STATE HEALTH PLANNING
AND DEVELOPMENT AGENCY
DEPARTMENT OF HEALTH - *KA ʻOIHANA OLAKINO*

JOSH GREEN, M.D.
GOVERNOR OF HAWAIʻI
KE KIAʻĀINA O KA MOKUʻĀINA ʻO HAWAIʻI

KENNETH S. FINK, MD, MGA, MPH
DIRECTOR OF HEALTH
KA LUNA HOʻOKELE

JOHN C. (JACK) LEWIN, M.D.
ADMINISTRATOR

1177 Alakea St., #402, Honolulu, HI 96813 Phone: 587-0788 Fax: 587-0783 www.shpda.org

March 21, 2025

To: SENATE COMMITTEE ON HEALTH AND HUMAN SERVICES
Senator Joy A. San Buenaventura, Chair
Senator Henry J.C. Aquino, Vice Chair, and
Honorable Members

From: John C (Jack) Lewin MD, Administrator, SHPDA; and
Senior Advisor to Governor Green on Healthcare Innovation

Re: **SR26 / SCR43 – Revised 2025 Hawai'i Patient Bill of Rights**

Hearing: March 24, 2025 @ 1:00 pm; Conference Room 225

Position: SUPPORT, with COMMENTS

Testimony:

SHPDA strongly supports the intent of this bill. Patients should be the most important member of the healthcare team and have the right to accessible, high-quality, and affordable healthcare. Patients must also have the right to the extent possible to participate in and/or make all key decisions relating to their medical care in partnership with their choice of physicians and clinicians.

Physicians must be able to be the unfettered advocates of their patients, without corporate, employer, or external financial influences over their clinical decision making that is in the best interest of their patient.

This updated version of the 25-year-old previous statute is necessary due to changes in the healthcare environment including prior authorization care delays, risk of inappropriate uses of artificial intelligence without safety protections and/or ethical guardrails, new technologies such as telemedicine, the need for cybersecurity and privacy protections of personal medical information, and removal of barriers that impede the right of patients to have easy access to and control of their healthcare information.

Because of the complexity and importance of this bill, SHPDA favors formation of a proposed Patients' Rights Working Group of as suggested by the Hawaii Medical Association and others to further align and update the existing statute HRS432E with input from patients, healthcare professionals, hospital systems, insurers, and relevant government agencies for refinement of this proposal and development of model legislation to be introduced in the 2026 Legislature, including review of the best elements of similar legislation in other states.

Mahalo for the opportunity to testify.

DISABILITY AND COMMUNICATION ACCESS BOARD

1010 Richards Street, Rm. 118 • Honolulu, Hawai'i 96813
Ph. (808) 586-8121 (V) • Fax (808) 586-8129 • (808) 204-2466 (VP)

March 24, 2025

TESTIMONY TO THE SENATE COMMITTEE ON HEALTH AND HUMAN SERVICES

Senate Resolution 26 / Senate Concurrent Resolution 43 – Strongly Supporting and Recommending the Implementation of the Revised 2025 Hawaii Patient Bill of Rights

The Disability and Communication Access Board (DCAB) supports Senate Resolution 26 / Senate Concurrent Resolution 43 – Strongly Supporting and Recommending the Implementation of the Revised 2025 Hawaii Patient Bill of Rights.

The existing Hawaii Patient Bill of Rights was adopted over 25 years ago and needs to be updated to address modern challenges, such as AI-driven denials, telehealth accessibility, data-offshoring risks, and persistent network inadequacies on the neighbor islands and in rural areas. These are especially challenging for people with disabilities.

DCAB proposes the following amendment on page 5, line 22, to require at least two (2) to three (3) board-certified specialists to review and co-sign any decisions in which AI automated a denial. This safeguard would help ensure fairness and prevent inappropriate denials of care, particularly for individuals with complex medical needs.

Thank you for considering our position.

Respectfully submitted,

KIRBY L. SHAW
Executive Director

JOSH GREEN, M.D.
GOVERNOR OF HAWAIʻI
KE KIAʻĀINA O KA MOKUʻĀINA ʻO HAWAIʻI

KENNETH FINK, MD, MGA, MPH
DIRECTOR OF HEALTH
KA LUNA HOʻOKELE

STATE OF HAWAIʻI
DEPARTMENT OF HEALTH
KA ʻOIHANA OLAKINO
EXECUTIVE OFFICE ON AGING
NO. 1 CAPITOL DISTRICT
250 SOUTH HOTEL STREET, SUITE 406
HONOLULU, HAWAIʻI 96813-2831

CAROLINE CADIRAO
DIRECTOR
Executive Office on Aging

Telephone
(808) 586-0100

Fax
(808) 586-0185

Testimony COMMENTING on SCR43/SR26

STRONGLY SUPPORTING AND RECOMMENDING THE IMPLEMENTATION OF THE REVISED 2025 HAWAII PATIENT BILL OF RIGHTS

COMMITTEE ON HEALTH AND HUMAN SERVICES
SENATOR JOY A. SAN BUENAVENTURA, CHAIR
SENATOR HENRY J.C. AQUINO, VICE CHAIR

Testimony of Caroline Cadirao
Director, Executive Office on Aging
Attached Agency to the Department of Health

Hearing: Monday March 24, 2025, 1:00 P.M Conference Room 225

EOA Position: The Executive Office on Aging (EOA), an attached agency to the Department of Health (DOH) offers an amendment.

Purpose and Justification: This resolution modernizes patient protections to address Ai- based coverage decisions, data security risks, and ongoing provider shortages in Hawaii. EOA feels that patients' rights should include access to a meaningful cognitive screen that includes the request of a tool that will screen for the early detection of dementia. This will allow families to plan and seek new treatments that will provide patients a better quality of life for a longer period. Without early detection, patients cannot benefit from these groundbreaking therapies. Though treatment can cannot reverse the disease, it offers hope. By empowering patients have the right to ask for a screen will go a long way in promoting the need for early detection.

Recommendation: Amend the SCR, page 4, line 13 to include the following: <u>5.3 Right to a Cognitive Screening: You or your representative has the right to request the use of a validated tool during a cognitive assessment for the early detection of dementia.</u>

Thank you for the opportunity to testify.

Hawaii Association
of Health Plans

March 24, 2025

To: Chair San Buenaventura, Vice Chair Aquino, and Members of the Senate Committee on Health and Human Services

From: Hawaii Association of Health Plans Public Policy Committee
Date/Location: March 24, 2025;1:00 pm/Conference Room 225 & Videoconference

Re: Testimony with comments on SR26/SCR43 – Patient Bill of Rights

The Hawaii Association of Health Plans (HAHP) appreciates the opportunity to offer comments and to share our concerns regarding SR26/SCR43. 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 appreciates the efforts of lawmakers to protect the rights of Hawaii residents by ensuring high quality patient care through Hawaii's Patient Bill of Rights. We are committed to working collaboratively with all stakeholders to address the challenges of our healthcare system. However, we have strong concerns about the current resolution, specifically in the language regarding prior authorizations and would **request that the committee consider deferring these resolutions for the following reasons**:

- We note that the Hawaii Patient Bill of Rights, codified under Chapter 327H, was enacted in 2004 and last amended in 2018; however, the proposed Patient Bill of Rights noted in these resolutions is not an update but a completely new section which requires additional discussion amongst stakeholders.
- The new statutory requirements mandated by this resolution do not align with current best practices and could unintentionally disrupt a process we are diligently working to improve.
- The creation of state timelines and approval deadlines that conflict with CMS requirements set to take effect on January 1, 2026, are problematic and could clog the system, creating unnecessary delays in care.

Additionally, we are concerned that the proposed changes could have significant financial implications, potentially increasing healthcare costs and resulting in higher premiums for individuals and employer groups. HAHP acknowledges the complexity of this issue and agrees that it warrants discussion. Given our extensive experience with this matter, we are committed to continuing conversations and working collaboratively with lawmakers and stakeholders to ensure high-quality, affordable healthcare for our state. We note that the Hawaii Patient Bill of Rights, codified under Chapter 327H, was enacted in 2004 and last amended in 2018; however, the proposed Patient Bill of Rights noted in these resolutions is not an update but a completely new section which requires additional discussion amongst stakeholders.

Thank you for your consideration and the opportunity to testify on SR26/SCR43.

Sincerely,
HAHP Public Policy Committee
cc: HAHP Board Members

hmsa
An Independent Licensee of the Blue Cross and Blue Shield Association

March 24, 2025

The Honorable Joy A. Sanbuenaventura, Chair
The Honorable Henry J.C. Aquino, Vice Chair
Senate Committee on Health and Human Services

Re: SCR 43/SR 26 – STRONGLY SUPPORTING AND RECOMMENDING THE IMPLEMENTATION OF THE REVISED 2025 HAWAII PATIENT BILL OF RIGHTS

Dear Chair Sanbuenaventura, Vice Chair Aquino, and Members of the Committee:

Hawaii Medical Service Association (HMSA) appreciates the opportunity to provide comments on SCR43/SR26, which looks to compel the legislature to strongly support and recommend the implementation of the Revised 2025 Hawaii Patient Bill of Rights.

As we have seen this session, the topic administrative burden, timely care for patients, and the access challenges that Hawaii faces due to our unique geographic make up has been a hot topic of discussion for this body and the community. HMSA remains committed to providing access to high quality health care that is timely and affordable, while ensuring the long-term sustainability of our state’s healthcare system.

While we understand the need for constant improvement, the issues being raised within the Revised 2025 Hawaii Patient Bill of Rights are complex and should be discussed among stakeholders representing all aspects of our health care system including our providers, hospitals, the Department of Health, consumers, and the insurance industry. For those reasons we respectfully feel that the proposed language may not reflect the input of the various perspectives that shape our community and could have unintended consequences. We are concerned that implementation of a new patient bill of rights as outlined in these resolutions would create additional challenges that could lead to unintentional cost increases for members.

We would like to note that two measures moving this session, SB 1449 SD1 HD1 and HB 250 HD2 SD1, look to convene a working group under SHPDA that would bring together many of these stakeholders to work on the challenges highlighted in this resolution. We appreciate the opportunity to provide comments on this measure and respectfully request that the committee defer this resolution and allow for the community to come together and shape this important piece of our State Statute.

Sincerely,

Dawn Kurisu
Assistant Vice President
Community and Government Relations

Hawaii Medical Association
1360 South Beretania Street, Suite 200 • Honolulu, Hawaii 96814
Phone: 808.536.7702 • Fax: 808.528.2376 • hawaiimedicalassociation.org

SENATE COMMITTEE ON HEALTH AND HUMAN SERVICES
Senator Joy A. San Buenaventura, Chair
Senator Henry J.C. Aquino, Vice Chair

Date: March 24, 2025
From: Hawaii Medical Association (HMA)
Jerald Garcia MD - Chair, HMA Public Policy Committee

RE SR 26 / SCR 43 STRONGLY SUPPORTING AND RECOMMENDING THE IMPLEMENTATION OF THE REVISED 2025 HAWAII PATIENT BILL OF RIGHTS - Revised 2025 Hawaii Patient Bill of Rights
Position: Support with amendments

This resolution states that the Hawaii Legislature would strongly support and recommend implementation of the revised 2025 Hawaii Patient Bill of Rights.

In the practice of Medicine, healthcare professionals, hospitals, healthcare systems, administrators and insurers should protect the dignity of each patient and deliver medical care with respect and fairness. The Hawaii Revised Statute 432 for the Hawaii Patient Bill of Rights and Responsibilities was enacted in 1999, with subsequent sporadic revisions. Proposed revision should reflect the primary focus of the statute for value-based patient-centered care.

HMA supports the intent of this resolution and respectfully offers two (2) amendments for consideration:

ADDITION/ AMENDMENT A

The patient and/or guardian have a right to:

I. Quality and Safety

- Receive considerate, respectful, and compassionate care;
- Receive high quality and safe care;
- A safe environment free from all forms of abuse (verbal, mental, physical, and sexual) and neglect;
- Be treated without discrimination based on race, color, national origin, ethnicity, age, gender, sexual orientation, gender identity or expression, physical or mental disability, religion, language, or ability to pay;
- Informed consent: Patients have the right to information about their diagnosis and treatment options in non-clinical terms. This includes risks, benefits, alternatives and potential complications.

II. Transparency

- Request to review patient medical records, have patient records and care and treatment discussions kept confidential, be provided a copy of the HIPAA notice of privacy practices, and allow or refuse pictures for anything other than patient care;
- Receive information about patient care charges and request and receive an estimate of charges before care is provided and as long as patient care is not impeded;
- Receive information and updates about patient health plan coverage, prior authorization requests and claims processing.

III. Autonomy

- Be involved directly in patient plan of care;
- Refuse treatment;
- Appoint an individual of the patient's choice to make health care decisions for the patient, if the patient is unable to do so;
- Make or change an advance directive;
- Complain or initiate a grievance without it affecting patient care and be provided a list of protective and advocacy services when needed.

ADDITION/ AMENDMENT B

The Hawaii Legislature urges the Director of Health to establish a working group on Patient Rights to further align and update existing statute HRS 432E with input from patients, healthcare professionals, hospital systems and insurers.

The Patient Rights Work Group would include

- Representatives from Patient Advocacy Groups including Papa Ola Lokahi, AARP, American Cancer Society, HIPHI.

- Representative from hospitals Healthcare Association of Hawaii

- Director of Health or designated representative
- Representative of Department of Commerce and Consumer Affairs
- Representative of Department of Human Services' Med-QUEST Division
- Insurance Commissioner or designated representative
- Representative from State Health Planning and Development Agency (SHPDA)

- Representative from Hawaii Association of Health Plans (HAHP)

- Representative from Hawaii State Rural Health Association
- Representative from Hawaii Medical Association (HMA)
- Representative from Hawaii State Center for Nursing
- Representative from Hawaii Association of Professional Nurses
- Representative from University of Hawaii Pacific Basin Telehealth Resource Center

2025 Hawaii Medical Association Officers
Elizabeth Ann Ignacio, MD, President • Nadine Tenn-Salle, MD, President Elect • Angela Pratt, MD, Immediate Past President
Jerris Hedges, MD, Treasurer • Thomas Kosasa, MD, Secretary • Marc Alexander, Executive Director

2025 Hawaii Medical Association Public Policy Coordination Team
Jerald Garcia MD, Chair
Linda Rosehill, JD, Government Relations • Marc Alexander, Executive Director

The Patient Rights Work Group tasks would include

- Review of HRS 432E for update and alignment with emerging Health Information Technologies (HIT) including telehealth, applications of Artificial Intelligence (AI) and compliance with Health Insurance Portability and Accountability Act (HIPAA).
- Review HRS 432E for needed update and alignment with new CMS Rules on Prior Authorization
- Review of HRS 432E for update and alignment with new practice models and relevant patient access challenges including Social Determinants of Health and/or regulatory systemic barriers.
- Report recommendations for legislative changes to the Hawaii State Legislature 2026

Thank you for allowing the Hawaii Medical Association to testify in support of this resolution.

REFERENCES AND QUICK LINKS

Hawaii Revised Statutes. https://www.capitol.hawaii.gov/hrscurrent/Vol09_Ch0431-0435H/HRS0432E/HRS_0432E-.htm Accessed March 14, 2025.

American Medical Association. Code of Medical Ethics. Patients Rights. Accessed March 14, 2025.

Centers for Medicare & Medicaid Services (CMS), Department of Health and Human Services (HHS).
CMS Interoperability and Prior Authorization Final Rule (CMS-0057-F)
https://www.cms.gov/files/document/cms-0057-f.pdf Accessed Jan 28 2025.

Edward Gutteling, MD, FAAOS

670 Kekuanaoa Street,
Hilo, Hawai'i 96721
Telephone (808) 961-2609
Fax (808) 969-9262

- ORTHOPEDIC SURGERY
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University of Hawaii, John A. Burns
School of Medicine

- (Fmr) Community Faculty
Hawaii Island Family Medicine
Residency

- Fellow, American Academy of
Orthopedic Surgery

- Board Certified, American Board
of Orthopedic Surgery

- Orthopedic Research Fellowship,
UMDNJ

March 22, 2025

To: **SENATE COMMITTEE ON HEALTH AND HUMAN SERVICES**
Re: **SCR43 – *Revised 2025* Hawai'i Patient Bill of Rights**

Dear Senators:

Unfortunately, we live in an age and evolving society where there is a critical need for a **PATIENT BILL of RIGHTS**.
It should be a self-evident truth that each human retains unique identity, dignity and sovereignty in our God-given persons, created equal, endowed by our Creator with certain unalienable Rights.--***That to secure these rights*, Governments are instituted among Men**, deriving their just powers from the consent of the governed. Not just cogs in a machine.

You, the Government, needs to secure these rights, for patients.

You wouldn't like YOUR rights as a patient to be trampled. Don't allow it for anyone else, either.

Unfortunately, there is an accelerating track record of DENYING patients their rights, by corporate medicine, insurance companies, thoughtless officials and other intruders in this space.

Physicians' and clinicians' role as advocates of their patients cannot ethically or morally be degraded by corporations, officials, employers, or external financial influences over their clinical decision making *that is in the best interest of their patient, **not anything else.***

There is increasing use of a mindset, frequently flawed, that view unique humans totally as **a collection of organisms TO which group decisions are made**, ***made for them by others in charge,*** such as on the field of battle where an acceptable casualty rate is determined by the generals, denying the individual dignity and uniqueness of each human being. As in a Public Health mindset of metrics, frequently flawed, not of unique persons with uniquely detailed issues. A mindset justified as for the greater good. (By others in control of course, for their collective good, not the patient.) The controlling attitude should be… *what is best for each individual patient*, NOT best for the controlling organization or power.

Costly inappropriate prior authorization care delays and arbitrary denials, outsourcing decades of clinical experience in individual cases to a risky controlling deference of artificial intelligence (without adequate safety protections or ethical guardrails), the suppression of unique clinical decisions, the increasing breakdown in privacy protections of personal medical information, the removal of barriers that impede the right of patients to have easy access to and control of their healthcare information, COMPLETE access, not censured or obscured…all this needs to stop. Please support the UPDATED 2025 Patient Bil of Rights, continuing the good work of 25 years ago that is now obsolete and impotent.

Yours sincerely
Warmest aloha

Edward Gutteling, MD, FAAOS