



STATE OF HAWAII
DEPARTMENT OF HEALTH
P. O. Box 3378
Honolulu, HI 96801-3378
doh.testimony@doh.hawaii.gov

**Testimony in SUPPORT of HB2043 HD2
RELATING TO ADOLESCENT MENTAL HEALTH CARE**

SENATOR ROSALYN H. BAKER, CHAIR
SENATE COMMITTEE ON COMMERCE, CONSUMER PROTECTION AND HEALTH

Hearing Date: Tuesday, March 10, 2020, 9:30 AM Room Number: 229

1 **Department Position:** The Department of Health strongly **SUPPORTS** this bill which can
2 increase access of mental health treatment and services for youth.

3 **Department Testimony:** The subject matter of this measure falls within 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 Child and Adolescent Mental Health Division (CAMHD) provides
9 the following testimony on behalf of the Department.

10 Young people may need mental health treatment for a variety of reasons - the most worrisome of
11 which include thoughts about suicide. In the most recently published (2013) Hawaii Youth Risk
12 Behavior Survey, 17% of youth in Hawaii public high schools statewide reported that they had
13 seriously considered suicide over the past year. Often, parents seek mental health treatment on
14 their behalf, but in some circumstances, minors may be uncomfortable talking with their parents
15 about the problems they are grappling with. Hawaii Revised Statutes currently allow youth 14
16 years old and older to seek counseling without their parents' consent. However, there are some
17 serious barriers to their making use of this option. The purpose of the bill is to increase access to
18 mental health services for youth 14 years of age or older, by decreasing these barriers through:

- 1 • Allowing therapists-in-training, under the direct supervision of a licensed mental health
2 professional, to engage in minor-initiated mental health counseling without parental
3 consent. Provision of care by a health professional-in-training is already standard
4 practice in the field of health and is occurring every day in various settings when parents
5 seek treatment for their children. In addition, this practice is vital in order for more
6 individuals to obtain the supervised practice they need to gain licensure and to expand the
7 mental health workforce in our state; and
- 8 • Non-disclosure of outpatient mental health counseling and treatment services provided
9 without the consent of the youth's parent or legal guardian, when deemed appropriate by
10 a licensed mental health professional, because youth are reluctant to seek mental health
11 services when there is such disclosure. This non-disclosure will be maintained by not
12 charging the youth nor their parents or legal guardian out-of-pocket expenses.

13 According to the Department of Health's HIPAA (Health Insurance Portability & Accountability
14 Act) Office, regarding unemancipated minors:

- 15 1. Under HIPAA, if state law allows the disclosure of an unemancipated minor's protected
16 health information to their parent, guardian, or a person acting in loco parentis, the
17 covered entity (either the therapist or health plan) may disclose the minor's information.
18 The covered entity may also choose not to disclose. Confidentiality is permissive.
- 19 2. However, if state law prohibits the disclosing of an unemancipated minor's protected
20 health information, HIPAA says that the covered entity may not disclose such
21 information to the parent, guardian, or person acting in loco parentis. Confidentiality is
22 mandatory. (45 CFR §164.502(g)(3)(ii)(A)(B))
- 23 3. We therefore believe that confidentiality must be an expressed provision in the law for it
24 to be supported by HIPAA. So, if a minor's information is disclosed by the covered
25 entity, the disclosure will not only violate State law, it will also be a violation of HIPAA.
- 26 4. The Harmonization Act, (HRS §323B-3) defers to HIPAA: if a covered entity or business
27 associate in Hawaii follow HIPAA subpart E, they will be deemed to be in compliance
28 with the stricter State laws relating to use, disclosure, or confidentiality.

1 This bill is a revision of the 2019 SB768 "Adolescent Mental Health Services" to address
2 concerns over non-disclosure, and is a product of the Act 13, SLH 2018 Task Force.

3 **Offered Amendments for HB2043:**

4 For reasons stated above and from the interpretation of the department's HIPAA Office, the
5 department offers the attached amendments to HB2043 because it is imperative to have a state
6 law mandate non-disclosures for minor-initiated services, when appropriate, otherwise such
7 confidentiality will not be maintained.

8 In SECTION 2, subsections (b) and (c):

9 (b) The mental health treatment or counseling services provided to a minor as
10 authorized by this section shall include involvement of the minor's parent or legal
11 guardian, unless the licensed mental health professional~~[;]~~ or mental health professional
12 and licensed mental health professional, after consulting with the minor, determines that
13 the involvement would be inappropriate. ~~[The licensed mental health professional shall~~
14 ~~state in the client record whether and when the treating clinician attempted to contact the~~
15 ~~minor's parent or legal guardian, and whether the attempt to contact was successful or~~
16 ~~unsuccessful, or the reason why, in the treating licensed mental health professional's~~
17 ~~opinion, it would be inappropriate to contact the minor's parent or guardian.]~~ The mental
18 health professional shall ensure that the covered entity has been notified that minor-
19 initiated mental health treatment or counseling services should not be disclosed.

20 (c) A covered entity, shall have policies and procedures established to maintain
21 nondisclosure of the minor-initiated mental health treatment or counseling services to the
22 parent or legal guardian in accordance with federal regulations including 45 C.F.R. §164
23 Subpart E. The mental health professional shall be entitled to submit a claim to the
24 covered entity for the provision of minor-initiated treatment or counseling services to the
25 minor pursuant to this section, but shall not bill for out-of-pocket payments, copayments,
26 coinsurance, or deductibles.

27 In SECTION 2, subsection (g):

1 (g) Pursuant to this section, upon notification from the mental health professional
2 that minor-initiated mental health treatment or counseling services should not be
3 disclosed, a covered entity shall not disclose to the minor's parent or legal guardian who
4 is a policyholder or other covered person, any billing information, including payments
5 made by the covered entity for minor-initiated mental health treatment or counseling
6 services.

7 **Fiscal Implications:** None.

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



March 6, 2020

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

Re: HB 2043, HD2 – Relating to Adolescent Mental Health Care

Dear Chair Baker, Vice Chair Chang, and Members of the Committee:

The Hawaii Medical Service Association (HMSA) appreciates the opportunity to testify on HB 2043, HD2, which allows an unlicensed mental health professional, working under the supervision of a licensed mental health professional, to provide mental health treatments or counseling services to minors without parental or legal guardian consent, knowledge, or participation. It also requires a mental health professional to assist a minor with completing a non-disclosure notification form to send to covered entities, when appropriate. And it requires a covered entity, upon receiving a completed notification form, to maintain confidentiality of minor-initiated mental health treatment or counseling services. Takes effect on 7/1/2050.

HMSA supports the intent of this measure. All covered entities, including health care providers and insurance plans, are bound by the federal Health Insurance Portability and Accountability Act of 1996 (HIPAA) which provides for the privacy of patients. As such, HMSA has an existing process in place for protecting the privacy of patients that adheres to federal regulations and is in line with the intent of this measure. An additional state privacy requirement goes against the intent of Hawaii's 2012 HIPAA Harmonization Law, which consolidated Hawaii's approximately 50 separate privacy laws to conform with HIPAA.

Therefore, we would like to respectfully request amendments for covered entities to adhere to 45 C.F.R. §164 Subpart E with regard to the confidentiality and privacy of patients. This section of the Code of Federal regulations specifically addresses the privacy of individually identifiable health information, including uses and disclosure of information and patient rights to request privacy protection for protected health information. These proposed amendments have been shared with the Department of Health.

Page 4, line 11 through Page 5, line 17:

(b) The mental health treatment or counseling services provided to a minor as authorized by this section shall include involvement of the minor's parent or legal guardian, unless the licensed mental health professional or the mental health professional and the licensed mental health professional, after consulting with the minor, determines that the involvement would be inappropriate. [~~The mental health~~

~~professional shall assist the minor in completing a notification form to send to the covered entity directing the covered entity not to disclose minor-initiated mental health treatment or counseling services. The completed notification form shall be sent to the covered entity and filed in the minor's record.]~~

(c) A covered entity, ~~[upon receiving the completed notification form from the mental health professional,]~~ shall have policies and procedures established to maintain the confidentiality and privacy of individually identifiable health information in accordance with federal regulations including 45 C.F.R. §164 Subpart E. ~~[non-disclosure of the minor-initiated mental health treatment or counseling services to the parent or legal guardian.]~~

Page 6, lines 10-18:

~~[(g) Pursuant to this section, upon notification from the mental health professional that mental health treatment or counseling services were provided to a minor without the consent, knowledge, or participation of the minor's parent or legal guardian, a covered entity shall not disclose to the minor's parent or legal guardian who is a policyholder or other covered person, any billing information, including payments made by the covered entity for minor-initiated mental health treatment or counseling services.]~~

Thank you for allowing us to provide these comments.

Sincerely,



Pono Chong
Vice President, Government Relations

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

Rick Collins, President

Judith F. Clark, Executive Director

Bay Clinic

Big Brothers Big Sisters of Hawaii

Big Island Substance Abuse Council

Bobby Benson Center

Child and Family Service

Coalition for a Drug Free Hawaii

Collins Consulting, LLC

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 Health & Harm

Reduction Center

Hawaii Student Television

Ho'ola Na Pua

Kahi Mohala

Kokua Kalihi Valley

Kokua Ohana Aloha (KOA)

Maui Youth and Family Services

Na Pu'uwai Molokai Native

Hawaiian Health Care Systems

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

Parents and Children Together (PACT)

PHOCUSED

PFLAG – Kona Big Island

Planned Parenthood of the

Great Northwest and Hawaiian Islands

Residential Youth Services & Empowerment (RYSE)

Salvation Army Family

Intervention Services

Sex Abuse Treatment Center

Susannah Wesley Community Center

The Catalyst Group

February 27, 2020

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

Testimony in Support of HB 2043 HD2 Related to Adolescent Mental Health Care

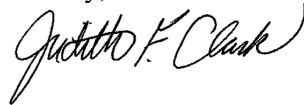
Hawaii Youth Services Network, a statewide coalition of youth-serving organizations, supports HB 2043 HD2 Relating to Adolescent Mental Health Care.

Youth aged 14 and older may consent for mental health services in emergency situations or when the involvement of a parent or guardian would not be in the child's best interests.

When the law was originally passed, it did not consider the involvement of an unlicensed mental health professional who is working under the supervision of a licensed professional. This occurs, for example, when a recent graduate of a counseling program is accruing the hours needed to qualify for licensure. This bill will clarify that the right to consent for mental health services includes such mental health workers.

Thank you for this opportunity to testify.

Sincerely,



Judith F. Clark, MPH
Executive Director



HAWAII SUBSTANCE ABUSE COALITION

HB2043 HD2 Confidentiality for Minors with Mental Illness and Unlicensed Worker Under the Supervision of Licensed Worker

COMMITTEE ON CONSUMER PROTECTION AND HEALTH:

- Sen. Rosalyn Baker, Chair; Sen. Stanley Chang, Vice Chair
- Tuesday, March 10, 2020: 9:30 am
- Conference Room 229

Hawaii Substance Abuse Coalition Supports HB2043 HD2:

ALOHA CHAIR, VICE CHAIR AND DISTINGUISHED COMMITTEE MEMBERS.

My name is Alan Johnson. I am the current chair of the Hawaii Substance Abuse Coalition (HSAC), a statewide organization of over 30 non-profit alcohol and drug treatment and prevention agencies.

A. *Similar to other behavioral health fields*, having an unlicensed but qualified worker provide counseling under the supervision of a licensed worker makes sense given the shortage of workers and that it both effective and efficient.

B. Having the option to not inform parents until after treatment starts is working well with minors having substance abuse problems and would benefit minors with mental illness.

1. Minors would not have to wait but could get treatment right away, providing the minor wants help.
2. Parent don't need to be notified to start. Will greatly expedite services.
3. Parents can be notified afterwards.
 - Some parents are not healthy and often impede treatment.
 - Some parents are healthy but are in denial due to stigma, hence they impede treatment or at best delay treatment.
 - Some parents are helpful and will be engaged right after treatment begins.
4. Many minors feel shame and are reluctant to inform their parents until after counselors help the minor work through their feelings and so they can now engage their parents.
5. Providers evolve to build processes to include the helpful parents because they need their help for ongoing treatment. Parents get involved early on just after the initial treatment has begun. Parents become part of the process and are better informed going forward.

This bill will greatly help to improve timeliness and access to care earlier in the development of minor's mental health issues.

We appreciate the opportunity to provide testimony and are available for questions.



Tuesday, March 10, 2020

House Bill 2043 HD2
Testifying in Support

Aloha Chair Baker, Vice Chair Chang, and Members of the Committee of Consumer Protection and Health

The Democratic Part of Hawai'i (The Party) stands in support of HB2043 HD2 Relating to Adolescent Mental Health Care, which allows an unlicensed mental health professional, working under the supervision of a licensed mental health professional, to provide mental health treatment or counseling services to minors without parental or legal guardian consent, knowledge, or participation. It also requires a mental health professional to assist a minor with completing a nondisclosure notification form to send to covered entities, when appropriate. And requires a covered entity, upon receiving a completed notification form, to maintain the confidentiality of minor-initiated mental health treatment or counseling services.

Around the world it is standard practice that once a behavioral health professional has completed most of their schooling and is in their practicum phase, they begin seeing patients under the supervision of a licensed professional. Adults already see these professionals, and it is good and necessary next step to allow minors the same rights.

There is shortage of licensed behavioral health professionals in Hawai'i, specifically on neighbor islands.

“New data from the University of Hawai'i reveals a health system in crisis. In 2017, Hawai'i was short more than 750 physicians across the medical field, according to University of Hawai'i professor Kelley Withy, who conducts an annual workforce survey. This calculation accounts for differing needs on neighbor islands and the unique demand for medical specialties like psychiatry.

Experts say filling the void is practically impossible, as it would require that the state increase its physician workforce by about 25 percent. Luring new doctors to Hawai'i is complicated by myriad factors, not the least of which is the state's high cost of living coupled with its relatively low rates for insurance reimbursement.

When it comes to psychiatrists, the UH data reveals a 10 percent statewide shortage. The gravest scarcity is on Kauai and Hawai'i islands, which are tied with a whopping 33 percent shortage.”

For these reasons we urge to vote favorably on this bill and expand treatment options for minors seeking help with behavioral health challenges.

Mahalo for the opportunity to testify,



Josh Frost
Co-Chair, Legislation Committee
Democratic Party of Hawai'i



Zahava Zaidoff
Co-Chair, Legislation Committee
Democratic Party of Hawai'i

<https://www.civilbeat.org/2018/09/hawaiis-mental-health-care-crisis/>



March 7, 2020

Senate's Committee on Commerce, Consumer Protection, and Health
Hawaii State Capitol
415 South Beretania Street, Room 229
Honolulu, HI 96813

Hearing: Tuesday, March 10, 2019 – 9:30 a.m.

RE: STRONG SUPPORT for House Bill 2043

Aloha Chair Baker, Vice Chair Chang, and fellow committee members,

I am writing in STRONG SUPPORT for House Bill 2043 on behalf of the LGBT Caucus of the Democratic Party of Hawai'i. HB 2043 will allow an unlicensed mental health professional, working under the supervision of a licensed mental health professional, to provide mental health treatment or counseling services to minors without parental or legal guardian consent, knowledge, or participation. Requires a mental health professional to assist a minor with completing a nondisclosure notification form to send to covered entities, when appropriate. Requires a covered entity, upon receiving a completed notification form, to maintain the confidentiality of minor-initiated mental health treatment or counseling services.

HB 2043 stems out of the taskforce that was formed as requirement of Act 13, 2018 which ban conversion therapy for minors. One of the concerns that was raised during the hearings was that by banning conversion therapy LGBTQIA youth would not seek therapy. I am happy to respond, [as shown in the report](#), banning conversion therapy will not stop LGBTQIA youth from seeking therapy.

What the taskforce did find is that there is barrier for ALL minors from seeking mental health care. That barrier can be the minor's parent or guardian they may either not support mental health care or the minor does not want them to know why they are seeking mental health care. HB 2043 will help remove that barrier from all minors seeking mental health care.

The LGBT Caucus of the DPH asks that you support this very important bill as it will help ensure that ALL youth will have access to mental health care.

Mahalo nui loa,

Michael Golojuch, Jr.
Chair



Hawai'i Psychological Association

For a Healthy Hawai'i

P.O. Box
833
Honolulu,
HI 96808

www.hawaiipsychology.org

Email:
hpaexec@gmail.com
Phone: (808)
521-8995

Testimony IN STRONG SUPPORT of HB2043 HD2
RELATING TO ADOLESCENT MENTAL HEALTH CARE

[COMMITTEE ON COMMERCE, CONSUMER PROTECTION, AND HEALTH](#)

Senator Rosalyn H. Baker, Chair

Senator Stanley Chang, Vice Chair

DATE: Tuesday, March 10, 2020
TIME: 9:30 am
PLACE: Conference Room 229
State Capitol
415 South Beretania Street

The Hawaii Psychological Association (HPA) strongly supports HB2043 HD2 because it is consistent with our interest in ensuring access to quality mental health services to the diverse people of Hawai'i. If passed, this bill would help increase the capacity of our public and private mental health systems to provide mental health services for adolescents who are seeking counseling, but who do not want to obtain permission from a parent or do not want to disclose their reasons for seeking help to a parent.

When the original bill changing the age of consent for mental health services to 14 was passed by the legislature in the 2016 session, it was a helpful step forward in ensuring that youth who are suffering emotionally can get help. However, the current statute includes two potential barriers to seeking this help which HB2043 HD2 is designed to address.

First, the current statute applies only to services provided by licensed mental health professionals. As you may be aware, most of the readily available low- or no-cost services in Hawaii are provided – not by licensed professionals – but by unlicensed professionals who are in the process of meeting all the requirements for full licensure under the supervision of a licensed professional. This includes interns, practicum students, psychiatric residents, and newer graduates who have not completed all the requisite hours of experience or passed the examination necessary for licensure. In general, licensure as a mental health professional of any kind in Hawaii requires at least a year of full-time supervised practice after graduating with the relevant degree. One purpose of this bill is to authorize these mental health professionals working under the supervision of a fully licensed mental health professional to provide mental health treatment or counseling services to minors without parental consent when this is clinically indicated.

Secondly, we are also in strong support of this bill's intention to ensure minors can access counseling and mental health services without their parents' knowledge by clarifying the requirement for health insurance plans when adolescents choose to consent to their own mental health services. This bill prohibits health plans from disclosing to a policy holder or other covered person any payment information for mental health services that are provided upon the consent of a minor according to §577-29, HRS. This bill further specifies that the provider shall help the minor inform the plan when the youth wants their information withheld from the parents or legal guardian. It maintains the provisions of the current statute that minors and their guardians are not responsible for out-of-pocket payments for minor-initiated mental health services.

The suppression of the explanation of benefits (EOB) by the insurance plan is a standard practice where minor consent laws exist. If such a suppression were not required, the minor's privacy would not be retained, resulting in a decrease in the access to confidential mental health services. Health plans are required to have standard operating practices to suppress the EOB in circumstances where a consenting minor is receiving mental health services. **HPA members stand ready to help educate our colleagues and other mental health providers about their responsibilities both to assess whether there is a need to keep a youth's treatment confidential from parents and to help minors request confidentiality from their health plan.**

This bill is a product of a task force led by the Department of Health (DOH), Child and Adolescent Mental Health Division (CAMHD) as mandated by Act 13, SLH 2018 in which HPA was a participant. The task force focused primarily on questions regarding counseling practices with LGBTQ youth. These youth often feel alienated from their parents and other family members or fear revealing their struggles around their sexual orientation and/or gender identity to their parents. The ability to find a counselor without having to involve a parent can be especially crucial for these youth who are at elevated risk of serious mental health difficulties and suicide. In addition, some youth are reluctant to disclose their concerns to their parents for a wide variety of other reasons, such as undisclosed sexual abuse, substance abuse problems, and situations of high family conflict.

Thank you for the opportunity to provide input into this important bill.

Sincerely,

Julie Takishima-Lacasa, Ph.D., President
Chair, Legislative Action Committee
Hawai'i Psychological Association



TO: Chair Baker, Vice Chair Chang, and Members of the Senate Committee on Consumer Protection and Health

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

DATE/LOCATION: March 10, 2020; 9:30 a.m., Conference Room 229

RE: TESTIMONY IN SUPPORT OF HB 2043 HD2– RELATING TO ADOLESCENT MENTAL HEALTH CARE

We ask you to support HB 2043 HD 2 which amends Section 577-29 of the Hawaii Revised Statutes to improve minors’ access to mental health care by:

1. allowing unlicensed mental health professionals working under supervision of a licensed mental health professional to provide services in cases where minors consent to their own services;
2. requiring a mental health professional to assist the minor with completing a nondisclosure notification form to send to covered entities, when appropriate; and
3. requiring a covered entity, upon receiving a completed notification form, to maintain confidentiality of minor-initiated mental health services.

Implementation of Act 181 demonstrated the need for this bill to fulfill Act 181’s intention, which is for minors that are unable to disclose their need for mental health services to their parents to be able to receive care without disclosure. This bill will increase access for teens. At the same time, it can be critical to their safety that these minors can access and receive treatment without their parent or legal guardian finding out. In these cases, it is important that they do not find out through their health insurance company. This bill provides greater opportunity for adolescents to seek help when they are experiencing a mental health issue and don’t know where to turn, they may be fearful of what their parents would say, or they feel that their parents may not understand.

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 15,000 people across the state annually, PACT helps families identify, address and successfully resolve challenges through its 18 programs. Among its

services are: early education programs, domestic violence prevention and intervention programs, child abuse prevention and intervention programs, childhood sexual abuse supportive group services, child and adolescent behavioral health programs, sex trafficking intervention, poverty prevention and community building programs.

Thank you for the opportunity to testify in **support of HB 2043 HD2**, please contact me at (808) 847-3285 or rkusumoto@pacthawaii.org if you have any questions.



March 10, 2020

TO: The Senate Committee on Commerce, Consumer Protection, and Health
The Honorable Rosalyn H. Baker, Chair
The Honorable Stanley Chang, Vice Chair

RE: In Support of HB 2043, HD 2

Hrg: March 10, 2020 at 9:30 AM State Capitol, Conference Room 229

Hawaii Public Health Association **supports** HB 2043, HD 2, which allows unlicensed mental health professionals who are working under the supervision of a licensed mental health professional to provide mental health treatment or counseling services to minors without parental or legal guardian consent, knowledge, or participation. It also requires mental health professionals and covered entities to maintain the confidentiality of mental health treatment or counseling services.

This bill expands the standard practice that a behavioral health professional who is in their practicum phase see patients under the supervision of a licensed professional to minors. Given the unmet demand for adolescent mental health and substance use treatment in public and private mental health systems, it is critical that professionals be authorized to provide needed services to those adolescents who request it. Nationally, 75 to 80 percent of youth who need mental health services do not receive them.

This bill is the product of a task force that was formed when the Legislature banned the practice of so-called “conversion therapy” for adolescents, responding to concerns that it would deter youth from seeking mental health services. Youth who face issues surrounding their sexual orientation or gender identity are particularly vulnerable to mental health risks, including suicide ideation, that are often best dealt with apart from parental input or notice. Many come from living situations where there may be sexual abuse, substance misuse, or physical or psychological violence, where parents or guardians are absent, or where their sexual orientation or gender identity is incompatible with parental or guardian opinions and views.

Thank you for the opportunity to testify on this measure.

Respectfully submitted,

Claire Townsend Ing, DrPH
Legislative Committee Chair
Hawaii Public Health Association



March 9, 2020

LATE

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

House Bill 2043 HD2 – Relating to Adolescent Mental Health Services

Dear Chair Baker, Vice Chair Chang, and Members of the Committee:

The Hawaii Association of Health Plans (HAHP) appreciates the opportunity to testify on HB 2043, HD2.

We appreciate the intent of this measure, but would like to express following comments. We believe that the Health Insurance Portability and Accountability Act of 1996 (HIPAA) adequately provides for the privacy of patients of all ages. All health care providers and insurance plans must have policies and procedures in place, in accordance with HIPAA, to protect the privacy of patients. Creating an additional privacy requirement goes against the intent of Hawaii's 2012 HIPAA Harmonization Law, which consolidated Hawaii's approximately 50 separate privacy laws to conform with HIPAA.

Therefore, we would like to respectfully request amendments for covered entities to adhere to 45 C.F.R. §164 Subpart E regarding the confidentiality and privacy of patients. This section of the Code of Federal regulations specifically addresses the privacy of individually identifiable health information, including uses and disclosure of information and patient rights to request privacy protection for protected health information. These proposed amendments have been shared with the Department of Health and we understand they are still a work in progress. We are open to continuing the conversation to find common ground.

Page 4, line 11 through Page 5, line 17:

(b) The mental health treatment or counseling services provided to a minor as authorized by this section shall include involvement of the minor's parent or legal guardian, unless the licensed mental health professional or the mental health professional and the licensed mental health professional, after consulting with the minor, determines that the involvement would be inappropriate. ~~[The mental health professional shall assist the minor in completing a notification form to send to the covered~~



~~entity directing the covered entity not to disclose minor-initiated mental health treatment or counseling services. The completed notification form shall be sent to the covered entity and filed in the minor's record.]~~

(c) A covered entity, ~~[upon receiving the completed notification form from the mental health professional,]~~ shall have policies and procedures established to maintain the confidentiality and privacy of individually identifiable health information in accordance with federal regulations including 45 C.F.R. §164 Subpart E. ~~[non-disclosure of the minor-initiated mental health treatment or counseling services to the parent or legal guardian.]~~

Page 6, lines 10-18:

~~[(g) Pursuant to this section, upon notification from the mental health professional that mental health treatment or counseling services were provided to a minor without the consent, knowledge, or participation of the minor's parent or legal guardian, a covered entity shall not disclose to the minor's parent or legal guardian who is a policyholder or other covered person, any billing information, including payments made by the covered entity for minor-initiated mental health treatment or counseling services.]~~

Thank you for allowing us to testify on HB 2043, HD2.

Sincerely,

HAHP Public Policy Committee

cc: HAHP Board Members



LATE

49 South Hotel Street, Room 314 | Honolulu, HI 96813
www.lwv-hawaii.com | 808.531.7448 | voters@lwv-hawaii.com

COMMITTEE ON COMMERCE, COMMUNITY PROTECTION AND HEALTH
Tuesday, March 10, 2020
9:30 A. M.
Conference Room 229
State Capitol
415 S. Beretania Street
Honolulu, Hawaii

HB 2043
Relating to Adolescent Mental Health Care

TESTIMONY

Joy A Marshall, Legislative Committee, League of Women Voters of Hawaii

Chair Baker, Vice-Chair Chang and Committee Members.

The League of Women Voters of Hawaii supports HB 2043 that allows unlicensed mental health professionals working under the supervision of a licensed mental health professional to provide mental health treatment and or counseling services to minors without parental or guardian consent, knowledge or participation

The crisis of suicide within this age group, and also the frequency of depression demand that these young men and women have access to appropriate mental health care and not feel that they have to share with anyone except those they choose could save lives and enhance quality of life for adolescent.

Please consider passing this bill to assist them and save lives.

Thank you for the opportunity to submit testimony.

HB-2043-HD-2

Submitted on: 3/6/2020 10:18:11 PM

Testimony for CPH on 3/10/2020 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Brett Kulbis	Individual	Oppose	No

Comments:

I opposes HB 2043.

This bill tramples parental rights. Counseling and therapy performed on minors WITHOUT the consent of the parents is outside of the responsibility of the government. While parents are not perfect, they are the primary caregivers and influencers of their children, and they need to be involved in such an important decision.

We know minors are very impressionable and subtle suggestions or ideas from a counselor could have significant effects. Teenagers do not have the life experience to fully understand the ramifications of working with an unlicensed professional are not equipped to make these decisions without the guidance of their parents.

This bill attempts to completely hide the fact that a minor had mental health treatment from the parents is highly detrimental to the family unit and the parent's ability to know what is happening to their child. This unnecessarily further creates family barriers. Unless there is a reason to believe the minor would be harmed, notifying the parent of therapy helps open the doors of communication and informs the parent that there is an issue that needs to be looked into and worked on together as a family unit. Children don't exist in a vacuum. No parent is perfect, but we can safely believe that the vast majority desire good for their children and want to be more connected and informed, not less.

An adult may consent to mental health treatment by someone practicing under the supervision of a licensed professional, but a minor should only be treated/counseled by a licensed professional. There is a level of competence required and safeguards in licensing that helps protect those who are seeking treatment, and our youth, deserve the protection that demonstrated knowledge and competence provides. Allowing unlicensed professionals to perform such treatment, regardless of whether they are supervised by a licensed professional or not.

In any medical setting, whenever a trainee not yet licensed is brought into a case, the patient is asked permission to have this person involved. Teenagers do not have the life experience to fully understand the ramifications of working with an unlicensed professional are not equipped to make these decisions without the guidance of their parents.

Brett Kulbis

HB-2043-HD-2

Submitted on: 3/9/2020 5:05:06 AM

Testimony for CPH on 3/10/2020 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
james	Individual	Oppose	No

Comments:

I oppose HB2043 because every time they have a bill with no parental consent,that's a red flag.It is parents who are in charge not BIG GOVERNMENT.Fr.Shenan Boquet once said."you break up a family,you break down society".Society is terrible now in hawaii,who's fault is it?

HB-2043-HD-2

Submitted on: 3/8/2020 10:17:39 PM

Testimony for CPH on 3/10/2020 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Bryn Villers	Individual	Oppose	No

Comments:

Chair and Committee Members,

I stand in opposition to HB2043 HD2 because it may irrevocably harm the most vulnerable among us, our keiki.

Should this bill pass it will allow, legally, for inexperienced and minimally educated individuals to be responsible for guiding teenagers through some of the most difficult and traumatic periods of their lives. And on top of that, it is specifically designed to conceal the fact that the children are receiving mental care from their parents. This will not aid in breaking down barriers in the family, but rather, will serve to strengthen them.

A number of other issues that confront the passage of this measure are that what it means to "supervise" is undefined, the bill allows for APRNs to be the "supervisors", and this bill forces insurance companies to either cover the cost of youth treatment, to have tax payers cover the cost, or puts insurance companies in a place where they must raise their rates to cover the "hidden" costs of treatment because they cannot bill the insurance holder.

More secrets, more lies, and more deception is not how we help our struggling youth.

Thank you,

Mr. Bryn Villers

Feel free to contact me with any comments or questions.

HB-2043-HD-2

Submitted on: 3/8/2020 7:34:04 PM

Testimony for CPH on 3/10/2020 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Ramon Quizon	Individual	Oppose	No

Comments:

I strongly oppose HB 2043 RELATING TO ADOLESCENT MENTAL HEALTH CARE. Unless the parental rights have been removed by the state, or there is some reason for not disclosing (for the safety of the child in an abusive situation, wherein shortly thereafter, the child ought to be removed from the household), then the parent has the right to know that their child has received professional mental health treatment. Even if the content of the conversation with the therapist is confidential, the parent should still know that their child has been counseled by someone.

We know that minors are very impressionable and subtle suggestions or ideas from a counselor could have significant effects. To attempt to completely hide the fact that a minor had mental health treatment from the parents is highly detrimental to the family unit and the parent's ability to know what is happening to their child. It also is harmful to the business practices of insurance companies who are expected to just absorb the cost of these sessions/treatments. Finally, because of the impressionability of minors and their general inexperience and unawareness concerning licensed versus unlicensed professionals, they ought to only be counseled by a licensed professional, as they have demonstrated knowledge and competence that may be lacking in the practice of an unlicensed. Vote no on HB2043.

COMMITTEE ON COMMERCE, CONSUMER PROTECTION, AND HEALTH

Tuesday, March 10th. 2020 Hearing

Senator Rosalyn H. Baker, Chair

Senator Stanley Chang, Vice Chair

Committee Members:

Senators Clarence K. Nishihara; Russell E. Ruderman; Laura H. Thielen; Glenn Wakai and Kurt Fevella

Re: HB2043 HD2: Allows an unlicensed mental health professional, working under the supervision of a licensed mental health professional, to provide mental health treatment or counseling services to minors **without parental or legal guardian consent, knowledge, or participation.**

With all due respect, I strongly oppose this bill.

We are still talking about minors, still under the protection, care and supervision of their parents or legal guardian.

This bill could circumvent notification and involvement of that parent or guardian, keeping them in the dark as to what was happening. This takes another step in replacing the parent or guardian with the state ... a very dangerous move for this minor child.

As I understand it, we then want to use them as learning or test cases for unlicensed mental health professionals ... so that they can earn their degree? This is unacceptable!

I ask who gives the state the right to come in and put a minor at risk. If something tragic were to happen who would then be at fault? Who would take the responsibility?

I ask that you give this bill much thought and then please stop it today.

Respectfully submitted,

Rita Kama-Kimura

Mililani, HI

HB-2043-HD-2

Submitted on: 3/8/2020 6:22:40 PM

Testimony for CPH on 3/10/2020 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Kerrie Villers	Individual	Oppose	Yes

Comments:

Chair, Vice Chair, and Members,

I strongly oppose this bill for a number of reasons.

1. Parents and guardians have the right to know what treatment their child is receiving, unless the parental rights have been removed by the state, or there is some reason for not disclosing (for the safety of the child in an abusive situation, wherein shortly thereafter, the child ought to be removed from the household). This bill erodes parental rights.

2. We don't want the least experienced (20 year old college students) practicing on some of the most vulnerable among us (youth who are in a turbulent and highly emotional time of life). We know that minors are very impressionable and subtle suggestions or ideas from a counselor could have significant effects. An adult may consent to mental health treatment by someone practicing under the supervision of a licensed professional, but a minor should only be treated/counseled by a licensed professional. There is a level of competence required and safeguards in licensing that helps protect those who are seeking treatment, and our youth, deserve the protection that demonstrated knowledge and competence provides.

3. We as a State and community should be supporting family cohesiveness and fostering greater communication within families. To attempt to completely hide the fact that a minor had mental health treatment from the parents is highly detrimental to the family unit and the parent's ability to know what is happening to their child. This unnecessarily creates greater family communication barriers. Unless there is a reason to believe the minor would be harmed, notifying the parent of therapy helps open the doors of communication and informs the parent that there is an issue that needs to be looked into and worked on together as a family unit, which could possibly open the door for the parent to receive necessary counseling and bring healing to the whole family. Children don't exist in a vacuum. No parent is perfect, but we can safely believe that the vast majority desire good for their children and want to be more connected and informed, not less.

4. This bill is also harmful to the business practices of insurance companies who are expected to just absorb the cost of these sessions/treatments.

For these reasons, I **strongly oppose** HB 2043 and request that you vote to **not** move this bill forward. Thank you for your time.

Kerrie Villers

HB-2043-HD-2

Submitted on: 3/9/2020 7:46:07 AM

Testimony for CPH on 3/10/2020 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
arielle	Individual	Oppose	No

Comments:

I believe that unless the parental rights have been removed by the state, or there is some reason for not disclosing (for the safety of the child in an abusive situation, wherein shortly thereafter, the child ought to be removed from the household), then the parent has the right to know that their child has received professional mental health treatment. Even if the content of the conversation with the therapist is confidential, the parent should still know that their child has been counseled by someone.

Minors are very impressionable and subtle suggestions or ideas from a counselor could have significant effects. To attempt to completely hide the fact that a minor had mental health treatment from the parents is highly detrimental to the family unit and the parent's ability to know what is happening to their child. It also is harmful to the business practices of insurance companies who are expected to just absorb the cost of these sessions/treatments.

Finally, because of the impressionability of minors and their general inexperience and unawareness concerning licensed versus unlicensed professionals, they ought to only be counseled by a licensed professional, as they have demonstrated knowledge and competence that may be lacking in the practice of an unlicensed person.

HB-2043-HD-2

Submitted on: 3/9/2020 8:11:38 AM

Testimony for CPH on 3/10/2020 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Linda Sansone	Individual	Oppose	No

Comments:

I oppose HB2043

HB-2043-HD-2

Submitted on: 3/9/2020 8:36:29 AM

Testimony for CPH on 3/10/2020 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Mark White	Individual	Oppose	No

Comments:

Aloha Chair Baker, Vice Chair Chang, and Committee Members,

Respectfully, who are you to dictate to me, my family, and the people of Hawaii how we raise our children?

This legislation is government overreach at its worst, most extreme example. It's so indicative of complete partisanship and total Democrat LGTBQ+ special Interest group influence, that even those offering the bill's Senate companion SB2277, Chair Baker and Vice Chair Chang, ought to see how one-sided this is.

Its hard for me to understand how in the Aloha State, a place known for a live-and-let-live culture, this kind of intrusion into the personal lives of Hawaii's citizens can ever be tolerated. Parents know best what is needed for their children not the State. Restricting certain types of medical and mental care that you don't agree with, while fostering and encouraging other treatments without parental consent is not only unconscionable, it's dangerous. It is nothing short of state government tyranny and it needs to stop with your unfavorable committee vote.

I know what's best for my family. You do not. I'm asking you to look deep within yourselves, put aside narrow special interests, and defeat this terrible measure.

Sincerely,

Mark White
94-217 Olua Place
Waipahu HI, 956797
(808) 753-5323

HB-2043-HD-2

Submitted on: 3/9/2020 9:25:14 AM

Testimony for CPH on 3/10/2020 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Edna Kido	Individual	Oppose	No

Comments:

HB-2043-HD-2

Submitted on: 3/9/2020 12:18:55 PM

Testimony for CPH on 3/10/2020 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Justin Salisbury	Individual	Support	No

Comments: