



STATE HEALTH PLANNING AND DEVELOPMENT AGENCY

DAVID Y. IGE
GOVERNOR OF HAWAII

ELIZABETH A. CHAR, M.D.
DIRECTOR OF HEALTH

SERAFIN COLMENARES, JR., Ph.D., M.P.H.
ADMINISTRATOR

1177 Alakea St., #402, Honolulu, HI 96813 Phone: 587-0788 Fax: 587-0783 www.shpda.org

House Committee on Consumer Protection and Commerce

HB 224 HD 1, Relating to the State Health Planning and Development Agency

Testimony of Serafin Colmenares, Jr. SHPDA Administrator

Friday, February 12, 2021
2:00 p.m., Videoconference

1 **Agency's Position:** The State Health Planning and Development Agency offers testimony in
2 support of House Bill 224 HD 1, with comments.

3 **Fiscal Implications:** The bill allows the use of special funds for personnel expenditures and
4 authorizes fees and fines.

5 **Purpose and Justification:** House Bill 244 HD 1 amends HRS Section 323D-12 by
6 exempting certain facilities and services from the certificate of need requirements, authorizes a
7 public hearing fee and fines for non-compliance with an approved certificate of need, allows
8 the use of SHPDA's special funds for personnel expenditures and makes the corresponding
9 appropriations.

10 Under HRS 323D-12.6, SHPDA's special fund was established "to assist in offsetting
11 program expenses of the agency." SHPDA is currently allowed a special fund ceiling of
12 \$114,000 annually for this purpose. General funds for the position of SHPDA administrator
13 was taken away by the legislature following the departure on June 30, 2019 of the then
14 SHPDA administrator. A new administrator was hired by July 1, 2020 but the funds for the
15 position were not restored. In addition, additional cuts from its general fund are expected on
16 account of the current economic downturn. Given the reduction in its general funds, the use of

1 the special funds for personnel expenditures is needed by SHPDA. In addition, additional fees
2 and fines are being proposed to increase the special funds, thereby allowing SHPDA to
3 support existing or hire new positions, such as that of an investigator, which is needed to
4 enforce CON compliance.

5 This bill strengthens and enables SHPDA to support itself and perform its statutory
6 functions and SHPDA supports it. However, SHPDA would be more effective if it is allowed to
7 continue administering the special fund since it is the agency that expends it. SHPDA
8 therefore recommends that HRS 323D-12.6 (a) be worded according to its earlier version to
9 read: “(a) There is established within the state treasury, *to be administered by the state health*
10 *planning and development agency*, the state health planning and development special fund
11 into which shall be deposited all moneys collected under this chapter.”

12 Thank you for this opportunity to testify.



**Testimony to the House Committee on Consumer Protection and Commerce
Friday, February 12, 2021; 2:00 p.m.
State Capitol, Conference Room 329
Via Videoconference**

RE: HOUSE BILL NO. 0224, HOUSE DRAFT 1, RELATING TO THE STATE PLANNING AND DEVELOPMENT AGENCY.

Chair Johanson, Vice Chair Kitagawa, and Members of the Committee:

The Hawaii Primary Care Association (HPCA) is a 501(c)(3) organization established to advocate for, expand access to, and sustain high quality care through the statewide network of Community Health Centers throughout the State of Hawaii. The HPCA **COMMENTS** on House Bill No. 0224, House Draft 1, RELATING TO THE STATE PLANNING AND DEVELOPMENT AGENCY.

The bill, as received by your Committee, would:

- (1) Replace the State Health Planning and Development Agency (SHPDA) with an unnamed agency as the agency responsible for administering the State Health Planning and Development Special Fund (Special Fund)
- (2) Establish a cap of \$2,000,000 on the Special Fund and direct that all funds in excess of the cap on June 30 of each succeeding year lapse to the General Fund;
- (3) Establish an unspecified fee for a public hearing whenever a request is made of the State Health Planning and Development Agency (SHPDA) to reconsider a previous decision;
- (4) Establish an administrative penalty not to exceed an unspecified amount for failure to comply with an approved certificate of need;
- (5) Exempt psychiatric facilities, special treatment facilities, and chronic renal dialysis services from the certificate of need process;
- (6) Appropriate unspecified amounts of Special Funds for fiscal years 2021-2022, and 2022-2023, respectively, for the hiring of full-time equivalent permanent positions within SHPDA; and

- (7) State that an unspecified position previously funded by general funds be funded from the Special Fund and appropriate an unspecified amount of funds from the Special Fund for this purpose.

The bill would take effect on July 1, 2060, to facilitate continued discussion on this issue.

By way of background, the HPCA represents Hawaii Federally-Qualified Health Centers (FQHCs). FQHCs provide desperately needed medical services at the frontlines in rural and underserved communities. Long considered champions for creating a more sustainable, integrated, and wellness-oriented system of health, FQHCs provide a more efficient, more effective and more comprehensive system of healthcare.

Chapter 323D, Hawaii Revised Statutes (HRS), the Health Planning and Resources Development and Health Care Cost Control Law, was enacted to promote accessibility for all the people of the State to quality health care services at reasonable costs. [See, Section 323D-1, HRS.] Among other things, this law establishes the State Health Planning and Development Agency [See, Section 323D-11, HRS.], Subarea Health Planning Councils [See, Chapter 323D, Part III, HRS.], and a certificate of need process that is intended to ensure that any new facility or expansion of an existing facility be evaluated on its probable impact on health care costs. [See, Section 323D-44, HRS.]

This law makes explicit that:

". . . No person, public or private, nonprofit or for profit, shall:

- (1) Construct, expand, alter, convert, develop, initiate, or modify a health care facility or health care services in the State that requires a total capital expenditure in excess of the expenditure minimum;*
- (2) Substantially modify or increase the scope or type of health service rendered; or*
- (3) Increase, decrease, or change the class of usage of the bed complement of a health care facility or relocate beds from one physical facility or site to another;*

unless a certificate of need therefor has first been issued by the state agency."
[See, Section 323D-43, HRS.]

Testimony on House Bill No. 0224, House Draft 1
Friday, February 12, 2021; 2:00 p.m.
Page 3

The HPCA asserts that Chapter 323D, HRS, is sound public policy because it requires the State to evaluate the need for health care within an area based on the financial impact to residents and communities. We question, however, whether exempting psychiatric facilities, special treatment facilities, and chronic renal dialysis services from the certificate of need process will make it more difficult for investors and developers to consider entering into underserved areas.

Would an investor be willing to invest in a project if a competing facility could be established within the same geographical area at any time? Enacting these exemptions might actually hamper or prevent the expansion of services within underserved communities.

The HPCA is especially concerned on the impact this bill may have on certain rural communities that are already being serviced by health care providers. If totally unregulated expansion is allowed without consideration of the health care providers who are and have been servicing rural communities for generations, those providers could be forced out of the marketplace. And how will that affect the patients in those areas who have been accustomed to seeing their family provider for decades if the provider will not be around anymore? What would Grandma say if she can't see Dr. Blank anymore (who she has seen regularly for the past forty years?). Will Grandma trust a new provider?

While we are not opposed to this bill at this time, we are very concerned that the enactment of this measure will directly impact our member FQHCs, our employees, and our patients. For these reasons, we caution this Committee and urge their careful consideration of the policy implications that this bill will have.

Thank you for the opportunity to testify. Should you have any questions, please do not hesitate to contact Public Affairs and Policy Director Erik K. Abe at 536-8442, or eabe@hawaiipca.net.



HB224 HD1 Exempt Behavioral Health for Certificate of Need (CON)

COMMITTEE ON CONSUMER PROTECTION AND COMMERCE:

- Rep Aaron Johanson, Chair; Rep. Lisa Kitagawa, Vice Chair
- Friday, Feb. 12, 2021: 2:00 am: Videoconference

Hawaii Substance Abuse Coalition Comments HB224 HD1:

Offer Recommendations

GOOD MORNING 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 substance use disorder and co-occurring mental health disorder treatment and prevention agencies.

Most states are reforming CON (35 states) with new rules and guidelines. Those that did exempt created new rules. They legislated an approval processes that provided a limited function of oversight,

Those states that exempted CON for certain services experienced out of state providers coming in the state to provide substandard services for profit reasons

HSAC recommends that rules be streamlined to include only determining new services have accreditation to ensure best practices.

Validating that accreditation is in place is a simple administrative process that ensures accountability and a certain level of quality care. Discourage lower quality, non-performers who lower prices while lowering quality.

Like most states, let's have a simplified process that still gives some assurances that consumers are protected.

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



February 11, 2021

Representative Aaron Ling Johanson, Chair
House Committee on Consumer Protection and Commerce

**Hearing, Friday February 12, 2021
Testimony in Support of HB224 HD1**

Dear Representative Johanson and Members of the House Committee on Consumer Protection and Commerce,

Thank you for the opportunity to submit testimony in support of bill HB224 HD1 because it enables State Health Planning & Development Agency (SHPDA) to support itself and perform its statutory functions.

My name is Emelyn S. Kim and I have a consulting business, Elder Care 808 that provides counseling and assistance to caregivers of older adults. Also, I am the Chair of the Health Planning Council, West Oahu Subarea (WOSAC). As a volunteer, I believe citizen involvement in government is integral part of a healthy democracy. One of my duties and responsibilities is to assist in the review of the Certificate of Need (CON) applications from service providers and make recommendations as to whether these proposals meet the certificate of need criteria of the Department of Health (DOH).

I support this bill because it proposes that SHPDA use special funds for personnel expenditures and increases SHPDA's special funds by adding fees and fines for violations of the CON requirements. Also, SHPDA should be allowed to continue to administer the special fund since it is the agency that uses it.

Respectfully submitted,

A handwritten signature in cursive script that reads 'Emelyn S. Kim'.

Emelyn S. Kim, MS
Consultant
Elder Care 808
(808) 754-1599
emelyn@eldercare808.com



State of Hawaii House of Representatives
Committee on Consumer Protection & Commerce
Hearing Date: February 12, 2021

RE: Opposition to HB 224 regarding the State Health Planning and Development Agency

Chair Johanson, Vice Chair Kitagawa, and Members of the Committee:

Liberty Dialysis-Hawaii/ Fresenius Medical Care North America (Liberty) works tenaciously every day to be a provider of sustainable, high-quality dialysis care at our 24 clinics that care for over 2,500 patients and their families. Liberty has historically provided substantial care and services to all persons in need of dialysis services, regardless of income, racial or ethnic background, gender, handicap, age or any other grouping/category or basis for being an underserved person.

Liberty has been a long-time good corporate partner with the State of Hawaii. We have successfully utilized Certificate of Need (CON) to grow and maintain a footprint in the State and we have serious concerns about the negative impact that the elimination of CON will have on our current facilities and patients. Liberty Dialysis-Hawaii has invested many resources in the State to ensure all dialysis patients have the same access to care. **If CON is removed there is a risk that operationally some clinics, particularly those in remote areas, will no longer be able to survive.**

Liberty Dialysis-Hawaii respectfully requests you **OPPOSE HB 224** in order to maintain CON in Hawaii for chronic renal dialysis services.

Thank you for the opportunity to submit testimony. Should you have questions please contact Maria Garcia, Sr. Director of State Government Affairs, Fresenius Medical Care North America Government affairs, maria.c.garcia@fmc-na.com ; (707)246-2773.

HB-224-HD-1

Submitted on: 2/11/2021 10:04:39 AM

Testimony for CPC on 2/12/2021 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Romala Radcliffe	Individual	Support	No

Comments:

Please support this effort to maintain an important health planning agency.

HB-224-HD-1

Submitted on: 2/12/2021 3:24:15 PM

Testimony for CPC on 2/12/2021 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Pliny Arenas	Individual	Oppose	No

Comments:

State of Hawaii House of Representatives

Committee on Consumer Protection and Commerce

HB224 HD1

Relating to the State Health Planning and Development Agency TESTIMONY IN OPPOSITION with Proposed Amendment for Consideration

TESTIFIER: Pliny Arenas – U.S. Renal Care DATE: Friday, February 12, 2021

TIME: 2:00 PM

PLACE: Room 329

Good afternoon Chair Johanson, Vice-Chair Kitagawa and members of the Committee on Consumer Protection and Commerce:

My name is Pliny Arenas and I am the Vice-President of Operations for U.S. Renal Care. Thank you for allowing me to provide testimony IN OPPOSITION of HB224 related to the State Health Planning and Development Agency (SHPDA) addressing the exemption from Certificate of Need (CON) Requirements of Chronic Renal Dialysis Services as defined in section 11-186-3, Hawaii administrative rules.

Let me begin by stating that we are pro-development in accordance to meeting the healthcare needs of our State. However, by exempting CON requirements for dialysis facilities, you endanger the very survival and sustainability of existing clinics that have

spent hundreds of millions of dollars to build current capacity and infrastructure to care for more than 4,000 patients in need of this life-sustaining treatment.

While we acknowledge that there is a critical shortage of stations, the answer is not in the elimination of the program but rather the expedition of the process. **We propose that this legislation be amended to support a “pilot program” to allow for expediting CON applications for Chronic Renal Dialysis Services by charging additional fees that are percentage-based and associated with the cost of the proposed development. These fees can then be used to support SHPDA operations in order to sustain the CON process during this budget restrictive environment.**

We have always contended that the CON process is the key for patient access and quality of care. The reason I mention this, is because of the consequential impact of this issue. If we are not able to provide high quality of care to our patients, they may end up in one of our hospitals. If that happens, then these patients have an average length of stay anywhere from 3-7 days. Each day a dialysis patient is in the hospital, not only is a bed occupied, but the hospital sustains a loss because of reimbursement issues.

So, this issue not just impacts our clinics on the front-end but also the hospital systems as well.

In closing, I reiterate our position, that we support development to address the growing healthcare needs of our communities and empathize with the state’s budget shortfall caused by the COVID-19 pandemic. However, we strongly feel that our proposed amendment to provide for additional percentage-based fees to expedite the current CON application process addresses this. This course of action puts forth another key funding element for SHPDA in consideration of new developments, which as a matter of course, will meet the community’s needs regarding access to and quality of care.

Secondly, we support the CON process as it is a needed function to ensure a system is in place to manage Hawaii’s overall healthcare system and the impact development, or lack thereof, affects our communities.

The net result, of which, is to ensure a sustainable and robust healthcare network in our state for years to come. Thank you again for allowing me to share our perspective on this issue.

A handwritten signature in black ink, appearing to read "Pliny Arenas". The signature is fluid and cursive, written in a professional style.

Pliny Arenas

