



STATE HEALTH PLANNING AND DEVELOPMENT AGENCY

DAVID Y. IGE
GOVERNOR OF HAWAII

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DIRECTOR OF HEALTH

SERAFIN COLMENARES, JR., Ph.D., M.P.H.
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Senate Committee on Ways and Means

SB 1231 SD1, Relating to Statewide Health Planning

Testimony of Serafin Colmenares, Jr. SHPDA Administrator

Friday, February 26, 2021
9:30 a.m., Videoconference

1 **Agency's Position:** The State Health Planning and Development Agency (SHPDA) is
2 providing testimony in opposition to certain parts of this bill.

3

4 **Purpose and Justification:** Senate Bill 1231 SD1 amends the original bill by: (1) making
5 SHPDA's duties mandatory instead of optional; (2) making the Department of Health (DOH)
6 alternatively responsible for SHPDA's duties and responsibilities, which repeals after five
7 years; (3) adding a provision that removes SHPDA but leaving blank as to who will be
8 administering the state health planning and development special fund; and (4) adding a
9 provision that requires moneys in excess of \$2,000,000 remaining in the state health planning
10 and development special fund at the close of each fiscal year to lapse into the general fund.

11 While we appreciate the amendment reverting SHPDA's duties from optional to
12 mandatory, we oppose the idea of transferring SHPDA's functions directly under the DOH.

13 SHPDA was established by law as an independent regulatory body within the DOH. Its
14 purpose is to promote accessibility for all the people of the State of Hawaii to quality health
15 care services at reasonable cost. It supports the most economical and efficient use of the
16 health care system and resources through coordinated community planning of new health care

1 services and facilities. As an independent body, it exercises regulatory authority by
2 requiring/approving CON applications for the establishment and expansion of hospitals and
3 other health facilities and the purchase of major medical equipment. Its regulatory authority
4 extends to all hospitals (except federal), including state and other hospitals or health facilities
5 under the purview of, or are under contract with, the DOH.

6 As a regulatory body, SHPDA has to maintain its independence and should not be
7 placed within the DOH. The DOH is a service provider and has under it, the State Hospital
8 and other hospitals and facilities that are under the purview of, or are under contract with, the
9 DOH, including hospitals with the Hawaii Health Systems Corporation (HHSC). Placing
10 SHPDA as a program within DOH would thus result in a conflict of interest – as a provider of
11 health care services, DOH cannot, at the same time, be the decision maker; it should not
12 regulate itself.

13 To allow the CON program to be within the DOH would jeopardize every CON
14 application where HHSC, for example, had a financial interest in the outcome of the decision.
15 Specifically, this conflict of interest would arise if any HHSC hospital opposed a CON
16 application submitted by a competitor or if HHSC was the CON applicant and the application
17 was opposed by a competitor. Not only would this lead to a multitude of legal actions, but it
18 would also be of concern from the public health perspective. The legal actions would prevent
19 HHSC safety net hospitals from proceeding with crucially important projects or prevent the
20 purchase of needed medical equipment while the conflict of interest lawsuit made its way
21 through the court system. The annexation of the CON program within DOH would also create
22 the same conflict of interest situation in any application involving the Hawaii State Hospital or
23 in any application where the DOH was contracting with a third-party health care provider.

1 SHPDA must continue to be an independent agency to prevent conflict of interest legal
2 actions in the CON process.

3 With regard to the administration of the state health planning and development special
4 fund, we believe that SHPDA should be the administrator of the fund since it is the agency that
5 will spend the money. The statute itself (HRS 323D-12.6 (b)) states that “moneys in the
6 special fund shall be expended by the state health planning and development agency to assist
7 in offsetting program expenses of the agency.” We, therefore, recommend that the bill be
8 amended to put back the original wording in 323D-12.6 (a), “to be administered by the state
9 health planning and development agency”.

10 Thank you for this opportunity to testify.

Friday, February 26, 2021 at 9:30 AM
Via Video Conference

Senate Committee on Ways and Means

To: Senator Donovan Dela Cruz, Chair
Senator Gilbert Keith-Agaran, Vice Chair

From: Ray Vara
President & CEO

Re: **Comments on SB 1231, SD1
Relating to Statewide Health Planning**

My name is Ray Vara and I am the President and CEO of 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.

HPH provides comments on SB 1231, SD1 which proposes to authorize either the State Health Planning Development Agency (SHPDA) or the Department of Health (DOH) to deploy statewide health planning and resource development programs and resources. The measure also provides that any money in the SHPDA special fund in excess of \$2,000,000 shall lapse into the general fund.

HPH appreciates the amendments to the measure made by the Committee on Health in ensuring that SHPDA's duties remain mandatory. However, we are concerned that authorizing the DOH to act as an alternate agency to SHPDA creates a conflict of interest with the executive branch. As a semi-autonomous agency that is attached to DOH for administrative purposes only, SHPDA is able to exercise independent decision making authority in fulfilling its statutory mandate of promoting accessibility to quality health care services for all residents of Hawai'i.

Chapter 323D, Hawaii Revised Statutes (HRS), the Health Planning and Resources Development and Health Care Cost Control Law, was enacted to establish SHPDA to promote accessibility for all the people of the State to quality health care services at reasonable costs. SHPDA was specifically tasked with the duty of "administering the state health planning and cost containment activities as required by law", which includes the certificate of need program.

HRS Section 323D-11 plainly states the relationship between SHPDA and DOH is for “administrative purposes only”. Thus, at the time it was created, the legislature intended that SHPDA remain independent of the DOH, maintaining a separation of interests to avoid any potential conflict with the executive branch and the health care provider marketplace. Currently SHPDA’s status as an attached entity to the DOH ensures relative independence in its program to promote statewide health planning according to objective principles and guided by community input.

Allowing the DOH to act as an alternate agency in carrying out the functions of HRS 323D would potentially introduce the risk of politicization of the certificate of need process with the function reporting directly to a Department under the Executive Branch.

Thank you for the opportunity to testify.



February 26, 2021 at 9:30 am
Via Videoconference

Senate Committee on Ways and Means

To: Chair Donovan M. Dela Cruz
Vice Chair Gilbert S.C. Keith-Agaran

From: Paige Heckathorn Choy
Director of Government Affairs
Healthcare Association of Hawaii

Re: **Submitting Comments**
SB 1231 SD 1, Relating to Statewide Health Planning

The Healthcare Association of Hawaii (HAH), established in 1939, serves as the leading voice of healthcare on behalf of 170 member organizations who represent almost every aspect of the healthcare continuum in Hawaii. Members include acute care hospitals, skilled nursing facilities, home health agencies, hospices, assisted living facilities, and durable medical equipment suppliers. In addition to providing access to appropriate, affordable, high-quality care to all of Hawaii's residents, our members contribute significantly to Hawaii's economy by employing over 20,000 people statewide.

Thank you for the opportunity to provide **comments** on this measure. Many of our members have expressed that the State Health Planning and Development Agency (SHPDA) has served as an efficient, effective administrator of the certificate of need (CON) program due to their relative independence as an attached agency. Many members feel this feature allows the agency to adequately seek and take into consideration broad community input. These members are concerned that this measure would compromise the agency's continued independence in providing judgments as needed to carry out these essential functions. We would note that there are also concerns among some members that moving the CON process into a different agency could compromise the program's mission of protecting patients. Many members believe that the CON is an important consumer protection tool the state possesses to ensure that any healthcare provider seeking to open in the state are not "bad actors."

Thank you for the opportunity to provide comments on this measure.

SB-1231-SD-1

Submitted on: 2/24/2021 1:37:32 PM

Testimony for WAM on 2/26/2021 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Karen Holt	Individual	Oppose	No

Comments:

This testimony is in opposition to provisions in this SB1231 SD1 I that would dismantle portions of the existing law that establishes the Statewide Health Planning and Development Agency (SHPDA) as an independent regulatory body. I serve as a volunteer on the Statewide Health Coordinating Council, as well as the Maui County Subarea Advisory Council. Independent, unbiased oversight is critical to maintaining the efficiency and effectiveness of health care systems in Hawai'i. According to a 2020 analysis by DBEDT, the health care and social services industry makes up \$6.6 billion or 6.8% of the state's GDP. It is the fourth largest industry in the state. http://files.hawaii.gov/dbedt/economic/reports/GDP_Report_Final.pdf

The Department of Health is a large agency with many responsibilities. Given the importance of health care both to individual citizens and to the overall economy, SHPDA's regulatory role is critical and it should be segregated from the Department's other administrative and client service duties.

Thank you for considering this testimony.

Karen Holt



Elder Care 808
(808) 754-1599
emelyn@eldercare808.com

February 25, 2021

**Senate Committee on Ways and Means
Hearing, Friday February 26, 2021
Testimony in Opposition to SB 1231 SD1**

Dear Members of the Senate Committee on Ways and Means,

Thank you for the opportunity to submit testimony in opposition to SB 1231 SD1 because this bill will change how the State Health Planning & Development Agency (SHPDA) is to perform its statutory functions as an independent regulatory agency of the Department of Health (DOH).

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 DOH.

I oppose this bill because it proposes that SHPDA be placed directly under the DOH causing a conflict of interest. DOH is a service provider because it regulates the State Hospital and other medical facilities. Therefore, this bill would jeopardize the independent regulatory nature of requiring or approving CON applications to establish or expand hospitals or other health facilities. DOH should not be allowed to regulate itself.

Respectfully submitted,

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

Emelyn S. Kim, MS
Consultant

LATE

SB-1231-SD-1

Submitted on: 2/25/2021 1:50:14 PM

Testimony for WAM on 2/26/2021 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Orianna Skomoroch	Individual	Oppose	No

Comments:

My testimony is in **opposition** to major provisions of Senate Bill 1231 SD1, which focuses on the dismantling of the Statewide Health Planning and Development Agency (SHPDA) as an Independent Regulatory Agency. As a volunteer serving as current chair of the Statewide Health Coordinating Council during my second term on this Council and a current member of Kauai County Subarea Advisory Council (with several terms since 1990) in addition to being a retired Hospital CEO , who applied for CON's and have experienced the various aspects of SHPDA , I strongly oppose transferring SHPDA's functions directly under the Department of Health.

SHPDA needs to maintain its Independence as a regulatory agency that works with and in coordination with all Island communities, healthcare providers, and health organizations for the promotion of accessibility to quality healthcare at reasonable cost and must consistently be free of perceived or real Conflict of Interest, especially as it relates to the CON application. I therefore oppose any allocation of structure or function of SHPDA to the DOH.

Respectfully ,

Orianna Skomoroch