



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

**Testimony in SUPPORT of SB768 SD1 HD1  
RELATING TO ADOLESCENT MENTAL HEALTH SERVICES  
AND REQUESTING A FRIENDLY AMENDMENT**

REPRESENTATIVE ROY M. TAKUMI, CHAIR  
HOUSE COMMITTEE ON CONSUMER PROTECTION & COMMERCE

Hearing Date: March 20, 2019, 2:15 PM

Room Number: 329

1 **Fiscal Implications:** None.

2 **Department Testimony:**

3 The Department of Health is in support of this bill which clarifies the statute (§577-29 HRS)  
4 passed a couple of years ago allowing minors age 14 and older to consent to their own mental  
5 health services and to seek these services without their parents' knowledge. The current version  
6 clarifies expectations of the health plans when an adolescent chooses to consent to mental health  
7 services. This bill prohibits health plans from disclosing to a policy holder or other covered  
8 person any payment information for mental health services given upon the consent of a minor  
9 according to §577-29, HRS, and specifies that the minor, minor's parents or legal guardian are  
10 not responsible for out-of-pocket payments for minor-initiated mental health services. The  
11 suppression of the explanation of benefits (EOB) is a standard practice where minor consent laws  
12 exist. If such a suppression were not required, the minor's privacy would not be retained  
13 resulting in a decrease in youths' access to confidential mental health services. Health plans will  
14 be required to have standard operating practice to suppress the EOB in circumstances where a  
15 consenting minor is receiving mental health services.

16 We also would like to offer a friendly amendment to this bill which would further improve  
17 young people's ability to access mental health services without needing to involve their parents.  
18 When the original bill changing the age of consent for mental health services to 14 was passed

1 by the legislature in the 2016 session, it was a helpful step forward in ensuring that youth who  
2 are suffering emotionally can get help. However, the current statute applies only to services  
3 provided by licensed mental health professionals. As you may be aware, most of the readily  
4 available and low- or no-cost counseling services in Hawai‘i are provided – not by licensed  
5 professionals – but by unlicensed professionals who are in the process of meeting all the  
6 requirements for full licensure under the supervision of a licensed professional. This includes  
7 interns, practicum students, and newer graduates who have not completed all the requisite hours  
8 of experience and/or passed the examination necessary for licensure. In general, licensure as a  
9 mental health professional of any kind in Hawai‘i requires at least a year of full-time supervised  
10 practice after graduating with the relevant degree. The purpose of this proposed amendment is to  
11 authorize these mental health professionals - working under the supervision of a fully licensed  
12 mental health professional - to provide mental health treatment or counseling services to minors  
13 without parental consent when this is clinically indicated. The amendment included below  
14 would provide expanded access to mental health supports for vulnerable youth.

15 This bill is a product of a task force led by the Department of Health (DOH), Child and  
16 Adolescent Mental Health Division (CAMHD) as mandated by Act 13, SLH 2018 – known as  
17 the Conversion Therapy Ban. This task force was comprised of legislators, representatives of  
18 health insurers, state agencies, and advocates, and community members. A list of task force  
19 attendees and a summary of task force findings may be found in the task force's legislative  
20 report: [https://www.capitol.hawaii.gov/session2019/bills/DC240\\_.pdf](https://www.capitol.hawaii.gov/session2019/bills/DC240_.pdf). The Act 13 task force  
21 was focused on the counseling and mental health needs of Lesbian, Gay, Bisexual, Transgender  
22 and Questioning (LGBTQ) Youth. These youth often feel alienated from their parents and other  
23 family members or fear revealing their struggles around their sexual orientation and/or gender  
24 identity to their parents. The ability to find a counselor without having to involve a parent can be  
25 especially crucial for these youth. In addition, some youth are reluctant to disclose their concerns  
26 to their parents for a wide variety of other reasons, such as undisclosed sexual abuse, substance  
27 abuse problems, and situations of high family conflict.

28

1 **Offered Amendments:**

2 **Amendment part a. (beginning on page 1 line 13 of SB768 SD1) allows both “Licensed**  
3 **Mental Health Professionals and “Mental health professionals” to provide counseling to**  
4 **minors age 14 and older without the consent of their parents:**

5 "§577-29 **Mental health services relating to minors;**  
6 **diagnosis, counseling, and related activities.** (a)  
7 Notwithstanding any other law to the contrary, a minor who is  
8 fourteen years of age or older may consent to mental health  
9 treatment or counseling services provided by a licensed mental  
10 health professional or mental health professional if, in the  
11 opinion of the licensed mental health professional[, ] or mental  
12 health professional, the minor is mature enough to participate  
13 intelligently in the mental health treatment or counseling  
14 services; provided that the consent of the minor's parent or  
15 legal guardian shall be required to prescribe medication to the  
16 minor or to place the minor into an out-of-home or residential  
17 treatment program.(b)The mental health treatment or counseling  
18 services provided to a minor as authorized by this section  
19 shall include involvement of the minor's parent or legal  
20 guardian, unless the licensed mental health professional[, ] or  
21 the mental health professional, after consulting with the  
22 minor, determines that the involvement would be inappropriate.  
23 The licensed mental health professional or the mental health  
24 professional shall state in the client record whether and when  
25 the treating clinician attempted to contact the minor's parent  
26 or legal guardian, and whether the attempt to contact was  
27 successful or unsuccessful, or the reason why, in the treating  
28 licensed mental health professional's opinion[, ] or the mental

1 health professional's opinion, it would be inappropriate to  
2 contact the minor's parent or guardian.

3 **Amendment part b. (beginning on p. 4 line 6 of SB768 SD1)**  
4 **defines "Licensed mental health professional" and "Mental**  
5 **Health Professional":**

6 "Licensed mental health professional" means [~~any of the~~  
7 ~~following:~~] a person who provides counseling as part of the  
8 following professions:

9 (1) A [~~person~~] licensed [~~as a~~] mental health counselor  
10 pursuant to chapter 453D;

11 (2) A [~~person~~] licensed [~~as a~~] marriage and family  
12 therapist pursuant to chapter 451J;

13 (3) A licensed clinical social worker [~~licensed~~] pursuant  
14 to chapter 467E;

15 (4) A [~~person~~] licensed [~~as a~~] psychologist pursuant to  
16 chapter 465;

17 (5) A [~~board certified, or board eligible, licensed~~  
18 ~~psychiatrist; or~~] licensed physician pursuant to  
19 chapter 453; or

20 (6) [~~An~~] A licensed advanced practice registered nurse  
21 [~~licensed~~] pursuant to chapter 457 who holds an  
22 accredited national certification in an advanced  
23 practice registered nurse psychiatric specialization.

24 "Mental health professional" means a person who is working  
25 under the supervision of a licensed mental health professional

1 and either is enrolled in an accredited training program, or  
2 has completed all licensing requirements except the hours of  
3 supervised post-degree experience or the examination required  
4 for state licensure for licensed mental health counselors  
5 pursuant to chapter 453D, for licensed marriage and family  
6 therapists pursuant to chapter 451J, for clinical social  
7 workers pursuant to chapter 467E, for psychologists pursuant to  
8 chapter 465, or for advanced practice registered nurses  
9 pursuant to chapter 457.

10 "Mental health treatment or counseling services" means the  
11 provision of outpatient mental health treatment or counseling  
12 by a licensed mental health professional[-] or a mental health  
13 professional."

14  
15 Thank you for the opportunity to testify on this important bill.



March 15, 2019

House's Committee on Consumer Protection & Commerce  
Hawaii State Capitol  
415 South Beretania Street, Room 329  
Honolulu, HI 96813

Hearing: Wednesday, March 20, 2019 – 2:15 p.m.

**RE: STRONG SUPPORT for Senate Bill 768 SD 1 HD 1 – RELATING TO ADOLESCENT MENTAL HEALTH SERVICES**

Aloha Chair Takumi, Vice Chair Ichiyama and fellow committee members,

I am writing in STRONG SUPPORT for Senate Bill 768 Senate Draft 1 House Draft 1 on behalf of the LGBT Caucus of the Democratic Party of Hawai'i. SB 768 SD 1 HD 1 prohibits health plans and providers from disclosing to a policyholder or other covered person any payment or billing information for a minor's mental health services if the minor received the services without the consent or participation of the minor's parent or legal guardian. Specifies that the minor and the minor's parent or legal guardian are not responsible for out-of-pocket payments for minor-initiated mental health treatment or counseling services.

SB 538 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. SB 768 SD HD 1 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

# 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](mailto:info@hysn.org)

Rick Collins, President

Judith F. Clark, Executive Director

Bay Clinic

Big Brothers Big Sisters of Hawaii

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

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 18, 2019

To: Representative Roy Takumi, Chair  
And members of the Committee of Commerce and Consumer Affairs

## **TESTIMONY IN SUPPORT OF SB 768 SD 1 HD 1 RELATING TO ADOLESCENT MENTAL HEALTH SERVICES**

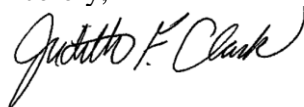
Hawaii Youth Network Services, a statewide coalition of youth- serving organizations, supports SB 768 SD 1 HD 1 Relating to Adolescent Mental Health Services

Youth aged 14 and older may consent for mental health services. Sometimes the involvement of the parent or guardian may be inappropriate and the law allows for minors to receive services without parental notification or involvement under those circumstances.

This bill will prevent medical insurance providers from disclosing treatment and billing information to parents if the mental health counseling services were provided without the consent or participation of the parents. This will ensure that confidentiality of services is maintained as intended by the minor consent law.

Thank you for this opportunity to testify.

Sincerely,



Judith F. Clark, MPH  
Executive Director

## Helping Hawai'i Live Well

To: Representative Roy Takumi, Chair, Representative Linda Ichiyama, Vice Chair, Members, House Committee on Consumer Protection and Commerce

From: Trisha Kajimura, Executive Director

**Re: TESTIMONY IN SUPPORT OF SB 768 SD1 HD1 RELATING TO ADOLESCENT MENTAL HEALTH SERVICES**

**Hearing: March 20, 2019, 2:15 pm, CR 329**

Thank you for hearing **Senate Bill 768 SD1 HD1**, which amends Section 323B-3 of the Hawaii Revised Statutes to prohibit health plans and providers from disclosing to a policy holder or other covered person any payment or billing information for a minor's mental health services if the minor received the services without the consent or participation of the minor's parent or legal guardian. The bill also specifies that the minor and the minor's parent or legal guardian are not responsible for out of pocket payments for minor-initiated mental health treatment or counseling services.

Mental Health America of Hawaii (MHAH) is a 501(c)3 organization founded in Hawai'i 77 years ago, that serves the community by promoting mental health through advocacy, education and service. We support youth mental health in Hawaii through our Youth Suicide and Bullying Prevention Program and through our advocacy work. In 2016 we provided testimony in support of SB 2886 SD2 HD2 CD1 which became Act 181, allowing minors fourteen years or older to consent to their own mental health treatment. Sometimes youth need to talk to a mental health professional but may not feel safe or comfortable asking their parent for consent for a variety of reasons, which may include family violence, sexual abuse, or substance abuse.

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. Unfortunately it is sometimes critical to their safety that minors are able to receive treatment without their parent or legal guardian finding out. In those cases, it is important that they do not find out through their health insurance company and that they are not responsible for out-of-pocket costs they did not consent to. Youth must also not be held responsible for out-of-pocket costs that would be a barrier to receiving services.

In mental health, access to care is everything and we humbly ask you to authorize this change to increase access for youth in these circumstances. Thank you for considering my **testimony in support of SB 768 SD1 HD1**. Please contact me at [trisha.kajimura@mentalhealthhawaii.org](mailto:trisha.kajimura@mentalhealthhawaii.org) or (808)521-1846 if you have any questions.





March 18, 2019

The Honorable Roy M. Takumi, Chair  
The Honorable Linda Ichiyama, Vice Chair  
House Committee on Consumer Protection & Commerce

Re: SB 768 SD1 HD1 – Relating the Adolescent Mental Health Services

Dear Chair Takumi, Vice Chair Ichiyama, and Members of the Committee:

The Hawaii Medical Service Association (HMSA) appreciates the opportunity to testify on SB 768, SD1, HD1, requires, as part of the standard of care, a mental health professional to clarify and confirm with a minor patient whether the mental health treatment is confidential. It also restricts disclosure of payment information for a minor patient's mental health treatment in certain circumstances.

HMSA appreciates the intent of this measure to protect the privacy of minors and increase access for mental health services; however, as worded, we have serious concerns. This bill creates a separate obligation that could undermine the intent of Hawaii's Health Insurance Portability and Accountability Act (HIPAA) Harmonization Law passed in 2012. The Harmonization Law consolidated Hawaii's approximately 50 separate privacy laws and aligned them with HIPAA. Returning to multiple overlapping privacy laws causes confusion and complexity as well as administrative burden for plans and providers. We believe that existing protections for health plan members under HIPAA are sufficient.

HMSA has mechanisms in place to prevent the disclosure of information regarding a member's mental health services if the member informs HMSA that the information should be kept confidential from the policyholder or other covered persons. We ask that health plans not be held liable if we are not properly informed in a timely manner that the mental health services provided should not be disclosed.

Thank you for allowing us to provide testimony on this measure.

Sincerely,

Jennifer Diesman  
Senior Vice-President, Government Relations



March 18, 2019

The Honorable Roy M. Takumi, Chair  
The Honorable Linda Ichiyama, Vice Chair  
House Committee on Consumer Protection & Commerce

**Senate Bill 768 SD1 HD1 – Relating to Adolescent Mental Health Services**

Dear Chair Takumi, Vice Chair Ichiyama, and Members of the Committee:

The Hawaii Association of Health Plans (HAHP) appreciates the opportunity to testify on SB 768, SD1, HD1.

We appreciate the intent of this measure, but would like to express concerns. We believe that the Health Insurance Portability and Accountability Act of 1996 (HIPAA) adequately provides for the privacy of any patient. Moreover, by creating an additional privacy requirement, we believe this measure goes against the intent of Hawaii's 2012 HIPAA Harmonization Law, which consolidated Hawaii's approximately 50 separate privacy laws to conform with HIPAA.

Thank you for allowing us to testify expressing concerns on SB 768, SD1, HD1.

Sincerely,

HAHP Public Policy Committee

cc: HAHP Board Members

**SB-768-HD-1**

Submitted on: 3/19/2019 7:37:07 AM

Testimony for CPC on 3/20/2019 2:15:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
arielle	Individual	Oppose	No

Comments:



# Hawai'i Psychological Association

## *For a Healthy Hawai'i*

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P.O. Box 833  
Honolulu, HI 96808

[www.hawaiipsychology.org](http://www.hawaiipsychology.org)

Phone (808) 521-8995

Testimony in SUPPORT of SB768\_SD1\_HD1  
RELATING TO ADOLESCENT MENTAL HEALTH SERVICES

COMMITTEE ON CONSUMER PROTECTION & COMMERCE

Rep. Roy M. Takumi, Chair  
Rep. Linda Ichiyama, Vice Chair

Wednesday, March 20, 2019  
2:15 pm  
Conference Room 329  
State Capitol  
415 South Beretania Street

The Hawai'i Psychological Association (HPA) supports this bill and its efforts to ensure minors can access counseling and mental health services without their parents' knowledge by clarifying the expectations of the health 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 given upon the consent of a minor according to §577-29, HRS. The bill further specifies that the minor, minor's parents, or legal guardian 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 will be required to have standard operating practices to suppress the EOB in circumstances where a consenting minor is receiving mental health services.

We also are in support of the Department of Health's (DOH) friendly amendment to this bill. The DOH amendment would further improve young people's ability to access mental health services without needing to involve their parents. 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 applies only to services provided by licensed mental health professionals. As you may be aware, most of the readily available and low- or no-cost counseling services in Hawai‘i 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, and newer graduates who have not completed all the requisite hours of experience and/or passed the examination necessary for licensure. In general, licensure as a mental health professional of any kind in Hawai‘i requires at least a year of full-time supervised practice after graduating with the relevant degree. The purpose of the proposed amendment 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. The amendment included below would provide expanded access to mental health supports for vulnerable youth.

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. The task force was comprised of legislators, representatives of health insurers, state agencies, advocates, and community members, including an HPA representative. The Act 13 task force was focused on the counseling and mental health needs of Lesbian, Gay, Bisexual, Transgender and Questioning (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. 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.

A list of task force attendees and a summary of task force findings may be found in the task force's legislative report: [https://www.capitol.hawaii.gov/session2019/bills/DC240\\_.pdf](https://www.capitol.hawaii.gov/session2019/bills/DC240_.pdf).

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

Sincerely,

Julie Takishima-Lacasa, PhD

Chair, HPA Legislative Action Committee

**SB-768-HD-1**

Submitted on: 3/19/2019 2:57:32 PM

Testimony for CPC on 3/20/2019 2:15:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Kerrie Villers	Individual	Oppose	Yes

Comments:

Aloha,

My name is Kerrie Villers, and I strongly oppose this bill. The law currently allows minors to consent to counseling, but also ensures that parents are notified that the minor has received such counseling unless there is some compelling reason the information should be withheld.

This bill proposes that simply the minor's whim constitutes reason to not have parents notified that he or she has received counseling from a mental health professional. Then it compels insurance companies to join the cover up by denying them the ability to submit a bill to the parents.

There is no grounds that can justify such a violation of parental rights. Unless the parent has done something worthy of terminating his or her parental rights and the minor is a ward of the state, the responsibility for rearing and caring for the child lies with the parent, not a therapist and not the minor. It is the parents' duty to see to the mental health and well being of his or her child, and the parent should always be notified when the minor has received some sort of treatment.

How can a parent be expected to help their own child, who is still residing in their house, if they do not know treatment and therapy the child is receiving? This is a gross violation of parental rights and is detrimental to the functioning of the family on the whole. Should a minor feel that he or she needs to receive counseling, the parents ought to be notified so that they also can work towards healing and helping the minor. Should a matter of conduct be so highly questionable that the parents can't be notified of the counseling, then perhaps the minor should not remain in the custody of the parents. But at no time should treatment for a child be withheld from a parent whose parental rights are still in tact.

This also creates a burden on insurance companies that is not reasonable. Why should a company, who has entered into a contractual agreement be forced to cover up a visit and not able to have the agreement fulfilled because a minor decides that he or she would like to not have treatment revealed to their custodians?

This bill is bad for minors, bad for families, bad for insurance companies, and proposes improper intrusion into the parent-child relationship. Please do not pass this bill.

Thank you.

Kerrie Villers

**SB-768-HD-1**

Submitted on: 3/20/2019 7:49:53 AM

Testimony for CPC on 3/20/2019 2:15:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Lisa Shorba	Individual	Oppose	Yes

Comments:

Aloha Chair Takumi, Vice Chair Ichiyama and Members of the CPC Committee,

Mahalo for hearing my testimony. I disapprove of SB 768 SD1 HD1 RELATING TO ADOLESCENT MENTAL HEALTH SERVICES. The bill states, "It shall be a standard of care for a licensed mental health professional treating a minor to ask the minor if the minor wants the provision of mental health treatment or counseling services to be kept confidential from the minor's parent or guardian and explain to the minor what confidentiality means with regard to mental health services." I do not support this bill. Parents have full authority to decide what is best for their child... they have their child's best interest at heart. Minors are not fully capable of making rational decisions, especially if they are seeing a mental health professional.

If a parent is responsible for harming or somehow putting the minor in danger, then, that would become a CPS matter. That's what they are there for. This bill would not resolve a problem...it has the potential to create additional family problems that we can avoid by not passing this bill. Please do not pass SB768 SD1 HD1.

Mahalo,

Lisa Shorba

Resident of Honolulu