



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

DEAN I. HAZAMA
DEPUTY DIRECTOR | KA HOPE LUNA HO'OKELE

Testimony of the Department of Commerce and Consumer Affairs

Before the
Senate Committee on Government Operations
Thursday, March 20, 2025
3:00 p.m.
Conference Room 225

On the following measure:

S.C.R. 44, REQUESTING THE SENATE STANDING COMMITTEE AND HOUSE OF REPRESENTATIVES STANDING COMMITTEE WHOSE PURVIEW INCLUDES CONSUMER PROTECTION, WITH THE SUPPORT OF THE LEGISLATIVE REFERENCE BUREAU, TO CONVENE A LEGISLATIVE WORKING GROUP TO DETERMINE RECOMMENDATIONS FOR ESTABLISHING APPROPRIATE FAMILY NOTICE AND STANDARDIZED CONSENT PROVISIONS FOR PRE-NEED CONTRACTS GOVERNING CREMATION

WRITTEN TESTIMONY ONLY

Chair McKelvey and Members of the Committee:

My name is Esther Brown, and I am the Complaints and Enforcement Officer of the Department of Commerce and Consumer Affairs (DCCA) Regulated Industries Complaints Office (RICO). RICO offers comments on the resolution and requests an amendment.

By way of background, RICO partners with the professional and vocational licensing boards, commissions, and programs (Boards) to regulate specific industries that

provide services affect the health, safety, and welfare of industry consumers, with due consideration of the State's legitimate, law-abiding professional and vocational licensees. RICO's domain is limited to two independent enforcement responsibilities: performing investigative and prosecutorial functions for the Boards when allegations of licensure misconduct surface. The Boards set the standards for, and have final decision-making authority over, licensees in their respective industries.

The resolution proposes the convening of a legislative working group to determine recommendations for family notice and standardized consent provisions for pre-need contracts governing cremation concerning the disposition of incombustible metal surgical implants that remain following cremation.

We appreciate the resolution and its stated purpose but respectfully request to be removed as a working group participant for several reasons.

First, RICO is not an industry-specific agency, nor do we advocate or advise industry on practices and trends. We are therefore unable to meaningfully contribute to any of the broad and technical subject areas identified in paragraphs (1) through (6), which begin at page 2, line 14 and end on page 3, line 4 of the resolution.

Second, RICO, together with the aforementioned Boards, regulates fifty-two (52) separate industries and professions so our workload is already high. Every year RICO receives and processes an average of 2,500 new complaints involving health care, real estate, building and construction, motor vehicles, and almost everything in between. Complaints involving cemeteries and pre-need funeral authorities, therefore, is just one of the numerous subjects encompassing RICO's vast jurisdiction.

Third, like other agencies RICO has experienced staff turn-over in recent years. Having to prepare for and attend meetings in an area where we lack depth and expertise, therefore, will impact our already taxed resources.

Fourth, notwithstanding the above, RICO will still do its best to serve as a resource, answer questions, and be available for the working group if/when needed.

For these reasons, we respectfully request the following amendment at page 3, beginning at line 20:

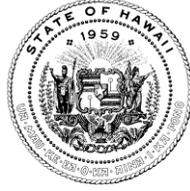
Testimony of DCCA (Regulated Industries Complaints Office)

S.C.R. 44

Page 3 of 3

~~(2) — The Complaints and Enforcement Officer of the
— Regulated Industries Complaints Office of the
— Department of Commerce and Consumer Affairs or their
— Designee;~~

Thank you for the opportunity to testify on this resolution.



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Testimony of the Department of Commerce and Consumer Affairs

Before the
Senate Committee on Government Operation
Thursday, March 20, 2025
3:00 p.m.
Conference Room 225 and Videoconference

On the following measure:
S.C.R. 44, REQUESTING THE SENATE STANDING COMMITTEE AND HOUSE OF REPRESENTATIVES STANDING COMMITTEE WHOSE PURVIEW INCLUDES CONSUMER PROTECTION WITH THE SUPPORT OF THE LEGISLATIVE REFERENCE BUREAU, TO CONVENE A LEGISLATIVE WORKING GROUP TO DETERMINE RECOMMENDATIONS FOR ESTABLISHING APPROPRIATE FAMILY NOTICE AND STANDARDIZED CONSENT PROVISIONS FOR PRE-NEED CONTRACTS GOVERNING CREMATION

Chair McKelvey and Members of the Committee:

My name is Chelsea Fukunaga, and I am the Executive Officer of the Department of Commerce and Consumer Affairs' (Department), Professional and Vocational Licensing Division's, Cemetery and Funeral Trusts Program. The Department provides the following comments on this measure.

The purposes of this resolution are to: (1) convene a legislative working group to determine recommendations for establishing appropriate family notice and standardized consent provisions for pre-need contracts governing cremation; (2) conduct a review of mortuary operations in each county of the State and mainland jurisdictions involved in the collection, recycling, potential disposition, and sale of incombustible metal surgical

implants to determine the revenues generated from these practices; (3) propose definitions for incombustible metal implants that remain following cremation; (4) recommend contract provisions that mortuaries in the State should include in pre-need contracts with designated family representatives sign to express their preferences and decisions regarding the disposition of metal implants that remain following cremation; (5) report on current practices employed by mortuaries that sell accumulated incombustible metal surgical implants in bulk and report revenue generated from the sale of incombustible metal surgical implants; (6) identify conditions that may impact the quality and quantity of metal fragments during cremation and recommend the appropriate recycling or disposition of incombustible metal surgical implants; (7) recommend best practices for estate planners, senior advocacy groups, and eldercare attorneys addressing health care directives and wills in addressing decisions related to cremation services and disposition of metal implants, including donations of income from disposed metal implants to a designated nonprofit organization; and (8) submit a report of its findings and recommendations to the Legislature, including any proposed legislation by November 30, 2025.

For the Committee's information, the Department of Health, Environmental Health Services Division is the entity that licenses mortuaries. The Cemetery and Funeral Trusts Program only regulates and licenses cemetery authorities and pre-need funeral authorities and does not regulate at-need cremation transactions, nor the disposition of human remains under Hawaii Revised Statutes Chapter 531B.

The Department would like to note that the intent of this resolution may be frustrated as at-need cremation transactions remains unaddressed. We therefore recommend consulting with the Department of Health, Environmental Health Services Division to ensure that all cremation transactions will be held to the same regulation standards; not just those with pre-need contracts in place.

Thank you for the opportunity to testify on this bill.

Charlotte A. Carter-Yamauchi
Director

Shawn K. Nakama
First Assistant

Research 808-587-0666
Revisor 808-587-0670
Fax 808-587-0681



LEGISLATIVE REFERENCE BUREAU
State of Hawaii
State Capitol, Room 446
415 S. Beretania Street
Honolulu, Hawaii 96813

Written Comments

SCR 44

REQUESTING THE SENATE STANDING COMMITTEE AND HOUSE OF REPRESENTATIVES STANDING COMMITTEE WHOSE PURVIEW INCLUDES CONSUMER PROTECTION, WITH THE SUPPORT OF THE LEGISLATIVE REFERENCE BUREAU, TO CONVENE A LEGISLATIVE WORKING GROUP TO DETERMINE RECOMMENDATIONS FOR ESTABLISHING APPROPRIATE FAMILY NOTICE AND STANDARDIZED CONSENT PROVISIONS FOR PRE-NEED CONTRACTS GOVERNING CREMATION.

Charlotte A. Carter-Yamauchi, Director
Legislative Reference Bureau

Presented to the Senate Committee on Government Operations

Thursday, March 20, 2025, 3:00 p.m.
Conference Room 225

Chair Angus L.K. McKelvey and Members of the Committee:

Good afternoon, Chair McKelvey and members of the Committee, my name is Charlotte Carter-Yamauchi, and I am the Director of the Legislative Reference Bureau (Bureau). Thank you for providing the opportunity to submit written **comments** on S.C.R. No. 44, Requesting the Senate Standing Committee and House of Representatives Standing Committee Whose Purview Includes Consumer Protection, with the Support of the Legislative Reference Bureau, to Convene a Legislative Working Group to Determine Recommendations for Establishing Appropriate Family Notice and Standardized Consent Provisions for Pre-Need Contracts Governing Cremation.

The purpose of this measure is to request the formation of a legislative working group, consisting of numerous legislative, agency, and community members, to:

- (1) Conduct a review of mortuary operations in each county of the State and mainland jurisdictions involved in the collection, recycling, potential disposition,

and sale of incombustible metal surgical implants to determine the revenues generated from these practices;

- (2) Propose definitions for incombustible metal implants that remain following cremation;
- (3) Recommend contract provisions that mortuaries in the State should include in pre-need contracts which designated family representatives sign to express their preferences and decisions regarding the disposition of metal implants that remain following cremation;
- (4) Report on current practices employed by mortuaries that sell accumulated incombustible metal surgical implants in bulk and report revenue generated from the sale of incombustible metal surgical implants;
- (5) Identify conditions that may impact the quality and quantity of metal fragments during cremation and recommend the appropriate recycling or disposition of incombustible metal surgical implants;
- (6) Recommend best practices for estate planners, senior advocacy groups, and eldercare attorneys addressing health care directives and wills in addressing decisions related to cremation services and the disposition of metal implants, including donations of income from disposed metal implants to a designated nonprofit organization; and
- (7) Submit a report of its findings and recommendations to the Legislature, including any proposed legislation, by November 30, 2025.

The measure further requests the Legislative Reference Bureau to provide administrative support to the working group, including assisting the group with drafting its report to the Legislature.

The Bureau takes no position on this measure, but we have serious concerns about our ability to provide administrative support and the specified timeframe in which to draft a report, and we submit the following comments for your consideration.

As a general matter, the Bureau notes that it lacks the resources to "administratively support" a working group. The Bureau can assist the working group with drafting legislation necessary to implement the working group's recommendations and finalizing its report to the legislature. However, the Bureau has no control over meeting space in the State Capitol and is not equipped or staffed to provide other administrative support duties, such as booking meeting facilities, arranging needed transportation, staffing working group meetings, taking meeting minutes, etc.

Additionally, we are concerned about providing research support, given the very broad ranging scope of the inquiry requested of the working group. In particular, the measure specifically asks for a "review of mortuary operations in each county of the State and mainland jurisdictions involved in the collection, recycling, potential disposition, and sale of incombustible metal surgical implants to determine the revenues generated from these practices." Given the sheer number of jurisdictions in the United States that could be encompassed under this broad language, the amount of research required to evaluate their operations would be prohibitive. Similarly, it is not at all clear how the revenues from sales of metal surgical implants would be determined, given the scale of jurisdictions and mortuaries involved. The Committee may wish to focus on the primary, underlying issue in need of resolution (such as the need for mandatory, uniform notice and consent provisions) and amend the measure to narrow the scope of the research to the relevant practices in a few specific jurisdictions.

Further, we are concerned that the timeframe for submitting a report to the Legislature, by November 30, 2025, may be too short for the working group to complete its deliberations and then to enable the Bureau to prepare the report, given the many other assignments tasked to the Bureau during the interim, such as bill drafting requests, numerous bill research requests, and other legislative studies that have been or may be assigned to the Bureau.

If the Committee still believes the Bureau's participation in this matter is necessary, the Bureau respectfully requests that the measure be further amended to limit the scope of the Bureau's involvement to assisting the working group with preparing its report and the drafting of any legislation necessary to implement the recommendations of the working group. If the Committee chooses to amend the measure in this manner, the Bureau also requests that the working group be instructed to finalize its deliberations and submit to the Bureau, not later than October 30, 2025, any request for proposed legislation and necessary supporting documents, information, and materials so that work on the proposed legislation would not adversely impact our ability to provide our core services to the Legislature in preparation for the Regular Session of 2026.

If these requested amendments are made, then the Bureau believes that the services requested under the amended measure would be manageable, provided that the Bureau's interim workload is not adversely impacted by too many other studies or additional responsibilities, such as conducting studies, writing or finalizing other reports, drafting legislation, or any combination of these for the Legislature or for other state agencies, task forces, or working groups that may be requested or required under other legislative measures.

Thank you again for your consideration.



The Senate
Ka 'Aha Kenekoa

STATE CAPITOL
HONOLULU, HAWAII 96813

March 20, 2025

Senator Angus McKelvey, Chair
Senator Mike Gabbard, Vice-chair
Senate Committee on Government Operations

March 20, 2025 Hearing – 3:00 PM in Conference Room 225

**SENATOR CAROL FUKUNAGA TESTIMONY IN SUPPORT OF
SENATE CONCURRENT RESOLUTION 44**

Thank you for hearing *Senate Concurrent Resolution 44*, which proposes establishment of a working group based on recommendations from family advocates and senior citizen organizations regarding removal of metal implants from deceased family members.

This resolution arose after a January 28, 2025 hearing before the Senate Consumer Protection Committee on *Senate Bill 525* (and House Consumer Protection Committee hearing on its companion measure, *House Bill 565*); and subsequent deferral of action on the bill.

Senate Concurrent Resolution 44 was introduced to address family advocates' concerns, as well as those expressed by funeral and cemetery association members over notice and consent requirements, and the difficulty of resolving such issues during the hectic legislative timetable.

State agencies that review funeral industry operations are fairly diverse. Therefore, deferring action on *Senate Bill 525* and convening a working group to review areas of concern made sense within our short timeframe. The purpose of the resolution is to develop recommendations for future consideration and implementation.

I understood that representatives of the funeral and cemetery association members were supportive of an interim working group process, and *SCR 44* was drafted to provide a vehicle for discussions. I hope that the working group process in the resolution can help develop common ground for addressing industry and family concerns. There are alternative community mediation center organizations that may also be more suitable for discussions than the Legislative Reference Bureau, and I would support the Committee's removal of LRB from the scope of the resolution if the Committee amends the resolution.



Hawaii Funeral & Cemetery Association, Inc.
1330 Maunakea Street, Honolulu, Hawaii 96817

Written Testimony in **Opposition of SCR44**
RELATING TO MANDATORY PRIOR WRITTEN NOTICE
AND CONSENT IN CONTRACTS TO PROVIDE CREMATION SERVICES.

March 20th 2025

Committee on Government Operations

Senator Angus L.K. McKelvey, Chair

Senator Mike Gabbard, Vice Chair

Committee Members

HEARING DATE/TIME: March 20th, 2025; 3:00Pm

STATEMENT FROM THE HFCA BOARD OF DIRECTORS

The Hawaii Funeral & Cemetery Association, Inc. is a Domestic Nonprofit Corporation, comprised of 12 independent Board of Directors representing 13 mortuaries and 10 cemeteries that serve the largest majority of Hawaii's families. The HFCA is an independent association that acts in the best interest of its members and the community. The HFCA Board of Directors reviewed the bills and voted to oppose them in their current form based on the concerns provided in our previous testimony.

Senator Angus L.K. McKelvey, Chair, Senator Mike Gabbard, Vice Chair and Committee Members,

My name is Jay Morford, President for the Hawaii Funeral and Cemetery Association, Inc. ("HFCA").
The HFCA is in **SCR44**

We believe the proposed legislation and working group is unnecessary based on current mortuary practices.

Currently mortuaries have language within their documents that establish if a decedent does or does not have any medical device or radioactive device implants. The family will direct us at that time if they want the devices returned or disposed of. The mortuaries also have a personal effect form that inventories any valuables that may come in with a decedent. If a decedent has a medical device or radioactive device implants they must be removed prior to the cremation. The devices are then stored in a bio-hazard container for recycling. Any personal valuables that may have come in with the decedent that the family does not want cremated are returned to the family. The only device that is removed prior to a cremation is a pacemaker.

We do not feel there is a need to have a provision in a prearrangement agreement as is stated in the legislation. Cremation authorization is obtained from the authorized family representative after a death has occurred. That cremation authorization generally informs the clients of the company's business practices that involve recycling. We do inform our clients that pacemakers need to be removed from their loved one prior to being cremated, the family makes the decision at that time if they want the device returned to them or disposed of.

If no instruction for disposition is given the funeral home we will dispose of the device or other metals through our recycling company.

For these reasons we oppose SCR44.

Sincerely,

Jay Morford

STATEMENT IN OPPOSITION OF SCR44 FROM
MILILANI GROUP, INC. d.b.a. MILILANI MEMORIAL PARK & MORTUARY

TO: COMMITTEE ON GOVERNMENT OPERATIONS
Senator Angus L.K. McKelvey, chair
Committee Members

SUBJECT: SENATE CR44

HEARING DATE: Thursday, March 20, 2025; 3:00 P.M.

This statement is made on behalf of Mililani Group, Inc., a company doing business as Mililani Memorial Park and Mortuary (hereafter called "Mililani"). Mililani **OPPOSES** SCR44.

We believe the proposed legislation and creation of related groups to be unnecessary based on our and most other mortuaries' current practices. We have implemented language within our documents that deal with the care and treatment of any medical device or radioactive device implants that decedent may have and thus provide notice to decedent's families at the time of passing. Including provisions for pre-need contract is equally meaningless and unnecessary as notification and assessment is only appropriate at the the time of death.

Mililani has been engaged in the business of funeral service and cemetery operations for more than 50 years and during this period, we have been able to deliver our services in a professional and highly competent manner

FOR THE ABOVE REASONS, Mililani stands in strong opposition of the proposed SCR44.

RESPECTFULLY SUBMITTED,
MILILANI GROUP, INC.

EADEAN BUFFINGTON,
Operations Manager

SCR-44

Submitted on: 3/20/2025 10:19:28 AM

Testimony for GVO on 3/20/2025 3:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Mitchell Dodo	Testifying for Dodo Mortuary, Inc. & Crematory	Oppose	Written Testimony Only

Comments:

I oppose the passage of SCR44 and hope you will vote against this proposed measure. The formation of a "Legislative Working Group" is unnecessary as funeral homes/crematories already give families they serve the option of identifying any "implanted items" within the remains prior to the cremation and having those items returned to them after the cremation process is completed. Many families do not select this option.

I feel we already appropriately address this topic of concern and don't need additional oversight.

My request is to vote against the passage of this legislation.

SCR-44

Submitted on: 3/20/2025 2:02:26 PM

Testimony for GVO on 3/20/2025 3:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Ricki S. Aoki	Testifying for Hosoi Garden Mortuary	Oppose	Written Testimony Only

Comments:

My name is Ricki Aoki, vice president of Hosoi Garden Mortuary and a board member of the Hawaii Funeral and Cemetery Association. I oppose this legislation in that we do ask families if they would like anything back, and will return anything from the body they may request as long as we are able to retrieve them. Also, we give families options for proper extraction. If we are lacking in written notification, we will rectify this. The HFCA will make sure that members have proper notification, and will extend our influence to non-members.

TESTIMONY ON SENATE CONCURRENT RESOLUTION 44
Before the Senate GOV Committee – March 20, 2025 at 3:00 PM in Conference Room 225

Members of the Committee, I have been deeply involved in aging policy issues since my time as President of Kokua Council and also the Chair of the House Committee on Health and later for my doctorate on Aging issues.

I support this resolution and its related bill. The proliferation of surgical implants has created new issues regarding the respectful and legal handling of valuable materials after cremation. The families of the deceased are often not fully informed of their rights and some mortuaries actually can generate income from valuable metals.

Hawaii has the opportunity to take a leadership role in this emergent issue that will protect and respect our Kupuna.

I strongly support efforts to engage all parties in a productive effort to create a new initiative.

Sincerely

Jim Shon, Ph.D