

STATE OF HAWAII
DEPARTMENT OF HEALTH
P. O. Box 3378
Honolulu, HI 96801-3378
doh.testimony@doh.hawaii.gov

Testimony in SUPPORT of SB 812 and SB 905

**RELATING TO BEHAVIOR SUPPORT REVIEW COMMITTEE FOR PERSONS
WITH DEVELOPMENTAL OR INTELLECTUAL DISABILITIES.**

SENATORS JOSH GREEN and
GILBERT S.C. KEITH-AGARAN, CHAIRS
SENATE COMMITTEES ON HEALTH, AND
JUDICIARY AND LABOR

Hearing Date: 02-11-15

Room Number: 016

1 **Department's Position:** The Department strongly supports this bill relating to Behavior
2 Support Review Committee for Persons with Developmental or Intellectual Disability.

3 **Fiscal Implications:** None.

4 **Department Testimony:** The Hawaii Department of Health's (DOH) position on behavior
5 support is to ensure that behavior interventions are implemented appropriately to assist and
6 support individuals receiving services and those providing support to them. Before application
7 of and to monitor such behavior interventions, the Behavior Support Review Committee (BSRC)
8 reviews cases to ensure that such interventions are appropriate. The DOH is committed to
9 ensuring that any use of restraint or seclusion is used only when there is imminent danger to self
10 or others. Use of such interventions needs oversight and review. Nearly all states have
11 incorporated laws or procedures on the use of restraints or seclusion for people with
12 developmental and intellectual disabilities. The National Association of State Directors of
13 Developmental Disabilities Services (NASDDDS) lists "State Policies on the Use of Restrictive
14 Procedures" on their website at: [http://www.nasddds.org/resource-library/behavioral-
15 challenges/state-policies-on-the-use-of-restrictive-procedures/](http://www.nasddds.org/resource-library/behavioral-challenges/state-policies-on-the-use-of-restrictive-procedures/).

16 The HCBS Waiver requires a range of committee members on the BSRC that includes
17 Department of Health employees, as well as non-state employees including a parent of a

1 participant of developmental disability, a DD Waiver participant, a community member, and a
2 Waiver provider. The Hawaii Developmental Disabilities Division has been unsuccessful in
3 recruiting non-Department of Health members for this committee due to liability concerns. This
4 is of concern as we have been unable to fully address the Medicaid HCB Waiver requirement as
5 a result.

6 If this bill becomes law, it will codify Hawaii's system for the BSRC's review of use of
7 restraints and seclusion for people with developmental and intellectual disabilities, and exempt
8 the members of the BSRC committee from liability. Having a fully participatory BSRC will
9 result in increased safety for the vulnerable population of those with developmental or
10 intellectual disabilities.

11 **Offered Amendments:** We recommend the language on page 2, line 7, be amended to
12 read: "Before and after such methods are administered, however, a behavior support review
13 committee is convened to evaluate such cases and make recommendations." This change will
14 allow for both prospective and retrospective reviews.

15 Thank you for the opportunity to testify on this measure.



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 11, 2015

The Honorable Josh Green, Chair
Senate Committee on Health
and

The Honorable Gilbert Keith-Agaran, Chair
Senate Committee on Judiciary and Labor
Twenty-Eighth Legislature
State Capitol
State of Hawaii
Honolulu, Hawaii 96813

Dear Senator Green, Senator Keith-Agaran, and Members of the Committees:

SUBJECT: SB 905 – Relating to Behavior Support Review Committee for Persons with Developmental or Intellectual Disabilities

The State Council on Developmental Disabilities (DD) **SUPPORTS SB 905**. The purpose of the bill is to authorize the Department of Health (DOH) to establish a behavioral support review process to conduct multi-disciplinary reviews of restraints or seclusion of persons with developmental or intellectual disabilities, and exempts those who participate in the reviews from liability.

The passage of SB 905 would add a new part to Chapter 321 to enable the DOH DD Division to facilitate a review process of the Behavioral Support Review Committee (BSRC) to review restraints and seclusion interventions for persons with DD or intellectual disabilities receiving services under the Medicaid Home and Community-Based Services Waiver program (Waiver). This is a requirement of the Waiver program. Apparently, DD Division has had difficulty meeting this requirement because individuals are reluctant to serve on the Committee due to liability concerns. The bill includes a provision that addresses immunity from liability as indicated on page 7, lines 10-21, and page 8, lines 1-5. With this provision, DD Division would be able to recruit members to serve on the BSRC and meet the Waiver program requirements.

The Council is aware that SB 812 - Relating to Behavior Support Review Committee for Persons with Developmental or Intellectual Disabilities mirrors this bill in its entirety. As such, we have also provided testimony in support of that bill.

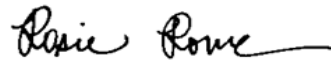
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The Honorable Gilbert Keith-Agaran
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Thank you for the opportunity to submit testimony **in support of SB 905**.

Sincerely,



Waynette K.Y. Cabral, M.S.W.
Executive Administrator



Rosie Rowe
Chair