

STATE OF HAWAII
DEPARTMENT OF HEALTH
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Testimony COMMENTING on SB2289
RELATING TO KALAUPAPA

SENATOR JOY SAN BUENAVENTURA, CHAIR
SENATOR HENRY AQUINO, VICE CHAIR
SENATE COMMITTEE ON HEALTH AND HUMAN SERVICES

Hearing: Wednesday, January 31, 2024; 1:00 PM; Conference Room 225

1 **Fiscal Implications:** None

2 **Department Position:** The Department of Health (“Department”) provides the following
3 comments on this measure.

4 **Department Testimony:** The Communicable Disease and Public Health Nursing Division
5 (CDPHND) provides the following testimony for SB2289 on behalf of the Department.

6 The Department supports the request to keep the Legislature updated regarding plans for the
7 future transfer of the Department’s existing statutory jurisdiction over Kalawao County (§326-
8 34). Work is ongoing to fully comprehend and prepare for the eventual transition of Kalawao
9 County when there are no longer patients residing in Kalaupapa. In addition to preparing for
10 the operational, legal and jurisdictional changes, the Department continues to work on
11 infrastructure repairs and environmental remediation. Part of this work includes a full
12 assessment of the scope and costs of projects such as an inventory of buildings and their repair
13 needs, the remediation of the legacy shoreline dump site, cesspool closure, and repair of the
14 Kalaupapa Care Home wastewater system. The Department estimates these assessments to
15 cost \$1.2M with subsequent funding needed to complete the remediation projects defined in
16 the assessments.

1 The Department has concerns about Section 2 (line 16/17) that implies that the “powers and
2 duties” of the Department of Health will be transferred to DHHL or the Federal Government. At
3 this time, the details regarding the transfer of DOH’s powers and duties, including the
4 jurisdiction of Kalawao County, have not been finalized. The Department suggests amending
5 the wording in SECTION 2 to say “After all of the powers and duties of the department of health
6 over Kalaupapa Settlement have been permanently transferred to **other government entities**,
7 the governor shall issue...”

8 The Department will continue to provide the Legislature with updates and details “regarding
9 the permanent transfer to other governmental entities of the powers and duties of the
10 department and any other state agency over Kalaupapa Settlement” in our annual report to
11 Legislature.

12 **Offered Amendments:** The Department suggests amending the wording in SECTION 2: “After
13 all of the powers and duties of the department of health over Kalaupapa Settlement have been
14 permanently transferred to **other government entities**, the governor shall issue...”

15

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

**DeGray Vanderbilt
175 Kealaloa Avenue
Makawao, Hawaii 96768**



January 31, 2024

Senator Joy A. San Buenaventura, Chair, Health and Human Services Committee

**SB2289 -- Relating to Kalaupapa
January 31, 2024, 1 p.m., Room 225**

My name is DeGray Vanderbilt. I am a member of Ka ‘Ohana O Kalaupapa Board of Directors but am testifying as an individual. Ka ‘Ohana O Kalaupapa formally organized non-profit and Native Hawaiian organization. The organization was conceived and fostered by patient residents of Kalaupapa.

My testimony provides comments on the wording of the new underscored statutory wording regarding the transition of Department of Health (DOH) property when there is no longer a patient community and DOH ceases to administer Kalaupapa.

Aloha Chair San Buenaventura and members of the Senate Health and Human Services Committee

My comments are directed at the the following new statutory wording :

“(10) details and updated information, as available, regarding the permanent transfer to other governmental entities of the powers and duties of the Department over Kalaupapa Settlement”

The 2017 Foundation Statement associated with the Kalaupapa General Management Plan includes the following section how a transition plan will be developed for the Department to permanently transfer its powers and duties over the Kalaupapa Settlement.

“A transition management plan would be developed in partnership with state agencies and organizations, including the Department of Health, Department of Hawaiian Home Lands, Department of Land and Natural Resources, Department of Transportation, and the Office of Hawaiian Affairs, to provide a smooth transition. The plan would define responsibilities of the agencies and other partners during the transition, include timelines, and address maintenance and other costs related to facilities and utilities, housing, emergency operations, and law enforcement.”

A transition team was selected by NPS and DOH and includes only the following government agencies National Park Service and Department of the Interior (federal); State agencies - DOH, DLNR, DHHL DOT; and the County of Maui.

The Office of Hawaiian Affairs has not been invited by DOH to attend nor have any of the Native Hawaiian organizations at Kalaupapa and/or on topside Molokai been invited, despite the fact these organizations are major stakeholders/partners in determining the future of Kalaupapa.

The transition team has been meeting since 2015. There have been over 30 meetings. The meetings were not recorded. There are no minutes for most of the meetings. DOH was in charge of running the meetings but recently turned that responsibility over to National Park Service because DOH claimed it was too busy to handle the job.

At a recent recorded meeting sponsored by DLNR, new Superintendent Nancy Holman gave the following response to a question regarding why there were no non-government Kalaupapa stakeholders on the transition team: “ *We are not legally able to open the transitional team up to non-government stakeholders. . . But when we can, we will.*” She provided no legal statute supporting her statement.

Based on the above comments, I believe that it is important that the wording describing the direction of SB2289 be clarified so that the public and stakeholders at Kalaupapa understand the true nature of what is transpiring with the transition plan and what details and update information is being expected from DOH.

It seems that it's a foregone conclusion that the transfer to DOH's powers and duties is destined to be only to government agencies. That is not the intention of several major non-government stakeholders at Kalaupapa and on topside Molokai and especially with many Homestead beneficiaries.

The DOH annual report for 2023 recently provided the legislature (DC267) concludes with the following quote: “DOH is greatly appreciative for the opportunity to share with the Hawaii Legislature all the actions it has taken to address the auditor's report and improve the quality of life for the patients of the Kalaupapa Settlement.”

I agree that the DOH annual reports to the legislature can be helpful, but it seems that someone needs to validate if DOH is including all pertinent actions it took during the year. In 2023, DOH's new Director issued a letter putting several major conditions Ka 'Ohana had to meet before DOH would release any of the \$5,000,000 the State Legislators approved during the 2022 session for the construction of the

Kalaupapa Memorial. The State Legislature assigned DOH to be the expending agency for the funding. This has cause some major complications and contention that continues as I write this tesimony. It was a major action that DOH elected not to include in its recent annual report to the legislature. DOH management had made a decision to let the appropriated funds lapse.

The Memorial was conceived by the patient community at Kalaupapa and is priority of theirs to see it established. DOH's actions have certainly impacted their quality of life.

I hope this information is helpful and that something can be done to amend the underscored and discriptive language contained in the current version of SB2289.

Please call or email me if there are any question on the above comments (808-283-8171, degray.vanderbilt@gmail.com)

Mahalo for the opporuntiy to testify.

Respectfully submitted

DeGray Vanderbilt

- 1. DC267 DOH is greatly appreciative for the opportunity to share with the Hawaii Legislature all the actions it has taken to address the auditor's report and improve the quality of life for the patients of the Kalaupapa Settlement.**

TRANSITION TEAM: The purpose of the team is to develop a plan regarding the future of Molokai and how things will be transitioned from the Department of Health to NPS or other organizations when the is no longer a patient community, which could be in a few years.

Speaker 5 (01:19:17):

DeGray: We understand Nancy that it would be helpful if we're all working together. In your foundation document, which is a document associated with Kalaupapa's General Management Plan, it says that the transition group will consist of government agencies and other organizations..

The transition team has been in existence for over 25 meetings since 2015. And during this time period only government agencies have been involved on the Transition Team You've never brought in any of the non-government stakeholders that a real stake in Kalaupapapa and the same or more elevated heirarchy at Kalaupapa. So could we join the transition team and attend the next meeting?

Speaker 3 (01:19:58)

Nancy: I think when the time is right.

DeGray: Who makes that decision?

Nancy: When I have read, when I acquired the administrative history of that and where we are now, we

are planning the plan. We don't even know what the purpose of the group is fully.

DeGray: But you've been meeting for 8 years, how can that be?

Nancy: That's how we feel sitting at the table. And so I think that's what we tried to do at our last meeting is restart it with that question. It's why we started putting our meeting minutes out so you could see what the work is that we are doing, but essentially on so many of these places it's pre-decisional. We are not legally able to open the transitional team up to non-government stakeholders. . But when we can, we will.

Foundation Statement:

The park does not have a plan to ensure that the transition between the two agencies occurs without significant impacts on resources and gaps in park operations.

A transition management plan would be developed in partnership with state agencies and organizations, including the Department of Health, Department of Hawaiian Home Lands, Department of Land and Natural Resources, Department of Transportation, and the Office of Hawaiian Affairs, to provide a smooth transition. The plan would define responsibilities of

the agencies and other partners during the transition, include timelines, and address maintenance and other costs related to facilities and utilities, housing, emergency operations, and law enforcement.

The plan would include decisions and strategies for operating facilities and infrastructure that the Department of Health currently maintains

LATE

SB-2289

Submitted on: 1/31/2024 8:18:53 AM

Testimony for HHS on 1/31/2024 1:00:00 PM

| Submitted By | Organization | Testifier Position | Testify |
|---------------------|---------------------|---------------------------|------------------------|
| Lori Buchanan | Individual | Comments | Written Testimony Only |

Comments:

Aloha Chair San Buenaventura,

I am writing to support the testimony submitted by Ms. Valerie Monson of Ka Ohana Kalaupapa regarding Kalaupapa and the new language being proposed in SB2289. I have been a longstanding stakeholder in the discussions regarding Kalaupapa's future (20 yrs). I have ohana buried there, worked there, supported the patients and have worked very hard through many administrations to advocate and have our voices heard and to support Ka Ohana and still we are marginalized and oppressed by the National Park Service, DLNR and DHHL. There is LITTLE to NONE communication with stakeholders. Please help us Senator, PLEASE! Lori Buchanan-Molokai

LATE



January 31, 2024

Senator Joy A. San Buenaventura, Chairwoman, Health and Human Services Committee

SB2289 -- Relating to Kalaupapa

Wednesday, January 31, 2024, 1 p.m., Room 225

I write with CONCERNS about SB2289, regarding the future of Kalaupapa

Aloha Chairwoman San Buenaventura and members of the Senate Health and Human Services Committee,

I apologize for this late testimony, but this bill only came to my attention yesterday afternoon. I have read the bill -- and have many questions about it.

While it appears this is the standard annual report from the Department of Health (DOH), it is the last part of the bill's summary posted on the Legislature's website that concerns me (I have highlighted that part in **bold**):

*SB2289: RELATING TO KALAUPAPA. Requires the Department of Health to include in its annual report regarding Kalaupapa Settlement details and **updated information, as available, regarding the permanent transfer to other governmental entities of the powers and duties of the Department over Kalaupapa Settlement. Sunsets on the first 6/30 after the Revisor or Statutes receives a written gubernatorial proclamation that the referenced transfer is complete.***

This additional language (in **bold**) is confusing and should be clarified so the public is aware of what the Legislature is specifically asking DOH to provide.

The future of Kalaupapa is an important and complex subject that requires serious discussions that are open to the public. Unfortunately, the discussions that have been going on for years about the transition of Kalaupapa have not included the public. The discussions are, from what

we understand, mostly among officials of government agencies, not even including lawmakers or anyone elected by the public.

We have no idea what plan is being promoted at this point -- or what is even being discussed -- or how the gubernatorial proclamation came about and what that means.

Ka 'Ohana O Kalaupapa is a 501-c-3 organization established in 2003 at the request of the Kalaupapa residents (patients) who were our early leaders and officers -- they wanted to reach out to family members and friends to join them to make sure their voices were heard in these discussions, including the future of Kalaupapa, at the current time and after they had passed.

The residents wanted their own non-governmental organization **because they were feeling left out of decisions** being made by the Department of Health and the National Park Service (NPS). This was the same reason that prompted the Hale Mohalu protests on Oahu which were led by Kalaupapa residents from 1978-1983: **they were not being included in the State making decisions that directly impacted -- and drastically altered -- their lives.**

Here we are again.

A "transition team" has been meeting for many years to discuss the future of Kalaupapa that includes department heads of various government agencies, but this team has not included Ka 'Ohana O Kalaupapa, the upper Molokai community, Hawaiian homestead beneficiaries or the general public. In fact, I don't know if any meetings have been held at Kalaupapa.

In 2009, when the National Park Service was beginning to draft a General Management Plan for Kalaupapa over the next 20 years, Ka 'Ohana O Kalaupapa held meetings to hear thoughts and ideas from Kalaupapa residents, family members and friends that resulted in our 28-page Position Paper for the future of Kalaupapa. DOH and NPS officials were also invited to attend the community meetings we held at Kalaupapa.

Our Position Paper was endorsed by the Office of Hawaiian Affairs as well as then-Representative Mele Carroll and then-Maui County Councilman Danny Mateo who held the Molokai seat (both have since passed.) We submitted our Position Paper to NPS. We got no response on its content and none of our ideas were included in the GMP -- ideas of the people. Ka 'Ohana submitted detailed comment letters on each draft of the GMP, but we never received a single response until the GMP was declared final by NPS.

One of the most important issues regarding the future of Kalaupapa centers around homesteading. The ahupua`a of Kalaupapa -- approximately 1,300 acres -- is owned by the Department of Hawaiian Homelands which has a 50-year lease with NPS that expires in 2041.

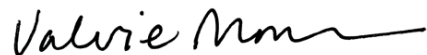
It should be noted that before Kalaupapa was designated as a leprosy settlement in 1865, a thriving Hawaiian community had lived for generations on the Kalaupapa peninsula and in nearby Waikolu Valley.

Our Position Paper took a strong stand in 2009 that the public needs to be included in these discussions about homesteading. We do not believe that has yet to take place. If there is homesteading, would the National Park Service continue at Kalaupapa? We don't know. If there is no homesteading and the Park Service has full control at Kalaupapa, how will NPS be held accountable? We don't know.

I believe this committee needs to send a strong message to DOH, NPS and DHHL that hearings be held to allow public input on the transition -- and that certain organizations and individuals be included on this transition team. The future of Kalaupapa cannot and should not be determined in Honolulu government buildings away from any public involvement.

Thank you for considering my comments.

With aloha,

A handwritten signature in black ink that reads "Valerie Monson". The signature is fluid and cursive, with a long horizontal stroke at the end.

Valerie Monson, Executive Director
Ka 'Ohana O Kalaupapa