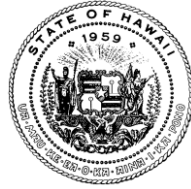


JOSH B. GREEN, M.D.
GOVERNOR OF HAWAII
KE KIA'ĀINA O KA
MOKU'ĀINA 'O HAWAI'I



RICHARD RIES, Psy.D., M.Ed.
COUNCIL CHAIRPERSON
LUNA HO'OMALU O KA PAPA

STATE OF HAWAI'I
DEPARTMENT OF HEALTH
KA 'OIHANA OLAKINO
STATE COUNCIL ON MENTAL HEALTH
P.O. Box 3378, Room 256
HONOLULU, HAWAII 96801-3378

STATE COUNCIL ON MENTAL HEALTH
Testimony to the Senate Committee on Judiciary
In SUPPORT of S.B. 880
RELATING TO MENTAL HEALTH

Thursday, March 2, 2023 9:45 a.m.

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1st VICE CHAIRPERSON

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Mary Pat Waterhouse

Kristin Will, MACL, CSAC

EX-OFFICIO:

Marian Tsuji, Deputy Director
Behavioral Health Administration

WEBSITE:

scmh.hawaii.gov

EMAIL ADDRESS:

doh.scmhchairperson@
doh.hawaii.gov

WRITTEN TESTIMONY ONLY

Chair Rhoads, Vice-Chair Gabbard and Members of the Committee:

Hawaii law, HRS §334-10, established the State Council on Mental Health (SCMH) as a 21-member body to advise on the allocation of resources, statewide needs, and programs affecting more than one county as well as to advocate for adults with serious mental illness, children with serious emotional disturbances, individuals with mental illness or emotional problems, including those with co-occurring substance abuse disorders. Members are residents from diverse backgrounds representing mental health service providers and recipients, students and youth, parents, and family members. Members include representatives of state agencies on mental health, criminal justice, housing, Medicaid, social services, vocational rehabilitation, and education. Members include representatives from the Hawaii advisory commission on drug abuse and controlled substances and county service area boards on mental health and substance abuse.

The majority of SCMH members support the intent of this measure and share the following comments:

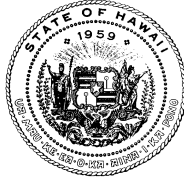
- Providers and family members of individuals with serious mental illness have approached the SCMH with concerns about being unable to secure emergency stabilizations for their loved ones.
- Failure to hospitalize individuals presented for emergency mental health examination due to the currently narrowly defined “imminently dangerous to others” often results in further deterioration of the patient’s mental health and increased risk to the individual or the community.
- The term “gravely disabled” needs to be more clearly defined.
- Extending “imminently dangerous to others” from likely to be dangerous within the next 45 days to likely to be dangerous within the next 90 days will help to protect the community.

State Council on Mental Health Testimony
S.B. 880
Relating to Mental Health
JDC March 2, 2023 9:45 a.m.
Page 2

Thank you for the opportunity to testify. Should you have any questions, please contact us at DOH.SCMHChairperson@doh.hawaii.gov.

VISION: A Hawaii where people of all ages with mental health challenges can enjoy recovery in the community of their choice.

MISSION: To advocate for a Hawaii where all persons affected by mental illness can access necessary treatment and support to live full lives in the community of their choice.



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

**Testimony COMMENTING on S.B. 880
RELATING TO MENTAL HEALTH**

SENATOR KARL RHOADS, CHAIR
SENATE COMMITTEE ON JUDICIARY

Hearing Date, Time and Room Number: Thursday, March 2, 2023 at 9:45 a.m., in Rm. 016/VIDEO

1 **Fiscal Implications:** Undetermined. The Department of Health (“Department”) requests that
2 this measure be considered as a vehicle to provide this needed funding so long as it does not
3 supplant the priorities and requests outlined in the Governors executive budget request.

4 **Department Position:** The Department appreciates the intent of this measure and offers
5 comments.

6 **Department Testimony:** The Adult Mental Health Division (AMHD) provides the following
7 testimony on behalf of the Department.

8 The purpose of this measure is to amend the definitions of the following terms:
9 “dangerous to self”; “gravely disabled”; and “psychiatric deterioration.” This measure seeks to
10 broaden the term of “imminently dangerous to self or others” and increase the maximum
11 period of emergency hospitalization from 48 hours to 72 hours.

12 The Department supports efforts to enhance practices and policies to ensure that
13 individuals experiencing behavioral health conditions receive necessary services when in crisis
14 and requiring treatment over their objection. This support includes the ability to intervene
15 prior to a person actually harming themselves or someone else. An extension of the period of
16 emergency hospitalization from 48 to 72 hours would provide additional time for clinical

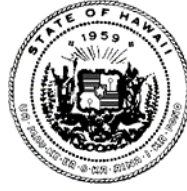
1 assessment, diagnosis and treatment to assist with crisis stabilization which may obviate the
2 need to file a petition for a civil commitment. Definitions of “danger to self and others” and
3 “imminent risk” are foundational to criteria that are utilized in procedures to authorize
4 treatment including involuntary transport for examination, administration of medication over
5 objection, assisted community treatment, and civil commitment. This clinical -legal intersection
6 is a complex area and warrants careful consideration to achieve the balance between the need
7 for involuntary treatment and the right to self-determination. We look forward to participating
8 in conversations that this measure stimulates as we all strive to seek this balance.

9 The Department strongly supports our role in the development and implementation of
10 educational and training activities that will result in more effective implementation of policies
11 related to involuntary treatment. We are committed to supporting affected stakeholders with
12 technical assistance and trainings and believe this is necessary to lead to the desired outcomes
13 this measure seeks to achieve. Please see H.B. 885, H.D. 1 and S.B. 987, S. D. 1 for support of
14 these activities.

15 **Offered Amendments:** None.

16 Thank you for the opportunity to testify on this measure.

JOSH GREEN, M.D.
GOVERNOR
KE KIA'ĀINA



CATHY BETTS
DIRECTOR
KA LUNA HO'OKELE

JOSEPH CAMPOS II
DEPUTY DIRECTOR
KA HOPE LUNA HO'OKELE

STATE OF HAWAII
KA MOKU'ĀINA O HAWAI'I
DEPARTMENT OF HUMAN SERVICES
KA 'OIHANA MĀLAMA LAWELAWE KANAKA
Office of the Director
P. O. Box 339
Honolulu, Hawaii 96809-0339

March 1, 2023

TO: The Honorable Senator Karl Rhoads, Chair
Senate Committee on Judiciary

FROM: Cathy Betts, Director

SUBJECT: **SB 880 – RELATING TO MENTAL HEALTH.**

Hearing: March 2, 2023, 9:45 a.m.
Conference Room 016 & Via Videoconference, State Capitol

DEPARTMENT'S POSITION: The Department of Human Services (DHS) appreciates the measure's intent, provides comments, and defers to the Department of Health.

PURPOSE: This bill amends the definition of "dangerous to self" as used in 334-1 Hawaii Revised Statutes (HRS) governing mental health, mental illness, drug addiction, and alcoholism. Defines the terms "gravely disabled" and "psychiatric deterioration." Broadens the term of "imminently dangerous to self and others" to persons who will likely be dangerous to self or to others within the next ninety days rather than within the next forty-five days. Increases the maximum period of emergency hospitalization from forty-eight hours to seventy-two hours.

DHS appreciates the Legislature's attention to providing more mental health resources in our State, including measures that address increasing the health care workforce and the needs of individuals experiencing homelessness and requiring emergency services to address behavioral health issues, alcohol and substance use disorders, and addiction.

While DHS understands the intent to broaden definitions to more individuals to be served, DHS comments that expanding definitions, extending the time frame of the imminence

of harm from forty-five to ninety days, and extending the number of hours for an emergency hospitalization from 48 hours to 72 hours will not increase the community's capacity to provide the needed stabilization services or the primary health care or prevention services individuals need to avoid involuntary hospitalization.

In January 2020, the Department of Health submitted its [Report to the Legislature Regarding Act 90 \(SLH 2019\)/ H.B. 1013 Relating to Involuntary Hospitalization and Act 263 \(SLH 2019\)/ S.B. 1494 Relating to Health Involuntary Hospitalization Work Group](#). Published before the pandemic, the Report discusses the complexity and capacity issues that Hawaii's emergency rooms and hospitals face to address individuals' psychiatric and substance abuse needs. The Report made several recommendations. The first recommendation relates to statewide "telepsych" options for evaluation and treatment post-pandemic. It is much more plausible as access to health care through telehealth is now more widely accepted by residents and the provider community. We recommend that the Legislature reexamine the Report's recommendations before revising current laws that broaden the population to be served and lengthens the duration of intervention without any corresponding increase in community capacity to provide the desired services.

The pandemic has significantly impacted the health care and behavioral health workforce, and the shortage hinders the ability of communities to provide care as demands for services significantly increased. DHS supports SB397 and HB1367, similar to administration measures to increase Medicaid reimbursement rates for health care professionals to sustain providers and potentially attract additional health care professionals. There are also telehealth measures to standardize definitions and acceptance of telehealth services that increase access to primary and specialist services. The Consolidation Appropriation Act also included provisions to increase the health care workforce.

DHS welcomes opportunities for collaboration and continuation of trauma-informed care approaches to serve those needing an array of behavioral health services.

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

SB-880

Submitted on: 2/24/2023 8:07:09 PM

Testimony for JDC on 3/2/2023 9:45:00 AM

Submitted By	Organization	Testifier Position	Testify
Louis Erteschik	Testifying for Hawaii Disability Rights Center	Comments	Remotely Via Zoom

Comments:

While we are not totally opposed to expanding the definition of “imminently dangerous” to encompass a “90 day look ahead”, we question what it will accomplish. The current law of 45 days was a compromise the legislature reached a few years ago and the provision does not seem to have been an issue since then. The term “imminently dangerous” traditionally meant what the term implies-something that will occur relatively soon. When the current law was amended, the Attorney General at that time was advocating for a 90 day window. We suggested at that time that perhaps a 30 day timeline might be appropriate. The legislature compromised on 45. This is a policy decision and if the legislature believes that the additional time will bring more people into treatment then perhaps that is sufficiently beneficial to amend the law. Will the 90 day window really provide a better outlook for an examiner? We are not convinced that is so, but we don’t discount that possibility. On the other hand, there are stakeholders who will likely oppose the changes more strenuously than we do, and if this provision were ever to be tested in the courts, as a matter of constitutional law we continue to believe that a longer time window may be harder to justify.

Similarly, we can see some logistical value in expanding the hold on emergency hospitalizations from 48 to 72 hours .As a practical matter, there has been some confusion as to “when does the clock start” when individuals are brought to an emergency room. There have been questions like “ if they are on a gurney in a hallway does that count?” So, to that extent that this amendment may allow for some flexibility and a more thorough examination, it may be reasonable.

We have never been convinced that adding a definition of “gravely disabled” to the law would accomplish or change anything. The current definition of “imminently dangerous” is so broad and virtually identical to any definition of “gravely disabled” that has ever been proposed in past legislative sessions that the general consensus had been that it was unnecessary. That still seems to be true. The only difference we can see in the current bill is the addition to “gravely disabled” of a definition of “psychiatric deterioration” which frankly seems so overbroad that it could have broad unintended consequences and encompass many individuals who nobody seriously thought were the people the bill was intended to reach.

SB-880

Submitted on: 2/26/2023 1:26:09 PM

Testimony for JDC on 3/2/2023 9:45:00 AM

Submitted By	Organization	Testifier Position	Testify
Marilyn Yamamoto	Testifying for Hawaii Coalition for Child Protective Reform	Oppose	Written Testimony Only

Comments:

Committee members,

Committee members,

The definition of Imminent Harm to a child within 90 days has allowed social services and the police to remove children from their parents in violation of constitutional rights since 1983 when that definition was put into the child protective statute HRS587A-4.

Lines 12-15 define Imminently dangerous to self or others. The Webster's and Black's Law dictionaries define IMMINENT as "happening right now", not some time in the future. Neither a social worker nor mental health professional is expected to predict harm or danger within 45 or 90 days. The definition should be changed to avoid the unlawful or needless intervention of persons with mental health issues.

Marilyn Yamamoto



THE QUEEN'S HEALTH SYSTEM

To: The Honorable Karl Rhoads, Chair
The Honorable Mike Gabbard, Vice Chair
Members, Senate Committee on Judiciary

From: Sondra Leiggi-Brandon, Vice-President - Patient-Care and Behavioral Health, The Queen's Health System

Jacce Mikulanec, Director, Government Relations, The Queen's Health System

Date: March 2, 2023

Re: Testimony on SB 880: Relating to Mental Health

The Queen's Health System (Queen's) is a nonprofit corporation that provides expanded health care capabilities to the people of Hawai'i and the Pacific Basin. Since the founding of the first Queen's hospital in 1859 by Queen Emma and King Kamehameha IV, it has been our mission to provide quality health care services in perpetuity for Native Hawaiians and all of the people of Hawai'i. Over the years, the organization has grown to four hospitals, and more than 10,000 affiliated physicians, caregivers, and dedicated medical staff statewide. As the preeminent health care system in Hawai'i, Queen's strives to provide superior patient care that is constantly advancing through education and research.

Queen's appreciates the opportunity express our concerns with SB 880, relating to mental health. This measure, if passed, would amend the definition of "dangerous to self" as used in State law governing mental health, mental illness, drug addiction, and alcoholism, broaden the term of "imminently dangerous to self and others" to persons who will likely be dangerous to self or to others within the next ninety days, rather than within the next forty-five days and increase the maximum period of emergency hospitalization from forty-eight hours to seventy-two hours.

We understand the intent of this measure to address serious challenges facing the treatment of those in our community suffering from serious mental illness, however, this measure does not take into account the impact this will have on acute care facilities like Queen's Medical Center - Punchbowl (QMC-PB) which administers to the largest proportion of MH1 and other high acuity mental health patients. MH-1 is a designation given to individuals transported to hospitals by law enforcement who have reason to believe that the person is imminently dangerous to self or others. QMC-PB, in particular, has experienced a disproportionate increase in the numbers of MH-1s brought to our facility over the years.

Extending emergency hospitalization and adding new definitions is a proximate perceived solution to broader challenges facing our state which are the need for adequate community treatment facilities and a trained workforce to safely and effectively administer to those in need. Bringing more community treatment facilities online, expediting the opening and operation of the state hospital,

The mission of The Queen's Health System is to fulfill the intent of Queen Emma and King Kamehameha IV to provide in perpetuity quality health care services to improve the well-being of Native Hawaiians and all of the people of Hawai'i.

and incentivizing the creation of additional treatment facilities that can better address the health of this population without further burdening existing acute care facilities.

Queen's has been, and continues to be, an active and engaged partner in addressing continuum of care issues facing those with mental health challenges. Should the Committee decide to pass this measure, we would request that additional resources be allocated to providers of acute care psychiatric services.

SB-880

Submitted on: 2/25/2023 8:24:25 AM

Testimony for JDC on 3/2/2023 9:45:00 AM

Submitted By	Organization	Testifier Position	Testify
Marion Poirier, M.A.,R.N.	Individual	Support	Written Testimony Only

Comments:

Aloha Chair Rhodes and Members of the Committee on Judiciary:

My name is Marion Poirier, and I SUPPORT SB 880. The reason is that it is not draconian, but provides more availability of mental health services with earlier access. Health care delayed is health care denied. Our current laws are encouraging a revolving door. Mental health care needs sufficient time for a person to ascertain that newer treatments will be beneficial.

I have had extensive experience in psychiatric-mental health nursing here and on the mainland, and those experiences make me SUPPORT this measure. If there are committee reservations, then provide a pilot program to test the waters.

Thank you for your attention to this important matter.

Marion Poirier, R.N.

TO: Senator Karl Rhoads, Chair
Senator Mike Gabbard, Vice Chair
Senate Judiciary Committee Members

FROM: Dara Carlin, M.A.
Domestic Violence Survivor Advocate

DATE: March 2, 2023

RE: Comments on SB880

Good Morning Chair Rhoads, Vice Chair Gabbard and Senate Judiciary Committee Members,

I am very concerned about SB880's attempt to broaden "the term of '**imminently dangerous** to self and others' to persons who will likely be dangerous to self or to others within the next ninety days, rather than within the next forty-five days" since other introduced legislation this session (SB407) is seeking to define the words "imminent" and "immediate" within the context of harm not congruent with how these words are defined in the dictionary.

Imminent (*adjective*)

1. About to occur; impending.
2. Threatening to occur immediately; near at hand; impending; -- said especially of misfortune or peril.
3. Full of danger; threatening; menacing; perilous.

Immediate (*adjective*)

1. Occurring at once; happening without delay.
2. Of or near the present time.
3. Of or relating to the present time and place; current.

(Both definitions cited from the American Heritage® Dictionary of the English Language, 5th Edition.)

I think we're moving into dangerous territory when the word "imminent" means two separate things depending upon the population and circumstances its being applied to. There should be consistency in definitions and terms across the board so that no one can claim confusion when a life is at-stake and service providers are wrestling with, "Does 'imminent danger' mean *now* or do we have 45 – 90 days to decide?" or when the case ultimately ends up in a courtroom and harm has occurred after the fact.

Respectfully,

Dara Carlin, M.A.

Domestic Violence Survivor Advocate

Testimony of Ellen Godbey Carson in Support of SB880, With a Request for Amendment

I write as an individual, having served as President of Institute for Human Services, Hale Kipa (Youth Services), the Hawaii State Bar Association, and Hawaii Women Lawyers. I've spent many years helping Hawaii find better ways to protect our vulnerable residents, persons living with disabilities, and homeless individuals living on our streets.

I write in strong support of SB 880. Over 100 of our homeless residents are dying on our streets each year, at an average age of only 54. [Deaths of homeless people continue to climb on Oahu | Honolulu Star-Advertiser](#) In other words, they lose 25-30 years of their expected lifespan due to the very real dangers of living on the street. This bill addresses those most at risk of dying on our streets, people who have severe mental illness or substance abuse and are at imminent risk of being yet in this horrible saga of our failure to find effective ways to provide help to those who are severely disabled.

Bill 880 can help these individuals by allowing earlier intervention at a critical time when they are facing grave danger and probable demise, due to their severe disabilities.

This bill makes a big improvement by broadening the term of "imminently dangerous to self and others" to persons who will likely be dangerous within the next ninety days, rather than within the next forty-five days. The current limit of 45 days is shorter than many judicial processes (Assisted Community Treatment, guardianships, etc) can accommodate to provide effective intervention, leading to needless deterioration and deaths. Increasing the maximum period of emergency hospitalization from forty-eight hours to seventy-two hours also allows a more reasonable time for assessment, medical intervention and stabilization, to allow more effective assessment and treatment options.

I request an amendment to the definition of "Gravely disabled" in section 334-1, so as to include the risk of "psychiatric debilitation." The definition of "Gravely disabled" in its initial terms already recognizes the harm of psychiatric deterioration, but then in the required showing (inadvertently?) requires a showing of substantial bodily injury or serious physician debilitation, with no reference to psychiatric debilitation. The requested amendment would read:

"Gravely disabled" means a condition in which a person is unable, without supervision and the assistance of others, to prevent physical or psychiatric deterioration or to satisfy the need for nourishment, essential medical care including treatment for a mental illness, shelter, or self-protection, so that it is probable that death, substantial bodily injury, or serious physical or psychiatric debilitation or disease will result unless adequate treatment is afforded.

Thank you for your consideration of my testimony

Ellen Carson
Honolulu, Hawaii
February 27, 2023

SB-880

Submitted on: 3/1/2023 10:00:07 AM

Testimony for JDC on 3/2/2023 9:45:00 AM

Submitted By	Organization	Testifier Position	Testify
Roxana Rosala	Individual	Support	Written Testimony Only

Comments:

Hello,

I support SB880. I believe more needs to be done to help the homeless, mentally ill, and drug-addicted. If this bill helps them stand trial instead of being released back on the streets, while still posing a danger to their own safety, as well as others, it should be passed.

Emergency hospitalization is something that everyone should have a right to, and if we are already doing it, it should be done correctly, making SURE that anyone released back on the streets is fit to fend for themselves. We are here to help the people, who have gotten to a point where they unfortunately can't help themselves as much as they'd like, so we should do everything in our power, to set them up for success.

Thank you.

SB-880

Submitted on: 3/1/2023 10:36:46 AM

Testimony for JDC on 3/2/2023 9:45:00 AM

Submitted By	Organization	Testifier Position	Testify
Stephen T Hazam	Individual	Support	Written Testimony Only

Comments:

Please SUPPORT SB880. Homelessness is a complex issue, with many causes and solutions. Among the causes are mental health issues. SB880 expands both definitions of "dangerous to self" and the period of maximum emergency hospitalization. Together these would expand the targeted populations and resource accessibility to help meet some of the root causes of homelessness. Please SUPPORT SB880

SB-880

Submitted on: 3/1/2023 7:59:32 PM

Testimony for JDC on 3/2/2023 9:45:00 AM

Submitted By	Organization	Testifier Position	Testify
Anthony Guerrero	Individual	Comments	Written Testimony Only

Comments:

To: The Honorable Karl Rhoads, Chair

The Honorable Mike Gabbard, Vice Chair

Members, Senate Committee on Judiciary

From: Anthony Guerrero, M.D.

Date: March 2, 2023

Re: Testimony on SB 880: Relating to Mental Health

I am a child and adult psychiatrist practicing in Honolulu. I work in both hospital and community settings. I also have the privilege of serving as the Clinical Program Chief of Psychiatry at The Queen's Medical Center. The Queen's Health System (Queen's) is a nonprofit corporation that provides expanded health care capabilities to the people of Hawai'i and the Pacific Basin. Since the founding of the first Queen's hospital in 1859 by Queen Emma and King Kamehameha IV, it has been Queens' mission to provide quality health care services in perpetuity for Native Hawaiians and all of the people of Hawai'i. Over the years, the organization has grown to four hospitals, and more than 10,000 affiliated physicians, caregivers, and dedicated medical staff statewide. As the preeminent health care system in Hawai'i, Queen's strives to provide superior patient care that is constantly advancing through education and research.

I appreciate the opportunity express concerns with SB 880, relating to mental health. This measure, if passed, would amend the definition of "dangerous to self" as used in State law governing mental health, mental illness, drug addiction, and alcoholism; broaden the term of

"imminently dangerous to self and others" to persons who will, based on clinical judgment, likely be dangerous to self or to others within the next ninety days, rather than within the next forty-five days; and increase the maximum period of emergency hospitalization from forty-eight hours to seventy-two hours.

I appreciate the intent of this measure to address serious challenges facing the treatment of those in our community suffering from serious mental illness. However, this measure does not address the impact on acute care facilities like Queen's Medical Center - Punchbowl (QMC-PB), which is one of only two licensed and accredited civilian acute inpatient adult psychiatric facilities on the island, and one of only two licensed and accredited acute inpatient child and adolescent psychiatric facilities for the entire state.

Extending emergency hospitalization and definitions is a proximate perceived solution to our state's broader challenges, which include the need for adequate community treatment facilities and a trained workforce to safely and effectively minister to those in need. However, there must be accompanying resources dedicated towards bringing more community treatment facilities online, optimizing the capacity of the state hospital, and incentivizing the creation of additional treatment facilities that can better address the health of this population. If this measure were to pass without these additional resources, existing acute psychiatric facilities may not have enough beds and may further lose their capacity to meet the community's need for acute care psychiatric services.

Queen's and its physicians have been, and continue to be, active and engaged partners in addressing continuum of care issues facing those with mental health challenges.

SB-880

Submitted on: 3/1/2023 8:49:25 PM

Testimony for JDC on 3/2/2023 9:45:00 AM

Submitted By	Organization	Testifier Position	Testify
james pirtle	Individual	Oppose	Written Testimony Only

Comments:

Bill violates the Constitutional rights of individuals.