation that the bill be amended to make it mandatory that hospitals provide patients with the opportunity to designate a caregiver; notify caregivers 24 hours prior to a patient's discharge; and provide instructions to caregivers on tasks performed after discharge at home.

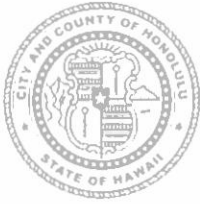
Too often, the Aging and Disability Resource Center (ADRC) in Hilo receives calls from desperate caregivers caught off guard by early release from hospitals, often times with care requirements beyond the average persons capabilities.

Our ADRC is not geared to respond to emergency or last minute desperation calls from caregivers. It is imperative that caregivers receive adequate notification as well as information and instructions on tasks needed to be performed after discharge.

Thank you for providing me the opportunity to testify.

Alan R. Parker, Executive on Aging  
Hawaii County Office of Aging  
1055 Kinoole Street, Suite 101  
Hilo, Hawaii 96720-3872





**CITY COUNCIL**  
CITY AND COUNTY OF HONOLULU  
530 SOUTH KING STREET, ROOM 202  
HONOLULU, HAWAII 96813-3065  
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**ANN H. KOBAYASHI**  
COUNCILMEMBER, DISTRICT 5  
CHAIR, COMMITTEE ON BUDGET  
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March 17, 2014

The Honorable Della Au Belatti, Chair  
The Honorable Dee Morikawa, Vice-Chair  
House Committee on Health  
State Capitol Room 331  
Honolulu, Hawaii 96813

Re: Senate Bill 2264 SD 2 – Relating to Caregiving  
Wednesday, March 19, 2014  
Conference Room 329, 8:30 a. m.

Dear Chair Belatti, Vice-Chair Morikawa, and members of the House Committee on Health,

I am here this morning to express my strong support for Hawaii's 247,000 caregivers by requiring that 1) patients of acute-care hospitals designate a caregiver; 2) hospitals include the designated caregiver in the patient's medical record and notify the caregiver prior to the patient's discharge; and 3) require the hospitals to instruct the designated caregiver in aftercare for the patient at home.

These important practices are necessary to a safe discharge and should be required and not just be optional. Unfortunately, the current draft—SB 2265 SD 2—changed these important practices to being optional offerings by the hospitals. This defeats the purpose of helping to provide a safety net that is uniform across our state for post-discharge caregiving.

As such, I am requesting that the bill be amended and the language reverted back from "may" to "shall" as in SD 1 so that caregivers and their patients will receive the necessary help needed for a safe discharge and reduce the likelihood of patient readmission, now at 71% for Medicare patients.

This is a very important and much needed bill for our caregivers. Many caregivers feel ill-equipped to handle more difficult tasks of home health care for their family elders. In fact, there have been many instances where a family member is discharged without sufficient assistance getting him/her home from the hospital. There exists a lack of consistency on connecting with a caregiver before discharge, and passage of this bill would address this shortcoming.

Our state has a large aging population and their continued health is a matter of statewide concern.

As the Honolulu City Council Member representing District 5 (encompassing Kaimuki, Palolo Valley, St. Louis Heights, Manoa, Moiliili, and parts of Ala Moana, Kakaako and Makiki) I am intimately familiar with the challenges facing residents of Honolulu's densely populated communities – home to a large number of elderly individuals and their families.


Census data indicate that urban Honolulu – of which District 5 is part – has the highest percentage of residents age 85+ (3.5 percent) and the fifth highest percentage of residents age 65+ (17.8 percent) among American cities with 100,000 or more people. While Honolulu residents are blessed with greater longevity, many families are confronted with the many challenges that come with caring for older friends and loved ones who become too frail to provide for their individual needs at home.

As the population of the City and County of Honolulu continues to age in the years and decades ahead, the pressures on caregivers may be expected to mount. Already we see family caregivers – many of them holding down full-time jobs – caught in the middle as they juggle responsibilities to younger children with the equal responsibility for older parents and grandparents. As families and communities cope with challenges relating to caregiving, elected officials owe it to the public to support policies that put families first.

Please support Senate Bill 2264 as proposed as a common-sense way to help our seniors live independently at home by supporting the family caregivers who are entrusted with their health and safety.

Thank you for the opportunity to testify.

Sincerely,

  
Ann H. Kobayashi  
Council District 5

TO: HOUSE COMMITTEE ON HEALTH  
Representative Della Au Belatti, Chair

FROM: Eldon L. Wegner, Ph.D., Chair, Advocacy Committee  
Hawaii Family Caregiver Coalition

HEARING: 8:30 am Wednesday March 19, 2014  
Conference Room 329, Hawaii State Capitol

SUBJECT: SB 2264 SD2 Relating to Caregiving

POSITION: The Hawaii Family Caregiver Coalition **strongly supports SB 2264 SD2** which requires hospitals to give patients the opportunity designate a caregiver, enter the caregiver's name in the medical record, notify the caregiver prior to the patients transfer or discharge, consult with the caregiver about the discharge plan, and instruct the caregiver in after-care tasks:

RATIONALE:

The Hawaii Family Caregiver Coalition represents more 25 organizations who serve family caregivers. Are role is to education and advocate for measures which will support family caregiving in Hawaii and will increase the quality of care and the quality of life for caregivers and the family members they care for.

- Family caregivers are typically not included in the discharge planning of patients from hospitals, and despite the fact that they are often expected to perform complicated and risky medical task, they are not trained for these tasks.
- Hospital readmissions for the same diagnosis within 30 is unacceptably high, including 1 in 8 persons on Medicare. A high number of these readmissions are due to inadequate care following their discharge from the hospital.
- A 2012 survey by the AARP Public Policy institute and the United Hospital Fund determined that almost half (46%) of family caregivers performed medical/nursing tasks ranging from managing multiple medications, helping with assistive mobility devices, preparing food for special diets, providing wound care, using monitors, and operating specialized medical equipment. Three out of four (78%) family caregivers who provided medical/nursing tasks were managing medications, including intravenous fluids and injections. Almost half were administering 5 to 9 prescription medications a day.
- Hospitals are at financial risk because such readmissions are often not reimbursed by insurance and are now penalized with fines by the Medicare.
- Including family caregivers in the planning of discharge arrangements, giving them a voice in such arrangements, and providing them with adequate training to provide the quality of care needed during the vulnerable post-hospital stage, is sensible and sensitive to the caregiver, and likely to result in superior outcomes

Thank you for allowing me to testify.

# **HARA** Voice of Hawaii's Seniors

*Hawaii Alliance for Retired Americans, An Affiliate of the Alliance for Retired Americans  
1953 South Beretania Street, Suite 5C, Honolulu, Hawaii 96826*

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Submitted by email to: [HLTestimony@capitol.hawaii.gov](mailto:HLTestimony@capitol.hawaii.gov)

Statement of Al Hamai in support of SB2264, SD2, Relating to Caregiving

## **House Committee on Health**

**March 19, 2014, 8:30 a.m. Conference Room 329**

Chair Della Au Bellatti, Vice Chair Dee Morikawa and Committee Members,

HARA supports SB2264, SD2, which permits hospitals to allow patient to include the designated lay caregiver in the patient's medical record, notify the lay caregiver prior to the patient's transfer or discharge, consult with the lay caregiver about the patient's discharge plan, and instruct the designated lay caregivers in after-care. We urge that the bill be amended to make these provisions mandatory on the part of hospitals, not optional. This is an important patient protection issue.

A lay caregiver is often entrusted with the everyday care of the patient, performing the essential services that the patient may not be able to perform, like transporting, bathing and cleanliness, food preparation and eating, medication in a timely manner, etc. So, the caregiver should be included in the medical record of the patient, as are the various hospital staff members who treat the patient. The caregiver can be a very important source of information on the medical condition of the patient, especially those who for various reasons are not able to communicate effectively with the hospital staff.

The caregiver should also be involved in the patient's discharge plan, and be provided with instructions about the patient's care, following release from the hospital. Often the lay caregiver, is the only one available to provide this care. These instructions, understood and followed by the caregiver, will hopefully lead to a reduction in the patient re-admission rate for the hospital within a short time of discharge, which is surely a common goal of the hospital and the patient and Medicare.

We urge your Committee to approve SB2264, SD2. Mahalo and Aloha.

*HARA is a strong voice for Hawaii's retirees and seniors; a diverse community-based organization with national roots; a grassroots organizer, educator, and communicator; and a trusted source of information for decision-makers.*

***HARA Affiliates: HGEA Retirees, HSTA-Retired, ILWU Retirees, UPW Retirees, AFT Retirees, Kokua Council, Hawaii Family Caregivers Coalition, Kupuna Education Center.***



**Testimony to the House Committee on Health  
Wednesday, March 19, 2014 at 8:30 A.M.  
Conference Room 329, State Capitol**

**RE: SENATE BILL 2264 SD2 RELATING TO CAREGIVING**

Chair Belatti, Vice Chair Morikawa, and Members of the Committee:

The Chamber of Commerce of Hawaii ("The Chamber") **opposes** SB 2264 SD2, which permits hospitals to allow patients the opportunity to designate a lay caregiver; allows hospitals to include the designated lay caregiver in the patient's medical record, notify the lay caregiver prior to the patient's transfer or discharge, consult with the lay caregiver about the patient's discharge plan, and instruct the designated lay caregivers in after-care; provides immunity to hospitals and their employees that allow patients the opportunity to designate a lay caregiver or provide voluntary after-care training.

The Chamber is the largest business organization in Hawaii, representing over 1,000 businesses. Approximately 80% of our members are small businesses with less than 20 employees. As the "Voice of Business" in Hawaii, the organization works on behalf of members and the entire business community to improve the state's economic climate and to foster positive action on issues of common concern.

Although we support this measure's intent to support caregivers, SB 2264 SD2 burdens hospitals with many new responsibilities, placing hospitals in precarious legal situations. We believe that there are alternative solutions to support caregivers without creating legal liabilities for hospitals. Some alternatives are:

- 1) Continue to enhance caregiver support programs and initiatives that provide information, services, and supports, from listening to concerns to offering assistance in navigating online resources, as well as connecting the caregiver to wider resources both hospitals as well as the community. Include an aggressive outreach and public education campaign;
- 2) Provide adequate support for programs that help keep seniors living at home;
- 3) Help protect our elders from fraud and financial exploitation;
- 4) Support housing options that allow our elders to age in place and be an active part of a community; and
- 5) Support volunteer models that build social networks for our elders, which also include intergenerational interaction.

Thank you for the opportunity to testify.



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**Wednesday – March 19, 2014 – 8:30am**  
**Conference Room 329**

**The House Committee on Health**

To: Representative Della Au Belatti, Chair  
Representative Dee Morikawa, Vice Chair

From: George Greene  
President & CEO  
Healthcare Association of Hawaii

Re: **Testimony in Opposition**  
**SB 2264, SD 2 — Relating to Caregiving**

The Healthcare Association of Hawaii (HAH) is a 116-member organization that includes all of the acute care hospitals in Hawaii, the majority of long term care facilities, all the Medicare-certified home health agencies, all hospice programs, as well as other healthcare organizations including durable medical equipment, air and ground ambulance, blood bank and respiratory therapy. In addition to providing quality care to all of Hawaii’s residents, our members contribute significantly to Hawaii’s economy by employing nearly 20,000 people statewide.

Thank you for the opportunity to testify in opposition to SB 2264, SD 2. The legal duties imposed on healthcare providers relating to patient caregivers by SB 2264, SD 2, create substantial risk and uncertainty for hospitals.

SB 2264, SD 2, in sections -2, -3, and -4, imposes legal duties on hospitals regarding patient caregiver designation, notice, and aftercare instruction. While the bill creates a host of new legal requirements for hospitals—which create substantial legal liability for hospitals who fail to meet such requirements—the measure does not specifically address the consequences for healthcare providers who fail to meet the very specific caregiver mandates. To the contrary, however, in section -2 (e) & (f) the bill specifically states that it does not impose any legal duty on the patient, the patient’s guardian, or any designated caregiver. By imposing legal duties on hospitals without guidance regarding a failure to meet duties under this bill—and by failing to impose mutual legal duties on hospitals, patients, guardians, and caregivers alike—the statute shifts all risk in the caregiving relationship to the hospitals and creates unnecessary legal liability and uncertainty.

As noted in the JDL committee report, SSCR 2701, “it is not possible to provide hospitals with a blanket immunity” where a statute imposes a legal duty on a party. Placing caregiver requirements in statute, even when those requirements are permissively phrased in the statute, may impose substantial liability

on hospitals under SB 2264, SD2, because “[g]enerally[] a standard of conduct may be determined by reference to a statute.” (*Ono v. Applegate*, 62 Haw. 131, 137 (1980).)

And “[e]ven where a legislative enactment contains no express provision that its violation shall result in tort liability, and no implication to that effect, the court may, and in certain types of cases customarily will, adopt the requirements of the enactment as the standard of conduct necessary to avoid liability for negligence.” (*Ibid.* at p. 138, quoting Restatement (Second) of Torts § 281 (1965), comment (c) [holding that § 281-78(a)(2)(B), Hawaii Revised Statutes, imposes a legal duty on a bartender not to serve a person under the influence of alcohol].)

SB 2264, SD 2 is also unnecessary and duplicative because hospitals already have discharge policies and protocols in place that ensure that patients’ family members and caregivers receive critical aftercare instructions and information for patients being discharged. (See 42 CFR § 482.43, et. seq.) Our hospital members are dedicated to providing patients and their caregivers detailed instructions and information to guarantee that patients receive the highest quality of aftercare.

SB 2264, SD 2 would also substantial new costs for hospitals seeking to provide notice, instruction, and—as required in section - 4 of the bill—a live demonstration of caregiving duties to designated caregivers. SB 2264, SD 2 does not provide for any formal training of caregivers—other than the informal instructions and demonstrations required in the bill—and does not provide any appropriation for any such training. The bill assumes that hospitals will provide the necessary funding to cover the cost of compliance with SB 2264, SD 2, with respect to designation, notice, instruction, and live demonstrations. Assuming a twenty-five percent personnel cost increase, HHSC hospitals will require an additional appropriation of \$1.675 million annual appropriation. And assuming an eighty percent personnel cost increase, HHSC hospitals will require an additional appropriation of \$5.36 million annual appropriation.

Because HAH believes mandatory insurance coverage is necessary for these additional expenditures, an auditor’s report for an assessment of mandatory insurance coverage under section 23-51 and 23-52, Hawaii Revised Statutes, should be undertaken before this measure moves forward.

In a time of unprecedented change in healthcare, HAH is committed to working with providers across the continuum of care toward a healthcare system that offers the best possible quality of care to the people of Hawaii. While HAH’s members share the desire of legislators to continually improve the quality and delivery of healthcare, mandating costly specific practices through legislation—especially those that impose substantial risk on hospitals and that healthcare providers already have in place—generally impedes improvement and innovation in healthcare quality and best practices.

Thank you for the opportunity to testify in opposition to SB 2264, SD 2.





**S.B. 2264, S.D.2**  
**RELATING TO CAREGIVING**  
**House Committee on Health**  
**March 19, 2014, 8:30 a.m.**

The Queen's Health System understands the intent, but cannot support this measure.

When a loved one is in need, the challenges of caregiving often fall to family, friends, and neighbors. Today, caregiving is challenging, especially as we work to keep older adults living independently and safely in their homes and communities. This role can take both an emotional and physical toll. The unpaid contributions of family caregivers to the person being cared for are huge. We support the growing concern and interest in improving family caregivers' experiences and outcomes.

QMC adheres to Centers for Medicare and Medicaid Services Conditions of Participation, Discharge Planning. These are the discharge guidelines and processes that hospitals must have in effect and apply to all patients. Included in this are standards such as early identification of patients in need of substantive discharge planning, timelines and evaluation requirements, and guidelines on the development of discharge plans which requires the inclusion and counseling of patient and family members to prepare them for post-hospitalization.

While well intentioned to bolster caregivers' support and education, as written, this measure creates legal duties on hospitals regarding patient caregiver designation, notice, and after-care instruction. It creates a host of new legal requirements for hospitals—which may create legal liability for hospitals that do not meet such requirements. The statute shifts risk in the caregiving relationship to the hospitals and creates legal uncertainty for hospitals.

While we cannot support the mandates in SB2264, we have reviewed the impressive and diligent research, data, and policy recommendations made by AARP in the area of caregiving. Based on that information, we suggest there may be other options we can work together to support Hawaii's caregivers, such as:

- 1) Continue to enhance caregiver support programs and initiatives that provide information, services, and supports, from listening to concerns to offering assistance in navigating online resources, as well as connecting the caregiver to wider resources both hospitals as well as the community. Include an aggressive outreach and public education campaign;
- 2) Provide adequate support for programs that help keep seniors living at home;
- 3) Help protect our elders from fraud and financial exploitation;
- 4) Support housing options that allow our elders to age in place and be an active part of a community; and
- 5) Support volunteer models that build social networks for our elders, which also include intergenerational interaction.

Thank you for the opportunity to provide testimony with our concerns on this measure.

## Testimony of Phyllis Dendle

Before:  
House Committee on Health  
The Honorable Della Au Belatti, Chair  
The Honorable Dee Morikawa, Vice Chair



March 19, 2014  
8:30 am  
Conference Room 329

**SB2264 SD2 RELATING TO CAREGIVING**

Chair Belatti, and committee members, thank you for this opportunity to provide testimony on SB2264 SD2 which places responsibilities and liabilities on hospitals to train lay caregivers.

**Kaiser Permanente Hawaii has significant concerns about this bill.**

To be clear, Kaiser Permanente Hawaii supports providing useful discharge planning and coordination for the patient, their family or other caregiver, and their outpatient and home health care providers. It is in everyone's best interest to assure that the patient has the best possible chance for recovery.

However, we do not think this is a matter that should be placed into statute. Fundamentally the bill creates a responsibility to instruct caregivers, without providing the hospital any authority to assure the instructions are carried out correctly.

This opens hospitals and employees of hospitals up to liability. The Senate Judiciary and Labor committee states in their committee report—"it is not possible to provide hospitals with a blanket immunity."

Once a patient leaves the hospital we have no ability to control their care. Let me give you an example.

- A patient may not take their prescribed medications.
- Caregivers may not give patients correct dosages even if they are correctly

instructed in how to do this. Even if the instructions are written down they could make an error.

- The caregiver trained to give medication may not always be the one who gives the medication if there are multiple caregivers.
- Additional caregivers may be added long after discharge.

Nonetheless, if there were a medication error that injured the patient, the patient could claim that it was because the training of their caregiver was faulty.

Putting this in law shifts the focus of the discharge team from protecting the patient's interests to protecting themselves and the hospital from liability.

Hospitals don't provide discharge planning because we are being nice. It is a necessary part of the care we provide all inpatients. It is part of their medical care and as such ought to not become frozen in statute and subject to legal interpretation.

We urge the committee to hold this bill and in the interim review what if any laws have been created in other states and the ways they have achieved a balance in encouraging skill building in caregivers while not expanding hospitals' responsibilities without expanding their authority.

Thank you for your consideration.



**LATE**

American Cancer Society  
Cancer Action Network  
2370 Nu`uanu Avenue  
Honolulu, Hawai`i 96817  
808.432.9149  
[www.acscan.org](http://www.acscan.org)

House Committee on Health  
Representative Della Au Belatti, Chair  
Representative Dee Morikawa, Vice Chair  
Health Committee Members

Hearing: March 19, 2014; 8:30 a.m.

**SB 2264 SD2 – RELATING TO CAREGIVING**

Cory Chun, Government Relations Director – Hawaii Pacific  
American Cancer Society Cancer Action Network

Thank you for the opportunity to provide testimony in support of SB 2264 SD1, which provides the opportunity for an individual to designate a caregiver and provide notice to the caregiver for prior to discharge or a transfer.

The American Cancer Society Cancer Action Network (ACS CAN) is the nation's leading cancer advocacy organization. ACS CAN works with federal, state, and local government bodies to support evidence-based policy and legislative solutions designed to eliminate cancer as a major health problem.

Caregivers are usually the unpaid loved ones who give the person with cancer physical and emotional care. Caregivers may be spouses, partners, family members, or close friends. Most often, they are not trained for the caregiver job. Many times, they may be the lifeline of the person with cancer.

Under this measure, a caregiver will be formally recognized by a health care institution and be provided with the necessary information and training to provide proper caregiving. Caregiving is a tough job, and providing information and support to a caregiver will lead to more positive outcomes for the caregiver and the individual receiving care. We see this as a positive move to assist caregivers who give up so much of their time and energy to support their loved ones.

Thank you for the opportunity to provide testimony on this matter.

The Twenty-Seventh Legislature  
Regular Session of 2014

**LATE**

HOUSE OF REPRESENTATIVES  
Committee on Health  
Rep. Della Au Belatti, Chair  
Rep. Dee Morikawa, Vice Chair  
State Capitol, Conference Room 329  
Wednesday, March 19, 2014; 8:30 a.m.

**STATEMENT OF THE ILWU LOCAL 142 ON S.B. 2264, SD2  
RELATING TO CAREGIVING**

The ILWU Local 142 supports the intent of S.B. 2264, SD2, which permits hospitals to allow patients to designate a lay caregiver and allows hospitals to include the designated caregiver in the patient's medical record, notify the lay caregiver prior to transfer or discharge, consults with the lay caregiver about the patient's discharge plans, and instructs the lay caregiver in after-care. The measure also provides the hospitals and their employees with immunity.

Whenever a person of any age is hospitalized, a discharge plan should be discussed with the patient and his or her family. In many, if not most, cases, the patient will not require extraordinary care following discharge.

However, when the patient is elderly and cannot fully care for himself, it is imperative that the hospital involve a caregiver in discharge planning as early as possible. Although S.B. 2264 originally provided that hospitals would be required to involve caregivers, SD2 now makes such involvement discretionary. Out of concern for their own liability, hospitals have managed to severely weaken a bill that would have protected both patients and caregivers and worked in the best interest of the hospitals themselves.

We believe the primary concern for all hospitals should be the well-being of their patients. All efforts should be made to discharge the patient with the best possible chance of a positive outcome. Indeed, now, more than ever, hospitals should be concerned about readmissions. Under the Affordable Care Act, we understand that hospitals face penalties when patients are readmitted within 30 days. Designating a caregiver and providing after-care instructions will not prevent readmissions in all cases, but the effort will ensure that more patients will have appropriate care and can avoid readmission.

The requirements as provided in the original bill should not impose an undue burden on hospital staff or additional liabilities, but they will clarify for the hospital what its obligations are to the patient being discharged and they will assist caregivers who need education, instruction, and support as they face the huge responsibility of providing care to a medically needy person. Family caregivers often sacrifice income, careers, and family life to care for loved ones in order to keep them at home and prevent institutionalization, which itself could be costly to the State. Any assistance the hospital can provide to these caregivers is invaluable.

The ILWU urges that the original language of S.B. 2264 be restored. With this amendment, the ILWU can support the bill's passage. Thank you for the opportunity to share our views on this measure.



HAWAII PRIMARY CARE ASSOCIATION

**LATE**

**House Committee on Health**

The Hon. Della Au Belatti, Chair

The Hon. Dee Morikawa, Vice Chair

**Testimony on Senate Bill 2264, SD2**

**Relating to Caregiving**

**Submitted by Robert Hirokawa, Chief Executive Officer**

**March 19, 2014, 8:30 am, Room 329**

The Hawaii Primary Care Association (HPCA), which represents the federally qualified community health centers in Hawaii, supports Senate Bill 2264, SD2, requiring hospitals to allow patients the opportunity to designate a caregiver, include the designated caregiver in the patient's medical record, notify the caregiver prior to the patient's transfer or discharge, consult with the caregiver about the patient's discharge plan, and instruct the designated caregivers in after-care tasks.

The concepts and roles described in this measure are very similar to roles that family members assume in the patient centered health care home model (PCHCH.) Community health centers have invested time and resources to transform our health care delivery system into one that is patient centered and embodies the PCHCH model. Therefore, we strongly support the intent of this measure to include caregivers in the team approach of after-care following a hospital discharge as well as planning and preparation for a hospital discharge.

Thank you for the opportunity to testify.

**LATE**

**TESTIMONY OF ROBERT TOYOFUKU ON BEHALF OF THE HAWAII  
ASSOCIATION FOR JUSTICE (HAJ) IN OPPOSITION IN PART TO S.B. NO.  
2264, SD 2**

March 19, 2014

To: Chairperson Della Au Belatti and Members of the House Committee on Health:

My name is Bob Toyofuku and I am presenting this testimony on behalf of the Hawaii Association for Justice (HAJ) in opposition in part to S.B. No. 2264, SD 2.

HAJ is not opposed to the concept of developing a program to provide caregivers with proper advice and training but note that much of the testimony from the hospitals is that the hospitals already provide suggestions and advice to potential caregivers when a patient is being discharged from the hospital. However, HAJ does oppose the immunity provision in section -6 of the SD 2.

The initial bill and subsequent version did not contain an immunity provision which was inserted in the SD 2 and appears to be by a stakeholder to overcome an apparent objection and to move the bill forward. HAJ's opinion is that this is not good public policy to provide immunity from taking responsibility in every instance where there seems to be resistance to provide for some action or service by an individual, organization or entity.

The hospitals have said that they already provide some advice and this is without the need for any law providing them immunity. HAJ requests that this committee delete that provision from this bill.

There are two basic underlying reasons of tort law in the American legal system. One is to compensate a person for his or her injuries as a result of another and the other is to serve as a deterrent to prevent negligent or irresponsible behavior. When a person or

an entity realizes that they may be held liable, there is a strong incentive to prevent the occurrence of harm. One reason for imposing liability is the deliberate purpose of providing that incentive. Said another way, tort law encourages responsible behavior.

This bill absolves all hospitals and employees who may provide services to a potential caregiver from liability for possible negligent acts. While the primary purpose behind this act may be well intended, the immunity provision takes away the need to take responsibility. The hospitals and its employees are professional health care providers and the scope of the immunity for negligent acts is too broad and does not protect the patient. HAJ feels that this is not in the best interest of these patients and is not good public policy. HAJ requests that at least this portion of the bill be deleted.

Thank you for the opportunity to testify and listening to our concerns and comments.





55 Merchant Street  
Honolulu, Hawai'i 96813-4333

**HAWAI'I PACIFIC HEALTH**  
Kapi'olani • Pali Momi • Straub • Wilcox

808-535-7401  
www.hawaiipacifichealth.org

**Wednesday, March 19, 2014 – 8:30 am**  
**Conference Room 329**

**The House Committee on Health**

To: Representative Della Au Belatti, Chair  
Representative Dee Morikawa, Vice Chair

From: Virginia Pressler, MD, MBA  
Hawai'i Pacific Health

Re: **SB 2264, SD2 Relating to Caregiving**

**LATE**

**Testimony in Opposition**

My name is Virginia Pressler, MD, MBA. I am the Executive Vice President and Chief Strategic Officer for Hawai'i Pacific Health. Hawai'i Pacific Health is a not-for-profit health care system, and the state's largest health care provider and non-government employer. It is committed to providing the highest quality medical care and service to the people of Hawai'i and the Pacific Region through its four hospitals, more than 50 outpatient clinics and service sites, and over 1,600 affiliated physicians. Hawai'i Pacific Health's hospitals are Kapi'olani Medical Center for Women & Children, Pali Momi Medical Center, Straub Clinic & Hospital and Wilcox Memorial Hospital.

We oppose SB 2264, SD2 because systems are already in place ensuring appropriate discharge procedures, and these types of procedures should not be contained in statute. The Joint Commission which accredits and certifies more than 20,000 health care organizations, hospitals and programs has developed a comprehensive process for discharging and transferring patients. Our hospitals follow the standards established by the Joint Commission regarding providing information and education to the patients, the patients' family and/or the patients' caregiver prior to discharge or transfer. The standards state that the hospitals are:

Required to arrange for the initial implementation of the discharge plan. This includes providing in-hospital education/training to the patient for self-care or to the patient's family or other support person(s) who will be providing care in the patient's home.

It also includes arranging:

- Transfers to rehabilitation hospitals, long term care hospitals, or long term care facilities;
- Referrals to home health or hospice agencies;
- Referral for follow-up with physicians/practitioners, occupational or physical therapists, etc.;



- Referral to medical equipment suppliers; and
- Referrals to pertinent community resources that may be able to assist with financial, transportation, meal preparation, or other post-discharge needs.

The discharge planning process is a collaborative one that must include the participation of the patient and the patient's informal caregiver or representative, when applicable.

As there is already a system in place which the hospitals adhere to, we submit that SB 2264, SD2 is unnecessary and duplicative.

Thank you for the opportunity to provide this testimony.



**LATE**

**To: Committee on Health  
Representative Della Au Belatti, Chair**

**Date: March 19, 2014, Conference Room 329, 8:30 a.m.**

**Re: SB2264 SD 2 – RELATING TO CAREGIVING  
TESTIMONY IN OPPOSITION**

**Chair Belatti and Members of the Committee:**

**My name is Stuart Ho, and I appear here on behalf of AARP Hawaii, and on behalf of its 150,000 members in Hawaii.**

**Specifically, I appear in opposition to SB2264, SD 2, relating to caregivers of patients about to be discharged from hospitals, and to offer amendments to the bill.**

**The basic bill deals with what happens, and what should happen, when an acute care hospital in Hawaii discharges a patient to his or her home.**

**Let me set the stage for this discussion. Several years ago AARP conducted a survey of Hawaii residents seeking to determine the number of unpaid caregivers in the state. The results were revealing. On any given day 169,000 Hawaii residents spent some unpaid time (or a lot of unpaid time) providing care to a sick patient. During the course of a year, the figure rose to 247,000.**

**We all know where Hawaii's demographics are taking us. With longer life expectancies, we are becoming grayer faster. Our doctors and hospitals will have their hands full. But so will the caregivers into whose hands many patients will be delivered.**

**How many in this room expect to be caregivers? How many of you know how to dress a wound, administer an injection, deal with a gastric feeding tube or understand the risks of medication error?**

**That's what this bill is about. That's what this disagreement is about.**

**We believe that patients admitted to a hospital in Hawaii should be allowed to designate a caregiver; that a hospital should notify the caregiver before a patient is discharged; and that the hospital be required to instruct the caregiver on how to care for the patient before the patient is discharged home.**

**The hospitals oppose this.**

**The hospitals say they're afraid of liability. They say they're afraid of being sued if something goes wrong. One supposes that they should also afraid of being sued if something goes wrong because they didn't provide instruction on how to care for a patient still sick upon release. Moreover, the medical industry didn't fear liability when so many of the duties that were once the exclusive province of doctors passed on to nurses.**

**The hospitals also say that their operating costs will rise. The fact is, some hospitals do the right things on discharge now. But others don't. I don't think we need to go into the stories about the hospitals that don't; we would need another hearing.**

**A few days ago, on March 15<sup>th</sup>, AARP conducted a telephone town hall to see whether others shared our views. Our counter showed over 3,500 Hawaii residents listening in, and 82 percent responding to a poll question believed hospitals should provide clear and detailed instructions to family caregivers.**

**I have enclosed a draft of a proposed amendment to the Senate draft that shows the changes we propose.**

**Thank you for the opportunity to address you.**

RELATING TO CAREGIVING.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

SECTION 1. The legislature finds that Hawaii's population of older adults is rapidly increasing, and the State relies heavily on unpaid lay caregivers, such as family and friends, to provide long-term services and support. In 2012, Hawaii had the highest percentage in the nation of residents age eighty-five and older. This population is projected to grow sixty-five per cent over the next twenty years and is the population most likely to need long-term care. The AARP Public Policy Institute estimates that in 2009, there were 247,000 lay caregivers in Hawaii, and that the 162,000,000 hours of unpaid care the lay caregivers provided would be valued at \$2,000,000,000.

The legislature further finds that the role of lay caregivers is expanding. While lay caregivers have traditionally assisted with bathing, dressing, eating, and household tasks such as shopping and managing finances, it is now common for lay caregivers to perform medical and nursing tasks that historically were only provided in hospitals and nursing homes or by home care professionals. The most commonly performed medical and nursing tasks are medication management, help with assistive mobility

devices, preparing food for special diets, and wound care. The rise of lay caregivers providing medical or nursing tasks is attributed to an increased prevalence of chronic conditions in older adults, economic pressures to reduce hospital stays, and reduction of formal home care services due to the growth of in-home technology.

~~The legislature also recognizes that hospitals are in a unique position to train lay caregivers. Under federal law, hospitals are required to have a patient discharge planning process with written policies and procedures. Federal law states that the discharge planning process may include preparing lay caregivers to care for soon-to-be discharged patients. Currently, some hospitals voluntarily provide lay caregivers with training as a part of their discharge planning process. The legislature commends these hospitals for voluntarily providing lay caregivers with training.~~

~~—The legislature also recognizes hospitals' concerns about potential liability. Hospitals have expressed their trepidation about the potential for increasing their exposure to civil liability if hospitals are required to provide patients' lay caregivers with training prior to discharge. The legislature understands this legitimate concern and further stresses its concerted intent to avoid the creation of additional causes of~~

~~action against hospitals that are voluntarily training lay caregivers to provide care for their loved ones. Thus, this Act includes a provision that clearly states that nothing in this Act shall be construed to give rise to a cause of action against a hospital or hospital employee.~~

~~—The legislature finds that voluntary training of lay caregivers by hospitals has the potential to help patients and lay caregivers. By voluntarily training lay caregivers, hospitals may lower their readmission rates and overall costs. Lay caregivers may benefit from the voluntary training because they will have the opportunity to become better equipped to provide care to their loved ones. This Act will encourage the voluntary delivery of training to lay caregivers to enable lay caregivers to provide competent post-hospital care to their families and other loved ones, at minimal cost to the taxpayers, without exposing hospitals that train lay caregivers to greater liability. Despite the critical and expanding role of lay caregivers serving Hawaii's aging population, lay caregivers often find that they are left out of discussions involving the patient's care when the patient is in the hospital, and they are expected to provide post-hospital care including medical and nursing tasks without any training or support from professionals. Nationally, approximately \$17,000,000,000 in Medicare funds are spent each year on~~

unnecessary hospital readmissions; and, recently seventy-one per cent of Hawaii's hospitals were penalized for excessive readmissions under the federal hospital readmissions reduction program.

In order to successfully address the challenges of a surging population of older adults and others who have significant needs for long-term services and support, the State must develop methods to enable lay caregivers to continue to support their loved ones at home and in the community, and avoid costly hospital readmissions. Therefore, the intent of this Act is to enable lay caregivers to provide competent post-hospital care to their families and other loved ones, at minimal cost to the taxpayers.

The purpose of this Act is to:

- (1) Allow a patient an opportunity to designate, upon entry to a hospital, a lay caregiver in the patient's medical record;
- (2) ~~Support hospitals that~~ Require a hospital to notify and meet with the designated lay caregiver to discuss the patient's plan of care prior to the patient's discharge or transfer to another facility;
- (3) ~~Support hospitals that provide voluntary training of~~ Require a hospital to instruct the designated lay



caregivers in certain after-care tasks upon a patient's discharge; and

- (4) Affirm that nothing in this Act shall be construed to give rise to a cause of action against hospitals and their employees that voluntarily train lay caregivers.

SECTION 2. The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read as follows:

**"CHAPTER**

**HOSPITAL REQUIREMENTS REGARDING LAY CAREGIVERS**

**§ -1 Definitions.** For the purpose of this chapter:

"After-care" means any assistance provided by a lay caregiver to a patient after the patient's discharge from a hospital. Such assistance may include assisting with basic activities of daily living and instrumental activities of daily living and carrying out medical or nursing tasks such as managing wound care, assisting in administering medications, and operating medical equipment.

"Discharge" means a patient's exit or release from a hospital to the patient's residence following any medical care, treatment, or observation.

"Entry" means a patient's entrance into a hospital for the purposes of medical care, treatment, or observation. "Entry" includes but is not limited to formal admittance to a hospital.

"Hospital" means a facility licensed under section 321-14.5.

"Lay caregiver" means any individual duly designated by a patient to provide after-care to the patient in the patient's residence. A designated lay caregiver may include a relative, partner, friend, or neighbor who has a significant relationship with the patient.

"Residence" means a dwelling that the patient considers to be the patient's home. "Residence" shall not include any rehabilitation facility, hospital, nursing home, assisted living facility, or group home licensed by the State.

**§ -2 Opportunity to designate lay caregiver.** (a) A hospital ~~may~~shall provide each patient or, if applicable, the patient's legal guardian with at least one opportunity to designate one or more lay caregivers no later than twenty-four hours following the patient's entry into a hospital and prior to the patient's discharge or transfer to another facility; provided that in the event that the patient is unconscious or otherwise incapacitated upon entry into a hospital, the hospital ~~may~~shall provide the patient or the patient's legal guardian with an

opportunity to designate a lay caregiver within twenty-four hours following the patient's recovery of consciousness or capacity.

(b) If the patient or the patient's legal guardian declines to designate a lay caregiver pursuant to subsection (a), the hospital ~~may~~shall promptly document this in the patient's medical record.

(c) If the patient or the patient's legal guardian designates an individual as a lay caregiver under this chapter, the hospital ~~may~~shall:

- (1) Promptly request the written consent of the patient or the patient's legal guardian to release medical information to the patient's lay caregiver following the hospital's established procedures for releasing personal health information and in compliance with all federal and state laws. If the patient or the patient's legal guardian declines to consent to release medical information to the patient's lay caregiver, the hospital is not required to provide notice to the lay caregiver under section -3 or provide information contained in the patient's discharge plan under section -4; and
- (2) Record the patient's designation of a lay caregiver, the relationship of the lay caregiver to the patient, and

the name, telephone number, and address of the patient's lay caregiver in the patient's medical record.

(d) A patient may elect to change the patient's designated lay caregiver at any time. The hospital ~~may~~shall record this change in the patient's medical record within twenty-four hours of notification by the patient.

(e) A designation of a lay caregiver by a patient or a patient's legal guardian under this section does not obligate any individual to perform any after-care for the patient.

(f) This section shall not be construed to require a patient or a patient's legal guardian to designate any individual as a lay caregiver.

**§ -3 Notice to a lay caregiver.** A hospital shall notify the patient's lay caregiver of the patient's discharge or transfer to another licensed facility at least ~~\_\_\_\_\_~~twenty-four hours before the patient's actual discharge or transfer.

**§ -4 Instruction to lay caregiver; discharge plan.** (a) As soon as possible and not later than twenty-four hours prior to a patient's discharge from a hospital, the hospital ~~may~~shall consult with the patient's lay caregiver regarding the lay caregiver's capabilities and limitations and issue a discharge plan that describes the patient's after-care at the patient's residence. At a minimum, the discharge plan ~~may~~shall include:

- (1) The name and contact information of the designated lay caregiver;
  - (2) A description of all after-care necessary to maintain the patient's ability to reside at home, taking into account the capabilities and limitations of the lay caregiver; and
  - (3) Contact information for any health care, community resources, and long-term services and support necessary to successfully carry out the patient's discharge plan.
- (b) The hospital issuing the discharge plan ~~may~~shall provide the lay caregiver with instruction in all after-care described in the discharge plan.
- (c) ~~The~~At a minimum, the instruction ~~may~~shall include:
- (1) A live demonstration of the tasks performed by a hospital employee authorized to perform the after-care provided in a culturally competent manner and in accordance with the hospital's requirements to provide language access services under state and federal law;
  - (2) An opportunity for the lay caregiver to ask questions about the after-care; and
  - (3) Answers to the lay caregiver's questions provided in a culturally competent manner and in accordance with the

hospital's requirements to provide language access services under state and federal law.

(d) Any instruction ~~provided~~required under this chapter ~~may~~shall be documented in the patient's medical record. ~~If documented,~~at~~At~~ a minimum, the patient's medical record shall reflect the date, time, and content of the instruction.

(e) The department of health may adopt rules pursuant to chapter 91 to carry out the purpose of this chapter, including rules to further define the content and scope of any instruction provided to lay caregivers under this chapter.

**§ -5 Non-interference with existing health care directives.** ~~(a)~~ Nothing in this chapter shall be construed to interfere with the rights of an agent operating under a valid health care directive under Hawaii law.

~~(b) No health care directive may claim to be in conflict with this chapter unless it had been in existence prior to the patient's entry into a hospital.~~

**§ -6 Immunity.** Nothing in this chapter shall be construed to give rise to a cause of action against a hospital or hospital employee."

SECTION 3. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

SECTION 4. If any provision of this Act, or the application thereof to any person or circumstance, is held invalid, the invalidity does not affect other provisions or applications of the Act that can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

SECTION 45. This Act shall be enacted immediately.

**Report Title:**

Lay Caregiver; After-care; Lay Caregiver Designation,  
Notification, and Instruction; Discharge Plan

**Description:**

~~Permits~~Requires hospitals to allow patients the opportunity to designate a lay caregiver. ~~Allows~~Requires hospitals to include the designated lay caregiver in the patient's medical record, notify the lay caregiver prior to the patient's transfer or discharge, consult with the lay caregiver about the patient's discharge plan, and instruct the designated lay caregivers in after-care. Provides immunity to hospitals and their employees that allow patients the opportunity to designate a lay caregiver or provide voluntary after-care



To: Committee on Health, Representative Della Au Belatti, Chair

Date: March 19, 2014, State Capitol Conference Room 329, 8:30 a.m.

Re: SB 2264 SD2 - Relating to Caregiving

Chair Belatti and Committee Members:

Thank you for the opportunity to submit written testimony in **STRONG SUPPORT** of SB 2264 SD2 Relating to Caregiving. My name is Chalintorn N. Burian, Ph.D. and I am a retiree. I live in Paauli-Mauka on the Big Island. The passage of this bill is vital as:

- This bill will give support to the 247,000 unpaid family caregivers in Hawaii. It recognizes the expanded role of family caregivers who are performing medical and home care tasks such as: medication management; help with assistive mobility devices; preparation of special diets; and wound care. Currently, many family caregivers are performing complex medical type tasks with little or no instruction. Family caregivers may have no choice but to perform medical tasks - no one else will do it, insurance will not cover, too expensive to hire someone. Therefore, preparation and support for family caregivers will be crucial.
- The bill should be amended to make it mandatory that hospitals provide patients with the opportunity to designate a caregiver; notify caregivers 24 hours prior to a patient's discharge; and provide instructions to caregivers on tasks performed after discharge at home.
- Most importantly, this bill will help keep patients recovering at home without unnecessary readmission to the hospital. It's widely accepted that patients prefers recovering at home among loved ones in more familiar environments.

Having been through hospitalizations of my aging mother, I valued the preparation for caregivers before she was discharged from hospitals. Not only that relatives, who were caregivers, were prepared for medication management, food preparation for tube-feeding, etc., we were prepared to deal with her for her physical and emotional comforts. Without such program at hospitals, we, the caregivers, would have been at loss, and my mother would have been readmitted more frequently. I wish other caregivers will have such good experience for their loved ones when this bill is passed.

I urge you to support caregivers by voting **YES** on SB 2264 SD2.

Chalintorn N. Burian, Ph.D.

Positive and Productive Aging Consultant.

Paauilo-Mauka, Hawaii District

P.O. Box 366

Honokaa

HI 96727

Phone: (808) 775-1064

Mar 13, 2014

Representative Derek Kawakami  
Hawaii State Capitol, Room 214  
415 South Beretania Street  
Honolulu, Oahu, HI 96813

Dear Representative Kawakami,

I urge you to support Senate Bill 2264. This bill will help family caregivers in Hawaii when their loved ones go into the hospital. The bill will allow for caregivers to receive a live demonstration on how to provide necessary care at home after their loved one is discharged. It will also give patients the opportunity to designate a caregiver at the time of their admission to the hospital.

The CARE Act will have the two-pronged effect of supporting family caregivers and keeping health care costs in check. It encourages caregivers to support their loved ones at home and discourages costly and unnecessary hospital readmissions. According to a report by Kaiser Health News in 2013, 71 percent of Hawaii hospitalizations were penalized by the Centers for Medicare and Medicaid Services for excessive hospital readmissions.

Hawaii's family caregivers, and the seniors they help live independently at home, are counting on your support. Please vote YES on Senate Bill 2264.

Aloha,

Mrs. Cristina Dullaga  
1677 Malakia St  
Kapaeha, HI 96746-2079  
808 9228865 / 808 6525526

To: Committee on Health, Representative Della Au Belatti, Chair

Date: March 19, 2014, State Capitol Conference Room 329, 8:30 a.m.

**Re: SB 2264 SD2 - Relating to Caregiving**

Chair Belatti and Committee Members:

Thank you for the opportunity to submit written testimony in SUPPORT of SB 2264 SD2 Relating to Caregiving. My name is T. J. Davies Jr. and I am retired and disabled and live in the Kakaako area. The passage of this bill is vital as:

- The bill should be amended to make it **mandatory** that hospitals provide patients with the opportunity to designate a Caregiver; notify caregivers 24 hours prior to a patient's discharge; and provide instructions to caregivers on tasks performed after discharge at home.
- Family caregivers are performing complex medical type tasks with little or no instruction
- Family caregivers may have no choice but to perform medical tasks - no one else will do it, insurance will not cover it, and it's too expensive to hire someone

I urge you to support caregivers by voting yes on SB 2264 SD2 with amendments as discussed above.

T. J. DAVIES JR.  
Volunteer, AARP & Kokua Council for Senior Citizens  
Kakaako (District 23 / Senate District 12)

**morikawa2-Joanna**

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Monday, March 17, 2014 2:54 PM  
**To:** HLTtestimony  
**Cc:** lornd@yahoo.com  
**Subject:** Submitted testimony for SB2264 on Mar 19, 2014 08:30AM

**SB2264**

Submitted on: 3/17/2014

Testimony for HLT on Mar 19, 2014 08:30AM in Conference Room 329

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Lorn Douglas	Individual	Support	No

Comments: Please give this bill your support... This will give us more options... thanks

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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Mar 13, 2014

Representative Dee Morikawa  
Hawaii State Capitol, Room 310  
415 South Beretania Street  
Honolulu, Oahu, HI 96813

Dear Representative Morikawa,

I urge you to support Senate Bill 2264. This bill will help family caregivers in Hawaii when their loved ones go into the hospital. The bill will allow for caregivers to receive a live demonstration on how to provide necessary care at home after their loved one is discharged. It will also give patients the opportunity to designate a caregiver at the time of their admission to the hospital.

The CARE Act will have the two-pronged effect of supporting family caregivers and keeping health care costs in check. It enables caregivers to support their loved ones at home and discourages costly and unnecessary hospital readmissions. According to a report by Kaiser Health News in 2013, 71 percent of Hawaii hospitals were penalized by the Centers for Medicare and Medicaid Services for excessive hospital readmissions.

Hawaii's family caregivers, and the seniors they help live independently at home, are counting on your support. Please vote YES on Senate Bill 2264.

Aloha,

Ms. Julia McGovern  
PO Box 131  
Waimea, HI 96796-0131

**morikawa2-Joanna**

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Monday, March 17, 2014 7:38 PM  
**To:** HLTtestimony  
**Cc:** greggkam@hotmail.com  
**Subject:** Submitted testimony for SB2264 on Mar 19, 2014 08:30AM

**SB2264**

Submitted on: 3/17/2014

Testimony for HLT on Mar 19, 2014 08:30AM in Conference Room 329

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Gregory Kam	Individual	Support	No

Comments: Please support SB2264 SD2. As a senior myself and responsible citizen. I implore all of you to support this bill which will enable loved ones to be taken care of in their later years. In the area of medication management, help with assistive mobility devices, help with special dietary needs and wound care. Also, would like to request that hospitals enable patients to designate a caregiver and notify caregivers at least 24 hours notice prior to a patients discharge. Instructional care to caregivers and task instructions would also enable all of us to have peace of mind in our twilight years not only for ourselves but to all of our loved ones. Aloha in advance for your support. This request should be made mandatory. Sincerely, Gregg Kam a constituent in Takashi Ohno district.

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Aloha Chair Belatti and committee members,

My name is Barbara Service and I reside in Senate District 9, Senate District 19. I am a retired social worker, an AARP volunteer and also belong to Kokua Council.

I urge your strong support of SB2264 SD2. Hospitals must include caregivers, many of whom are unpaid, in discharge planning and appropriate care for their loved ones, upon hospital discharge. Caregivers are not always told, in advance, of the discharge plan and have not been trained in how to perform necessary medical tasks which enable their loved ones to remain in their own homes.

To ensure that hospitals provide the above services, it is necessary to require their compliance with caregiver involvement , advance notice of discharge and appropriate training.

Please vote yes on SB2264 SD2 to provide to support to caregivers in caring for their loved ones.

Mahalo for the opportunity to provide strong support for SB2264 SD2.

Barbara J. Service



To: House Committee on Health  
Representative Della Au Belatti, Chair  
Representative Dee Morikawa, Vice Chair

Fr: Sherry Tanaka

Date: Wednesday, March 19, 2014 @ 8:30am  
State Capitol Conference Room 329

Re: **SB 2264 SD2 – Relating to Caregiving**

Dear Chair Belatti and Committee Members:

Thank you for this opportunity to submit my testimony in strong support of SB 2264 SD2 - Relating to Caregiving. My name is Sherry Tanaka and I am an MSW student at the Myron B. Thompson School of Social Work at the University of Hawai'i at Manoa. I am also a granddaughter who helps with family caregiving duties to my 95-year-old grandmother.

The passage of this bill is vital as I know how essential it is for family caregivers to provide the best quality of care for their aged loved ones. Especially upon their release from a hospital stay where the senior's activities of daily living (ADL) and instrumental activities of daily living (IADL) are greatly affected by the transition from hospital to home-care. If hospitals are able to acknowledge and encourage collaboration with the caregivers of their patients, then home-care will be essential to prolong and obtain a better quality of life for seniors.

My grandmother was admitted to the hospital for pneumonia, and it was not until her discharge that my family realized we were not properly prepared and lacked the knowledge to maintain the level of care that was needed to care for her at home. We realized that better communication and detailed instructions of care from the hospital prior to her discharge, could have allowed us to properly assist her with her ADL and IADL needs. If my family were given a detailed "plan of care", it would have helped her to recover fully and possibly prevent a second bout of pneumonia five months later.

I humbly encourage you to support SB 2264 SD2, in honor of Hawaii's senior community and their caregivers.

Thank you for this opportunity to testify.

**LATE**

To: Representative Della Au Belatti, Chair of the Health Committee  
Members of the Health Committee

Date: Wednesday, March 19, 2014

Time: 8:30 am

Place: State Capitol, Conference Room 329

Subject: Testimony for S.B. 2264 S.D.2 – Relating to Caregiving

As Administrator of Project Dana, I am in strong support of S.B. 2264, S.D. 2 - Relating to Caregiving.

Family Caregivers are under great emotional stress and burden when their loved ones are discharged from hospitals and return home. Much support to lay caregivers is essential to provide quality caregiving. Adequate discharge plans, instructions and training to designated lay caregivers after hospital care are much needed to provide long-term support at home. Thousands of dollars could be saved by passage of this bill.

Please support S.B. 2264 S.D. 2 - Relating to Caregiving.

Thank you very much.

Rose Nakamura

Project Dana

**LATE**

To: Chair Belatti and Committee Members:

Date: March 18, 2014, State Capitol Conference Room 329, 8:30 a.m.

Re: SB 2264 SD2– Relating to Caregiving Act

Dear Chair Belatti and Committee Members:

I appreciate the opportunity to submit written testimony in Very STRONGSUPPORT of SB 2264 SD2 that is related to Caregiving. My name is Gail Gainer-Rustin and I am a Registered Nurse from California. I now reside in Honolulu, Hawaii. The passage of this bill is vital for the wellbeing of the patient and their caregivers. It should be *required* by Hospitals to involve Caregivers because of these facts:

- Unpaid Caregivers be it family or close friend should be identified as an important part of the patient's care team. The Caregivers should be part of the discharge education and plan so they can better care for the patient and prevent readmissions to the hospital.
- Another good reason or fact is the expectations of the unpaid caregiver is to perform complex medical type tasks without any formal training. This Bill SB 2264 SD2 would allow the patient's caregiver to obtain instructions and enough education to do a proper job of care.
- Family caregivers may have no choice but to perform medical tasks because there is no one else to provide home care due to a lack of finance and insurance.

I urge you to support caregivers by voting yes on SB 2264.

Thank you.

Gail Gainer-Rustin

Honolulu, Hi 96817

**LATE**

To: Committee on Health, Representative Della Au Bellati, Chair  
Date: March 19, 2014, State Capitol Conference Room 329, 8:30 AM  
RE: SB 2264 SD2– Relating to Caregiving

Chair Bellati and Committee Members:

Thank you for the opportunity to submit written testimony in STRONG SUPPORT of SB 2264 SD2 - Relating to Caregiving. My name is Claire Santos and I am a registered nurse and healthcare advocate living in the Punchbowl area. I believe the passage of this bill is vital to the health and safety of our people because:

The prevention of medical complications and unnecessary hospital readmissions may often depend upon the quality of care provided to a person after being discharged from a health care facility. Without a designated caregiver of record to be part of the discharge planning process, people may easily be sent home to uncertain circumstances, often with a break in communication between themselves and their health care team, sometimes resulting in the worst possible outcome. In many other situations, family members and/or friends are unexpectedly thrust into the caregiver role because they're given only a moment's notice of their loved one's impending discharge from the facility, learning too late that the person's insurance won't cover the cost of home health care and that the out-of-pocket cost for private duty caregivers is not affordable. This leaves the family and/or friends in a situation where they must perform complex assessments and procedures that are typically performed by nurses in the hospital, and with little or no instruction on how to manage these tasks at home. We need to address these issues in the interest of the health and safety of each person prior to their discharge from the hospital. The first critical step in this process is to mandate the designation of a post-hospitalization caregiver while the patient is still admitted to the acute care hospital.

As a former home care representative for the Medicare population, and as a field coordinator for the Medicare/Medicaid populations, I have been involved in the discharge planning process as well as the home health care assessment and planning. I've seen what happens when no one has been helping the person at home, and how quickly their health can deteriorate without needed support. I believe that it is in the best interest of every hospitalized person to be given the choice of designating a personal caregiver who will be an integral part of the health care team. The caregiver would be given regular updates about the person's status, be instructed about medications and treatments and how to identify problems, and would be part of the discharge planning process. The goal is to achieve a transition to home that is as seamless as possible, and where communication about the home care process and tasks are understood according to the appropriate cultural standards, language and literacy levels for the person and their caregiver.

I urge you to support caregivers by voting YES on SB 2264 SD2.

Sincerely,

Claire P. Santos, MS, RN

**morikawa2-Joanna**

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Tuesday, March 18, 2014 9:14 PM  
**To:** HLTtestimony  
**Cc:** paulakomarajr@yahoo.com  
**Subject:** \*Submitted testimony for SB2264 on Mar 19, 2014 08:30AM\*



**SB2264**

Submitted on: 3/18/2014

Testimony for HLT on Mar 19, 2014 08:30AM in Conference Room 329

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Paul A. komara, Jr.	Individual	Support	No

Comments:

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**LATE**

To: Committee on Health, Representative Della Au Belatti, Chair

Date: March 19, 2014, State Capitol Conference Room 329, 8:30 a.m.

Re: SB 2264 SD2 - Relating to Caregiving

Chair Belatti and Committee Members:

Thank you for the opportunity to submit written testimony in SUPPORT of SB 2264 SD2 Relating to Caregiving. My name is Ramon Sumibcay. I am a registered nurse and an advocacy volunteer for AARP.

Thank you for your continued support of the above bill. The bill has crossed over from the Senate and referred back to Finance and Health Committees.

In the hearing process, the opponents of the bills were able to use the word “**may**” rather than **required**. The bill should be amended to make it mandatory that hospitals provide patients *with the opportunity to designate a caregiver; notify caregivers 24 hours prior to a patient’s discharge*; and provide instructions to caregivers on tasks performed after discharge at home.

Senior citizens are living longer but have more chronic illnesses. This means that family caregivers have to perform complicated medical tasks such as multiple medication management and wound care with little or no instruction. As a result, patients are unnecessarily re-admitted to hospitals.

Please support caregivers by voting yes on SB 2264 SD2 with amendments as discussed above. Also, please urge your fellow legislators to follow your lead.

Mahalo.

Ramon Sumibcay



Aloha,

The bill reflects a burden to any caregivers who will take responsibility, in caring for a family member, friend or significant others. It increases liability to the person who will be held accountable regardless if she has caregiving experience or not. With that in mind I myself would possibly refuse to be in the position without buying a liability insurance. Will this be the result for this legislation on this bill increasing cost in health care and family hesitant to take the responsibility to be appointed prior to discharge.

Caregivers can be anyone as long as you are appointed to be responsible upon discharge, you can be part of any health care provider group from RN's CNA's, case managers, foster home or care home administrators, private duty health care providers providing personal care or companion care.

What we have in place in our community of caregivers are care coordination/collaboration prior to discharge either from hospital, nursing home, or transfer from one care home or foster home with existing case managers, transitional care nurses from hospital facilities. Families are trained prior to discharge but also has continuum of care with referrals to home health care services, PT services, private duty care, companion care, and assessments and follow up from their physicians, service coordinators, case managers, from different health plans for those under the Med Quest program and for local HMO health plan also have case managers that follow up for care coordination.

Our caregivers are also in the workforce and need to balance their time and can't be expected to juggle things by themselves and so the health care facilities already have discharge planning in place upon admission and notifying family members possible discharge based on patient's medical condition.

It has been a process in place for many years and delayed discharge increase cost to family and our health care facilities, when this needed space should be utilized for acute patients and not for someone that no caregiver will take responsibility might cause delay of discharge.

Community case managers, home health nurses, PT, OT, outpatient services, plays an important role assuring patient follow up with their MD's, developing plan of care, collaboration with pharmacist on medication reconciliation, instruction and training on caregivers and families. This role is more efficient collaboration rather than having an appointed caregivers total liability and responsibility.

I have been a home health care nurse with St. Francis Home Care, contracted medical case manager for our AMHD (Adult Mental Health Division), worked with other case managers and caregivers in collaboration with patient care and educating family and caregivers. Health Care education is an ongoing process for all family members and it's important that they all get the support from other health care providers involve. They need to be empowered to be accountable with their health as well, ask questions on their current condition, seek to find answer to know about their medications, consistent with MD follow up and maintaining compliance on diet and medication needed.

It will take the whole community to mobilize on going health care education, and much needed funding should come from the state as well and not increase burden and liability



to health care facilities, caregivers in general, health care professionals, families, involve in patient care. We can work together to improve health care education and health care sustainabilty in other measure but not on this particular route. This bill should not be passed.

Thank you for your time, and please feel free to call me for any further discussion with regards to impact of liability to any caregivers that is appointed to take responsibility for a patient.

Sincerely,  
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