



**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
THIRTIETH LEGISLATURE, 2020**

ON THE FOLLOWING MEASURE:

H.B. NO. 1661, H.D. 2, RELATING TO HEALTH.

BEFORE THE:

HOUSE COMMITTEE ON JUDICIARY

DATE: Tuesday, February 25, 2020 **TIME:** 2:00 p.m.

LOCATION: State Capitol, Room 325

TESTIFIER(S): Clare E. Connors, Attorney General, or
Erin K.S. Torres, Deputy Attorney General

Chair Lee and Members of the Committee:

The Department of the Attorney General (Department) offers the following comments on this bill.

This bill clarifies the process for emergency examination and emergency hospitalization in the context of mental health crisis intervention.

There are references to "MH-1" in section 1 on page 1, line 9, and on page 2, line 3. However, "MH-1" is a term that is not currently defined in the statute. Therefore, the Department recommends that instead of references to the term "MH-1", the wording in section 1 should refer to section 334-59(a), Hawaii Revised Statutes (HRS), setting forth the process for emergency admissions. Therefore, section 1, page 1, line 9, should be amended to read as follows:

. . . individual has been taken into custody pursuant to section 334-59(a), Hawaii Revised Statutes.

Also, section 1, page 2, line 3, should be amended to read as follows:

. . . behavioral health crisis center pursuant to section 334-59(a), Hawaii Revised Statutes, for. . .

The Department further recommends that a technical amendment be made to include a missing "2" when citing to the HRS section for involuntary hospitalization criteria. The reference to "334-602" in section 2, page 2, line 16, should be changed to "334-60.2".

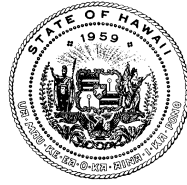
The Department also notes that during the emergency examination, the examiner must determine whether the patient meets all three criteria for involuntary hospitalization as set forth in section 334-60.2, HRS. A patient can only be involuntarily hospitalized if all three of the criteria are met, yet there are parts of the bill that erroneously require only one of the three criteria to be met. Therefore, section 2, page 4, lines 3 to 6, should be amended to read as follows:

. . . ~~hospitalized,~~ the involuntary hospitalization criteria set forth in section 334-60.2 are not met or do not persist and the evaluation pursuant to section 334-121.5, where required, has been completed, the patient shall be discharged. . .

Also, section 2, page 4, lines 15 to 18, should remain the same as it is in the current statute and read as follows:

- (1) Mentally ill or suffering from substance abuse;
- (2) Imminently dangerous to self or others; and
- (3) In need of care or treatment, or both;

If the Committee chooses to pass this measure, we respectfully ask that it make the amendments suggested by the Department.



STATE OF HAWAII
DEPARTMENT OF HEALTH
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LATE

**Testimony in SUPPORT of H.B. 1661 H.D. 2
RELATING TO HEALTH**

REPRESENTATIVE CHRIS LEE, CHAIR
HOUSE COMMITTEE ON JUDICIARY

Hearing Date and Time: Tuesday, February 25, 2020 at 2:00 p.m.

Room: 325

1 **Department Position:** The Department of Health (“Department”) strongly supports this
2 measure offering comments and proposed amendments.

3 **Department Testimony:** The subject matter of this measure intersects with the scope of the
4 Department’s Behavioral Health Administration (BHA) whose statutory mandate is to assure a
5 comprehensive statewide behavioral health care system by leveraging and coordinating public,
6 private and community resources. Through the BHA, the Department is committed to carrying
7 out this mandate by reducing silos, ensuring behavioral health care is readily accessible, and
8 person-centered. The BHA’s Adult Mental Health Division (AMHD) provides the following
9 testimony on behalf of the Department.

10 The Department is committed to addressing the needs of individuals who live with
11 behavioral health issues and are in need of services when there is a danger to self or others.
12 This commitment includes implementing a statewide mental health emergency worker
13 (MHEW) system, conducting emergency examinations, coordinating emergency admissions,
14 and, where appropriate, pursuing involuntary commitment.

15 We acknowledge that active and decisive steps must be taken to better operationalize
16 the emergency examination and hospitalization process so that individuals may be better
17 assisted and to better protect the safety of the public. There are several very significant efforts

1 underway by the department, and for which we gratefully have broad legislative support, that
2 will the achieve the level of balanced implementation we seek.

3 The Department continues to collaborate with state agency partners through the task
4 force and working group of Act 90 and Act 263, Session Laws of Hawaii 2019 and specifically
5 with the MH-1 work group. For reference, the definition of an MH-1 is generally understood to
6 mean a mental health emergency worker authorized involuntary transport, pursuant to section
7 334-59(a)(1), of a person in crisis by either law enforcement and/or emergency medical services
8 personnel to receive an emergency examination and possible emergency hospitalization.

9 We believe this measure as drafted enhances the current efforts of the Department and
10 its stakeholder partners and maintains alignment with the mental health task force report.

11 **Offered Amendments:** The Department respectfully offers the following amendments.

12 “MH-1” is not currently defined in the statute. Inserting this language in section 1
13 allows for continued discussion on further defining “MH1” but keeps the statutory changes
14 consistent per AG recommendation. We also want to acknowledge that this definition may
15 evolve as we continue to work with community stakeholders to refine the definition with a
16 possibility of amending the statue at a later time.

17 MH-1 means an involuntary transport authorized by a mental health emergency worker,
18 pursuant to section 334-59(a)(1), of a person in crisis by either law enforcement and/or
19 emergency medical services personnel to receive an emergency examination and possible
20 emergency hospitalization.

21 We echo the Department of Attorney General’s (ATG) recommendations regarding the
22 use of the term “MH-1.” Instead of references to the term “MH-1”, the wording in section 1
23 should refer to section 334-59(a), Hawaii Revised Statutes (HRS), setting forth the process for
24 emergency admissions. Therefore, section 1, page 1, line 9, should be amended to read as

1 follows: . . . individual has been taken into custody pursuant to section 334-59(a), Hawaii
2 Revised Statutes. Also, section 1, page 2, line 3, should be amended to read as follows:
3 "...behavioral health crisis center pursuant to section 334-59(a), Hawaii Revised Statutes, for..."

4 Page 2, line 16, please change the section reference from "334-602" to accurately
5 reflect the section "334-60.2"

6 Page 4, lines 3-8, please change to "~~hospitalized,~~ the involuntary hospitalization criteria
7 set forth in section 334-60.2 are not met and the evaluation pursuant to section 334-121.5,
8 where required, has been completed, the patient shall be discharged [~~immediately~~] expediently
9 unless the patient is under criminal charges, in which case the patient shall be returned to the
10 custody of a law enforcement officer."

11 Page 4, lines 15-18, we respectfully request that the three criteria remain and not be
12 changed to include a fourth option.

13

14 Thank you for the opportunity to testify.

15 **Fiscal Implications:** Undetermined.

HB-1661-HD-2

Submitted on: 2/21/2020 7:37:29 PM

Testimony for JUD on 2/25/2020 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Louis Erteschik	Hawaii Disability Rights Center	Comments	Yes

Comments:

This HD2 version appears better than the prior version which would have defined “imminent danger” to include the mere refusal to take medication or seek treatment. However, it was adopted as a Proposed HD2 that had been submitted by the Department of Health. As such, it has not been fully aired before it was adopted and so we would like to review the comments of other stakeholders since this is essentially the first hearing on this measure. We do have a favorable first impression though. We like the idea of the option to transport a patient to a behavioral health crisis center and we believe that the screening process set forth will enable certain individuals to receive mental health treatment.



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HOUSE COMMITTEE ON JUDICIARY
Representative Chris Lee, Chair
Representative Joy A. San Buenaventura, Vice Chair

February 25, 2020, 2:00 pm
House conference Room 325

Testimony in SUPPORT WITH AMENDMENTS of HB1661 HD2

The Hawai'i Psychological Association (HPA) supports the intent House Bill 1661 HD2, and requests amendments to the current language of HD2 version of the bill.

HB1661 HD2 amends the criteria for emergency examination, release from emergency examination, emergency hospitalization, and release from emergency hospitalization for individuals experiencing a behavioral health crisis. The language in HB1661 HD2 is specific in stating who may prescribe medications and admit or discharge people in hospital or crisis center settings, and in no way grants such authority to persons without sufficient training or credentialing.

The removal of psychologists from the list of those who evaluate or assess individuals experiencing a behavioral health crisis in the HD2 version of HB1661 might prevent qualified and credentialed psychologists from providing much-needed services to an underserved population, limiting the number of qualified evaluators who can be called upon to provide service to individuals experiencing a behavioral health crisis.

The specific exclusion of psychologists in the current version (HD2) of HB1661 is also inconsistent with the scope of practice of licensed psychologists in the state of Hawai'i. To redress this infringement upon scope of practice, we respectfully request that the word "psychologist" be reinstated wherever it appears stricken from HB1661 HD2.

Respectfully submitted,

Julie Takishima-Lacasa, PhD, President
Chair, Legislative Action Committee
Hawai'i Psychological Association