

STATE OF HAWAII
DEPARTMENT OF HEALTH
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**Testimony in SUPPORT of HB2043 HD2
RELATING TO ADOLESCENT MENTAL HEALTH CARE**

REPRESENTATIVE SYLVIA LUKE, CHAIR
HOUSE COMMITTEE ON FINANCE

Hearing Date: Thursday, February 27, 2020, 2:00 P.M. Room Number: 308

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 This bill broadens the types of mental health service providers who can work with youth to
11 include therapists-in-training who are supervised by a licensed mental health provider, and
12 allows for non-disclosure of youth treatment and services provided without the youth's parental
13 or legal guardian consent, knowledge or participation, when appropriate, because youth are
14 reluctant to seek mental health services when there is such disclosure. Neither youth nor their
15 parents or legal guardians will be charged out-of-pocket expenses while mental health providers
16 are entitled to compensation through the youth's insurance.

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

- 1 • This bill is consistent with HIPAA and Hawaii State’s Harmonization Law. The
2 Harmonization Act of 2012, HRS § 323B-3 (a), “...deems that any State covered entity
3 or business associate who uses and disclose individually identifiable health information
4 following HIPAA subpart E, will be in compliance with all State laws regarding use,
5 disclosure, or confidentiality of such information.” As such, the provision in this bill
6 requiring confidentiality of unemancipated minor-initiated mental health treatment is
7 consistent with 45 CFR § 164.502(g)(3)(ii)(B) and, therefore, with Harmonization, “...to
8 the extent, prohibited by an applicable provision of State law or other law, including
9 applicable case law, a covered entity **may not** disclose or provide access... to protected
10 health information of an unemancipated minor to a parent, guardian, or other person
11 acting *in loco parentis*...”; and
- 12 • **If state law prohibits** the disclosing of an unemancipated minor’s protected health
13 information (PHI), the covered entity **may not** disclose such information to the parent,
14 guardian, or person acting *in loco parentis*. (45 CFR §164.502(g)(3)(ii)(B)) Therefore, if
15 the confidentiality provision becomes law, it will be mandatory for the covered entity not
16 to disclose the unemancipated minor’s PHI to parents, guardian, etc.

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

19 **Offered Amendments:** None.

20 **Fiscal Implications:** None.

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

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: Representative Sylvia Luke, Chair
And members of the Committee on Finance

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

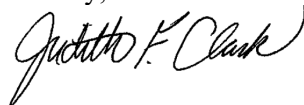
Hawaii Youth Services Network, a statewide coalition of youth-serving organizations, supports HB 2043 HD2 Relating to Adolescent Mental Health Care.

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

BILL	REPORT TITLE	MEASURE TITLE	PURPOSE	STATUS	INTRODUCER(S)	REF	COMP
HB1011	Employment Discrimination	RELATING TO EMPLOYMENT.	Prohibits employment discrimination based on familial status.	H 1/27/2017: Referred to LAB, JUD, referral sheet 4	HASHEM, JOHANSON, NISHIMOTO	LAB, JUD	
HB1088	Health Care Provider; Accident and Health or Sickness Insurance; Insolvency; Continuation of Benefits; Limited Benefit Plan; Short-Term Health Insurance; Preexisting Condition; Disclaimer; Affordable Care Act; General Readability Requirements; Flesch Reading Ease Test; Perceived Gender Identity; Life and Disability Insurance Guaranty Association; Member Insurer	RELATING TO HEALTH INSURANCE.	Updates Hawaii Revised Statutes title 24 by: requiring health care providers to continue providing services during a health insurer insolvency; moving the short-term health insurance preexisting disclosure requirement from section 431:10-104(5) to chapter 431, article 10A; amending the definition of "perceived gender identity" to correct a technical drafting error; including health insurers as part of the guaranty association; and making technical, nonsubstantive amendments for clarity and consistency.	H 2/3/2017: Re-referred to HLT, CPC, FIN, referral sheet 13 DEAD	SOUKI (Introduced by request of another party)	HLT, CPC, FIN	SB954
HB1266	Conversion Therapy; Sexual Orientation; Minors	RELATING TO MINORS.	Prohibits persons licensed to provide professional counseling from engaging in, attempting to engage in, or advertising sexual orientation change efforts on persons under 18 years of age.	H 1/30/2017: Referred to CPC, JUD, referral sheet 6 ALMOST DEAD	ING, CREAGAN, KEOHOKALOLE, LOPRESTI, DeCoite	CPC, JUD	
HB1489	Discrimination; Sex; Gender Identity or Expression; Sexual Orientation	RELATING TO CIVIL RIGHTS.	Prohibits a state agency or program or activity receiving state financial assistance from excluding from participation, denying benefits to, or discriminating against a qualified individual by reason of disability, sex, including gender identity or expression, or sexual orientation.	H 2/14/2017: The committees on LAB recommend that the measure be PASSED, WITH AMENDMENTS. The votes were as follows: 7 Ayes: Representative(s) Johanson, Holt, Keohokalole, Nakashima, Takumi, Yamashita, Matsumoto; Ayes with reservations: none; Noes: none; and Excused: none.	BELATTI, EVANS, ICHIYAMA, LOWEN, MATSUMOTO, NAKAMURA, NAKASHIMA, SAN BUENAVENTURA, DeCoite	LAB, JUD	SB1265
HB201	Death with Dignity; Aid in Dying; Patient Choice; Physicians	RELATING TO AID IN DYING.	make an informed healthcare decision to request a prescription for aid in dying medication from their attending physician to facilitate a peaceful death. Ensures that physicians who assist patients in obtaining aid in dying medication are not subject to civil or criminal liability.	H 1/23/2017: Referred to HLT, JUD, referral sheet 1 DEAD	SOUKI, KEOHOKALOLE, LUKE, MCKELVEY, NISHIMOTO, SAIKI	HLT, JUD	
HB663 HD1	Limited Service Pregnancy Centers; Disclosures; Privacy; Remedy	RELATING TO HEALTH.	Requires all limited service pregnancy centers to accurately disclose availability and enrollment information for reproductive health services. Establishes privacy and disclosure requirements for individual records and information. Authorizes civil penalties and civil actions for enforcement and remedy. (HB663 HD1)	H 2/10/2017: Passed Second Reading as amended in HD 1 and referred to the committee(s) on JUD with Representative(s) Cachola, Matsumoto voting aye with reservations; Representative(s) Har, McDermott, Tupola, Ward voting no (4) and Representative(s) Gates, Ing excused (2).	BELATTI, EVANS, ICHIYAMA, LOPRESTI, LOWEN, LUKE, MCKELVEY, MIZUNO, MORIKAWA, NAKAMURA, NISHIMOTO, OSHIRO, SAN BUENAVENTURA, THIELEN, TODD, DeCoite	HLT, JUD, FIN	SB501

BILL	REPORT TITLE	MEASURE TITLE	PURPOSE	STATUS	INTRODUCER(S)	REF	COMP
HB664	In Vitro Fertilization; Required Insurance Coverage	RELATING TO IN VITRO FERTILIZATION INSURANCE COVERAGE.	Removes discriminatory requirements for mandatory insurance coverage of in vitro fertilization procedures to create parity of coverage for same-sex couples, unmarried women, and male-female couples for whom male infertility is the relevant factor.	H 2/9/2017: The committee(s) on HLT recommend(s) that the measure be deferred. DEAD	BELATTI, FUKUMOTO, ICHIYAMA, LOPRESTI, LOWEN, LUKE, MATSUMOTO, MCKELVEY, MIZUNO, MORIKAWA, NAKAMURA, NISHIMOTO, SAN BUENAVENTURA, THIELEN, TODD, DeCoite, Evans	HLT, CPC, FIN	SB502
HB677	In Vitro Fertilization Procedure Coverage	RELATING TO IN VITRO FERTILIZATION INSURANCE COVERAGE.	Amends insurance coverage requirements for in vitro fertilization to allow for expanded applicability.	H 2/9/2017: The committee(s) on HLT recommend(s) that the measure be deferred. DEAD	BELATTI, FUKUMOTO, ICHIYAMA, MCKELVEY, MIZUNO, MORIKAWA, OSHIRO	HLT, CPC, FIN	SB515
HB800	Conversion Therapy; Sexual Orientation; Minors	RELATING TO MINORS.	Prohibits persons licensed to provide professional counseling from engaging in, attempting to engage in, or advertising sexual orientation change efforts on persons under eighteen years of age.	H 1/25/2017: Referred to HLT, CPC, JUD, referral sheet 3 DEAD	C. LEE	HLT, CPC, JUD	
HB806	Education; Youth; Students; Youth-serving Agencies; Bullying; Cyberbullying; Educational Institutions; Appropriation	RELATING TO BULLYING.	Requires educational institutions and all youth-serving agencies to create and implement anti-bullying policies. Establishes a bullying prevention task force to provide guidance. Outlines the requirements for each institution or agency's policy and specifies reporting, investigation, and appeals procedures involving incidents of bullying. Provides immunity to reporters of bullying in the event of a cause of action for damages arising from the making of a report. Requires institutions and agencies to establish annual bullying prevention programs for youth and to provide bullying prevention training to all employees and volunteers who have significant contact with youth. Requires institutions and agencies to report aggregate figures regarding bullying to the governor and requires the governor to report to the legislature regarding bullying and the effectiveness of anti-bullying policies. Appropriates funds for anti-bullying and suicide prevention efforts in the public schools.	H 1/30/2017: Re-referred to EDN, JUD, FIN, referral sheet 7 DEAD	C. LEE	EDN, JUD, FIN	
HB929	Comprehensive Sexuality Health Education	RELATING TO HEALTH.	sexuality health education law. Requires the BOE and DOE to collaborate to provide curricula information to the public. Requires students to be excused from the provided instruction upon written request by a parent or guardian.	H 1/30/2017: Re-referred to HLT, EDN, JUD, referral sheet 7 DEAD	MIZUNO, EVANS, NISHIMOTO, SAIKI, SOUKI, Creagan	HLT, EDN, JUD	

BILL	REPORT TITLE	MEASURE TITLE	PURPOSE	STATUS	INTRODUCER(S)	REF	COMP
SB1265	Discrimination; Sex; Gender Identity or Expression; Sexual Orientation	RELATING TO CIVIL RIGHTS.	receiving state financial assistance from excluding from participation, denying benefits to, or discriminating against a qualified individual by reason of disability, sex, including gender identity or expression, or sexual orientation.	S 1/27/2017: Referred to JDL.	BAKER, INOUYE, KEITH-AGARAN, SHIMABUKURO, TOKUDA, Kidani, Kim, L. Thielen	JDL	HB1489
SB270	Conversion Therapy; Sexual Orientation; Minors	RELATING TO MINORS.	professional counseling from engaging in, attempting to engage in, or advertising sexual orientation change efforts on persons under 18 years of age.	S 1/23/2017: Referred to CPH.	S. CHANG, BAKER, K. RHOADS	CPH	HB1266
SB501 SD1	Limited Service Pregnancy Centers; Disclosures; Privacy; Remedy	RELATING TO HEALTH.	disclose the availability of and enrollment information for reproductive health services. Establishes privacy and disclosure requirements for individual records and information. Authorizes civil penalties and civil actions for enforcement	S 2/16/2017: Reported from CPH/JDL (Stand. Com. Rep. No. 315) with recommendation of passage on Second Reading, as amended (SD 1) and referral to WAM.	KIDANI, K. RHOADS, SHIMABUKURO, TOKUDA, S. Chang, English, Espero, Ihara, Keith-Agaran, Kim, Kouchi, L. Thielen	CPH/JDL, WAM	HB663
SB502	In Vitro Fertilization; Required Insurance Coverage	RELATING TO IN VITRO FERTILIZATION INSURANCE COVERAGE.	Removes discriminatory requirements for mandatory insurance coverage of in vitro fertilization procedures to create parity of coverage for same-sex couples, unmarried women, and male-female couples for whom male infertility is the relevant factor.	S 2/3/2017: The committee(s) on JDL recommend(s) that the measure be PASSED, WITH AMENDMENTS. The votes in JDL were as follows: 4 Aye(s): Senator(s) Keith-Agaran, K. Rhoads, Gabbard, L. Thielen; Aye(s) with reservations: none ; 0 No(es): none; and 1 Excused: Senator(s) Kim.	SHIMABUKURO, BAKER, ENGLISH, ESPERO, GREEN, KEITH-AGARAN, KIDANI, K. RHOADS, TOKUDA, S. Chang, Inouye, Kouchi, L. Thielen	CPH/JDL, WAM	HB664
SB515	In Vitro Fertilization Procedure Coverage	FERTILIZATION INSURANCE	vitro fertilization to allow for expanded applicability.	S 2/3/2017: The committee on JDL deferred the measure. DEAD	SHIMABUKURO, Baker, Inouye	CPH/JDL, WAM	HB677
SB516	Family Leave; Domestic Violence; Sexual Violence	RELATING TO DOMESTIC VIOLENCE.	addition to victim leave when the leave is related to domestic or sexual violence against the employee or the employee's minor child. Requires an employee to submit certification related to domestic or sexual violence of the employee or the employee's minor child. Requires employer confidentiality of information related to domestic or sexual violence against the	S 2/14/2017: The committee on JDL deferred the measure. DEAD	BAKER, INOUYE, KIDANI, SHIMABUKURO, L. THIELEN, TOKUDA	JDL, WAM	
SB954	and Health or Sickness Insurance; Insolvency; Continuation of Benefits; Limited Benefit Plan; Short-Term Health Insurance; Preexisting Condition; Disclaimer; Affordable Care Act; General Readability Requirements; Flesch Reading	RELATING TO HEALTH INSURANCE.	requiring health care providers to continue providing services during a health insurer insolvency; moving the short-term health insurance preexisting disclosure requirement from section 431:10-104(5) to chapter 431, article 10A; amending the definition of "perceived gender identity" to correct a technical drafting error; including health insurers as part of the guaranty association; and making technical,	S 1/25/2017: Referred to CPH.	KOUCHI (Introduced by request of another party)	CPH	HB1088
SCR39	Conversion Therapy; Ban	GOVERNOR, DEMOCRATIC MEMBERS OF THE		S 1/30/2017: Referred to CPH, JDL.	GREEN, S. CHANG, KIDANI, K. RHOADS, RUDERMAN, Wakai	CPH, JDL	



HAWAII SUBSTANCE ABUSE COALITION

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

COMMITTEE ON FINANCE:

- Rep. Sylvia Luke, Chair; Rep. Ty Cullen, Vice Chair
- Thursday, Feb. 27th, 2020: 2:00 pm
- Conference Room 308

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 minors' mental health issues.

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

HB-2043-HD-2

Submitted on: 2/27/2020 2:35:41 PM

Testimony for FIN on 2/27/2020 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Pride at Work - Hawaii	Pride @ Work - Hawaii	Support	No

Comments: