



**WRITTEN TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
THIRTIETH LEGISLATURE, 2019**

ON THE FOLLOWING MEASURE:

S.B. NO. 1465, S.D. 1, RELATING TO TREATMENT INSURANCE BENEFITS.

BEFORE THE:

SENATE COMMITTEE ON WAYS AND MEANS

DATE: Thursday, February 28, 2019 **TIME:** 10:30 a.m.

LOCATION: State Capitol, Room 211

TESTIFIER(S): **WRITTEN TESTIMONY ONLY.**
(For more information, contact Daniel K. Jacob,
Deputy Attorney General, at 808-586-1190)

Chair Dela Cruz and Members of the Committee:

The Department of the Attorney General makes the following comments.

The purpose of this bill is to require insurance companies to provide coverage for assisted community treatment benefits.

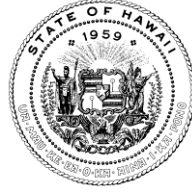
Under section 1311(d)(3)(B) of the Affordable Care Act and 45 C.F.R. section 155.170, a state may only require a Qualified Health Plan to add benefits if the state defrays the cost of the additional benefits, unless the proposed new benefit is directly attributable to State compliance with Federal requirements to provide Essential Health Benefits after December 31, 2011.

This bill would require Qualified Health Plans to provide coverage for the cost of assisted community treatment benefits. Because this benefit was neither mandated by state law prior to December 31, 2011, nor directly attributable to compliance with Federal requirements after December 31, 2011, it may be considered an additional mandate. If so, the State would be required to defray the cost.

At this time, our department is unaware of a state that has been subjected to the obligation to defray the cost for additional benefits. Therefore, there are no prior examples of how the State would meet its obligation and what specific procedures would be necessary to fulfill the obligation. Our department's best understanding is that after the Qualified Health Plan issuer submits the issuer's costs attributable to the

additional mandate, the Legislature would need to appropriate the money during the following legislative session and propose a mechanism to distribute the money.

Thank you for the opportunity to comment.



DAVID Y. IGE
GOVERNOR

JOSH GREEN
LT. GOVERNOR

**STATE OF HAWAII
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DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS**

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Testimony of the Department of Commerce and Consumer Affairs

**Before the
Senate Committee on Ways and Means
Thursday, February 28, 2019
10:30 a.m.
State Capitol, Conference Room 211**

**On the following measure:
S.B. 1465, S.D. 1, RELATING TO TREATMENT INSURANCE BENEFITS**

Chair Dela Cruz and Members of the Committee:

My name is Colin Hayashida, and I am the Insurance Commissioner of the Department of Commerce and Consumer Affairs' (Department) Insurance Division. The Department offers comments on this bill.

The purpose of this bill is to require health insurance policies and plan contracts to cover certain expenses related to petitions and hearings for persons obtaining assisted community treatment.

This bill may be viewed as a new mandate. The addition of new mandated coverage may trigger section 1311(d)(3) of the federal Patient Protection and Affordable Care Act (PPACA), which requires states to defray the additional cost of any benefits in excess of the essential health benefits of the State's qualified health plan under the PPACA.

Additionally, any proposed mandate providing coverage for care requires the passage of a concurrent resolution requesting the State Auditor to prepare and submit a

report assessing the social and financial impacts of the proposed mandate, pursuant to Hawaii Revised Statutes (HRS) section 23-51. This bill, however, exempts itself from the requirements of HRS section 23-51 and the State Auditor report.

Thank you for the opportunity to testify on this bill.



PARTNERS IN CARE

Oahu's Continuum of Care

Our mission is to eliminate homelessness through open and inclusive participation and the coordination of integrated responses.

TESTIMONY IN SUPPORT OF SB 1465, SD1: Relating to Treatment Insurance Benefits

TO: Senator Donovan Dela Cruz, Chair, Vice Chair Sen. Gilbert Keith-Agaran, and Members, Committee on Ways and Means.

FROM: Marya Grambs, member, Board of Directors, Partners in Care

Hearing: **Wednesday 2/29/19; 10:30 am**

Thank you for the opportunity to provide testimony **in support** of SB 1465, SD1. I am Marya Grambs, member, Board of Directors of Partners in Care, Oahu's continuum of care for individuals experiencing homelessness.

SB1465 SD1 rectifies a significant barrier in obtaining Assisted Community Treatment (ACT) orders – namely, that community agencies and families do not have the resources to hire the psychiatric professionals needed to file such petitions. Because of this and other difficulties, only 10 individuals have been placed under ACT orders since the law was passed in 2013. SB1465 SD1 includes, as a covered benefit for mental health treatment, the preparation of ACT petitions by psychiatric professionals.

This bill is derived from two years of meetings by various stakeholders to understand the barriers to successfully filing ACT petitions – Attorneys General for DOH and Judiciary, Adult Mental Health Division, Hawaii Disability Rights Project, Honolulu Police Psychologist, Institute for Human Services, Senator Karl Rhoads, and myself.

ACT orders are designed to get help for those individuals with whom we are all familiar because they are so visibly distressed: they display destructive and delusional behavior; they are extremely mentally ill and do not have the capacity to take care of themselves or make decisions about their treatment; they live in inhumane circumstances without adequate hygiene or medical care; they are often victims of violence or, in the case of women, sexual assault; and they cycle repeatedly between street, hospital, and jail. Letting them languish in the streets is inhumane – untreated psychosis causes brain damage -- and expensive. We believe they have a right to treatment and to have a chance to live a better life.

I urge you to pass this bill. Thank you for the opportunity to present this testimony.

LATE

SB-1465-SD-1

Submitted on: 2/27/2019 11:12:36 AM

Testimony for WAM on 2/28/2019 10:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Mike Goodman	Testifying for Hawaii Kai Homeless Task Force	Support	No

Comments:

TO: The Committee on Ways and Means

FROM: Mike Goodman, Director of the Hawaii Kai Homeless Task Force, Member, Partners In Care

FOR: Hearing, Thursday February 28, 2019, Room 211, 10:30 AM

RE: SB1465

Senator Donovan, Chair, Senator Keith-Agaran, Vice-Chair, and all Members of the Committee, thank you for the opportunity to provide testimony in strong support of SB1465.

I'm Mike Goodman, Director of the Hawaii Kai Homeless Task Force, and a member of Partners in Care (PIC), which is a coalition of more than 50 non-profit homelessness providers. Members include The Salvation Army, Aloha United Way, Hawaii Harm Reduction, The Institute for Human Services, U.S. Vets and Many others. The Hawaii Kai Homeless Task Force and PIC strongly supports this bill.

SB1465 is a crucial part of a series of bills including SB564, SB567, SB1124 and SB1464 which are contemplated to make critical improvements to the Assisted Community Treatment Program ("ACT"), to do a better job of serving severely mentally ill and substance addicted chronically homeless persons and get them off the streets. **Unfortunately, only 10 individuals have been placed under ACT orders since the law was passed in 2013.** Together, these bills hope to correct cumbersome procedures, lack of resources and other entanglements which make the program impractical.

This particular measure, addresses the fundamental question of how to pay for the treatment of mental illness and substance addiction. These afflictions are as debilitating as any physical malady and should therefore be covered by medical insurance.

Almost 100% of the chronic homeless we see on the streets are severely mentally ill or substance-addicted. ACT orders are designed to help individuals who display destructive and delusional behavior; They can't take care of themselves or make

rational decisions about their treatment. They live under horrific circumstances, cycling repeatedly between emergency rooms, jails and the streets.

Moreover, the impact of 1600-2000 severely impaired chronic homeless on the quality of life for residents and tourists and the cost to taxpayers is huge; The Children's Discovery Center in Kaka`ako may close, because homeless living nearby make parents afraid to bring their children. The Iolani Palace grounds and many parks now close at night because of vandalism wrought by impaired, chronically homeless individuals. Queens spends over one-hundred million dollars a year, just in their emergency room treating the chronic homeless. If we add the costs incurred by other medical providers, law enforcement, incarceration, homeless sweeps and property repair, the aggregate cost could be over \$200 million a year.

With an effective ACT program, we can end the suffering of impaired homeless individuals while saving taxpayers millions of dollars a year.

Thank you for the opportunity to testify.

TESTIMONY IN SUPPORT OF SB 1465, SD 1

TO: Senate Committee on Ways & Means

FROM: Nikos Leverenz
Grants, Development & Policy Manager

DATE: February 28, 2019 (10:30 AM)

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

Hawai'i Health & Harm Reduction Center (HHRC) **supports** SB 1465, SD 1, which covers the costs of a psychiatric evaluation for the preparation of assisted community treatment (ACT) orders.

A petition to file an ACT order requires the services of a psychiatrist or an advance practice nurse with prescriptive authority and psychiatric specialization. Many family members do not have the financial resources to pay for such services. A key section of SB 1465 enables such services to be a covered benefit.

It is inhumane to leave people with severe mental illness languishing in the streets. We cannot simply ignore people's needs when they are in such a state of psychosis that they are refusing treatment and assistance because they do not understand they are ill, and as a result are posing a serious risk to themselves. While we have had increased access to ACT in recent years, lack of capacity within the system has made it challenging to implement. Only 10 individuals have been placed under ACT orders since the law was passed in 2013.

HHRC works with many individuals who are impacted by poverty, housing instability, and other social determinants of health. Many have behavioral health problems, including those relating to substance use and underlying mental health conditions.

Thank you for the opportunity to testify on this measure.



February 27, 2019

The Honorable Donovan M. Dela Cruz, Chair
The Honorable Gilbert S.C. Keith-Agaran, Vice Chair
Senate Committee on Ways and Means

Re: SB 1465, SD1 – Relating to Treatment Insurance Benefits

Dear Chair Dela Cruz, Vice Chair Keith-Agaran, and Committee Members:

The Hawaii Medical Service Association (HMSA) appreciates the opportunity to testify on SB 1465, SD1, which requires health insurance policies and contracts to cover certain expenses related to petitions and hearings for persons obtaining assisted community treatment.

HMSA respectfully opposes this measure. We believe that the administrative services in the bill fall outside of the requirements of medical necessity and therefore should not be covered by health plans.

Thank you for allowing us to testify in opposition to SB 1465, SD1.

Sincerely,

Pono Chong
Vice President, Government Relations