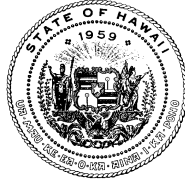


# HB554 HD1

Measure Title: RELATING TO ORDERS FOR TREATMENT OVER OBJECTION.  
Report Title: Psychiatric Treatment; Administrative Order  
Description: Authorizes psychiatric treatment by administrative order despite a patient's objection. Establishes criteria for administering psychiatric treatment and the process to obtain administrative authorization for psychiatric treatment over the patient's objection. (HB554 HD1)  
Companion: SB146  
Package: None  
Current Referral: CPH, JDL  
Introducer(s): BELATTI



**STATE OF HAWAII**  
**DEPARTMENT OF HEALTH**  
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**Testimony in SUPPORT of HB554 HD1  
RELATING TO ORDERS FOR TREATMENT OVER OBJECTION**

SENATOR ROSALYN H. BAKER, CHAIR  
SENATE COMMITTEE ON COMMERCE, CONSUMER PROTECTION, AND HEALTH

Hearing Date: Wednesday, March 15, 2017, 9:00 a.m. Room Number: 229

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

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

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 Hawaii State Hospital (HSH) is utilized primarily for involuntary forensic  
7 commitments (99% of total admissions). There are few other state hospitals with such a  
8 high proportion of forensic involuntary admissions.

9 We support this bill as it is consistent with a number of initiatives to enhance  
10 patient care and to improve safe, effective and efficient operations. We anticipate that  
11 these initiatives, once pursued, will have a positive impact on HSH census, length of  
12 stay, and the safety of both patients and staff. This measure will support the expedient  
13 initiation of treatment to reduce dangerousness and will enhance safety at the HSH.

1 Patients admitted to the HSH are often experiencing acute psychotic symptoms  
2 that increase the risk of harming themselves and others. The vast majority of  
3 involuntary patients do not realize that they are mentally ill and consequently resist  
4 treatment. Starting treatment quickly reduces the danger to other patients, staff and  
5 the patients themselves, returns the patient to pre-morbid functioning sooner, and is  
6 associated with a more complete recovery. This is an essential component of humane  
7 healthcare and maintaining a safe and secure therapeutic environment for all patients  
8 and staff. Recent research in neuroscience has reinforced what psychiatrists commonly  
9 find in their clinical practice: untreated psychosis causes damage to the brain and in the  
10 process, makes it more difficult to successfully reduce symptoms once treatment is  
11 initiated after a delay.

12 The current method to obtain an authorization to provide treatment over a  
13 patient's objection (OTT) is via a judicial hearing. This method is not always expedient,  
14 with variable time periods between filing the petition and the judicial hearing, an average  
15 in 2016 of 16.8 days with the longest period being 50 days.

16 Other states have responded to the need by developing a non-judicial,  
17 administrative mechanism to review and authorize requests for OTT that are  
18 administered within the hospital setting. These mechanisms include provisions to  
19 ensure the due process rights of patients in such circumstances and are supported by  
20 United States Supreme Court case law. Current law in Hawaii does not allow for the  
21 potential development of such a mechanism.

1           The Department of Health strongly supports this measure. We reviewed both  
2 SB146 SD1 and HB554 HD1. We prefer the language in HB554 HD1 with the  
3 amendments we outline below for your consideration.

4           We continue to outreach to stakeholders to incorporate their input into potential  
5 amendments. Thank you for the opportunity to testify.

6 **Offered Amendments:** We recommend, to be consistent with the related sections in  
7 Hawaii Revised Statutes (HRS), chapter 334, and because it is defined in HRS chapter  
8 334, to change “physically” to imminently.”

9 Page 3, Line 5: “(2) The patient is ~~physically~~ imminently dangerous to self or others;”

10           We also recommend for clarity that the amendments in section 3, page 5, line 16  
11 be changed to refer to the entire new part of chapter 334, rather than just section “A.”

12 (9) Refusal of treatment except in emergency situations or [~~where a court order exists;~~  
13 when a court order or an administrative order pursuant to section 334-A chapter 334,  
14 part    has been issued;

DAVID Y. IGE  
GOVERNOR



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**NOLAN P. ESPINDA**  
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**Cathy Ross**  
Deputy Director  
Administration

**Jodie F. Maesaka-Hirata**  
Deputy Director  
Corrections

**Renee R. Sonobe Hong**  
Deputy Director  
Law Enforcement

No. \_\_\_\_\_

TESTIMONY ON HOUSE BILL 554, HOUSE DRAFT 1  
RELATING TO ORDERS TO TREAT OVER OBJECTIONS

by

Nolan P. Espinda, Director  
Department of Public Safety

House Committee on Commerce, Consumer Protection, and Health  
Senator Rosalyn H. Baker, Chair  
Senator Clarence K. Nishihara, Vice Chair

Wednesday, March 15, 2017; 9:00 a.m.  
State Capitol, Conference Room 229

Chair Baker, Vice Chair Nishihara, and Members of the Committee:

The Department of Public Safety (PSD) **supports the intent** of House Bill (HB) 554, House Draft (HD) 1, which proposes to amend Section 334E-2, Hawaii Revised Statutes, to enable the Hawaii State Hospital (HSH) to provide timely treatment that will serve to improve staff and patient safety at HSH. 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.

The Department agrees that providing an administrative mechanism to review and authorize requests for Orders to Treat would expedite the treatment process. If enacted, PSD's Health Care Division will closely monitor the experience of the Department of Health in employing this administrative process, as a similar administrative process for PSD's critically acute patients would benefit PSD's patients and staff, as well. The Department would appreciate your Committee's consideration in extending the same administrative process for PSD in the next legislative session.


Thank you for the opportunity to present this testimony.



## THE QUEEN'S HEALTH SYSTEMS

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To: The Honorable Rosalyn H. Baker, Chair  
The Honorable Clarence K. Nishihara, Vice Chair  
Members, Committee on Commerce, Consumer Protection, and Health

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

Date: March 13, 2017

Hrg: Senate Committee on Commerce, Consumer Protection, and Health Hearing; Wednesday,  
March 15, 2017 at 9:00AM in Room 229

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

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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, 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, 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.

*The mission of The Queen's Health Systems is to fulfill the intent of Queen Emma and King Kamehameha IV to provide in perpetuity quality health care services to improve the well-being of Native Hawaiians and all of the people of Hawai'i.*

**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Sunday, March 12, 2017 3:40 PM  
**To:** CPH Testimony  
**Cc:** louis@hawaiiidisabilityrights.org  
**Subject:** Submitted testimony for HB554 on Mar 15, 2017 09:00AM

**HB554**

Submitted on: 3/12/2017

Testimony for CPH on Mar 15, 2017 09:00AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Louis Erteschik	Individual	Comments Only	Yes

Comments: Respecting the Committee's request to focus on the differences between House and Senate versions we offer the following 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. As to the differences between SB 146, SD 1 and SB 146, SD2, the Senate Judiciary Committee in its Committee Report and in the Findings and Purpose Clause stated that the intent of the bill is to address medical, rather than psychiatric symptoms. Yet it is not clear in the draft of SD2 whether any distinction has been made and how the practical implementation would differ from the SD1 version. The main difference appears to be that it specifies the treatment having to be medically appropriate while the SD1 version says that the treatment with medication has to be appropriate. Since treatment could encompass medication it is not clear if the end result is that this version is broader or narrower. HB554, HD1 maintains the language in the Findings and Purpose Clause that the focus of the bill is for psychiatric treatment, but adopts language as in SB 146, SD2 that the treatment needs to be medically appropriate as opposed to using the term treatment with medication. It also adds the requirement that the person needs to be physically dangerous as opposed to just using the term "dangerous." This appears to be a better approach as the use of this administrative process may be more appropriately limited to situations that pose a greater risk to the health and safety of the individual or others. We do note that under current law the hospital is permitted to involuntarily medicate an individual in an emergency situation, so it is not clear how this bill will change the current situation or practice at the State Hospital. These are complex issues that pose constitutional rights questions. We realize that both Senate and House versions are works in progress and we look forward to clarification of these points if the measure moves forward.

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.

Do not reply to this email. This inbox is not monitored. For assistance please email [webmaster@capitol.hawaii.gov](mailto:webmaster@capitol.hawaii.gov)