

HB 1895 HD1

Measure Title: RELATING TO HEALTH.

Report Title: Dialysis Centers; Certification; Health Care Facilities; Department of Health; Appropriation (\$)

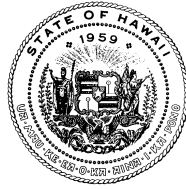
Description: Establishes positions and appropriates funds to assist in the review, certification, and recertification of dialysis centers and other health care facilities under the purview of DOH. (HB1895 HD1)

Companion:

Package: None

Current Referral: CPH, WAM

Introducer(s): MIZUNO, CACHOLA, KOBAYASHI, NISHIMOTO, San Buenaventura, Yamashita



STATE OF HAWAII
DEPARTMENT OF HEALTH
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**Testimony in SUPPORT of H.B. 1895, HD1
RELATING TO HEALTH.**

SENATOR ROSALYN H. BAKER, CHAIR
SENATE COMMITTEE ON COMMERCE, CONSUMER PROTECTION, AND HEALTH
Hearing Date: Tuesday, March 20, 2018 Room Number: 229

1 **Fiscal Implications:** Up to \$315,000 for two (2) nurse surveyors and one (1) nurse supervisor
2 for FY19, plus up to \$300,000 for a two (2) year contract with an external agency approved by
3 the Centers for Medicare and Medicaid Services (CMS) to conduct initial certification and
4 recertification surveys.

5 **Department Testimony:** Thank you for the opportunity to SUPPORT this measure.

6 This bill attempts to provide the Department with three (3) additional staff positions
7 (2 surveyors and 1 supervisor) and state general funding to help complete initial certification or
8 recertification surveys (inspections) on end stage renal dialysis (ESRD) facilities and other
9 healthcare facilities under the Department's purview.

10 The number of ESRD facilities is growing significantly nationally and locally.
11 Nationally, from FFY2003 to FFY2017, the number increased 57.6% from 4,441 to 6,998.
12 There are currently twenty nine (29) facilities in Hawaii but we are unable to determine how
13 many there were in 2003. However, four (4) new facilities became certified during the past five
14 (5) years representing a 16% increase, and adding seventy eight (78) in-center dialysis stations to
15 Hawaii's inventory.

1 This bill would specifically benefit the Office of Health Care Assurance (OHCA)
2 Medicare Section. Future funding for these positions will be requested from the federal
3 government (U.S. Centers for Medicare and Medicaid Services (CMS)) since these certification
4 surveys are performed on behalf of the federal government. Federal funding would be for 80%
5 of salary, fringe benefits, and expenses to be consistent with funding of other OHCA Medicare
6 Section surveyors who perform surveys on behalf of CMS. The Department is unable to predict
7 whether future federal funds would be provided, however.

8 CMS annually provides to states its priorities on conducting certification and
9 recertification surveys on healthcare facilities. Priorities are listed by Tiers, with Tier 1 being the
10 highest priority and Tier 4 being the lowest priority. Initial certifications of new dialysis
11 facilities is a Tier 3 priority meaning that Tier 1 and Tier 2 facilities are required to be surveyed
12 first. Recertification of existing dialysis facilities is Tier 2. And each year, we start again on
13 Tier 1 facilities so that we might occasionally or perhaps only rarely get to Tier 3 facilities.

14 There are twenty nine (29) facilities throughout Hawaii with a total of 747 in-center
15 dialysis stations and they provide home dialysis to 333 home patients. The Department has
16 received requests from three (3) new facilities for initial certification, and the Department will
17 conduct these certification surveys before the summer. The initial certifications would add fifty
18 four (54) in-center stations to Hawaii's inventory. Three (3) certified facilities are requesting an
19 additional twelve (12) in-center stations or to provide in-home services for other patients. Six (6)
20 facilities are currently overdue for their Tier 2 recertification surveys, four (4) will be due during
21 calendar year 2018, and eighteen (18) will be due during calendar year 2019. CMS requires
22 dialysis facilities to be recertified at a maximum of every 3.5 years (42.9 months) at the Tier 2

1 priority and, if time allows, at an average frequency of 3.0 years for all facilities at the Tier 3
2 priority. This means that OHCA should conduct surveys at no greater than three (3) year
3 intervals.

4 To be clear, however, facilities with overdue surveys may continue to operate and bill
5 Medicare and private insurance for payments for services. An overdue survey does not require a
6 facility to cease operations, but without a survey, patients could be at risk if facilities are non-
7 compliant with federal regulations.

8 The Department is working with the U.S. Centers for Medicare and Medicaid Services
9 (CMS) on an Operational Plan to identify ways for OHCA to be able to complete the entire CMS
10 survey workload on a timely basis. Currently, OHCA only has resources available to conduct
11 Tier 1 surveys on skilled nursing facilities (SNF), some intermediate care facilities for
12 individuals with intellectual disabilities (ICF-IID) and other Tier 1 facilities, some Tier 2 or 3
13 facilities as time allows, and on some complaints. OHCA does not have the staffing resources to
14 conduct all the required surveys throughout Tiers 1 through Tier 4.

15 Significant lead time is required to hire and train surveyors. As a result, Hawaii's public
16 and dialysis patients cannot wait for the end result of the Department working with CMS before
17 adding surveyor staff. DOH could obtain and fill the staffing resources identified in this
18 measure, use state general funds in the short-term, then replace 80% of general funds with
19 federal funds once CMS approves the Operational Plan and approves funding for additional staff.
20 If CMS does not approve the Plan or funding, the state could decide at that time whether to
21 continue full general funding of the positions and OHCA could deploy the staff to other needed
22 survey activities.

1 Thank you for the opportunity to testify on this bill.



March 20, 2018 at 9:00 AM
Conference Room 229

Senate Committee on Commerce, Consumer Protection, and Health

To: Chair Rosalyn H. Baker
Vice Chair Jill N. Tokuda

From: Paige Heckathorn
Senior Manager, Legislative Affairs
Healthcare Association of Hawaii

Re: **Testimony in Support**
HB 1895 HD 1, Relating to Health

The Healthcare Association of Hawaii (HAH), established in 1939, serves as the leading voice of healthcare on behalf of 170 member organizations who represent almost every aspect of the health care continuum in Hawaii. Members include acute care hospitals, skilled nursing facilities, home health agencies, hospices, assisted living facilities and durable medical equipment suppliers. In addition to providing access to appropriate, affordable, high quality care to all of Hawaii's residents, our members contribute significantly to Hawaii's economy by employing over 20,000 people statewide.

The Healthcare Association of Hawaii would like to thank the committee for the opportunity to **support** HB 1895 HD 1, which would provide the Office of Healthcare Assurance (OHCA), housed under the Department of Health, with three additional staff positions to help complete the initial certification and recertification surveys of facilities that provide dialysis surveys. This legislation is important in helping to meet the community demand for dialysis services.

Rates of chronic kidney disease have been rising in Hawaii and the latest data available from 2014 reveals that there were 46,400 people living with the disease in the state.ⁱ In that same year, there were 528 new diagnoses cases per 1,000,000 people in Hawaii, which represents an upward trend.ⁱⁱ While providers are focused on help to prevent chronic disease, we must also be prepared to care for those who require dialysis services immediately. Helping the OHCA to meet these demands, as this legislation does, is critical to meet that goal.

Thank you for your consideration of this matter.

ⁱ http://hhdw.org/wp-content/uploads/BRFSS_Kidney_IND_00001_2011.pdf

ⁱⁱ <http://www.hawaiihealthmatters.org/index.php?module=Indicators&controller=index&action=view&indicatorId=1619&localeId=14>

HB-1895-HD-1

Submitted on: 3/19/2018 7:34:32 AM

Testimony for CPH on 3/20/2018 9:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Melodie Aduja	Testifying for OCC Legislative Priorities Committee, Democratic Party of Hawai'i	Support	No

Comments:

Testimony in Support of HB1895 HD1

DATE: Tuesday, March 20, 2018
TIME: 9:00 a.m.
PLACE: Conference Room 229
State Capitol
415 South Beretania Street

Dear Chair Rosalyn Baker, Vice-Chair Michelle Kidani, and members of the Senate Committee on Commerce, Consumer Protection and Health,

Good morning! My name is Glen Hayashida, President & CEO of the National Kidney Foundation of Hawaii (NKFH).

On behalf of NKFH, we strongly support HB1895 HD1, which provides a solution to the delays in the certification of dialysis centers. This Bill represents a community effort to understand the complexity of this issue and the development of an action plan to solve this long-standing problem. It is an effort to bring people together to help overcome a barrier to patients receiving dialysis treatment here in the State of Hawaii.

I would like to take a step back for a brief time so we all have an appreciation for what people on dialysis experience on a daily basis.....

Varying degrees of shock, anger and denial are typical reactions to the initial news of hearing from your doctor that you will need dialysis for the rest of your life in order to keep living .

After some degree of acceptance people receive dialysis treatments three times a week for an average of 4 hours per treatment.

Imagine each of us needing to accommodate such a treatment schedule into our life. Major changes in your lifestyle will need to be made not only in your life but in the lives of your family members. This does not even include all the other physicians and health professionals you need to see to address other health needs such as diabetes or cardiovascular issues.

Patients often say they feel weak, tired, and have very little drive and ambition following each treatment. Often time some level of depression sets in as they begin to live this new and restrictive lifestyle. Feelings associated with loss of control are commonly expressed.

Patients on dialysis require a lot of physical and emotional support. They have to define a "new normal" for themselves but changes are happening to and around them

constantly. Medication changes, dietary restrictions, water intake restrictions, water build up, even adjusting to not going to the bathroom.

So for patients on dialysis, this is just their baseline.

For family members, a lot of time and effort not only goes into helping patients remain positive and encouraged. Then imagine hearing that a dialysis center is opening in your community and some of the relief that brings to a patient and family members. Relief from traffic, relief from early morning or late-night treatments - more than just convenience to someone who has little control over their life, more than just convenience from family members who bring their loved one to dialysis treatments 3 times a week. For patients and their caregivers, dialysis treatment starts at home when they start preparing to leave for treatment and ends when they return home. Depending on where the patient needs to be dialyzed it could add another 2-3 hours to this process. This is more than just a convenience...it is a way of life.

But with the delays in certification hope turns into frustration as we dangle this fully functional dialysis center in front of them for 2 -3 years. Instead of helping, we just add to their list of frustrations. I am certain the staff working at the dialysis centers hear over and over again, when is the new dialysis center going to open? Why is taking so long?

I believe HB1895 HD1 reflects a solution that was developed by the community by your action of bringing people together. We strongly support this bill and urge the Committee's support.

Thank you for your time and the opportunity to testify.

**State of Hawaii House of Representatives
Committee on Commerce, Consumer Protection & Health**

**H.B. 1895 Relating to Health
TESTIMONY IN SUPPORT**

TESTIFIER: Palani Smith, Director of Market Development, Liberty Dialysis/FMC

DATE: Tuesday, March 20, 2018

TIME: 9:00 A.M.

PLACE: Conference Room 229

Good morning Chair Baker, Vice-Chair Tokuda and members of the Hawaii State Senate Committee on Commerce, Consumer Protection & Health:

Thank you for allowing me to provide testimony IN SUPPORT of HB1895 related to access to care issues for dialysis patients in the State of Hawaii.

It is an honor to speak on behalf of the patients, staff and management of Liberty Dialysis Hawaii and Fresenius Medical Care of North America. My name is Palani Smith and I am the Director of Market Development of Fresenius Medical Care of North America, Hawaii Region. Here in Hawaii we manage 19 dialysis clinics caring for over 2000 patients across the state in perpetuating the mission of the Sisters of St. Francis and Saint Marianne Cope.

Hawaii is a special place for our company. Not just because this is the land of Aloha with warm beaches and soothing tradewinds.. but also because of the culture of Ohana.. family(blood-related and extended). It is not uncommon for us to see family and caregivers suffering along with our in-center patients who undergo an average of 4 hours of treatment 3 days per week because of the logistics and day-to-day planning and activities that they have to engage in to care for our patients. But just imagine those patients who don't have that same extension of Ohana and the everyday struggle they go through... alone ... just to survive. It's truly mind boggling but a fact of life.

Newly built dialysis clinics, from the time construction ends, to the time the federal Centers for Medicare and Medicaid Services (CMS) issues a certification can take up to 3 years. Currently there are 44 patients on waitlists for facilities that are in their local areas (this number dropped because Salt Lake certification was recently approved by CMS). In this two-step process, where Hawaii Department of Health (HDOH) surveys and CMS region 9 in San Francisco certifies, there

seemed to lie a disconnect between the state and federal agencies coupled with a shortage of surveyors in HDOH.

There is no doubt that in the last year major strides have been made to reduce the backlog but only on a temporary basis with \$150,000 of state funding, that originated from the House's finance committee, to pay for out of state surveyors from Arizona to come to Hawaii and reduce the backlog of state surveys. And we appreciate the efforts of HDOH's Office of Healthcare Assurance for coordinating this major push with the temporary surveyors, providers and CMS.

However, as I've stated, this was only a provisional fix. I implore you, Chair Baker and members of this honorable committee, to seek more permanent solutions such as what is contained in HB1895.

Thank you again for allowing us to share our perspective on this issue which impacts Hawaii's healthcare system and the quality of life of dialysis patients, their families and caregivers. We remain confident that through you and your committee's efforts that resolutions to these issues will be forthcoming.

Testimony in Support of HB1895 HD1

DATE: Tuesday, March 20, 2018
TIME: 9:00 a.m.
PLACE: Conference Room 229
State Capitol
415 South Beretania Street

Dear Chair Rosalyn Baker, Vice-Chair Michelle Kidani, and members of the Senate Committee on Commerce, Consumer Protection and Health,

Thank you for your willingness to assess our challenges in getting our new and expanded dialysis facilities surveyed and certified. We appreciate our relationship with the local survey team and are willing to discuss potential solutions with them, or your team, in order to identify a workable solution for all. The summary below provides the background around certification of dialysis facilities with specific examples that US Renal Care has experienced over the past few years:

Survey Delays:

1. DSI Renal (US Renal Care) purchased divested FMC facilities in February 2012 including the Waipahu clinic. Construction was completed by DSI Renal (US Renal Care) and the clinic was ready for survey in February 2013. CMS/State surveys occurred on November 2013. Received written approval from CMS San Francisco on May 2014. **We waited for for 1 year and 3 months before we received our Medicare Provider Number.** Within 12 months, the Waipahu clinic admitted 105 patients and is now at full capacity. Plans have been initiated to expand the facility. We will have to go through the same certification process and waiting period once the expansion is complete. The expansion space cannot be used to dialyze patients until it is certified for the reasons stated above.
2. Commercial insurance plans will not credential a dialysis facility without a CMS Provider Number, which is obtained through survey certification so a dialysis provider will not get reimbursed for services provided without it. This adds to the waiting period for patients to be able to access earlier shifts for treatment.
3. Beretania dialysis clinic construction was complete and the clinic was ready for survey in October 2016. We are still awaiting a certification survey. **We had been waiting for 1 year and 3 months.** Patients are knocking at our door and asking us to admit them so they can come earlier for treatment. They are currently being dialyzed at other facilities at night. They end up going home past midnight after their dialysis treatment.
4. Kapolei dialysis clinic reached capacity and was expanded with construction completed in March 2015. The expansion stations were certified March 2016 by the State of Arizona

surveyors. The CMS approval letter from San Francisco was received in May 2016. **We waited for 1 year and 2 months to get the certification on the expansion stations.**

5. Another facility in Kapolei, West Oahu, was built to accommodate the rapid growth of patients requiring dialysis in West Oahu. Construction on the facility was completed in October 2015. CMS certification occurred on November 2016. The approval letter from CMS San Francisco was received in May 2017. **We waited for 1 year and 7 months to be certified by Medicare.**
6. Pearlridge dialysis clinic is located inside the Pearlridge Mall and therefore must limit the hours of operation to mirror that of the mall. The clinic is at capacity. We completed an expansion of that facility in February 2015. We have not yet been surveyed and still cannot use the new stations. **We had been waiting for 2 years and 11 months.**

Dialysis is a life changing event. A person diagnosed with End Stage Renal Disease goes through a lot of changes physiologically, emotionally, mentally, financially and socially. It disrupts their lifestyle when they are required to come to a clinic 3 times a week for dialysis treatment or comply with 7 days a week of dialysis treatment if they are dialyzing at home. It affects their family, their work schedule or their ability to attend school. It takes an average of 6 to 24 hours to recover after dialysis treatment. This is why patients are asking for an early shift (between 5:30 AM to 5:00 PM) to have their dialysis treatment. All of our clinics do not have early shifts available. Newly diagnosed patients are forced to have their treatment at night (between 5:00 PM to 10:00 PM). They have to fight heavy traffic to get to the clinic and endure to travel at night after dialysis.

The Kidney Care Council (KCC) is the nation's largest coalition of dialysis providers who work closely with Local and State Representatives on various issues affecting the dialysis industry. The KCC is working with elected officials to develop an independent credentialing agency to certify new dialysis clinics in order to prevent the issues we are currently experiencing in Hawaii. This independent agency would use Federal and State regulations to certify clinics, would receive a fee for their service and would operate in similar fashion to The Joint Commission (JCAHO). This work is still in the early stages of consideration and is likely several years away from materializing, if approved.

US Renal Care fully appreciates the constraints of the State Budget process and we value the relationship our local teams have developed with the State of Hawaii Department of Health Surveyors. We also appreciate that there are other equally important health care providers delivering needed services to the citizens of Hawaii that also require some form of certification. Dialysis providers are currently in Tier 4, so Tiers 1-3 will receive priority by the local survey team while dialysis clinics wait for an opening. Last year, the State of Hawaii brought in DOH surveyors from Arizona to assist with working through the backlog.

We respectfully ask that the State consider allowing a dialysis provider to pay a certification fee in order to have a survey performed once a facility is ready. This would likely be a two-fold request since dialysis clinics must also receive approval from Life Safety. If a dialysis provider does not want to pay the fee, they could choose to wait their turn as a Tier 4 applicant.

Thank you again for your consideration.

Pliny I. Arenas, BSN, RN, CNN

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