



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

**Testimony in SUPPORT of SB768 SD1 HD2
RELATING TO ADOLESCENT MENTAL HEALTH SERVICES**

REPRESENTATIVE SYLVIA LUKE, CHAIR
HOUSE COMMITTEE ON FINANCE

Hearing Date: March 29, 2019, 2:30 P.M. Room Number: 308

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 the 2016 session allowing minors age 14 and older to consent to their own mental health
5 services and to seek these services without their parents' knowledge. The current version of this
6 bill makes two important changes in the statute: 1) it broadens the types of mental health service
7 providers who can work with youth without parental consent to include therapists-in-training
8 who are supervised by a licensed provider and 2) clarifies the expectation for health insurance
9 plans when an adolescent chooses to consent to their own mental health services. Both of these
10 changes will help make it easier for youth to take advantage of their right to initiate mental
11 health services on their own.

12 This bill prohibits health plans from disclosing to a policy holder or other covered person any
13 payment information for mental health services given upon the consent of a minor according to
14 §577-29, HRS, and specifies that the minor, minor's parents or legal guardian are not responsible
15 for out-of-pocket payments for minor-initiated mental health services. The suppression of the
16 explanation of benefits (EOB) is a standard practice where minor consent laws exist. If such a
17 suppression were not required, the minor's privacy would not be retained resulting in a decrease
18 in youths' access to confidential mental health services. Health plans will be required to have

1 standard operating practices to suppress the EOB in circumstances where a consenting minor is
2 receiving mental health services.

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

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

1 to their parents for a wide variety of other reasons, such as undisclosed sexual abuse, substance
2 abuse problems, and situations of high family conflict.

3

4 **Offered Amendments: None**

5 Thank you for the opportunity to testify on this important 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

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

March 28, 2019

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

TESTIMONY IN SUPPORT OF SB 768 SD 1 HD 2 RELATING TO ADOLESCENT MENTAL HEALTH SERVICES

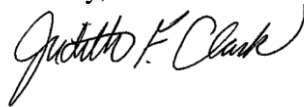
Hawaii Youth Network Services, a statewide coalition of youth- serving organizations, supports SB 768 SD 1 HD 2 Relating to Adolescent Mental Health Services

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 Sylvia Luke, Chair, Representative Ty Cullen, Vice Chair, Members, House Committee on Finance

From: Trisha Kajimura, Executive Director

Re: TESTIMONY IN SUPPORT OF SB 768 SD1 HD2 RELATING TO ADOLESCENT MENTAL HEALTH SERVICES

Hearing: March 29, 2019, 2:30 pm, CR 308

Thank you for hearing **Senate Bill 768 SD1 HD2**, 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. The HD2 version includes the important piece allowing mental health professionals working under the supervision of a licensed mental health professional to provide services to these minors.

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 HD2**. Please contact me at trisha.kajimura@mentalhealthhawaii.org or (808)521-1846 if you have any questions.

SB-768-HD-2

Submitted on: 3/27/2019 2:03:26 PM

Testimony for FIN on 3/29/2019 2:30:00 PM

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

Comments:

SB-768-HD-2

Submitted on: 3/27/2019 2:24:02 PM

Testimony for FIN on 3/29/2019 2:30:00 PM

| Submitted By | Organization | Testifier Position | Present at Hearing |
|---------------------|---------------------|---------------------------|---------------------------|
| Derek Napoleon | Individual | Oppose | No |

Comments:

minors can consent to therapy without their parent's knowing, and the state is going to decide what they can be counseled on, rather than the therapist or their parents (SB 674 would mean they can consent to counseling that tells them they are a transexual or homosexual, but if they could not receive counseling that would guide them towards a heterosexual/heteronormative state or having an accurate gender identity).

This is a dangerous situation for minors. minors can consent to therapy without their parent's knowing, and the state is going to decide what they can be counseled on, rather than the therapist or their parents (SB 674 would mean they can consent to counseling that tells them they are a transexual or homosexual, but if they could not receive counseling that would guide them towards a heterosexual/heteronormative state or having an accurate gender identity).

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This is a dangerous situation for minors, family units, and insurance companies that would have to absorb the cost of services rendered. The idea that minors can consent to therapy without their parent's knowledge, and the state is going to decide what they can and can't be counseled on, rather than the therapist and their parents is not only absurd, it is a gross overreach and abuse of state authority.

SB-768-HD-2

Submitted on: 3/27/2019 7:30:20 PM

Testimony for FIN on 3/29/2019 2:30:00 PM

| Submitted By | Organization | Testifier Position | Present at Hearing |
|---------------------|---------------------|---------------------------|---------------------------|
| Kathy Fry | Individual | Oppose | No |

Comments:

SB-768-HD-2

Submitted on: 3/28/2019 9:31:06 AM

Testimony for FIN on 3/29/2019 2:30:00 PM

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

Comments:

SB-768-HD-2

Submitted on: 3/28/2019 10:07:57 AM

Testimony for FIN on 3/29/2019 2:30:00 PM

| Submitted By | Organization | Testifier Position | Present at Hearing |
|---------------------|---------------------|---------------------------|---------------------------|
| Cindy R Ajimine | Individual | Oppose | No |

Comments:

Evidence shows that psychological therapy is most successful if done in a supportive environment which primarily refers to having supportive people around to protect, offer encouragement and counsel, and hold one accountable to growing in new behaviors.

Unless parental rights have been removed by the state AFTER medical advisement or there is a reason for not disclosing (e.g. 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 every right to know what treatment their child is receiving.

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 and better legislation would be to ensure parents are also receiving therapy covered by insurance.

Minors are very impressionable and subtle suggestions or ideas or sexual/other abuse from a counselor has happened and can do a lot more damage. 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 is also is harmful to the ethical and business practices of having insurance companies cover care that the primary payor is not aware of. Where's the checks and balances?

Good intent; dangerous precedent. Not the time or way. Please vote no.

SB-768-HD-2

Submitted on: 3/28/2019 10:26:42 AM

Testimony for FIN on 3/29/2019 2:30:00 PM

| Submitted By | Organization | Testifier Position | Present at Hearing |
|---------------------|---------------------|---------------------------|---------------------------|
| Cassie Almarez | Individual | Oppose | No |

Comments:

To whom it may concern,

I am in opposition to this bill. What is the purpose of allowing the child to "hide" this information from there parents? Please do not attempt to remove rights from parents in this area. It is the parents absolute right and privilege to walk with there child through every area of there life - including the childs mental health healing.

Please do not proceed with this bill.

Respectfully,

Cassie Almarez

SB-768-HD-2

Submitted on: 3/28/2019 11:15:34 AM

Testimony for FIN on 3/29/2019 2:30:00 PM

| Submitted By | Organization | Testifier Position | Present at Hearing |
|---------------------|---------------------|---------------------------|---------------------------|
| Rita Kama-Kimura | Individual | Oppose | No |

Comments:

SB-768-HD-2

Submitted on: 3/28/2019 11:18:02 AM

Testimony for FIN on 3/29/2019 2:30:00 PM

| Submitted By | Organization | Testifier Position | Present at Hearing |
|---------------------|---------------------|---------------------------|---------------------------|
| Alison Burkhardt | Individual | Oppose | No |

Comments:

I am in complete opposition of this bill. Unless there is a legitimate reason that parent's should not be informed that their child was counseled (such as an abusive situation in which the child should be removed from the home) then parents have a right to know when and if their child has received counseling until their child legally becomes an adult. I don't believe that parents always need to know the content of the conversation that their child had with the counselor, but parents are the ones that are ultimately responsible for the well-being and growth of their children and have a right to know who is influencing them.

SB-768-HD-2

Submitted on: 3/28/2019 12:19:41 PM

Testimony for FIN on 3/29/2019 2:30:00 PM

| Submitted By | Organization | Testifier Position | Present at Hearing |
|---------------------|---------------------|---------------------------|---------------------------|
| Aletheia Hatori | Individual | Oppose | No |

Comments:

Unless 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 what treatment their child is receiving. 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 can do a lot of damage. 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.

SB-768-HD-2

Submitted on: 3/28/2019 12:46:52 PM

Testimony for FIN on 3/29/2019 2:30:00 PM

| Submitted By | Organization | Testifier Position | Present at Hearing |
|----------------|--------------|--------------------|--------------------|
| bridget colgan | Individual | Oppose | No |

Comments:

I am writing as an individual, however, my views in this statement are influenced by the fact that I am a physician, currently a second year general surgery resident, captain in the US Army and a member of One Love Ministries in Kakaako. Additionally, I am a daughter, former 14-18 year old, and have personal experience with difficulties during my teenage years, challenging family relationships during this time, and a history of mental health counseling at this age as well as intermittently in years since then.

This bill is highly concerning to me and I strongly oppose that all minors over 14 be asked if they want mental health treatment/counseling hidden from their parents and for insurance companies to aid in hiding this information from the parents. Approving this bill would be legalizing dishonesty and deceit and raising further barriers between minors and their parents in a world that is already significantly challenging in these domains. It threatens to create heightened barriers and augment divisive relationships between minors and their parents. The 18 years of childhood are not long. In these years it is essential to grow characteristic of honesty, trust, and strong relationships, especially between children and their parents. The teenage years are already a time of many difficulties and challenges for teenagers, especially in today's society. Changing the age for minors to be able to undergo mental health treatment and counseling without the awareness of their parents would be interfering with the final 3-4 years of a child's development and their opportunity at this time to maximally benefit from the guidance, love, and support of their parents.

Unless 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 not only has the right to know what treatment their child is receiving, but the child has the right for the parents to know. A child up through age 18 years of age has the right to the protection and guidance of their parents. 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 and ideas from a counselor can do a lot of damage. 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 absorb the cost of these sessions/treatments.

Thank you in advance for your attention to this matter and the timely rejection of this proposed bill.

Respectfully yours,

Bridget A. Colgan, MD | CPT, US Army

SB-768-HD-2

Submitted on: 3/28/2019 3:51:19 PM

Testimony for FIN on 3/29/2019 2:30:00 PM

| Submitted By | Organization | Testifier Position | Present at Hearing |
|---------------------|---------------------|---------------------------|---------------------------|
| Kerrie Villers | Individual | Oppose | No |

Comments:

Chair, Vice Chair, and Committee Members,

I am strongly opposed to this measure. Not only does this bill propose that the state interfere with insurance matters, which is a contractual agreement between an adult and the company, it proposes that the State should do so without any real cause other than the whim of a minor.

Insurance companies are just expected to suck up their losses, which is unfair to them, and parents are denied the ability to know that their child has even had mental health treatment. This infringement upon parental rights is unwarranted if the parent has not done anything to have their rights revoked. At the very least, parents and guardians ought to know that their child is receiving treatment from someone so that they can make decisions about how best to care for the child in their custody.

If the parent has committed some offense that would jeopardize the safety of the minor, then naturally, the counseling ought to be kept confidential, but an investigation ought to follow as well, and the child may need to be removed from the home. Aside from these circumstances, the parent or guardian is responsible for the mental, physical, spiritual and emotional health of any minor in their custody, and the assumption should be that the parent has their child's best interests in mind.

This bill is detrimental to the family unit, to parent's ability to care for and guide their children, and to insurance companies' business practices. Please do not pass this measure. Thank you.

Kerrie Villers

HD 20



LATE

March 28, 2019

The Honorable Sylvia Luke, Chair
The Honorable Ty J. K. Cullen, Vice Chair
House Committee on Finance

Re: SB 768 SD1 HD2 – Relating the Adolescent Mental Health Services

Dear Chair Luke, Vice Chair Cullen, and Members of the Committee:

The Hawaii Medical Service Association (HMSA) appreciates the opportunity to testify on SB 768, SD1, HD2, permits certain minors to consent to treatment or counseling by a mental health professional. It requires, as part of the standard of care, the minor patient to be informed about confidentiality. It also restricts disclosure of a minor's payment information for 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 in accordance with federal law to prevent the disclosure of information regarding a member's mental health services if the member informs HMSA in a timely manner that the information should be kept confidential from the policyholder or other covered persons.

We respectfully request that this bill be deferred. Should it move forward, we ask that Section 2 subsection (f) be removed from the bill.

Thank you for allowing us to provide testimony in opposition to this measure.

Sincerely,

Pono Chong
Vice President, Government Relations

LATE

Friday, March 29, 2019; 2:30 pm
Conference Room 308

House Committee on Finance

To: Representative Sylvia Luke, Chair
Representative Ty Cullen, Vice Chair

From: Michael Robinson
Vice President, Government Relations & Community Affairs

Re: **Comments On SB 768, SD1, HD2**
Relating to Adolescent Mental Health Services

My name is David Fox, and I am the Privacy Officer at Hawai'i Pacific Health. Hawai'i Pacific Health is a not-for-profit health care system comprised of its four medical centers – Kapi'olani, Pali Momi, Straub and Wilcox and over 70 locations statewide with a mission of creating a healthier Hawai'i.

I am writing to offer comments on SB 768, SD1, HD2 which permits certain minors to consent to treatment or counseling by a mental health professional and requires as part of the standard of care that the minor patient be informed about confidentiality. The measure also restricts disclosure of a minor's payment information for mental health treatment in certain situations.

HPH supports the intent of this measure. However, we are concerned that the bill creates added obligations that could undermine the intent of Hawai'i's Health Insurance Portability and Accountability Act (HIPAA) Harmonization Law passed in 2012. The Harmonization Law consolidated Hawai'i's numerous separate privacy laws and aligned them with HIPAA. Reverting to multiple overlapping or more restrictive privacy statutes causes confusion for providers and creates another layer of complexity. This leads to an administrative burden on our providers and administrative staff. We believe the existing protections are sufficient.

Thank you for the opportunity to provide testimony.

LATE

SB-768-HD-2

Submitted on: 3/28/2019 8:41:04 PM

Testimony for FIN on 3/29/2019 2:30:00 PM

| Submitted By | Organization | Testifier Position | Present at Hearing |
|---------------------|-----------------------|---------------------------|---------------------------|
| Dylan P. Armstrong | Oahu County Democrats | Support | No |

Comments:

Testimony of
Joy Barua
Senior Director, Government and Community Relations & Community Benefit

Before:
House Committee on Finance
The Honorable Sylvia Luke, Chair
The Honorable Ty J.K. Cullen, Vice Chair

LATE

March 29, 2019
2:30 p.m.
Conference Room 308

Re: SB 768, SD1, HD2, Relating to Adolescent Mental Health Services

Chair Luke, Vice Chair Cullen, and committee members, thank you for this opportunity to provide testimony on SB 768, SD1, HD2, which, requires, as part of the standard of care, the minor patient to be informed about confidentiality. It also restricts disclosure of a minor's payment information for mental health treatment in certain circumstances.

Kaiser Permanente Hawai'i offers the following COMMENTS on SB 768, SD1, HD2.

While we support the intent of SB 768, SD1, HD2, under the current Health Insurance Portability and Accountability Act (HIPAA) Harmonization Law, enacted in the state in 2012, confidential communications of hospitals inform patients at time of visit regarding their responsibility to notify their health plan of their request for confidential communications. This bill appears to make it the covered entity's responsibility, which is problematic for health plans as there is no mechanism for a health plan to automatically know that a provider provided confidential services.

As such, we do not believe this bill is necessary and request that page 4, lines 1-7 be deleted:

~~(f) 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 mental health treatment or counseling services provided pursuant to this section, if the minor received the services without the consent or participation of the minor's parent or legal guardian.~~

Thank you for this opportunity to testify on this matter.



Hawaii Association of Health Plans

March 27, 2019

The Honorable Sylvia Luke, Chair
The Honorable Ty J.K. Cullen, Vice Chair
House Committee on Finance

LATE

Senate Bill 768 SD1 HD2 – 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, HD2.

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 in opposition to SB 768, SD1, HD2.

Sincerely,

HAHP Public Policy Committee

cc: HAHP Board Members