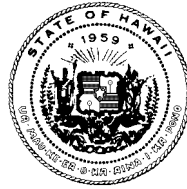


JOSH GREEN, M.D.
GOVERNOR
KE KIA'ĀINA



CATHY BETTS
DIRECTOR
KA LUNA HO'ŌKELE

JOSEPH CAMPOS II
DEPUTY DIRECTOR
KA HOPE LUNA HO'ŌKELE

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

TRISTA SPEER
DEPUTY DIRECTOR
KA HOPE LUNA HO'ŌKELE

March 10, 2024

TO: The Honorable Representative Lisa Marten, Chair
House Committee on Human Services

FROM: Cathy Betts, Director

SUBJECT: [SB 279 SD1](#)- RELATING TO HEALTH.

Hearing: March 12, 2024, 9:15 a.m.
Conference Room 329 & Via Videoconference, State Capitol

DEPARTMENT'S POSITION: The Department of Human Services (DHS) appreciates the intent, defers to the Department of Commerce & Consumer Affairs, and offers comments.

PURPOSE: This measure requires Medicaid and insurance coverage of ketamine therapy to treat depression. The measure also appropriates moneys for costs resulting from Medicaid coverage ketamine therapy. Declares that the general fund expenditure ceiling is exceeded. Takes effect 7/1/2040. (SD1)

The Committees of Commerce and Consumer Protection and Ways and Means (SD1) amended the measure by:

- (1) Inserting an effective date of July 1, 2040, to encourage further discussion; and
- (2) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

DHS appreciates the Legislature's continued investment in and attention to improving the health and environment of the people of Hawaii, particularly the focus on improving access to mental health therapies. All DHS Med-QUEST managed care plans currently cover, at no cost

to the Medicaid member, medically necessary Food and Drug Administration (FDA) approved medications when clinical criteria are met. In 2019, the FDA approved Spravato (esketamine) nasal spray, in conjunction with an oral antidepressant, for the treatment of depression in adults who have tried other antidepressant medicines but have not benefited from them (treatment-resistant depression). Details on the FDA approval can be found [here](#) for reference.

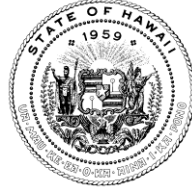
Per the testimony at the Senate Committees on Ways and Means and Commerce and Consumer Protection, this measure intends to cover off-label use of ketamine via IV treatments. It is essential to know that esketamine nasal spray is the only FDA-approved treatment for treatment-resistant depression and that the FDA also issued a [warning](#) on October 10, 2023, related to the off-label and compounded use of ketamine, stating that

"Ketamine is *not* FDA approved for the treatment of any psychiatric disorder. FDA is aware that compounded ketamine products have been marketed for a wide variety of psychiatric disorders (e.g., depression, anxiety, post-traumatic stress disorder (PTSD), and obsessive-compulsive disorder); however, FDA has not determined that ketamine is safe and effective for such uses." (Italic emphasis in the original.)

Given that this measure intends to expand to off-label use of ketamine, and the FDA has issued such a warning, no federal Medicaid dollars may be used. Therefore, the costs would have to be 100% state-funded. At this time, the DHS Med-QUEST division does not have estimates on the general fund costs; however, such an estimate can be provided should this measure continue to be considered.

However, if a general fund appropriation is added to this measure, we respectfully request that it not replace or reduce budget priorities identified in the executive budget.

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



STATE OF HAWAII | KA MOKU'ĀINA 'O HAWAI'I
OFFICE OF THE DIRECTOR
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS

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Testimony of the Department of Commerce and Consumer Affairs

Before the
Senate Committees on Commerce and Consumer Protection and
Ways and Means

Wednesday, February 28, 2024
9:55 a.m.

State Capitol, Conference Room 211 and via Video Conferencing

On the following measure:
S.B. 279, RELATING TO HEALTH

Chair Keohokalole, Chair Dela Cruz, and Members of the Committees:

My name is Gordon Ito, and I am the Insurance Commissioner for the Department of Commerce and Consumer Affairs' (Department) Insurance Division. The Department offers comments on this bill.

The purpose of this bill is to require Medicaid and insurance coverage of ketamine therapy to treat depression and appropriates moneys for costs resulting from Medicaid coverage of ketamine therapy.

We note that it is unclear whether the amendments in sections 3 through 5 of this bill would be construed as "in addition to the essential health benefits" within the meaning of 45 Code of Federal Regulations (CFR) § 155.170(a), or subject to defrayment provisions under 45 CFR § 155.170(b) which apply to benefits "in addition to the essential health benefits."]

Testimony of DCCA

S.B. 279

Page 2 of 2

For the Committees' information, Hawaii Revised Statutes section 23-51 provides, in part, that "[b]efore any legislative measure that mandates health insurance coverage for specific health services, specific diseases, or certain providers of health care services as part of individual or group health insurance policies, [sic] can be considered, there shall be concurrent resolutions passed requesting the auditor to prepare and submit to the legislature a report[.]"

Thank you for the opportunity to testify on this bill.

SB-279-SD-1

Submitted on: 3/10/2024 9:56:07 PM

Testimony for HUS on 3/12/2024 9:15:00 AM

Submitted By	Organization	Testifier Position	Testify
Robin Martin	Kahala Clinic	Support	Remotely Via Zoom

Comments:

Aloha Chair, Vice Chair, and Members of the Committee,

My name is Dr. Robin Martin, I am a psychiatrist who trained and now practice in Honolulu, and am also assistant clinical faculty with the Department of Psychiatry at UH/ JABSOM Medical School, and I am **in strong support of SB279** which will expand medicaid coverage to include of ketamine therapy to treat depression.

In my profession I see on a daily basis the significant mental health challenges our state is facing, and the limitations in our current treatment paradigms. Major depression is becoming the leading cause of disability worldwide, and suicide is the leading cause of death in the youth of Hawaii. We are in desperate need of new therapies, and increasing access to treatments that are proven safe and effective. Ketamine is one such treatment, and is proven as a rapid acting anti-depressant and anti-suicidal agent. The biggest weapon we have until now in psychiatry has been electroconvulsive therapy (ECT), with has issues with tolerability (memory loss) and stigma. The biggest comparison study of ECT vs ketamine for depression was published last year in the New England Journal of Medicine, where ketamine was shown non-inferior to ECT, and was more tolerable. Most patients would prefer ketamine over a medically induced seizure, but while ECT is often covered by insurance, ketamine typically is not.

I have seen ketamine work when everything else has not, saving lives and restoring hope to patients and families. Unfortunately this treatment is vastly underutilized due to lack of insurance coverage, requiring significant out of pocket expenses that make this treatment out of reach for many who need it the most. This bill is an important step forward in addressing this issue and helping make available a powerful tool in addressing the mental health crisis in Hawaii. Please support this bill.

Sincerely,

Dr. Robin Martin

Board Certified in Psychiatry and Neurology



1401 S. Beretania St. Suite 450
Honolulu, HI, 96814

Date: 2-23-2024

I testify in support of bill: SB279

Ketamine is the only known treatment proven to reduce suicidal thoughts.

A recent French study (*Jollant et al.*) in the British Medical Journal showed a 70% reduction in suicidal thoughts. This effect persisted for > six weeks. In my clinic I see a response rates of 70-75% for depression, and I have treated hundreds of suicidal patients with success. By comparison most antidepressants, which insurances pay for, have a 40% success rate, **and can even cause suicidal ideations.**

Why are insurances not paying for a more effective treatment that can save lives?

Ketamine is a **vital treatment**, like an asthma inhaler. Should insurances deny emergency life saving treatments like asthma inhalers? Or Epi-pens? Gender transition surgeries were mandated by the same argument.

Many depressed patients from lower income backgrounds are aware their insurance won't pay for ketamine, but will pay for any antidepressant, **of which suicidal ideations are often a side effect.** Many lower income patients are aware that ketamine, which could save their life, is a boutique clinic expense and is only available to the wealthy. Patients pay \$395 out of pocket at our clinic, (or 5-900\$ at other clinics), as it is off-label. Any appeal for coverage to HMSA or UHA is routinely denied. Patients without funds must choose less effective treatment.

This inequity in treatment coverage must be addressed by the legislature.

Denial of coverage makes sense for elective cosmetic procedures, which are not medically-necessary. But a treatment which can save a life?

Because there is no official FDA "indication" of ketamine for depression, **this ambiguity allows insurances to deny coverage.** Insurances typically only reimburse for FDA approved treatments... ketamine is an old anesthetic from from the 1970s that has been "re-purposed" for depression.

ph (808) 457-1082
fax (808) 356-1649

Strangely, there is a brand name version of ketamine called **Spravato** and HMSA will reimburse up to \$1600 per treatment. It was never shown to reduce suicide thoughts, and is inferior to IV ketamine, as shown by multiple recent studies. (Haiyan Lu, 2022, and Thomas Scott MD, 2023). Insurances will reimburse ~\$1000 to Janssen for the brand name spray bottle, and \$600 to the clinic, for a total of \$1600 for an inferior treatment... It is unclear why this is the case, or why appeals for a more effective and cheaper generic treatment are denied...

ER visits for suicidal thoughts are also fully covered by insurances and can cost thousands of dollars for a very un-therapeutic experience. If they are admitted to the psych ward, costs can be five, or even over ten thousand dollars. Approving IV outpatient ketamine would save ER visit costs. We can effectively manage suicidal thoughts in clinics like mine. Our yearly ketamine cost average is 1,500-2,500\$ per severely depressed patient who pays for ketamine.

HMSA and UHA could require a board certified psychiatrist present, and require authorizations proving the urgent nature and diagnosis. Other regulations could be also established.

I am a licensed physician, in state of HI, MD license# 16978, expiration date 1-31-2024. You may call my business line with any questions.

Cordially,

Thomas Cook, M.D.

ph (808) 457-1082
fax (808) 356-1649

March 12, 2024

To: Chair Marten, Vice Chair Amato and Members of the House Committee on Human Services

From: Hawaii Association of Health Plans Public Policy Committee

Date/Location: March 12, 2024; 9:15 a.m./Conference Room 329 & Videoconference

Re: Comments on SB279 SD1 relating to Health

The Hawaii Association of Health Plans (HAHP) would like to offer comments on SB279 SD1. HAHP is a statewide partnership that unifies Hawaii's health plans to improve the health of Hawaii's communities together. A majority of Hawaii residents receive their health coverage through a plan associated with one of our organizations.

HAHP recognizes that Ketamine treatment has the potential to provide significant relief for individuals who suffer from treatment-resistant depression, and we appreciate the efforts of our state's lawmakers to address the behavioral health issues that we continue to face in Hawaii. However, since coverage of this treatment would be a newly mandated benefit, we respectfully request that this bill be deferred to allow the State Auditor to first conduct an impact assessment report, as requested in SR 76, pursuant to HRS 23-51 and 23-52.

Thank you for the opportunity to offer comments on SB 279 SD1.

Sincerely,
HAHP Public Policy Committee
cc: HAHP Board Members



March 12, 2024

The Honorable Lisa Marten, Chair
The Honorable Terez Amato, Vice Chair
House Committee on Human Services

Re: SB 279 SD1 – Relating to Health

Dear Chair Marten, Vice Chair Amato, and Members of the Committee:

Hawai'i Medical Service Association (HMSA) appreciates the opportunity to offer comments on SB 279 SD1, which will require Medicaid and insurance coverage of ketamine therapy to treat depression.

HMSA recognizes that depression can cause debilitating symptoms, especially for individuals who do not respond to conventional treatments, and we support the appropriate use of ketamine therapy when it is prescribed and administered in a controlled medical setting. However, the legislation, as written, appears to lack specificity regarding utilization management and step therapy, both of which we believe are necessary to ensure appropriate and effective use of this medication. While HMSA appreciates the intent of this measure, we believe that as currently written this bill creates a new section in HRS and would create a new mandated benefit.

We respectfully request that this bill be deferred to allow the State Auditor to first conduct an impact assessment report pursuant to Section 23-51 and 23-52 of the Hawaii Revised Statutes since it creates new a mandated benefit and to identify the social and financial effects of the proposed mandated coverage. We would also ask the State Auditor to address the issue of defrayal of cost by the state for a mandated benefit which is additional to our Essential Health Benefits (EHB) pursuant to 45 CFR § 155.170 (b).¹

Thank you for the opportunity to offer comments on SB 279 SD1.

Sincerely,

Dawn Kurisu
Assistant Vice President
Community and Government Relations

¹<https://www.ecfr.gov/current/title-45/subtitle-A/subchapter-B/part-155/subpart-B/section-155.170>



Testimony of
John M. Kirimitsu
Legal & Government Relations Consultant

Before:
House Committee on Human Services
The Honorable Lisa Marten, Chair
The Honorable Terez Amato, Vice Chair

March 12, 2024
9:15 am
Conference Room 329

Re: SB 279, SD1 Relating to Health

Chair, Vice Chair, and committee members, thank you for this opportunity to provide testimony on SB 279, SD1.

Kaiser Permanente Hawaii supports the intent of this bill, but requests an auditor study.

Kaiser Permanente supports the intent of this bill to improve the health and environment of the people who suffer from depression, but requests that the legislative auditor conduct an impact assessment report, as statutorily required under Section 23-51 of the Hawaii Revised Statutes.

Furthermore, any addition of a new mandated coverage may trigger section 1311(d)(3) of the federal Patient Protection and Affordable Care Act, which requires states to defray the additional cost of any benefits enacted after December 31, 2011, in excess of the State's essential health benefits.

Thank you for the opportunity to comment.

SB-279-SD-1

Submitted on: 3/11/2024 2:14:35 PM

Testimony for HUS on 3/12/2024 9:15:00 AM

Submitted By	Organization	Testifier Position	Testify
MARIAN MILLER	Individual	Support	Remotely Via Zoom

Comments:

Thank you Representatives for providing an opportunity to speak on behalf of SB279.

My name is Dr Marian Miller and I am a clinical psychologist and Marriage and Family therapist in private practice on the island of Oahu for the last 30 years. I am in Strong Support of SB279, requiring insurance coverage of ketamine treatments.

This bill if passed is about life or death.

Ketamine has provided profound positive life changing experiences for many of my patients over the last eight years. Some of these patients have been on every single antidepressant medicine that has FDA approval. Many of my patients have treatment resistant depression and have had very serious side effects from these medicines.

Two of my patients are affluent and could afford the medicine. Both of them are no longer on antidepressant medicine. The ketamine protocol provided a life-changing, fully embodied experience. They no longer are suicidal, chronically depressed and their post traumatic stress disorder symptoms are no longer debilitating. Another patient of mine who has a terminal illness and deep depression saved up her money to be able to afford a ketamine treatment.

She reported to me afterwards that she no longer fears death. During the ketamine treatment she experienced a healing spiritual presence. This patient returned to her community and family with a peacefulness and acceptance of death that allowed her to truly live in the moment with the time she had left.

The infuriating part for me, is that only folks that have the financial resources can take part of the ketamine protocol. Most patients CANNOT AFFORD IT.

Ketamine should not be an opulent or wealthy only treatment. Ketamine is a relatively “old” drug, with a reliable history of use in a medical setting. There are a multitude of studies that have proven in a controlled medical environment injectable and IV protocols are statistically significant in treating and resolving many psychiatric diagnosis. The key word here is RESOLVED.

It breaks my heart that so many of my patients cannot take part of this medicine.

I think of all the folks in our community that have died from suicide or a co-morbid related aspect of the psychiatric illness that are not here today. They could have benefited from this treatment protocol and potentially still be with us today. These are our colleagues, our friends, our O’hana.

Please support this bill and be a leader in health, wellness and healing for our community. Allowing equal ACCESS to all.

Mahalo for your time and support.

Dr Marian Miller

SB-279-SD-1

Submitted on: 3/9/2024 5:17:53 PM

Testimony for HUS on 3/12/2024 9:15:00 AM

Submitted By	Organization	Testifier Position	Testify
Ashley Yamashita	Individual	Support	Remotely Via Zoom

Comments:

Aloha, Chairs, Vice Chairs, and members of the Committee.

My name is Ashley Yamashita, I live in Kailua here on Oahu.

I am testifying as an individual in strong SUPPORT of SB279, requiring insurance coverage of ketamine treatments.

I am a Certified Nurse Assistant, Mental Health Technician, and I currently work as a Physician's Practice Assistant at Queen's University Health Systems on Punchbowl.

In my experience working within our community, I see, every day, the need for alternative mental health treatments and therapies.

As someone who lives with PTSD, and Major Depressive Disorder, also known as Treatment Resistant Depression, I cannot express the impact Ketamine therapy has had on my life. Previously, I have taken many SSRIs, and had to discontinue use due to no therapeutic relief, a myriad of side effects, and, in one case, I had an experience with the BLACK BOX Warning most SSRIs are accompanied with.

I also attempted a round of Transcranial Magnetic Therapy, which consists of applying a series of short magnetic pulses to stimulate nerve cells in areas of the brain known to be associated with major depression. Treatment takes place 5 days a week for 6 weeks, followed by 2 weeks of treatment for 3 days a week equalling a total of 36 sessions. Traditionally, treatments are approximately 15 minutes in length but due to no improvement in symptoms, I was placed on a longer treatment session regimen of 30 minutes per session halfway through therapy. Treatments weren't comfortable and I had to wear a mouth guard to protect my teeth from cracking together or breaking during the pulses.

After all other options were exhausted, I tried Ketamine therapy. Treatment is painless, takes only a couple hours at most, and I experience immediate relief from my symptoms. A relief I never thought possible. Ketamine therapy has changed my life. It has given me hope and opened a door within myself that liberated me from the crushing weight of my diagnosis. The only negative of this treatment is the cost. I do not go out to eat or go on vacation, and I live a frugal lifestyle. This is not to say that I am not blessed. By doing these

things I can afford treatment and a freedom from my symptoms I had previously never thought possible.

Others suffering from this diagnosis may not be as blessed as I, or even consider this treatment as an option because of the cost. Ketamine therapy should not be an unattainable luxury. Relief from an illness should be a basic human right. There are so many people in our community that could benefit from these treatments and unfortunately, there are many people who have succumbed to their sickness and are no longer with us because they could not afford treatment.

Please support this bill and the healing of our community.

Mahalo for your time and consideration,

Ashley Yamashita

SB-279-SD-1

Submitted on: 3/9/2024 12:12:48 PM

Testimony for HUS on 3/12/2024 9:15:00 AM

Submitted By	Organization	Testifier Position	Testify
Kevin Martin	Individual	Support	Written Testimony Only

Comments:

To Whom It May Concern,

Hi my name is Kevin Martin and I'm a thirty year old veteran and Purple Heart recipient. For years, I struggled to find effective solutions to my rapidly deteriorating mental health. It felt like an endless battle against PTSD, depression, and suicidal ideations until I crossed paths with Dr. Cook of Beyond Mental Health. Under the care of Dr. Cook at Beyond Mental Health, I underwent ketamine-assisted psychotherapy, and it transformed my life for the better. Over the course of two years, I received 18 treatments, and the impact was profound. I found relief from debilitating nightmares, experienced a significant reduction in impulsivity, and gained better control over my emotions.

We are currently facing a mental health crisis in our country, exacerbated by the negative influence of social media and a lack of action from our elected officials. I firmly believe that without the opportunity to undergo ketamine-assisted psychotherapy with Dr. Cook, I would not be alive today.

I am submitting this testimony with a plea for action—to urge insurers to cover ketamine therapy. For too long, our elected representatives have allowed corporations and the medical industry to dictate the terms of mental health care. I am a changed man and was given a second chance at life from this treatment. It's imperative to understand that the path to addressing our society's collective mental health crisis lies in the regulated use of treatments like ketamine-assisted psychotherapy.

Sincerely,

Kevin Martin

Purple Heart Recipient

SB-279-SD-1

Submitted on: 3/9/2024 6:33:54 PM

Testimony for HUS on 3/12/2024 9:15:00 AM

Submitted By	Organization	Testifier Position	Testify
Michal C Cohen	Individual	Support	Written Testimony Only

Comments:

I strongly support this bill. I am a licensed clinical social worker and I have seen the amazing healing benefits of ketamine assisted therapy with my patients. The saddest part is when a patient cannot receive this treatment because of cost. This bill would allow insurance reimbursement for ketamine procedures, thus greatly enhancing the access that people have to this safe and effective treatment for depression and PTSD.

SB-279-SD-1

Submitted on: 3/10/2024 8:41:19 PM

Testimony for HUS on 3/12/2024 9:15:00 AM

Submitted By	Organization	Testifier Position	Testify
Amelia Morgan-Rothschild, LMHC	Individual	Support	Written Testimony Only

Comments:

To Whom it May Concern,

I am in support of SB279.

I am a Licensed Mental Health Counselor, living and working in private practice on Maui. I have trained in a cutting edge approach to trauma therapy called Psychedlic Somatic Interactional Psychotherapy (PSIP) (learn more at psychedlicsomatic.org), which utilizes the support of 100 mg Ketamine oral troches (lozenges) along with a specific somatic therapy technique to assist patients with PTSD and depression. PSIP is a powerful somatic/experiential treatment approach that can lead to positive shifts in one's nervous system and life. Benefits of this therapy may include: a decrease in compulsive behaviors and a decrease in traumatic feelings such as rage, panic, and hopelessness; as well as an increase in the ability to feel pleasure, relaxation, self empowerment, a sense of goodness in one's self, others, and the world, and a newfound ability to respond to and feel the present moment.

In my personal experience as a somatic psychotherapist for the past 14 years, there is nothing like this modality out there; both personally and professionally I have seen PSIP with the support of Ketamine lead to healing from mental health disorders and trauma. Many psychotherapists who practice EMDR say this approach is much more effective and transformative. PSIP is effective for depression as well, as after doing this work it is seen that most often depression is a result of unresolved trauma.

Because PSIP sessions utilizing Ketamine are 3 hours long, it is not possible to bill insurance companies for this specialized work. This places a barrier for the people of Hawaii to receive this powerful and important therapy, especially after so many people here have trauma to process after the recent fires. Most of my patients are on Medicaid and cannot afford this work.

Please note, one of the teachers of PSIP was able to advocate for this same bill to be passed in her state of Minnesota, where insurance companies now cover longer sessions for legal psychedelic therapy.

I am in support of insurance companies being required to cover 3-hour Ketamine sessions for clients who are diagnosed with depression, so I may use my skills to help the people of Maui at this crucial time.

Thank you for your consideration,

Amelia Morgan-Rothschild, LMHC