

**STATE OF HAWAII
DEPARTMENT OF HEALTH**

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**Testimony in SUPPORT of HB554 HD1 SD1
RELATING TO ORDERS FOR TREATMENT OVER OBJECTION**

SENATOR GILBERT S.C. KEITH-AGARAN, CHAIR
SENATE COMMITTEE ON JUDICIARY AND LABOR

Hearing Date: Tuesday, April 4, 2017, 9:45 a.m.

Room Number: 016

1 **Fiscal Implications:** Undetermined at this time.

2 **Department Testimony:** The Department of Health (DOH) strongly supports this
3 measure.

4 The purpose of this bill is to provide a basis in statute for an administrative
5 mechanism to authorize treatment over objection.

6 The Department of Health strongly supports this measure. We reviewed both
7 SB146 SD2 and HB554 HD1 SD1. We thank this committee for its review and
8 consideration of our testimony, and the passing of SB 146 SD2. We prefer the
9 language in HB554 HD1 SD1 because this draft incorporates critical input from other
10 stakeholders, specifically from the Department of Public Safety, thereby incorporating
11 the administrative panel into relevant law as this applies to detainees and prisoners.

12 In addition, SB 146 SD2 substituted language the operative meaning of which is
13 unclear to us, specifically at page 4, lines 7-12, section 334-B(a.) 5), "The panel shall
14 issue a finding that, if left untreated, the patient's illness would likely result in **negative**

1 **effects on the health of the patient**, and that lack of treatment alone cannot satisfy the
2 requirement in section 334-A that the patient is dangerous to self or others” (Note: **Our**
3 **emphasis in bold**).

4 However, dangerous to self and to others is defined in 334 appropriately to make
5 it clear that refusal of medication alone is not sufficient to meet criteria for either. As
6 currently written in SB 146 SD2, content in (5) seems to emphasize the effects on
7 health of the patient as the only basis for the finding, as opposed to, for example,
8 dangerousness towards others. We support this measure, HB 554 HD1 SD1, as
9 written.

10 We are in agreement with previously submitted testimony of the ACLU on SB146
11 SD1 specifically with respect to acknowledging that the long-term negative health
12 consequences of an untreated illness alone cannot be the criteria for the finding of
13 dangerous to self or to others.

14 We continue to reach out to stakeholders to incorporate their input into potential
15 amendments. Thank you for the opportunity to testify.

DAVID Y. IGE
GOVERNOR



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No. _____

TESTIMONY ON HOUSE BILL 554, HOUSE DRAFT 1, SENATE DRAFT 1
RELATING TO ORDERS FOR TREATMENT OVER OBJECTION.

by

Nolan P. Espinda, Director
Department of Public Safety

Senate Committee on Judiciary and Labor
Senator Gilbert S.C. Keith-Agaran, Chair
Senator Karl Rhoads, Vice Chair

Tuesday, April 4, 2017; 9:45 a.m.
State Capitol, Conference Room 016

Chair Keith-Agaran, Vice Chair Rhoads, and Members of the Committee:

The Department of Public Safety (PSD) **strongly supports** House Bill (HB) 554, House Draft (HD) 1, Senate Draft (SD) 1, which proposes to amend Sections 334 and 353, Hawaii Revised Statutes, to enable the Hawaii State Hospital (HSH) and the Department of Public Safety (PSD) to provide timely treatment for patients who are "imminently dangerous", thus serving to improve staff and patient safety at both HSH and PSD. The current method of obtaining authorization to provide treatment over a patient's objection (Orders to Treat) through judicial hearing is a slow process, and at times, results in patient decompensation while exposing treatment staff to potential harm and injury.

An administrative mechanism utilizing relevant clinical expertise to review and authorize requests for Orders for Treatment would expedite the treatment process and provide critical emergent treatment interventions, benefiting both PSD's and HSH's patients and staff. The Department would appreciate your Committee's favorable consideration of this measure.

Thank you for the opportunity to present this testimony.

From: mailinglist@capitol.hawaii.gov
To: [JDLTestimony](#)
Cc: louis@hawaiidisabilityrights.org
Subject: Submitted testimony for HB554 on Apr 4, 2017 09:45AM
Date: Friday, March 31, 2017 1:10:28 PM

HB554

Submitted on: 3/31/2017

Testimony for JDL on Apr 4, 2017 09:45AM in Conference Room 016

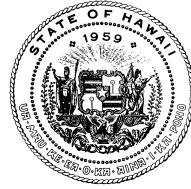
Submitted By	Organization	Testifier Position	Present at Hearing
Louis Erteschik	Hawaii Disability Rights Center	Comments Only	No

Comments: Conceptually, we still believe that the better solution to the problem identified in the bill would be to work with the Judiciary to address concerns about delays in the process. We have contacted the Administrator of the Judiciary who has expressed their willingness to dialogue on the issue and we would urge the Committee and the Department of Health to pursue that.

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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DAVID Y. IGE
GOVERNOR OF HAWAII



VIRGINIA PRESSLER, M.D.
DIRECTOR OF HEALTH

STATE OF HAWAII
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In reply, please refer to:
File: DOH/AMHD

March 23, 2017

MEMORANDUM

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TO: Della Au Belatti, Chair
House Committee on Health

Scott Y. Nishimoto, Chair
House Committee on Judiciary

FROM: Marie Vorsino, Psy.D., Chair, State Council on Mental Health

Marie Vorsino LMHC, Psy.D.

SUBJECT: HB554HD1/SB146

HEARING: To be Determined

POSITION: Strong Support

The State Council on Mental Health (SCMH) is in strong support of HB554HDI, Relating to Orders for Treatment Over Objection. This would establish an administrative non-judicial panel to review and authorize Orders for Treatment over Objection that are administered in a hospital setting.

Hawaii state law currently requires that a judicial hearing authorize treatment over objection. Data, provided by the Adult Mental Health Division, show that in 2016, of the 57 instances where authorization to treat over objection was requested, the time between the filing of the petition and the judicial hearing was on average 16.8 days. The longest period between the filing of the petition and the judicial hearing was 50 days.

When a consumer is admitted to the Hawaii State Hospital, they can be experiencing acute mental health symptoms that can put them at risk to harm themselves or others. Symptom acuity is high and may include active auditory, visual, and sensory hallucinations, irrational thoughts and beliefs, paranoia, and active harm to self or others. Additionally, they may also think that they are not ill, in need of psychiatric treatment and will object to treatment. In these instances, providers will seek a hearing to provide treatment over objection. From the data provided previously, the time from petition to the hearing can take a long time. During that period, the consumer continues to experience acute mental health symptoms which take an extreme toll on their physical and emotional well-being.

EX-OFFICIO:

Lynn N. Fallin
Deputy Director for
Behavioral
Health Administration

No one can imagine the effects that active psychosis can have on an individual for long periods of time – in one case in 2016 – 50 days waiting for a judicial hearing to be convened.

It is imperative that we provide expeditious treatment to patients admitted to the Hawaii State Hospital. At times this may require treatment over objection to be authorized. Providing an administrative non-judicial panel to be established would provide a much faster decision to be rendered.

Thank you for the opportunity to provide testimony in strong support of HB554HD1.



To: The Honorable Gilbert S.C. Keith-Agaran, Chair
The Honorable Karl Rhoads, Vice Chair
Members, Committee on Judiciary and Labor

From: Paula Yoshioka, Senior Vice President, The Queen's Health Systems

Date: March 31, 2017

Hrg: Senate Committee on Judiciary and Labor Decision Making; Tuesday, April 4, 2017 at
9:45AM in Room 016

Re: **Support for HB 554, HD1, SD1, Relating to Orders for Treatment Over Objection**

My name is Paula Yoshioka and I am a Senior Vice President at The Queen's Health Systems (Queen's). I would like to provide **support** for HB 554, HD1, SD1, Relating to Orders to Treat Over Objection. This bill authorizes psychiatric treatment by administrative order despite a patient's objection. It also establishes criteria for administering psychiatric treatment and the process to obtain administrative authorization for psychiatric treatment over the patient's objection.

At QHS we are committed to providing care for Hawaii's most underserved. The needs of the mental health population in Hawaii are growing and QHS has experienced an increased volume of civilly committed mental health patients who are unable, or unwilling, to consent to necessary treatment. The Civil Rights of Institutionalized People Act (CRIPA) guarantees a patient's right to receive treatment while committed, but facilities with committed patients are unable to provide that treatment without the patient's permission or a court order to treat. Without prompt treatment, the mental condition of these patients can deteriorate which is not quality patient care.

We support HB 554, HD1, SD1, which describes the criteria for granting an order to treat and creates an administrative process for granting an order to treat while also preserving the existing court process.

We commend the legislature for introducing this measure and urge you to support it. Thank you for your time and attention to this important issue.

From: mailinglist@capitol.hawaii.gov
To: [JDL Testimony](#)
Cc: maxinekla@gmail.com
Subject: *Submitted testimony for HB554 on Apr 4, 2017 09:45AM*
Date: Sunday, April 2, 2017 5:49:33 PM

HB554

Submitted on: 4/2/2017

Testimony for JDL on Apr 4, 2017 09:45AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Maxine Anderson	Individual	Support	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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