

DAVID Y. IGE  
GOVERNOR



PANKAJ BHANOT  
DIRECTOR

CATHY BETTS  
DEPUTY DIRECTOR

STATE OF HAWAII  
DEPARTMENT OF HUMAN SERVICES  
P. O. Box 339  
Honolulu, Hawaii 96808

January 29, 2018

TO: The Honorable Josh Green, Chair  
Senate Committee on Human Services

The Honorable Rosalyn H. Baker, Chair  
Senate Committee on Commerce, Consumer Protection, and Health

The Honorable Clarence K. Nishihara, Chair  
Senate Committee on Public Safety, Intergovernmental, and Military Affairs

FROM: Pankaj Bhanot, Director

SUBJECT: **SB 2275 - Relating to Mandatory Reporting Requirements**

Hearing: Wednesday, January 31, 2018, 2:50 p.m.  
Conference Room 16, State Capitol

**DEPARTMENT'S POSITION:** The Department of Human Services (DHS) appreciates the intent of the bill, provides comments, and requests clarification as to the intent to apply to minors, vulnerable adults or all adults. Per Act 16 (2017), mandatory reporting is already required in the case of minors.

**PURPOSE:** The purpose of the bill is to require certain health care professionals, health care employees, social workers, and law enforcement employees or officers to report suspected cases of labor trafficking or sex trafficking to DHS or to a police department.

In the case of minors, this bill is not necessary as last session the legislature passed Act 16 (2017) to include sex trafficking and severe forms of trafficking in persons in the definition of child abuse or neglect. Act 16, amended section 350-1(2), Hawaii Revised Statutes (HRS), and includes references to title 22, United States Code Annotated section 7102(9) (B), which defines "severe forms of trafficking in persons" as "the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services through the use of force, fraud, or

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coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.” As a result, per section 350-1.1, HRS, persons who, in their professional or official capacity, have reason to believe that a minor is a known or suspected victim of sex trafficking or labor trafficking are mandated to report to DHS or to the police.

Section 350-1.1, HRS, requires an oral report followed as soon as possible by a report in writing and delineates a broader list of mandated reporters, including employees or officers of public or private schools; individual providers of child care; employees or officers of any licensed or registered child care facility, foster home, or similar institution; and employees of any public or private agency providing recreational or sports activities.

Section 350-1.2, HRS, specifies that persons subject to mandated reporting under Section 350-1.1, HRS, who fail to report or who prevent another person from reporting shall be guilty of a petty misdemeanor. However, the proposed requirement to report within twenty-four hours is not included.

It is unclear whether the intent of this bill is to pertain to all adults, age 18 and over, whether or not they are a "vulnerable adult," as defined by section 346-222, HRS. If the intent is to pertain to all adults, DHS expresses its opposition and grave concern that without the showing of a compelling state interest or the consent of the victim or potential victim, this proposal clearly violates the victim's and potential victim's right of privacy guaranteed by section 6, article I of the Hawaii State Constitution. The consequence of this measure as drafted would further traumatize the victim or potential victim, and would likely serve as a chilling effect on their likelihood to seek medical care or to be candid with health care professionals and law enforcement.

If the intent of the measure is to apply to "vulnerable adults" as defined by section 346-222, Chapter 346, Part X, Adult Protective Services, HRS, currently authorizes DHS to investigate and take appropriate action when a vulnerable adult is reported to have been abused or is in danger of abuse if action is not taken. The definition of "vulnerable adult" is:

"Vulnerable adult" means a person eighteen years of age or older, who, because of mental, developmental, or physical impairment, is unable to:

- (1) Communicate or make responsible decisions to manage the person's own care or resources;
- (2) Carry out or arrange for essential activities of daily living; or

(3) Protect oneself from abuse, as defined in this part.

When the suspected victims meet the definition of a "vulnerable adult," Chapter 346, Part X, HRS, already establishes the mechanism for reporting to DHS suspected victims of labor trafficking or sex trafficking.

Further, section 346-221, HRS, clearly articulates the respect for the individual's personal liberty and constitutional rights: "the legislature intends to protect vulnerable adults and place the fewest possible restrictions on personal liberty and to permit the exercise of constitutional rights by adults consistent with protection from abuse." The current law allows a competent individual, though vulnerable, to accept or decline services.

As currently drafted, the bill is not necessary, and is potentially unconstitutional.

Thank you for the opportunity to testify.

ON BEHALF OF HARM REDUCTION HAWAII  
TESTIMONY

c/o 1658 Liholiho St #205  
Honolulu, HI 96822

January 23, 2018

RE: SB 2275 to be heard Wednesday January 31, in Room 16, at 2:50 PM

To the members of the House Committee on Judiciary

The Harm Reduction Community is opposed to this bill that will require medical personal to report suspected victims of human trafficking, or those at risk of becoming victims, to the authorities. This act will undermine the trust necessary between doctor and patient. It will discourage persons in need of medical attention from coming forward for treatment. Persons who are being trafficked may be prohibited by their trafficker from seeking medical care when it is needed. Persons at risk of being trafficked, such as teenage runaways, may decide not to seek such care on their own.

It is an important goal to find and assist victims of human trafficking. However, the legislature has not informed itself on the work done by harm reduction oriented agencies that are involved in public health. It has not listened to people with years of first-hand experience on how we may do a better job in this area. Instead it has taken at face value information and ideas from a small group of anti-prostitution activists, many of them of dubious credibility, who seem to have lots of time to spend at the capitol promoting bad ideas.

On January 9<sup>th</sup> a major conference was held at the Ala Moana Hotel with over 250 people in attendance. This addressed the problems related to sex work and sex trafficking and included international speakers of the highest level of knowledge, as well as many sex workers and former sex trafficking victims. Typically no one from the legislature could find time to attend this important event. As long as those in your body remain ignorant that there are other points of view and many experts beside the folks you seem to be listening to there will be little chance of getting better laws and services.

Aloha



Tracy Ryan  
For Harm Reduction Hawaii

# HAWAII YOUTH SERVICES NETWORK

677 Ala Moana Boulevard, Suite 904 Honolulu, Hawaii 96813

Phone: (808) 489-9549

Web site: <http://www.hysn.org> E-mail: [info@hysn.org](mailto:info@hysn.org)

Rick Collins, President

Judith F. Clark, Executive  
Director

Bay Clinic

Big Brothers Big Sisters of  
Hawaii

Bobby Benson Center

Child and Family Service

Coalition for a Drug Free Hawaii

Domestic Violence Action Center

EPIC, Inc.

Family Programs Hawaii

Family Support Hawaii

Friends of the Children of  
West Hawaii

Hale Kipa, Inc.

Hale 'Opio Kauai, Inc.

Hawaii Children's Action  
Network

Hawaii Student Television

Ho'ola Na Pua

Kahi Mohala

Kokua Kalihi Valley

Maui Youth and Family Services

P.A.R.E.N.T.S., Inc.

Parents and Children Together  
(PACT)

Planned Parenthood of the  
Great Northwest and  
Hawaiian Islands

PHOCUSED

Salvation Army Family

Intervention Services

Sex Abuse Treatment Center

Susannah Wesley Community  
Center

The Catalyst Group

January 24, 2018

To: Senator Josh Green, Chair  
And members of the Committee on Human Services

Senator Roslyn Baker, Chair  
And members of the Committee on Commerce, Consumer  
Protection, and Health

Senator Will Espero, Chair  
And members of the Committee on Housing

## COMMENTS ON SB 2275 RELATING TO MANDATORY REPORTING REQUIREMENTS

Hawaii Youth Services Network (HYSN), a statewide coalition of youth-serving organizations, is providing comments on SB 2275 Relating to Mandatory Reporting.

It is important to prevent sex trafficking and to provide culturally-relevant, age-appropriate services to victims of trafficking.

In a recent story aired on KITV News, Unite Hawaii stated that 80% of Hawaii's runaway youth are approached by a pimp or trafficker within 48 hours of leaving home. They are basing this on data from places like New York City, and have no information specific to Hawaii.

In contrast, **only 13.2% of street youth surveyed on Oahu in 2016 said that they had ever had sex in exchange for money, food, drugs, or a place to stay.** The survey was conducted to rigorous standards by Hale Kipa, Waikiki Health, and the University of Hawaii Center on the Family.

According to outreach staff at Hale Kipa and Waikiki Health, most of the youth who are exchanging sex for something of value are doing so informally to meet their basic survival needs and do not have pimps who are threatening or coercing them.

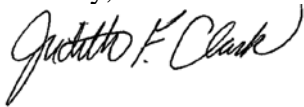
Building safe and trusting relationships between outreach staff and homeless youth is essential. Requiring outreach workers to make a report every time that a youth discloses that he or she has traded sex for survival needs would seriously impede efforts to help homeless youth leave the streets. Those workers would be viewed as an adjunct to law enforcement rather than as people who can help.

We must ensure that we make a distinction between youth who are using sex to meet their basic survival needs and those who are being controlled, intimidated, and abused by sex traffickers and pimps. Not every youth who engages in sex work is a victim of trafficking. Efforts to establish mandatory reporting of sex trafficking must make this distinction.

Please review this bill very carefully to ensure that it does not have unintended impacts on Hawaii's runaway and homeless youth.

Thank you for this opportunity to testify.

Sincerely,

A handwritten signature in black ink that reads "Judith F. Clark". The signature is written in a cursive, flowing style.

Judith F. Clark, MPH  
Executive Director

**SB-2275**

Submitted on: 1/28/2018 10:32:18 PM

Testimony for HMS on 1/31/2018 2:50:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
De MONT R. D. CONNER	Ho'omanapono Political Action Committee (HPAC)	Support	Yes

Comments:



46-063 Emepela Pl. #U101 Kaneohe, HI 96744 · (808) 679-7454 · Kris Coffield · Co-founder/Executive Director

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**TESTIMONY FOR SENATE BILL 2275, RELATING TO MANDATORY REPORTING  
REQUIREMENTS**

**Senate Committee on Human Services**

**Hon. Josh Green, Chair**

**Hon. Stanley Chang, Vice Chair**

**Senate Committee on Commerce, Consumer Protection, and Health**

**Hon. Rosalyn H. Baker, Chair**

**Hon. Jill N. Tokuda, Vice Chair**

**Senate Committee on Public Safety, Intergovernmental, and Military Affairs**

**Hon. Clarence K. Nishihara, Chair**

**Hon. Glenn Wakai, Vice Chair**

**Wednesday, January 31, 2018, 2:50 PM**

**State Capitol, Conference Room 16**

Honorable Chair Green, Chair Baker, Chair Nishihara and committee members:

I am Kris Coffield, representing IMUAlliance, a nonpartisan political advocacy organization that currently boasts over 400 members. On behalf of our members, we offer this testimony in strong support of Senate Bill 2275, relating to mandatory reporting requirements.

IMUAlliance is one of the state's largest victim service providers for survivors of sex trafficking. Over the past 10 years, we have provided comprehensive direct intervention services to 130 victims, successfully emancipating them from slavery and assisting in their restoration, while providing a range of targeted services to over 1,000 victims in total. Each of the victims we have assisted has suffered from complex and overlapping trauma, including post-traumatic stress disorder, depression and anxiety, dissociation, parasuicidal behavior, and substance abuse. Trafficking-related trauma can lead to a complete loss of identity. A victim we cared for in 2016, for example, had become so heavily trauma bonded to her pimp that while under his grasp, she couldn't remember her own name.

Sex trafficking is a profoundly violent crime. The average age of entry into commercial sexual exploitation is 13-years-old, with 60 percent of trafficked children being under the age of



16. Approximately 150 high-risk sex trafficking establishments operate in Hawai'i. An estimated 1,500-2,500 women and children are victimized by sex traffickers in our state annually. Over 120,000 advertisements for Hawai'i-based prostitution are posted online each year, a number that is rapidly increasing as technology continues to outpace the law. More than 80 percent of runaway youth report being approached for sexual exploitation while on the run, over 30 percent of whom are targeted within the first 48 hours of leaving home. With regard to mental health, sex trafficking victims are twice as likely to suffer from PTSD as a soldier in a war zone. Greater than 80 percent of victims report being repeatedly raped and 95 percent report being physically assaulted, numbers that are underreported, according to the United States Department of State and numerous trauma specialists, because of the inability of many victims to recognize sexual violence. As one underage survivor told IMUAlliance prior to being rescued, "I can't be raped. Only good girls can be raped. I'm a bad girl. If I *want* to be raped, I have to *earn* it."

Accordingly, we support requiring medical professionals, social workers, and law enforcement personnel to report suspected cases of human trafficking involving adults to the Hawai'i State Department of Human Services or the police (mandatory reporting already exists for child trafficking victims, who were added to the scope of the state's child abuse protection statutes under Act 246 of 2013). Victims of human trafficking—particularly sex trafficking—utilize medical services more frequently than the general public because doing so can lead to the compassion-based reception of free medical assistance, birth control, pelvic examinations, and female-oriented health treatment. Moreover, traffickers and pimps frequently bring their victims to hospitals to maintain their admittedly minimal physical well-being, so that they can continue to profit from their victims' servitude. Furthermore, HIPAA regulations regarding public health information contained in 45 CFR 164.512(f)(1)(i) state, "A covered entity may disclose protected health information for a law enforcement purpose to a law enforcement official...**as required by law** including laws that **require** the reporting of certain types of wounds or other physical injuries," in compliance with relevant judicial requirements. Thus, there should be no question that enacting reporting requirements pertaining to injuries specific to human trafficking is permissible under federal HIPAA law. The issue that this bill addresses, rather, is the fact that because our state does not require medical professionals (or social workers and certain law enforcement personnel), to report suspected cases of exploitation involving adults, such professionals—like doctors and nurses—are not currently allowed to do so under HIPAA regulations.

Slavery has no place in paradise. Mahalo for the opportunity to testify in strong support of this bill.

Sincerely,  
Kris Coffield  
*Executive Director*  
IMUAlliance



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**SENATE COMMITTEES ON HUMAN SERVICES; COMMERCE, CONSUMER PROTECTION, and HEALTH; and PUBLIC SAFETY, INTERGOVERNMENTAL AND MILITARY AFFAIRS**

**TESTIMONY—SB 2275, Relating to Mandatory Reporting Requirements**

**WEDNESDAY, JANUARY 31, 2018**

**Jeanné Kapela, UNITE Hawaii Executive Director**

**POSITION: STRONG SUPPORT**

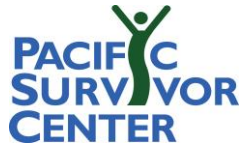
Chairs Green, Baker, Nishihara, and committee members,

Hawai'i is home to over 150 high-risk sex trafficking establishments, with the average age a victim is first exploited being only 13-years-old. We are also a target for “cybertrafficking,” with over 110,000 ads for local prostitution posted online each year. Yet, the numbers fail to fully capture the human toll of the commercial sex trade, a tragedy we witness each day in the eyes of the survivors we serve.

UNITE is an educational nonprofit devoted to ending sex trafficking in Hawai'i. Through outreach and awareness in local schools, we provide students with the skills necessary to prevent exploitation by building healthy relationships and learning communities. Our program, “It Ends With Us,” explains how trafficking works in the 21st Century, preparing students to recognize threatening situations and respond to potential abuse. To date, we have provided anti-trafficking education to thousands of keiki in our state’s public school system. Working with UNITE’s strategic partner, IMUAlliance, we have also helped to emancipate sex trafficking victims from local brothels in the Ala Moana area. For both victims who self-identify at the schools we visit and those for whom we’ve provided direct intervention services, a lack of information about how to get help is a common concern.

Currently, HIPAA regulations regarding public health information contained in 45 CFR 164.512(f)(1)(i) state, "A covered entity may disclose protected health information for a law enforcement purpose to a law enforcement official...as required by law including laws that require the reporting of certain types of wounds or other physical injuries." Thus, HIPAA prevents medical practitioners' reporting of suspected trafficking cases involving victims over the age of 18, unless our state law is modified to require such reporting (per HIPAA, reporting is only allowed if our state law isn't permissive). Suspected cases of sex trafficking are routinely overlooked, in our experience, because of this loophole in state law, which our "mandatory reporting" proposal would close.

Thank you for the opportunity to testify in support of this bill.



Hearing Date: January 31, 2018

To: Senator Josh Green, MD, Chair  
Senator Stanley Chang, Vice Chair  
Senate Committee on Human Services

Senator Rosalyn Baker, Chair  
Senator Jill Tokuda, Vice Chair  
Senate Committee on Commerce, Consumer Protection, and Health

Senator Clarence Nishihara, Chair  
Senator Glenn Wakai, Vice Chair  
Senate Committee on Public Safety, Intergovernmental, and Military Affairs

From: Nicole Littenberg, MD  
Lowell Chun-Hoon  
Pacific Survivor Center

RE: Testimony in Opposition to S.B. 2275  
RELATING TO MANDATORY REPORTING REQUIREMENTS

Pacific Survivor Center (PSC) is a Honolulu based non-profit which provides healthcare for victims of human rights violations, including human trafficking. Over the past decade, PSC has conducted extensive trainings for healthcare providers in Hawai'i on how to recognize and respond to human trafficking in the medical setting. In our experience, once adequately trained, providers are able to recognize, treat, and appropriately refer victims of this crime in a competent and compassionate manner.

It is our opinion that increasing and enhancing patient-provider communication about issues of abuse and exploitation is crucial to improving recognition and care of victims and to empower them. We therefore disagree with the proposed mandatory reporting legislation, which would be counterproductive to these goals.

A similar measure was introduced on February 7, 2012, HB 2575: Mandatory Reporting of Wounds Related to Prostitution and Labor Trafficking. PSC opposed HB 2575 at that time and we now oppose the current measure for the same reasons, as listed below.

Under mandated reporting, healthcare providers will be compelled to report to law enforcement, even against the will of the patient.

- (1) This undermines the patient-provider relationship, which is built on trust and confidentiality and is critical to the physical and psychological healing process;
- (2) Mandated reporting services can serve as a deterrent to victims disclosing their situations to healthcare providers or even seeking health care at all due to fear of law enforcement involvement, particularly for victims who have been trafficked into the United States and for whom a fear of deportation dissuades them from reporting;
- (3) It can also serve as a deterrent to health care providers making the effort to identify victims;
- (4) This legislation undermines the autonomy of the patient, who as a trafficking victim has likely already suffered loss of control. In this way, one unintended result of mandated reporting is to force the

healthcare provider to become yet another person who must betray the trust of the patient. Disregarding a patient's autonomy in this way can reinforce his/her sense of helplessness and is detrimental to the healing process;

- (5) There is extensive literature on the pros and cons of mandated reporting for domestic violence. It is a well-established phenomenon that one of the highest risks of death to a victim is in the hours immediately following her/his report to the police. Similarly, victims of trafficking, who know better than any of us the very real threats against themselves and their families, may be put at even more danger by well-meaning, but inadequate attempts to help and protect them;
- (6) Cooperation with law enforcement in the prosecution of perpetrators of trafficking is always a vital objective but it is strategically best achieved by first ensuring that victims' rights to self-determination and choice are respected. To confront those that have oppressed them, victims should first be allowed the opportunity to heal mentally and physically. Requiring health care providers to report such victims could deter those victims who do not wish to involve law enforcement from seeking the very care necessary to restore their health, and in the long run could be counterproductive to prosecutorial efforts as well;
- (7) At this time, state governmental and non-governmental entities are unable to ensure the safety of human trafficking victims and their families with regards to protection from additional violence and retribution, nor can they ensure foreign national victims will not be deported.

As PSC continues to train healthcare providers across the state on how to recognize and respond to human trafficking, providers' ability and willingness to identify and address this issue will rely heavily on the community resources that they can access for their patients. Undocumented trafficking victims may be reluctant to report a crime out of fear of deportation, but may do so if they know that they can access immediate services of a pro bono immigration attorneys. In cases where the trafficker is an intimate partner, the availability of secure shelter and appropriate counseling is indispensable. Our ability as health care providers to treat and assist victims relies not on mandating reporting, but rather on strengthening community resources: developing a network of secure shelters, ensuring the availability of legal assistance, providing adequate funding for medical and psychological care, and ensuring that other basic needs will be met when the victim is prepared to seek further assistance.

Executive Director  
Adriana Ramelli

Advisory Board

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Carol Fukunaga

Senator  
Josh Green, MD

David I. Haverly

Linda Jameson

Michael P. Matsumoto

Nadine Tenn Salle, MD

Deane Salter

Joshua A. Wisch

Date: January 31, 2018

To: The Honorable Josh Green, Chair  
The Honorable Stanley Chang, Vice Chair  
Senate Committee on Human Services

The Honorable Rosalyn Baker, Chair  
The Honorable Jill Tokuda, Vice Chair  
Senate Committee on Commerce, Consumer Protection, and Health

The Honorable Clarence Nishihara, Chair  
The Honorable Glenn Wakai, Vice Chair  
Senate Committee on Public Safety, Intergovernmental, and Military Affairs

From: Nicole Littenberg, MD, Sexual Assault Forensic Examiner  
Justin Murakami, Policy Research Associate  
The Sex Abuse Treatment Center  
A Program of Kapi'olani Medical Center for Women & Children

RE: Testimony in Opposition to S.B. 2275  
Relating to Mandatory Reporting Requirements

Good morning Chairs Green, Baker, and Nishihara, Vice Chairs Chang, Tokuda, and Wakai, and members of the Senate Committees on Human Services, on Commerce, Consumer Protection, and Health, and on Public Safety, Intergovernmental, and Military Affairs:

The Sex Abuse Treatment Center (SATC) acknowledges and appreciates the intent of S.B. 2275, but respectfully opposes this bill, which would require health care and health-related professionals to report cases where they know or have reason to believe another person is, or is in danger of becoming, a victim of labor trafficking or sex trafficking to the Department of Human Services or to the Police.

Victims of trafficking can be among the most vulnerable members of society--in some cases they may be completely dependent on their traffickers for basic necessities, including access to healthcare. It is important that healthcare providers be able to identify victims, and that systems to provide victims appropriate support, care, and protection are developed and implemented.

However, the determination of whether to formally report a case of trafficking -- or suspected trafficking or at-risk persons -- to authorities must be premised on a careful, victim-centered consideration of whether the victim is likely to be harmed or helped by the report, and of the victim's personal autonomy.

In the case of vulnerable adults and children, blanket mandatory reporting by professionals with respect to abuse and neglect is premised on the understanding that some people are inherently unable to communicate or make their own decisions. However, such lack of autonomy and personal capacity is almost never automatically ascribed to adults, absent a mental, developmental or physical condition that renders them vulnerable. Adopting SB 2275 in its current form would place Hawaii in the extreme minority of states by mandating reporting of adult cases of labor and sex trafficking. A 2016 survey of state laws revealed that only one state -- Illinois -- mandates reporting of adult trafficking cases, and only for 18-22 year olds who are in state-run facilities.

As a matter of policy, we firmly believe that the potential harms of a program of blanket mandated reporting of labor and sex trafficking cases to police and the Department of Human Services would outweigh its current benefits.

We note that many adult victims of trafficking may also be engaged in illegal behavior, often as a consequence or byproduct of their being trafficked, such as prostitution, drug-use, pimping, or immigration violations. A program of mandated reporting in these cases would expose many victims to potential incarceration, investigation, prosecution, and deportation. Faced with these possible outcomes, victims, who are often already scared of involvement with authorities and systems, may forgo health care altogether, placing them at increased risk of injury and harm.

Moreover, because victims of trafficking can be so dependent on their traffickers, a program of mandated reporting to the Department of Human Services or the police can result in their being subjected to deprivation and retaliation. Traffickers, knowing that a visit to a healthcare facility will result in a report to police and their being investigated, may choose to deny victims access to health care. Moreover, victims who are reported to authorities by health care professionals without their request or consent, may find themselves exposed to further coercion or abuse by their traffickers.

Therefore, we ask that you please decline to pass S.B. 2275.



# Hawai'i Psychological Association

## *For a Healthy Hawai'i*

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Phone: (808) 521-8995

### Committee on Human Services

Senator Josh Green, Chair  
Senator Stanley Chang, Vice Chair

### Committee on Commerce, Consumer Protection and Health

Senator Rosalyn H. Baker, Chair  
Senator Jill N. Tokuda, Vice Chair

### Committee on Public Safety, Intergovernmental and Military Affairs

Senator Clarence K. Nishihara, Chair  
Senator Glenn Wakai, Vice Chair

Testimony in Opposition to SB2275

The Hawaii Psychological Association (HPA) is strongly opposed to SB2275, a measure which would require our members and other psychologists providing mental health services to report adults whom they suspect may be involved in sex trafficking or labor trafficking to police in the performance of their professional work. The HPA's has three main concerns:

1. This legislation might discourage individuals in need of mental health services for themselves or their children from seeking those services.
2. Such a law might keep those involved in mental health services from speaking honestly about their situation and concerns with their psychologist;
3. Psychologists who are bound by national professional ethical guidelines concerning confidentiality and by federal laws about releasing protected health information would be put in the position of violating those guidelines and laws in order to comply with this proposed statute.

The HPA was supportive of last year's legislation to require Mental Health workers and others to report sex trafficking of *minors* as part of our professional obligation to report child abuse and neglect. However, psychologists and other mental health providers are not required to report other crimes committed by our clients to the police. This is because legislatures in the past have recognized the need to protect the confidentiality necessary for effective mental health treatment. In situations where criminal behavior by parents or other household members exposes youth to violence, inappropriate sexual information or behavior, illegal substances, etc., our duty to report child abuse and neglect pertains. However, when adults engage in illegal behavior that does not harm a child directly, we have been able to maintain the confidentiality that is usually necessary for individuals to engage in treatment



honestly and to seek treatment when needed. Providing confidential treatment also allows mental health providers to help empower patients to seek out other protective/supportive services.

Thank you for the opportunity to comment on this bill.

Respectfully submitted,

Tanya Gamby, Ph.D.

President

Hawaii Psychological Association



**TO: Members of the Senate Committee on Human Services, Senate Committee on Public Safety, Intergovernmental and Military Affairs, Senate Committee on Commerce, Consumer Protection and Health**

**FROM: Ryan Kusumoto, President & CEO of Parents And Children Together (PACT)**

**DATE/LOCATION: January 31, 2018; 2:50 p.m., Conference Room 016**

**RE: TESTIMONY IN SUPPORT OF SB 2275 – RELATING TO MANDATORY REPORTING REQUIREMENTS; HUMAN TRAFFICKING**

**We urge you to support SB 2275 – Relating to mandatory reporting requirements regarding human trafficking.** We support this bill which requires those working with people in danger of being victims or believed to be a victim of labor or sex trafficking to report the matter to authorities. Human trafficking is the third largest international crime industry affecting millions of victims and we are all collectively responsible for addressing this disturbing truth in our local communities. It is our social responsibility as community members to protect innocent humans from being exploited.

As a contracted partner of the Trafficking Victim Assistance Program in Hawaii, our agency understands that victims of trafficking need our help. Trafficking crimes are severely underreported by victims and often difficult to recognize. If victims are identified by health care professionals, health care employees, social workers, law enforcement employees or officers and crimes are reported right away, they can be readily assisted out of harmful situations that are often difficult to escape. Reporting will also help to crack down on illegal trafficking crimes.

The National Human Trafficking Hotline and Polaris report that:

- Each year, human traffickers generate billions of dollars in profits.
- Over 20 million people in the United States and around the world are victimized.
- More than 50% of victims are women and girls; 26% of them children.
- Human trafficking continues to go underreported due to its covert nature, despite growing awareness.

Founded in 1968, Parents And Children Together (PACT) is one of Hawaii's not-for-profit organizations providing a wide array of innovative and educational social services to families in need. Assisting more than 18,000 people across the state annually, PACT helps families identify, address and successfully resolve challenges through its 16 programs. Among its services are: early education programs, domestic violence prevention and intervention programs, child abuse prevention and intervention programs, child and adolescent behavioral health programs, sex trafficking intervention, and community building programs.

In celebration of National Slavery and Human Trafficking Prevention Month (January), we hope that you will support this bill, which will help to protect vulnerable victims of trafficking. Thank you for the opportunity to testify in **support of SB 2275**, please contact me at (808) 847-3285 or [rkusumoto@pacthawaii.org](mailto:rkusumoto@pacthawaii.org) if you have any questions.

**SB-2275**

Submitted on: 1/30/2018 12:24:36 PM

Testimony for HMS on 1/31/2018 2:50:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Deborah Smith		Oppose	No

Comments:

**SB-2275**

Submitted on: 1/23/2018 3:44:35 PM

Testimony for HMS on 1/31/2018 2:50:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Dara Carlin, M.A.	Domestic Violence Survivor Advocate	Support	No

Comments:

Good Afternoon Chairs, Vice Chairs and Committee Members,

This is wise and timely legislation. As a Domestic Violence Survivor Advocate, I cannot stress enough: If you SEE something, SAY something - *please support* this proposal that places stronger emphasis on a moral obligation too often forgotten, overlooked and ignored.

Thank you for this opportunity to provide comments in support of SB2275.

Respectfully,

Dara Carlin, M.A.

**SB-2275**

Submitted on: 1/23/2018 4:03:10 PM

Testimony for HMS on 1/31/2018 2:50:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Thaddeus Pham		Oppose	No

Comments:

Dear Sentators,

Thanks for drafting this bill to protect suspected victims of human trafficking. I applaud your intention, but I cannot support the possible harms that this bill may cause.

By requiring medical personnel to report suspected victims of human trafficking, or those at risk of becoming victims, to the authorities, with the threat of misdemeanor, this act will undermine the trust necessary between provider and patient. It will unnecessarily criminalize medical and social service providers. Most importantly, it will discourage persons in need of medical attention from coming forward for treatment. Persons who are being trafficked may be prohibited by their trafficker from seeking medical care when it is needed. Persons at risk of being trafficked, such as teenage runaways, may decide not to seek such care on their own.

It is an important goal to find and assist victims of human trafficking. As a public health professional, however, I fear that this will do more harm than good.

Mahalo for your time,

Thaddeus Pham

**Robert J. Bidwell, M.D.**  
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**Date:** January 31, 2018  
Conference Room 016 (2:50 PM)  
State Capitol

**To:** Sen. Josh Green, Chair (Human Service Committee)  
Sen. Stanley Chang, Vice-Chair (Human Services Committee)  
Sen. Rosalyn Baker, Chair (Commerce, Consumer Protection and Health Cttee)  
Sen. Jill Tokuda, Vice-Chair (Commerce, Cons. Protection and Health Cttee)  
Sen. C. Nishihara, Chair, Chair (Pub. Safety, Intergov'l Affairs, Mil. Affairs Cttee)  
Sen. G. Wakai, Vice-Chair (Pub. Safety, Intergov'l Affairs, Mil. Affairs Cttee)

**From:** Robert J. Bidwell, M.D.

**Re:** SB 2275 “Relating to Mandatory Reporting Requirements”

**Position:** **Opposition**

Dear Committee Chairs and Vice-Chairs,

**I am presenting this testimony in opposition to SB 2275 “Relating to Mandatory Reporting Requirements.” While I believe the introduction of this legislation is no doubt well-intentioned, I also believe firmly that it will have a profoundly negative effect on the ability of trafficked individuals to access needed health care, with serious implications for both individual and public health. It will also fracture the traditional bonds of trust between patient/client and health and social service providers. It will also force physicians to choose either to uphold their oath to provide patient-centered care or become agents of law enforcement.**

Over the past 25 years, through my position as Assistant Professor and later Associate Professor of Pediatrics and Director of Adolescent Medicine at the UH John A. Burns School of Medicine (1988-2012), I have provided medical care and counseling to many of Hawai'i's youth and young adults. I have continued to provide such care in my present position as Associate Clinical Professor of Pediatrics (2013-present). In all these positions I have had the opportunity to provide medical care and counseling to many young adults who have been involved in sex work, including those who have had the personal experience of being trafficked. In addition to the above positions, I have also worked as a medical forensic examiner for the Sex Abuse Treatment Center for the past 30 years. While my testimony is solely my own and does not represent the positions of either UH JABSOM or SATC, my work in both these settings have providing me the experience and understanding to inform the testimony I am presenting today related to this bill.

My concerns related to the proposed legislation are primarily twofold. First, if this bill become law, word will spread immediately throughout our communities engaged in sex work, whether trafficked or not, that health, social service and other providers are

now designated “mandated reporters,” or in effect, “agents of law enforcement.” This understanding throughout the communities will mean that individuals in need will simply stop accessing vital health care and the services of other helping professions. This avoidance of seeking care may be either through an individual’s own choice or the influence of a trafficker. In terms of health care, this avoidance of seeking services out of fear of its legal repercussions will have profound effects both for an individual’s personal health as well as for public health, for example facilitating the spread of sexually transmitted infections (STIs) and HIV, and the avoidance of timely prenatal care.

A second concern regarding this legislation is my belief that it will end the traditional bond of trust between health and social service providers and the patients/clients they are committed to serving. Many of these providers have years of experience working with at-risk communities and have learned how, through the “art of counseling,” to help support patients/clients as they navigate their life’s journey. By creating a relationship of mutual trust and respect, physicians and others are in a position to assist individuals seeking care to move toward a place of greater health, safety, self-agency and self-fulfillment. In the medical profession, in fact, we are bound by oath to provide just such care. SB 2275 will force many physicians and other providers to choose between their professional commitment to provide respectful and empowering patient-centered care and the legal requirement to become, instead, police informants. Many, on ethical grounds, will choose the former and face the risk of being charged with breaking the law.

It is for the above reasons that I encourage members of your Committees to vote against the passage of SB 2275 which, though well-intended is, I believe, misguided and inherently harmful.

Thank you so much for the opportunity to share my testimony with you.

Respectfully yours,

Robert J. Bidwell, MD