STATE OF HAWAIʻI
OFFICE OF THE PUBLIC DEFENDER

Testimony of the Office of the Public Defender,
State of Hawaiʻi to the House Committee on Judiciary

February 8, 2020

H.B. No. 1972, HD1: RELATING TO MEDICAL RELEASE

Chair Lee, Vice Chair San Buenaventura, and Members of the Committee:

The Office of the Public Defender supports H.B. No. 1972, HD1.

We support the inclusion of compassionate medical release for our aging inmates in custody who may need medical care beyond the capacity and capability of our limited prison medical system. An option beyond incarceration for inmates with terminal illnesses or illnesses that negatively impact cognitive abilities, like dementia and Alzheimer's disease, is needed. This is particularly necessary for inmates who require hospice level care or 24-hour intensive care after a serious medical condition. Compassionate release should be an available humanitarian option for the Department of Public Safety.

We agree with the Committee on Public Safety, Veterans, & Military Affairs that this measure strikes the appropriate, compassionate balance in considering whether an inmate's medical condition and the low likelihood of risk to the public warrant the inmate's release before the expiration of the inmate's sentence.

It is essential that the Department of Public Safety and the Hawaiʻi Paroling Authority include a medical release plan that provides continuity of care to ensure any transition from custody to an approved medical provider and medically appropriate housing.

Thank you for the opportunity to comment on this measure.

DAVID Y. IGE
GOVERNOR

EDMUND "FRED" HYUN
CHAIR

CLAYTON H.W. HEE
CHERYL E. INOUYE
MAX N. OTANI
FITUINA F. TUA
MEMBERS

TOMMY JOHNSON
ADMINISTRATOR

STATE OF HAWAII
HAWAII PAROLING AUTHORITY
1177 Alakea Street, First Floor
Honolulu, Hawaii 96813

No. _____

TESTIMONY ON HOUSE BILL 1972, HD1
A BILL FOR AN ACT RELATING TO MEDICAL RELEASE

BY

HAWAII PAROLING AUTHORITY
Edmund "Fred" Hyun, Chairman

House Committee on Judiciary
Representative Chris Lee, Chair
Representative Joy A. San Buenaventura, Vice Chair

Tuesday, February 11, 2020; 2:05 p.m.
State Capitol, Conference Room 325

Chair Lee, Vice Chair San Buenaventura, and Members of the Committee:

The Hawaii Paroling Authority (HPA) opposes House Bill 1972, HD 1, which seeks to broaden the criteria that the HPA follows to consider inmates for medical release. The HPA opposes this measure because it is duplicative and unnecessary as it seeks to codify in statute a process that the Department of Public Safety (PSD) and HPA currently has in place. This measure seeks to reinvent an established practice that works in the best interest of the offender/patient and public safety. Also, this measure is identical to last year's HB 629, HD2, SD2 that was vetoed by the Governor on July 9, 2019 (Gov. Message No. 1374).

While the HPA defers to the Department of Public Safety (PSD) for most of the provisions outlined in this measure, the Authority is concerned that requests from inmates and/or their representative sent directly to the HPA needlessly delays the process. Currently, all medical release requests received by the HPA from inmates or the inmate's representative are referred to PSD for review and completion of the medical release plan. Therefore, all medical release requests are reviewed by PSD prior to forwarding to HPA.

Also, clarification regarding the proposed medical release hearings process and timeline are needed. The PSD and HPA already have procedures in place to address medical release consideration, which includes HPA's proposed amendments to this agency's Administrative Rules.

In part, the proposed amendments create identical language for medical release consideration as outlined in PSD's Policy COR.10.1G.11 (Medical Releases). As written, this measure does not appear to comply with HRS 706-670 (Parole procedures; release on parole; terms of parole, recommitment, and reparole; final unconditional release) as it relates to scheduling initial parole release consideration hearings.

Thank you for the opportunity to provide testimony on House Bill 1972, HD1.

DAVID Y. IGE
GOVERNOR

STATE OF HAWAII
DEPARTMENT OF PUBLIC SAFETY
919 Ala Moana Boulevard, 4th Floor
Honolulu, Hawaii 96814

NOLAN P. ESPINDA
DIRECTOR

Maria C. Cook
Deputy Director
Administration

Shari L. Kimoto
Deputy Director
Corrections

Renee R. Sonobe Hong
Deputy Director
Law Enforcement

No. _____

TESTIMONY ON HOUSE BILL 1972, HOUSE DRAFT 1
RELATING TO MEDICAL RELEASE.
by
Nolan P. Espinda, Director
Department of Public Safety

LATE

House Committee on Judiciary
Representative Chris Lee, Chair
Representative Joy A. Buenaventura, Vice Chair

Tuesday, February 11, 2020; 2:05 p.m.
State Capitol, Conference Room 325

Chair Lee, Vice Chair San Buenaventura, and Members of the Committee:

The Department of Public Safety (PSD) supports the intent of House Bill (HB) 1972, House Draft (HD) 1, which seeks to codify, in statute, a medical release program for PSD, which would significantly alter the established and effective Medical Release Program that has existed in the policies and procedures of the Department and the Administrative Rules of the Hawaii Paroling Authority (HPA) since December 2014. The Department, however, respectfully requests the measure be deferred, based on the following comments.

EFFECTIVENESS OF CURRENT MEDICAL RELEASE PROGRAM

Chapter 353 of the Hawaii Revised Statutes currently provides for an established and effective medical release program through the Hawaii Administrative Rules, as specified in Chapter 700 of Title 23, and COR.10.1G.11 (Medical Release) of the Department's Policies and Procedures. The HPA Medical Release database demonstrates the effectiveness of the medical release program over the years, with substantial program improvement in the last year. In 2019, PSD submitted twelve (12)

requests for medical release to HPA. Ninety-two percent (92%) of the cases were qualified and granted/approved release. One (1) case is currently pending release on parole.

Despite the success of the PSD-HPA medical release program, identified areas for improvement include the following: a) guardianship procedures and b) housing. With the assistance of the Family Courts for the Judiciary, PSD developed a process for cases requiring guardianship of inmates being considered for medical release. Although the collaborative process has shown progress, the limits of law and the comprehensive requirements of the process do not allow for expeditious relief in time-sensitive cases. The Department respectfully suggests that this issue be addressed via a different measure.

The Department has also encountered challenges with the medical release program due to housing issues, which have proven to frustrate all stakeholders, because of the indefinite postponement of granted and approved medical releases. Two populations have been particularly difficult: a) sex offender and b) non-U.S. citizens. Attorney Robert Merce has been a champion for the PSD medical release program, voluntarily assisting the Department with housing for medical release cases. He, too, has experienced this shared difficulty with housing. Again, the Department respectfully suggests that these issues be addressed separately, perhaps by Concurrent Resolution(s) appointing appropriate task force(s) to further investigate and develop proposals for improvement.

MALFICIENCE OF HB 1972, HD1

While the Department appreciates the support from all stakeholders in this attempt to improve the PSD medical release program, HB 1972, HD 1, in truth, **harms** the medical release program through the inclusion of an expansion of unqualified requestors with the resultant unwarranted urgency in ineligible cases, a painful waste of limited physician and fixed budget resources, and inundation of physicians with unnecessary and unfunded medical procedures, studies, and tasks. As an advocate for the healthcare of all inmates in custody, the Department cannot support the

proposed measure, which would cause unneeded and unnecessary delays in healthcare services for inmates with serious health care needs and respectfully requests deletion of all references in the proposed measure to the issues discussed below.

PSD is concerned that HB 1972, HD 1 seeks to expand the medical release program by providing non-medically trained inmates or inmate representatives the opportunity to initiate requests for medical release, by submitting a simple written statement explaining the grounds for the requested release, where the inmate would reside if released, who would care for the inmate, and how the inmate plans to obtain medical care, which PSD believes would significantly increase the number of applications for medical release. Moreover, the Department's Health Care Division would be burdened by having to research and produce exhaustive medical reports for each application.

In addition, the bill proposes to expedite the process of medical release by establishing immutable deadlines within which PSD would be required to complete the comprehensive medical testing and evaluations, literature research, report writing, and case management, which would take up valuable time of the professional medical staff who are already working over capacity. Implementation of this proposal, under current operating conditions and staffing levels, is impractical and would be detrimental to the delivery of health care for all inmates. This bill would compel a medical doctor to attend to a medical release case which may or may not be urgent in order to meet an unreasonably short deadline fixed in statute, rather than triage cases and provide needed medical care to other inmates who may have more immediate issues. Although the bill would serve to expedite the medical release process for certain cases, it would simultaneously create an overall backlog in patient care, leading over time, to the worsening of untreated patient conditions and increased expenses of addressing grievances and other legal complaints.

The Department is also concerned with the requirement in HB 1972, HD1 for PSD to appoint an advocate for the inmate who requests medical release and is unable, due to incapacitation or debilitation, to advocate on the inmate's own behalf.

The Department currently adheres to the guardianship procedure, as required by statute, working collaboratively with the Family Courts of the Judiciary to obtain legal advocacy through guardianship. As indicated above, in order to further expedite the medical release process in such cases involving incapacitation, the Department respectfully requests that this issue be addressed through a different measure.

APPROPRIATIONS NEEDED TO SUPPORT HB 1972, HD1

During the 2019 Legislative session, the Department submitted testimony on a similar measure in a joint hearing of the Senate Committees on Judiciary and Ways and Means that outlined an initial estimate of the fiscal impact of the bill on PSD's Health Care Division. In order to comply with the requirements of HB 1972, HD 1, the following provides an initial analysis of the resources needed for compliance. Anticipated staffing increases include a Physician Manager (1.0 FTE) position, which would be responsible for providing oversight, coordination, and review of the statewide medical release program. An additional 1.5 FTE Physician and 1.5 FTE Psychiatrist positions would be required to comply with the medical and psychiatric components of HB 1972, HD 1, including the development of a fast track procedure for the evaluation and release of rapidly dying prisoners.

As a component of the medical release program, HB 1972, HD1, also requires the development of a medical release plan for purposes of continuity of care. One barrier to the medical release plan process has been the absence of specialized nursing positions to provide case management and pursue guardianship for incapacitated inmates. Currently, nursing case management positions within the Health Care Division of the Department of Public Safety does not exist. Additional Advanced Practice Registered Nurse II (3.0 FTE) positions would be responsible for the development of the medical release plan, including serving as petitioner for guardianship when needed. An additional Secretary II (1.0 FTE) position would provide the office support needed for the implementation of the medical release program.

The table below shows the anticipated staffing increases that the implementation of HB 1972, HD 1 would require. The total increase in payroll cost for the additional 8.0 FTE staffing requirement is estimated at $1.7 million each year. With an undetermined, yet expected increase, in requests for medical release from non-medical sources with a heightened possibility of litigation, an initial annual recurring estimate of $500,000 for specialized medical testing, studies, and specialty Provider referrals is requested. Should the Committee decide to advance the measure, PSD respectfully requests that it be amended to include an appropriation of sufficient funds to support the requirements of the revisions to the medical release program.

Position	**FTE**
Physician Manager	1.0
Physician	1.5
Psychiatrist	1.5
Advanced Practice R.N.	3.0
Secretary	1.0
Total FTE	**8.0**

Thank you for the opportunity to provide testimony on HB 1972, HD 1.

HB-1972-HD-1
Submitted on: 2/7/2020 6:12:45 PM
Testimony for JUD on 2/11/2020 2:05:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Louis Erteschik	Hawaii Disability Rights Center	Support	No

Comments:

This is clearly an excellent idea. Obviously, it is a humane thing to do. Beyond that, it probably makes little sense for the prison system to be housing individuals who are basically residing in a hospital like setting. It is very expensive and not what prisons are really designed to do.

We know that last year the legislature passed HB 629 but it was vetoed by the Governor. We hope that the objections raised in the Veto Message can be addressed so that the bill can be successfully passed and signed this year.

COMMUNITY ALLIANCE ON PRISONS

P.O. Box 37158, Honolulu, HI 96837-0158

Phone/E-Mail: (808) 927-1214 / kat.caphi@gmail.com

COMMITTEE ON JUDICIARY
Rep. Chris Lee, Chair
Rep. Joy San Buenaventura, Vice Chair
Wednesday, February 11, 2020
2:00 pm – Room 325

SUPPORT w AMENDMENT for HB 1972 HD1 – COMPASSIONATE RELEASE

Aloha Chair Lee, Vice Chair San Buenaventura and Members of the Committee!

My name is Kat Brady and I am the Coordinator of Community Alliance on Prisons, a community initiative promoting smart justice policies in Hawai`i for more than two decades. This testimony is respectfully offered on behalf of the families of **JAMES BORLING SALAS, ASHLEY GREY, DAISY KASITATI, JOEY O`MALLEY, JESSICA FORTSON AND ALL THE PEOPLE WHO HAVE DIED UNDER THE "CARE AND CUSTODY" OF THE STATE,** including the eleven (11) people that we know of, who have died in the last six (6) months. We also remind the committee of the approximately 5,200 Hawai`i individuals living behind bars or under the "care and custody" of the Department of Public Safety on any given day, and we are always mindful that more than 1,200 of Hawai`i's imprisoned people are serving their sentences abroad thousands of miles away from their loved ones, their homes and, for the disproportionate number of incarcerated Kanaka Maoli, far, far from their ancestral lands.

HB 1972 HD1 creates a medical release program within the Department of Public Safety for certain ill, disabled, or impaired inmates who pose a low risk to public safety.

Community Alliance on Prisons is in support of this bill because it embodies the spirit of Aloha. The bill builds upon the system that is already in place in which primary responsibility for initiating compassionate release rests with the department of public safety's medical personnel, but allows for what is essentially an appeal process if an inmate believes that the DPS had made a mistake. An inmate can request medical release, PSD must prepare a medical report on the inmate and forward it to the Paroling Authority, who must give the inmate a hearing within 10 days. We believe the appeal process is absolutely essential because mistakes are inevitable and an appeal provides a mechanism for correcting them (or affirming the decision of the DPS if no mistake has been made).

The amendment we suggest is from the First Step's section on Compassionate Release[1] and Community Alliance on Prisons respectfully requests that the committee incorporate the following sections of this federal law:

On page 7, line 18, add a new (h) with the following language:

> (h) "An incarcerated patient may file a motion after fully exhausting all administrative rights to appeal a denial of compassionate release by either the department of public safety or the Hawai`i Paroling Authority."

Reorder (h) p.7, line 18 – (k) p.8 – line 14 to (i) – (l)

[1] Compassionate Release in the First Step Act Explained, https://famm.org/wp-content/uploads/Compassionate-Release-in-the-First-Step-Act-Explained-FAMM.pdf

There were also other changes made to the First Step Act that we respectfully ask the committee to consider:

- **Notification when a prisoner is diagnosed with a terminal condition**

o Within 72 hours after a terminal diagnosis, the department of public safety must notify the prisoner's attorney, partner, and family and inform them they may submit a request for the prisoner's compassionate release;

o Within seven days the department of public safety must provide the partner and family members a visit;

o Department of public safety staff must assist an incarcerated patient with a compassionate release request if asked to do so by the prisoner, the attorney, partner, or family member; and

o The department of public safety must provide support for incarcerated patients who are physically or mentally unable to submit a compassionate release request on their own

o The department of public safety must inform the incarcerated patient's attorney, partner, and family that they can submit a request and must accept a request from people other than the prisoner; and

o Department of public safety staff must assist an incarcerated patient with a compassionate release request if asked to do so by the incarcerated patient, the attorney, partner, or family member.

The HCR 85 Correctional Reform Task force recommended these provisions in their 2019 Final Report[2]:

> **C. Streamlining Federal Compassionate Release**
> Although federal compassionate release does not directly impact state prisoners, it is an important issue for Hawai'i citizens who are incarcerated in federal prisons. Senator Schatz introduced the Granting Release and Compassion Effectively (GRACE) Act to improve the United States Bureau of Prison's approval process for compassionate release and create an expedited process for terminally ill patients. (S. 2472, 115th Cong. (2018) The bill would make the compassionate release process fairer and more accountable and would, in in the long term, reduce overall federal prison spending without compromising public safety. The bill was included in the bipartisan criminal justice reform bill, the First Step Act, which passed the House of Representatives in 2018 and is expected to pass the Senate. (S. 3649, 115th Cong. (2018)

Community Alliance on Prisons urges the committee to consider amending the bill with the good amendments made in the First Step Act by our own Senator Schatz! These amendments strengthen due process and allow a dispassionate review of an incarcerated patient's medical record. Humans all have implicit or unconscious bias and by granting the right to appeal a denial in court makes sense. Human make mistakes. These amendments seek to avoid them before they happen.

Mahalo for this opportunity to testify on this important measure that will uphold the incarcerated patient's, his/her attorney, partner, or family member's human rights.

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[2] Creating Better Outcomes, Safer Communities, Compassionate Release, Chapter 12 C, page 60. https://www.courts.state.hi.us/wp-content/uploads/2018/12/HCR-85_task_force_final_report.pdf

HAWAIʻI HEALTH
& HARM REDUCTION CENTER
The New Chapter for Life Foundation and The CHOW Project

LATE

TESTIMONY IN SUPPORT OF HB 1972, HD 1

TO: Chair Lee, Vice-Chair San Buenaventura, and Members of the House Judiciary Committee

FROM: Nikos Leverenz
Grants, Development & Policy Manager

DATE: February 11, 2020 (02:05 PM)

Hawaiʻi Health & Harm Reduction Center (HHHRC) **strongly supports** HB 1972, HD 1, which would create a medical release program within the Department of Public Safety for certain ill, disabled, or impaired inmates.

HHHRC 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. Incarceration for any length of time for those with undiagnosed or undertreated behavioral health conditions compounds human suffering and is neither wise nor compassionate public policy.

As a general matter, the scope of this bill is far too narrow when compared to the compassionate release provisions of the First Step Act (FSA), passed by Republican congressional majorities and signed into law by President Trump in 2018.

This bill should be strengthened by incorporating some of the most salutary features of the federal First Step Act. Under the FSA, those who are eligible for compassionate release include those over the age of 65 who have served the greater of 10 years or 75 percent of their sentence; those whose minor children are impacted by the death or incapacitation of their caregiver; and those whose spouse or registered partner are incapacitated by a serious injury, debilitating illness, or cognitive defect.

Incarceration is latently injurious to a person's health. A 2019 report by the Robert Wood Johnson Foundation underscored the negative health impacts of incarceration:

> Incarceration is associated with adverse health effects that last far beyond the period of confinement. Longitudinal studies have documented strong, pervasive links between incarceration and multiple adverse health indicators across the lifespan, even after considering health before incarceration. On average, adult inmates are released from correctional facilities with more chronic medical problems than they had before admission….
>
> The most serious health consequences of incarceration may not manifest until after release. Individuals treated for chronic health conditions while incarcerated often face obstacles to accessing care after leaving the justice system. Among individuals who are incarcerated, future prospects for employment, economic stability, affordable housing, and education are curtailed and in many cases eliminated. ("Mass Incarceration Threatens Health Equity in America," at p. 3.)

The grave impacts of incarceration on individual health are of heightened concern for those currently incarcerated in Hawaiʻi and its contracted facilities in Arizona. Conditions in both states are such that they have been the subject of news reports in local, national, and international outlets in recent years. (*See, e.g.*, Cory Lum, "Prisoners in Hawaii Are Being Sent to Die in Private Prisons in Arizona," *Vice Magazine*, March 2017; Associated Press, "Official: Overcrowding, Inmate Woes Caused Maui Jail Riot," August 22, 2019; Elizabeth Whitman, "Inmate Says He Was Raped, Retaliated Against at CoreCivic Prison in Arizona," *Phoenix New Times*, December 17, 2019; Associated Press, "New Hawaii Law Shows Information Withheld in Prison Deaths," January 6, 2020; Hawaii News Now, "Investigation Launched After Apparent Beating Death of OCCC Inmate," January 18, 2020; Yoohyun Jung, "Lawsuit: Guards Had Suicidal Inmate Cuffed, Let Him Bleed to Death," *Civil Beat*, January 24, 2020.)

Thank you for the opportunity to testify on this measure.

HB-1972-HD-1
Submitted on: 2/9/2020 2:11:00 AM
Testimony for JUD on 2/11/2020 2:05:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
David Fukuzawa	Individual	Support	No

Comments:

Dear Honorable Legislative Representatives,

I am in support of this bill. As a retired public safety employee that worked as a substance abuse specialist for several years with the Bridge Program at LWFC/OCCC, I saw several offenders who could have benefitted from this type of policy. As it was, we would have to submit and resubmit to the paroling authority to release early before they would pass to be with family. Some would make it, and some would not. For those offenders who pose the least problems for the community, this would be a good thing.

Sincerely,

David Fukuzawa, SAS-5 Retired.

HB-1972-HD-1
Submitted on: 2/9/2020 1:20:50 PM
Testimony for JUD on 2/11/2020 2:05:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Steven Costa	Individual	Support	No

Comments:

ROBERT K. MERCE
2467 Aha Aina Place
Honolulu, Hawai'i 96821

phone: (808) 398-9594 (cell)
email: mercer001@hawaii.rr.com

February 10, 2020

TO: Committee on Judiciary
RE: HB 1972
HEARING: February 11, 2020
TIME: 2:05 p.m.
ROOM: Room 325
POSITON: Strongly Support

Chair Lee, Vice Chair Buenaventura, and members of the committee:

My name is Bob Merce. I am a retired lawyer and for the past eight years I have been assisting inmates seeking medical release. I have worked with the Department of Public Safety (PSD) in locating housing for inmates who are granted medical release and I drafted SB 2306 (Twenty-Seventh Legislature 2014)[1] that is the predecessor to both HB 629 (Thirtieth Legislature 2019) and the current SB1972.

HB 1972 creates a medical release program for certain ill, disabled, or impaired inmates who pose a low risk to public safety. It is identical to HB 629 HD2 SD2 (Thirtieth Legislature 2019) which was vetoed by Governor Ige on July 9, 2019 (GM 1374). The stated reason for the veto was:

> A Medical Release Program has been in existence in PSD and HPA policies since December 2014. This bill mandates that PSD and HPA complete certain tasks within short periods of time, but does not provide more funding for more staff. There are also concerns that this bill opens the referral process for medical release to an inmate or an inmate representative, who may or may not be medically trained. The PSD Health Care Division would be required to provide a detailed, comprehensive medical assessment within 20 days of receipt of each referral. (GM 11274, July 9, 2019).

[1] SB2306 (Twenty-Seventh Legislature 2014) can be found here: https://www.capitol.hawaii.gov/session2014/bills/SB2306_.htm

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The Governor's veto is apparently linked to PSD's April 3, 2019 testimony before the Senate Judiciary and Ways and Means committees stating that it does not have enough doctors to comply with the reporting requirements of HB 629 (and which are part of HB 1972), and that it would need "an appropriation of $2.1 million and the addition of 7.0 FTE (Full Time) professional staffing positions for each year of the fiscal biennium be inserted in order to effectuate the purposes of this bill."

The reporting requirements of SB6 29 and HB 1972 are very simple and **I do not see how they could possibly require additional staff.**

SB 1972, like HB 629, requires PSD to prepare two brief reports for all inmates seeking medical release and to forward the reports to the Hawaii Paroling Authority within 20 days so that the Authority has a factual basis for its medical release decisions.

> The first report is prepared by a PSD physician and must state:
>
> > (1) Whether the inmate meets the criteria for medical release and the basis for the opinion;
> >
> > (2) Each diagnosis that applies to the inmate, the prognosis for each condition, and ***where practicable*** a discussion of the results of any tests, studies, or physical findings that support the diagnosis; and
> >
> > (3) The nature and extent of the medical treatment that will most likely be required to manage the inmate's condition while incarcerated.
>
> The second report is prepared by the PSD director, or his designee and must discuss:
>
> > (A). The risk for violence and recidivism, if any, that the inmate poses to society in light of such factors as the inmate's medical condition, the severity of the offense for which the inmate is incarcerated, and the inmate's prison record; and
> >
> > (B). A medical release plan that provides for continuity of care.

The medical report is very basic. The physician simply has to state whether the inmate meets the criteria for medical release (yes or no) and lists the illnesses or other medical conditions that have been diagnosed, such as diabetes, coronary artery disease, lung cancer, etc., and the

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prognosis for each condition (excellent, good, fair, poor). The physician only has to provide further information "*if practicable",* and even then, the comments can be very brief. For example, in a case I am presently working on, the inmate has been diagnosed with severe pulmonary fibrosis. In the medical release report the physician might note something like: "patient has hacking cough and shortness of breath. CT scan shows diffuse peripheral scarring of both lungs." That's all that is needed.

The question about the nature and extent of the required medical treatment can likewise be very brief. For example, again using the example of pulmonary fibrosis, the physician might say: "patient should be started on pirfedidone, also recommend oxygen therapy three times a week and pulmonary rehabilitation." Or for a diagnosis of kidney failure the comment might be: "patient will probably require hemodialysis within the next 3-6 months." One or two sentences is enough.

The risk assessment can easily be provided by the inmate's counsellor who should be up to date on the inmate's short and long-term behavior. The assessment could be as brief as: "This inmate is elderly and wheelchair bound. He is serving a 10-year sentence for various drug offenses. He does not have a history of violence. He has completed the Kashbox program and has a positive outlook."

The medical release plan could be as brief as: "Inmate will be discharged to Leahi Hospital. Medicaid forms have been completed and coverage as soon as inmate is released. Inmate will be released with a two-week supply of meds. Transportation to Leahi will be arranged by the MedQuest insurance carrier."

The information required by SB 1972 is far less burdensome than is required by Department of Human Services (DHS) Form 1147 which is used to determine the appropriate level of care for an inmate who is being released to a residential care facility. A copy of DHS Form 1147 is attached as Exhibit 1. The information required by DHS form 1147 would more than meet the requirements of SB 1972.

I do not know how the Paroling Authority can make a rational decision on medical release unless they know the inmate's diagnosis and prognosis.

Further, if the Hawaii Paroling Authority does not want a report on whether the risk of violence and recidivism, I have no objection to striking that requirement from HB 1972.

The goal of HB 1972 is not to create unnecessary work for PSD or the Paroling Authority, but to create a fair, efficient, and transparent process for evaluating medical release requests that will save he state millions in end of live medical expenses, and allow inmates to die with dignity outside of prison.

Thank you for allowing me to testify on this matter

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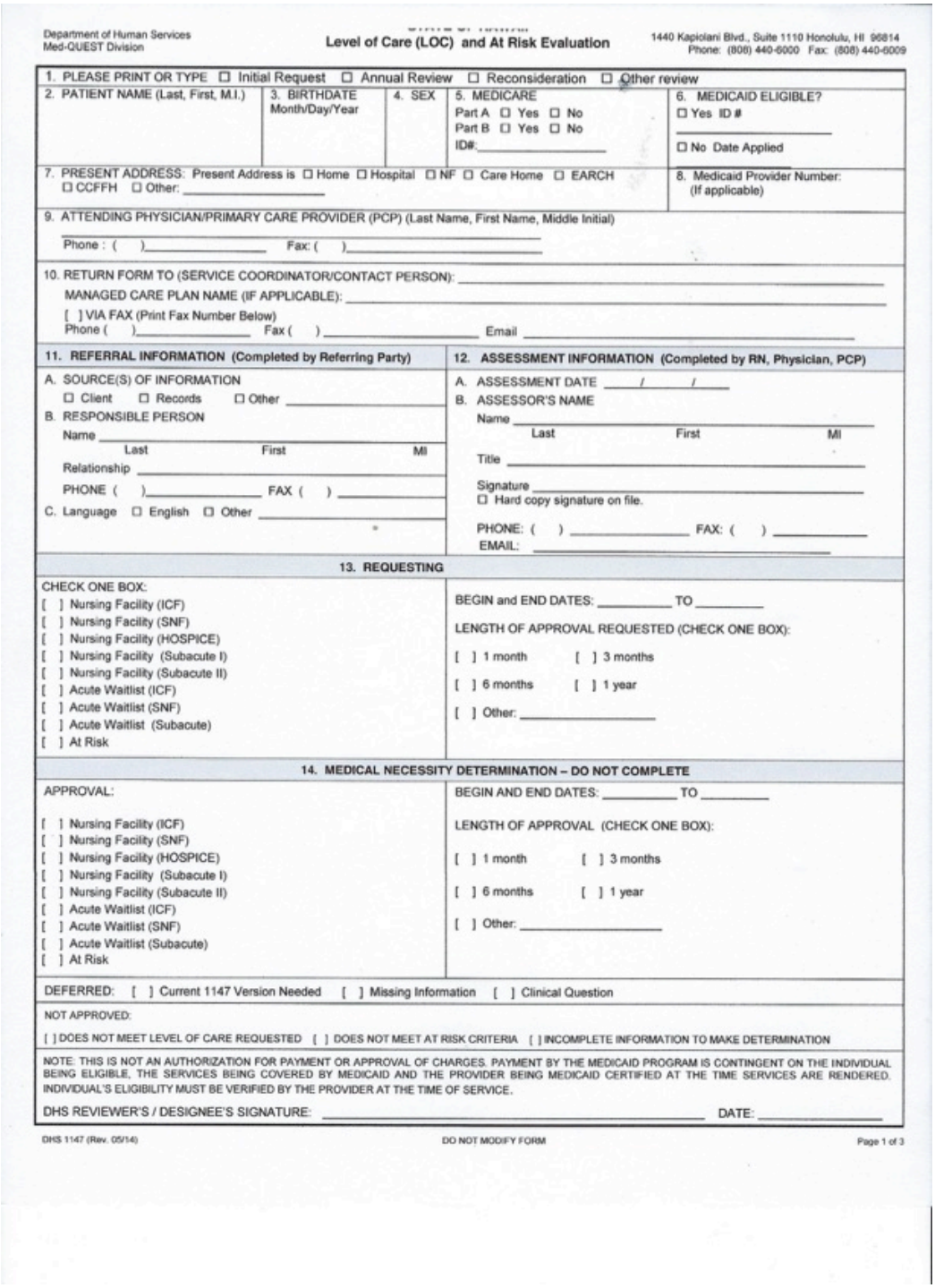
EXHIBIT 1



Department of Human Services
Med-QUEST Division

Level of Care (LOC) and At Risk Evaluation

1440 Kapiolani Blvd., Suite 1110 Honolulu, HI 96814
Phone: (808) 440-6000 Fax: (808) 440-6009

1. PLEASE PRINT OR TYPE ☐ Initial Request ☐ Annual Review ☐ Reconsideration ☐ Other review

2. PATIENT NAME (Last, First, M.I.)	3. BIRTHDATE Month/Day/Year	4. SEX	5. MEDICARE	6. MEDICAID ELIGIBLE?
			Part A ☐ Yes ☐ No Part B ☐ Yes ☐ No ID#:_____	☐ Yes ID # _____ ☐ No Date Applied

7. PRESENT ADDRESS: Present Address is ☐ Home ☐ Hospital ☐ NF ☐ Care Home ☐ EARCH ☐ CCFFH ☐ Other: _____

8. Medicaid Provider Number: (If applicable)

9. ATTENDING PHYSICIAN/PRIMARY CARE PROVIDER (PCP) (Last Name, First Name, Middle Initial)
_____
Phone : ( )_____ Fax: ( )_____

10. RETURN FORM TO (SERVICE COORDINATOR/CONTACT PERSON): _____
MANAGED CARE PLAN NAME (IF APPLICABLE): _____
[ ] VIA FAX (Print Fax Number Below)
Phone ( )_____ Fax ( ) _____ Email _____

11. REFERRAL INFORMATION (Completed by Referring Party)

A. SOURCE(S) OF INFORMATION
☐ Client ☐ Records ☐ Other _____
B. RESPONSIBLE PERSON
Name _____
Last First MI
Relationship _____
PHONE ( )_____ FAX ( ) _____
C. Language ☐ English ☐ Other _____

12. ASSESSMENT INFORMATION (Completed by RN, Physician, PCP)

A. ASSESSMENT DATE ___/___/___
B. ASSESSOR'S NAME
Name _____
Last First MI
Title _____
Signature _____
☐ Hard copy signature on file.
PHONE: ( ) _____ FAX: ( ) _____
EMAIL: _____

13. REQUESTING

CHECK ONE BOX:
[ ] Nursing Facility (ICF)
[ ] Nursing Facility (SNF)
[ ] Nursing Facility (HOSPICE)
[ ] Nursing Facility (Subacute I)
[ ] Nursing Facility (Subacute II)
[ ] Acute Waitlist (ICF)
[ ] Acute Waitlist (SNF)
[ ] Acute Waitlist (Subacute)
[ ] At Risk

BEGIN and END DATES: _____ TO _____
LENGTH OF APPROVAL REQUESTED (CHECK ONE BOX):
[ ] 1 month [ ] 3 months
[ ] 6 months [ ] 1 year
[ ] Other: _____

14. MEDICAL NECESSITY DETERMINATION – DO NOT COMPLETE

APPROVAL:
[ ] Nursing Facility (ICF)
[ ] Nursing Facility (SNF)
[ ] Nursing Facility (HOSPICE)
[ ] Nursing Facility (Subacute I)
[ ] Nursing Facility (Subacute II)
[ ] Acute Waitlist (ICF)
[ ] Acute Waitlist (SNF)
[ ] Acute Waitlist (Subacute)
[ ] At Risk

BEGIN AND END DATES: _____ TO _____
LENGTH OF APPROVAL (CHECK ONE BOX):
[ ] 1 month [ ] 3 months
[ ] 6 months [ ] 1 year
[ ] Other: _____

DEFERRED: [ ] Current 1147 Version Needed [ ] Missing Information [ ] Clinical Question

NOT APPROVED:
[ ] DOES NOT MEET LEVEL OF CARE REQUESTED [ ] DOES NOT MEET AT RISK CRITERIA [ ] INCOMPLETE INFORMATION TO MAKE DETERMINATION

NOTE: THIS IS NOT AN AUTHORIZATION FOR PAYMENT OR APPROVAL OF CHARGES. PAYMENT BY THE MEDICAID PROGRAM IS CONTINGENT ON THE INDIVIDUAL BEING ELIGIBLE, THE SERVICES BEING COVERED BY MEDICAID AND THE PROVIDER BEING MEDICAID CERTIFIED AT THE TIME SERVICES ARE RENDERED. INDIVIDUAL'S ELIGIBILITY MUST BE VERIFIED BY THE PROVIDER AT THE TIME OF SERVICE.

DHS REVIEWER'S / DESIGNEE'S SIGNATURE: _____ DATE: _____

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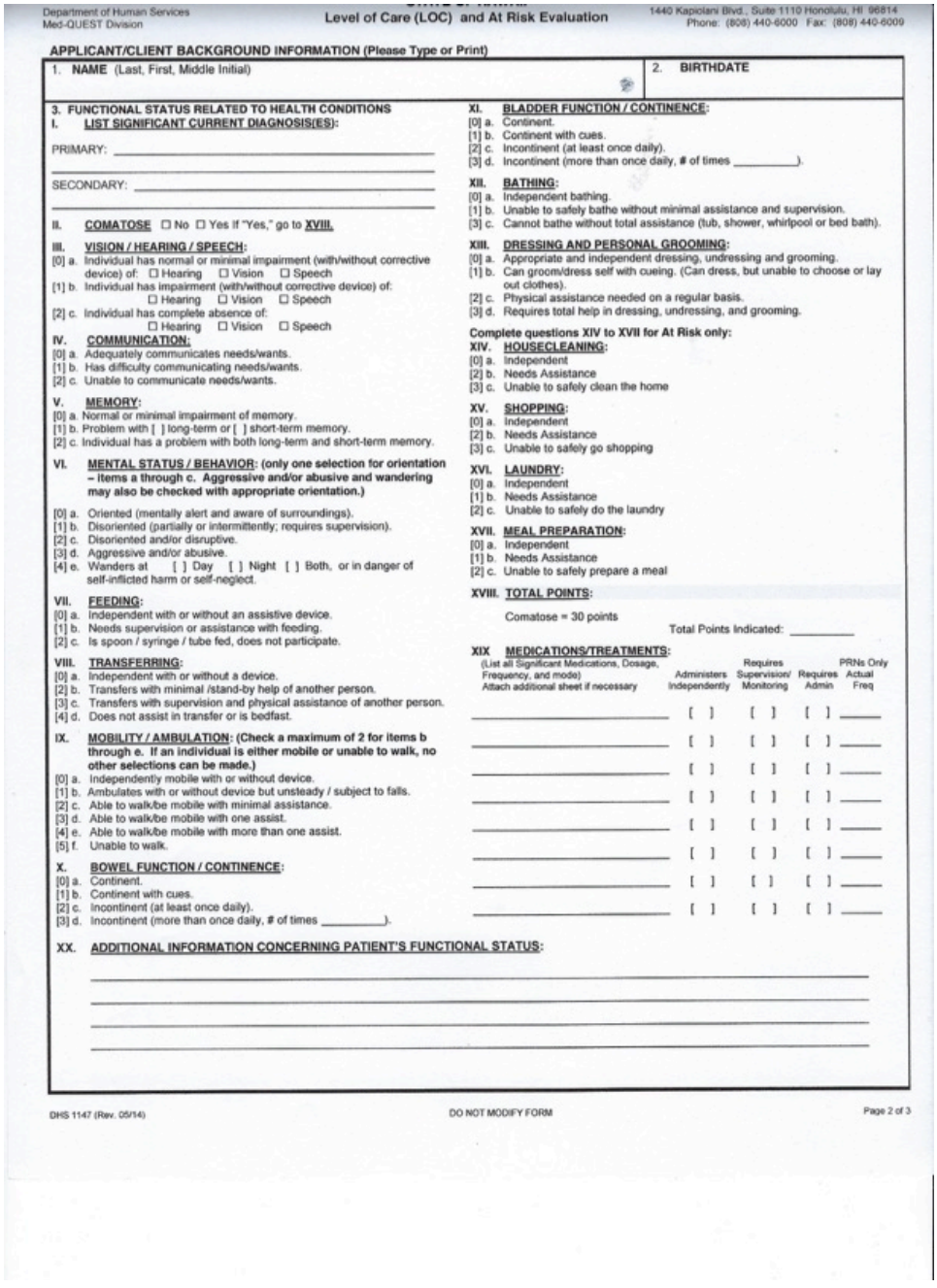

Department of Human Services
Med-QUEST Division

Level of Care (LOC) and At Risk Evaluation

1440 Kapiolani Blvd., Suite 1110 Honolulu, HI 96814
Phone: (808) 440-6000 Fax: (808) 440-6009

APPLICANT/CLIENT BACKGROUND INFORMATION (Please Type or Print)

1. **NAME** (Last, First, Middle Initial)

2. **BIRTHDATE**

3. FUNCTIONAL STATUS RELATED TO HEALTH CONDITIONS

I. LIST SIGNIFICANT CURRENT DIAGNOSIS(ES):

PRIMARY: _____

SECONDARY: _____

II. COMATOSE ☐ No ☐ Yes If "Yes," go to **XVIII.**

III. VISION / HEARING / SPEECH:
[0] a. Individual has normal or minimal impairment (with/without corrective device) of: ☐ Hearing ☐ Vision ☐ Speech
[1] b. Individual has impairment (with/without corrective device) of: ☐ Hearing ☐ Vision ☐ Speech
[2] c. Individual has complete absence of: ☐ Hearing ☐ Vision ☐ Speech

IV. COMMUNICATION:
[0] a. Adequately communicates needs/wants.
[1] b. Has difficulty communicating needs/wants.
[2] c. Unable to communicate needs/wants.

V. MEMORY:
[0] a. Normal or minimal impairment of memory.
[1] b. Problem with [ ] long-term or [ ] short-term memory.
[2] c. Individual has a problem with both long-term and short-term memory.

VI. MENTAL STATUS / BEHAVIOR: (only one selection for orientation – items a through c. Aggressive and/or abusive and wandering may also be checked with appropriate orientation.)
[0] a. Oriented (mentally alert and aware of surroundings).
[1] b. Disoriented (partially or intermittently; requires supervision).
[2] c. Disoriented and/or disruptive.
[3] d. Aggressive and/or abusive.
[4] e. Wanders at [ ] Day [ ] Night [ ] Both, or in danger of self-inflicted harm or self-neglect.

VII. FEEDING:
[0] a. Independent with or without an assistive device.
[1] b. Needs supervision or assistance with feeding.
[2] c. Is spoon / syringe / tube fed, does not participate.

VIII. TRANSFERRING:
[0] a. Independent with or without a device.
[2] b. Transfers with minimal /stand-by help of another person.
[3] c. Transfers with supervision and physical assistance of another person.
[4] d. Does not assist in transfer or is bedfast.

IX. MOBILITY / AMBULATION: (Check a maximum of 2 for items b through e. If an individual is either mobile or unable to walk, no other selections can be made.)
[0] a. Independently mobile with or without device.
[1] b. Ambulates with or without device but unsteady / subject to falls.
[2] c. Able to walk/be mobile with minimal assistance.
[3] d. Able to walk/be mobile with one assist.
[4] e. Able to walk/be mobile with more than one assist.
[5] f. Unable to walk.

X. BOWEL FUNCTION / CONTINENCE:
[0] a. Continent.
[1] b. Continent with cues.
[2] c. Incontinent (at least once daily).
[3] d. Incontinent (more than once daily, # of times _____).

XI. BLADDER FUNCTION / CONTINENCE:
[0] a. Continent.
[1] b. Continent with cues.
[2] c. Incontinent (at least once daily).
[3] d. Incontinent (more than once daily, # of times _____).

XII. BATHING:
[0] a. Independent bathing.
[1] b. Unable to safely bathe without minimal assistance and supervision.
[3] c. Cannot bathe without total assistance (tub, shower, whirlpool or bed bath).

XIII. DRESSING AND PERSONAL GROOMING:
[0] a. Appropriate and independent dressing, undressing and grooming.
[1] b. Can groom/dress self with cueing. (Can dress, but unable to choose or lay out clothes).
[2] c. Physical assistance needed on a regular basis.
[3] d. Requires total help in dressing, undressing, and grooming.

Complete questions XIV to XVII for At Risk only:

XIV. HOUSECLEANING:
[0] a. Independent
[2] b. Needs Assistance
[3] c. Unable to safely clean the home

XV. SHOPPING:
[0] a. Independent
[2] b. Needs Assistance
[3] c. Unable to safely go shopping

XVI. LAUNDRY:
[0] a. Independent
[1] b. Needs Assistance
[2] c. Unable to safely do the laundry

XVII. MEAL PREPARATION:
[0] a. Independent
[1] b. Needs Assistance
[2] c. Unable to safely prepare a meal

XVIII. TOTAL POINTS:

Comatose = 30 points

Total Points Indicated: _____

XIX MEDICATIONS/TREATMENTS:

(List all Significant Medications, Dosage, Frequency, and mode) Attach additional sheet if necessary	Administers Independently	Requires Supervision/ Monitoring	Requires Admin	PRNs Only Actual Freq
_____	[ ]	[ ]	[ ]	_____
_____	[ ]	[ ]	[ ]	_____
_____	[ ]	[ ]	[ ]	_____
_____	[ ]	[ ]	[ ]	_____
_____	[ ]	[ ]	[ ]	_____
_____	[ ]	[ ]	[ ]	_____
_____	[ ]	[ ]	[ ]	_____
_____	[ ]	[ ]	[ ]	_____

XX. ADDITIONAL INFORMATION CONCERNING PATIENT'S FUNCTIONAL STATUS:

_____
_____
_____
_____

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HB-1972-HD-1
Submitted on: 2/10/2020 1:11:59 PM
Testimony for JUD on 2/11/2020 2:05:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
R Siciliano	Individual	Support	No

Comments:

LATE

HB-1972-HD-1
Submitted on: 2/10/2020 10:06:17 PM
Testimony for JUD on 2/11/2020 2:05:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Jacquelyn Esser	Individual	Support	No

Comments:

It makes sense to release prisoners who present very little danger to society and are very sick, or certain other situations, who can be a huge burden to the system fiscally. Medical release is the humane thing to do, and the fiscally responsible thing to do. Additionally, we are traumatizing the family of loved ones dying in prison. Medical release is good for families, tax payers, and public safety.

LATE

HB-1972-HD-1
Submitted on: 2/11/2020 8:42:37 AM
Testimony for JUD on 2/11/2020 2:05:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
E. Ileina Funakoshi	Individual	Support	No

Comments: