



## DISABILITY AND COMMUNICATION ACCESS BOARD

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February 28, 2024

### TESTIMONY TO THE HOUSE COMMITTEE ON CONSUMER PROTECTION AND COMMERCE

#### House Bill 2800 HD1 – Relating to Mental Health

The Disability and Communication Access Board (DCAB) supports House Bill 2800 HD1 – Relating to Mental Health.

This bill requires that beginning on 7/1/2024, and occurring every ten years thereafter, the Department of the Attorney General to convene an Advisory Committee on Mental Health Code Review.

Federal and state court cases and constitutional, statutory, and rule changes necessitate periodic amendments to Hawaii Revised Statutes that relate to mental health and involuntary transport, examination, hospitalization, and treatment, including assisted community treatment. DCAB notes that the Department of Health (DOH) should have the ability to convene an immediate review before the ten year interval should DOH determine it is warranted.

Thank you for considering our position.

Respectfully submitted,

KIRBY L. SHAW  
Executive Director



**TESTIMONY OF  
THE DEPARTMENT OF THE ATTORNEY GENERAL  
KA 'OIHANA O KA LOIO KUHINA  
THIRTY-SECOND LEGISLATURE, 2024**

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**ON THE FOLLOWING MEASURE:**

H.B. NO. 2800, H.D. 1, RELATING TO MENTAL HEALTH.

**BEFORE THE:**

HOUSE COMMITTEE ON CONSUMER PROTECTION AND COMMERCE

**DATE:** Wednesday, February 28, 2024      **TIME:** 2:00 p.m.

**LOCATION:** State Capitol, Room 329 and Videoconference

**TESTIFIER(S):** Anne E. Lopez, Attorney General, or  
Jin Tae "JT" Kim, Deputy Attorney General

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Chair Nakashima and Members of the Committee:

The Department of the Attorney General (Department) respectfully opposes this bill and asks that it be held.

The purpose of this bill is to require the Department to convene an Advisory Committee on Mental Health Code Review ("Advisory Committee") every ten years.

The Department opposes this bill because it would create unnecessary administrative hurdles in proposing amendments to mental-health laws. The Department is committed to working with the Department of Health (DOH) over the next several years to fully revise and modernize chapter 334, HRS. The Department and DOH have agreed to meet during the summer of 2024 to identify a plan for how to undertake the review. Our initial idea is to work on separate provisions so that in each legislative session we can propose legislation. The Department would complete this work before each session and would provide the proposed legislation to the Legislature and stakeholders for their review. This would allow time for additional revisions before draft legislation is introduced.

The advisory committee proposed by the bill would hamper the Department's efforts. The bill mandates that the Department convene an Advisory Committee to review the mental health code with a minimum of thirteen (13) representatives from different departments from both the City and County of Honolulu and the State. Each Advisory Committee would be required to review all federal and state court cases, and

constitutional, statutory, and rule changes impacting the Hawaii Revised Statutes (HRS) that relate to mental health and involuntary transport, examination, hospitalization, and treatment, including assisted community treatment. Such a large committee would be difficult to coordinate and the substantive work that is involved would likely be burdensome to the Department. It would be more efficient if the Department could do its work without an Advisory Committee, task force, or working group.

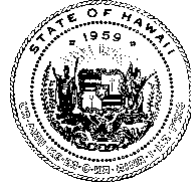
Further, an Advisory Committee that reviews the mental health code every ten years is not an effective way to address changes in federal and state law, case laws, and other rule changes that impact the HRS that relate to mental health. If changes in law occur immediately after an Advisory Committee has submitted its report to the Legislature, such changes should be addressed shortly after the change and not by the next Advisory Committee ten years later. Such a scenario may happen under the structure contemplated by the bill. The Department favors a more flexible approach to revising the mental health code.

The Advisory Committee meetings appear to be governed by the Sunshine Law, part I of chapter 92, HRS. The strict requirements thereunder would make it difficult for Advisory Committee members to get together and collaborate on mental health issues as they arise, and the bill's goal of trying to improve the mental health legal system would be difficult to achieve as it would not allow informal discussion to bring thoughts and ideas together as they arise.

Finally, section 6 of article V of the State Constitution requires all executive and administrative offices, departments and instrumentalities of the state government to be "allocated by law among and within not more than twenty principal departments." Because the Advisory Committee established by this bill is not expressly placed within a principal department of the State, it would be subject to challenge.

We respectfully request that you defer this bill.

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



KATHERINE AUMER, PhD  
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

**WRITTEN  
TESTIMONY  
ONLY**

**STATE COUNCIL ON MENTAL HEALTH  
Testimony to the House Committee on  
Consumer Protection and Commerce  
in Support of H.B. 2800 HD1  
RELATING TO MENTAL HEALTH**

**February 28, 2024, 2:00 p.m., CR329 and Videoconference**

**CHAIRPERSON**

Katherine Aumer, PhD

**1<sup>st</sup> VICE CHAIRPERSON**

Kathleen Merriam, LCSW CSAC

**2<sup>nd</sup> VICE CHAIRPERSON**

John Betlach

**SECRETARY**

Eileen Lau-James, DVM

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Jon Fujii, MBA

Heidi Ilyavi

Jackie Jackson, CFPS

Lea Dias, MEd

Jean Okudara, CSAC

Ray Rice, MEd

Mary Pat Waterhouse

Kristin Will, MACL, CSAC

Fern Yoshida

**IMMEDIATE PAST**

**CHAIRPERSON:**

Richard I. Ries PsyD, MSED

**EX-OFFICIO:**

Marian Tsuji, Deputy Director  
Behavioral Health Administration

**WEBSITE:**

scmh.hawaii.gov

**EMAIL ADDRESS:**

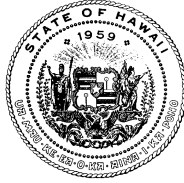
doh.scmhchairperson@  
doh.hawaii.gov

Chair Nakashima, Vice-Chair Sayama, 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 State Council on Mental Health members unanimously support HB2800 HD1. Regularly reviewing the state's mental health code is necessary to keep it up-to-date and consistent.

Thank you for the opportunity to testify. Should you have any questions, please contact us at [DOH.SCMHChairperson@doh.hawaii.gov](mailto:DOH.SCMHChairperson@doh.hawaii.gov).



**STATE OF HAWAII**  
**DEPARTMENT OF HEALTH**  
**KA 'OIHANA OLAKINO**  
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**Testimony in SUPPORT of HB2800 HD1**  
**RELATING TO MENTAL HEALTH**

REPRESENTATIVE MARK M. NAKASHIMA, CHAIR  
HOUSE COMMITTEE ON CONSUMER PROTECTION & COMMERCE

Wednesday, February 28, 2024, at 2:00 p.m., Room 329/Video

1 **Fiscal Implications:** There are no fiscal implications for this measure.

2 **Department Position:** The Department supports this measure.

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

5 The Department supports the intent of HB2800 HD1.

6 The Legislature rightly recognizes that the chapters relating to mental health have been  
7 amended in a piecemeal manner over the past several decades, leading to some lack of clarity  
8 and inconsistencies. Establishing a regular and systematic review, as proposed in this bill, is  
9 essential to maintaining the coherence and effectiveness of mental health laws.

10 The bill takes inspiration from the comprehensive reviews conducted every decade for  
11 the Hawaii Penal Code since its enactment in 1972. This reflects a commitment to best practices  
12 in legal governance and underscores the importance of periodic assessments for ensuring the  
13 relevance and efficacy of mental health laws.

14 The Department defers to the Department of the Attorney General to determine the process by  
15 which the Mental Health Code Review is conducted.



## THE QUEEN'S HEALTH SYSTEM

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To: The Honorable Mark M. Nakashima, Chair  
The Honorable Jackson D. Sayama, Vice Chair  
Members, House Committee on Consumer Protection & Commerce

From: Jace Mikulanec, Director, Government Relations, The Queen's Health System

Date: February 28, 2024

Re: Comments on HB2800 HD1: Relating to Mental Health

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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 to provide comments on HB2800 HD1, requiring the Department of the Attorney General to convene an advisory committee of on mental health code review every ten years. As the largest healthcare system in the state offering comprehensive adult and adolescent psychiatric care (both hospital and community-based programs and services) we appreciate and support the amendments made by the previous Committee to include a representative from the private acute care hospitals who offer psych/mental health services.

We urge your support of this measure and thank you for the opportunity to testify.

*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.*