



DAVID Y. IGE
GOVERNOR

JOSH GREEN
LT. GOVERNOR

**STATE OF HAWAII
OFFICE OF THE DIRECTOR
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS**

335 MERCHANT STREET, ROOM 310
P.O. BOX 541
HONOLULU, HAWAII 96809
Phone Number: 586-2850
Fax Number: 586-2856
cca.hawaii.gov

CATHERINE P. AWAKUNI COLÓN
DIRECTOR

JO ANN M. UCHIDA TAKEUCHI
DEPUTY DIRECTOR

Testimony of the Department of Commerce and Consumer Affairs

**Before the
House Committee on Consumer Protection and Commerce
Wednesday, March 20, 2019
2:15 p.m.
State Capitol, Conference Room 329**

**On the following measure:
S.B. 1465, S.D. 2, H.D. 1, RELATING TO TREATMENT INSURANCE BENEFITS**

Chair Takumi and Members of the Committee:

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

The purposes of this bill are to: (1) require health insurance policies and plan contracts to cover certain expenses related to petitions and hearings for persons obtaining assisted community treatment; and (2) establish a task force within the Department of Health to study assisted community treatment benefit costs.

This bill may be viewed as a new mandate. The addition of new mandated coverage may trigger section 1311(d)(3) of the federal Patient Protection and Affordable Care Act (PPACA), which requires states to defray the additional cost of any benefits in excess of the essential health benefits of the State's qualified health plan under the PPACA.

Additionally, any proposed mandate providing coverage for care requires the passage of a concurrent resolution requesting the State Auditor to prepare and submit a report assessing the social and financial impacts of the proposed mandate, pursuant to Hawaii Revised Statutes (HRS) section 23-51. This bill, however, exempts itself from the requirements of HRS section 23-51 and the State Auditor report.

Thank you for the opportunity to testify on this bill.



**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
THIRTIETH LEGISLATURE, 2019**

ON THE FOLLOWING MEASURE:

S.B. NO. 1465, S.D. 2, H.D. 1, RELATING TO TREATMENT INSURANCE BENEFITS.

BEFORE THE:

HOUSE COMMITTEE ON CONSUMER PROTECTION AND COMMERCE

DATE: Wednesday, March 20, 2019 **TIME:** 2:15 p.m.

LOCATION: State Capitol, Room 329

TESTIFIER(S): Clare E. Connors, Attorney General, or
Daniel K. Jacob, Deputy Attorney General

Chair Takumi and Members of the Committee:

The Department of the Attorney General makes the following comments.

The purposes of this bill are to: (1) require insurance companies to provide coverage for assisted community treatment benefits; and (2) to establish an assisted community treatment benefits task force within the department of health to investigate the payment and costs for assisted community treatment.

Under section 1311(d)(3)(B) of the Affordable Care Act and 45 C.F.R. section 155.170, a state may only require a Qualified Health Plan to add benefits if the state defrays the cost of the additional benefits, unless the proposed new benefit is directly attributable to State compliance with Federal requirements to provide Essential Health Benefits after December 31, 2011.

This bill would require Qualified Health Plans to provide coverage for the cost of assisted community treatment benefits. Because this benefit was neither mandated by state law prior to December 31, 2011, nor directly attributable to compliance with Federal requirements after December 31, 2011, it may be considered an additional mandate. If so, the State would be required to defray the cost.

At this time, our department is unaware of a state that has been subjected to the obligation to defray the cost for additional benefits. Therefore, there are no prior examples of how the State would meet its obligation and what specific procedures would be necessary to fulfill the obligation. Our department's best understanding is that after the Qualified Health Plan issuer submits the issuer's costs attributable to the

additional mandate, the Legislature would need to appropriate the money during the following legislative session and propose a mechanism to distribute the money.

Thank you for the opportunity to comment.

SB-1465-HD-1

Submitted on: 3/17/2019 11:32:12 PM

Testimony for CPC on 3/20/2019 2:15:00 PM

| Submitted By | Organization | Testifier Position | Present at Hearing |
|---------------------|--------------------------------|---------------------------|---------------------------|
| Mike Goodman | Hawaii Kai Homeless Task Force | Support | Yes |

Comments:

TO: The House Committee on Consumer Protection & Commerce

FROM: Mike Goodman, Director, The Hawaii Kai Homeless Task Force and Member, Partners In Care Advocacy Committee.

RE: SB1465 SD2, HD1

HEARING: Wednesday, March 20, 2019 at 2:15 p.m. Conference Room 329

Dear Representative Takumi, Chair, and Representative Ichiyama, Vice Chair, and all Members of the Committee; Thank you for the opportunity to testify in strong support of SB1465.

This bill is also supported by Partners in Care, which is a coalition of more than 50 non-profit homelessness providers. Members include The Salvation Army, Aloha United Way, Hawaii Harm Reduction, The Institute for Human Services, U.S. Vets and Many others.

SB1465 is a crucial part of a series of bills including SB564, SB567, SB1124 and SB1464 which are contemplated to make critical improvements to the Assisted Community Treatment Program ("ACT"), to do a better job of serving severely mentally ill and substance addicted chronically homeless persons and get them off the streets. With an effective ACT program, we can end the suffering of impaired homeless individuals while saving taxpayers millions of dollars.

Mental illness and addiction is at the heart of chronic homelessness; a phenomenon that costs the State well over a hundred million dollars a year just for emergency medical services. Many are incapable of helping themselves. They suffer horrific health consequences wrought by exposure and unsanitary conditions, while cycling between jails, hospitals and the streets.

SB1465 addresses the seminal issue of how to pay for mental health services so urgently needed to end chronic homelessness.

Mahalo for your time.

Helping Hawai'i Live Well

To: Representative Roy Takumi, Chair, Representative Linda Ichiyama, Vice Chair, Members, House Committee on Consumer Protection and Commerce

From: Trisha Kajimura, Executive Director

Re: TESTIMONY IN SUPPORT OF SB 1465 SD2 HD1 RELATING TO TREATMENT INSURANCE BENEFITS

Hearing: March 20, 2019, 2:15 pm, CR 329

Thank you for hearing SB 1465 SD2 HD1, which requires mental health insurers to cover certain expenses related to petitions and hearings for obtaining assisted community treatment for persons.

Mental Health America of Hawaii is a 501(c)3 organization founded in Hawai'i 77 years ago, that serves the community by promoting mental health through advocacy, education and service.

Assisted Community Treatment (ACT) was passed by the Legislature in 2013 and was intended to help people who are so sick from mental illness that they are unable to recognize the need for their own treatment. Without assisted community treatment, these are community members living in terrible conditions, often homeless, unable to care for themselves and their own basic physical needs, hallucinating and suffering needlessly. With the proper treatment as provided through an ACT order, they are capable of a much higher level of functioning and can recover from their illness.

Filing an ACT petition is a complex process with multiple steps. This bill will require medical insurers to include coverage for preparing a certificate of examination to accompany a petition for a hearing for ACT and a licensed psychiatrist in conducting a psychiatric examination or presenting the findings of the examination at an ACT hearing. This change in coverage will make successful ACT petitions much more feasible. This will help to improve the ACT process and bring more people with untreated mental illness into recovery, escaping homelessness and its lack of dignity and humanity.

Please help us improve mental health in Hawaii by passing SB 1465 SD2 HD1.

Thank you for the opportunity to submit this testimony. You can reach me at trisha.kajimura@mentalhealthhawaii.org or (808)521-1846 if you have any questions.



PARTNERS IN CARE

Oahu's Continuum of Care

Our mission is to eliminate homelessness through open and inclusive participation and the coordination of integrated responses.

TESTIMONY IN SUPPORT OF SB 1465 SD2 HD1, RELATING TO MENTAL HEALTH TREATMENT

TO: Rep Roy Takuma, Chair, and Rep. Linda Ichiyama, Vice Chair, and members,
Committee on Consume Protection and Commerce

FROM: Marya Grambs, member, Board of Directors, Partners in Care

HEARING: Wednesday March 20, 2019, 2:15 pm

Thank you for the opportunity to provide testimony **in support** of SB 1465 SD2 HD 1. I am Marya Grambs, member, Board of Directors of Partners in Care, a planning, coordinating, and advocacy alliance that develops recommendations for programs and services to fill needs within Oahu's Continuum of Care for persons experiencing homelessness.

SB 1465 SD2 rectifies a significant barrier in obtaining Assisted Community Treatment (ACT) orders – namely, that community agencies and families do not have the resources to hire the psychiatric professionals needed to prepare and file such petitions. Because of this and other difficulties, only 10 individuals have been placed under ACT orders since the law was passed in 2013. Section 1 (c) includes, as a covered benefit for mental health treatment, the preparation of ACT petitions by psychiatric professionals.

Section 2 establishes an Assisted Community Treatment Benefits Task Force which will be very valuable to clarify the funding mechanism for these services.

This bill is derived from two years of meetings by various stakeholders, both public and private, to understand the barriers to successfully filing ACT petitions.

ACT orders are designed to get help for those individuals with whom we are all familiar because they are so visibly distressed: they display destructive and delusional behavior; they are extremely mentally ill and do not have the capacity to take care of themselves or make decisions about their treatment; they live in inhumane circumstances without adequate hygiene or medical care; they are often victims of violence or, in the case of women, sexual assault; and they cycle repeatedly between street, hospital, and jail. Letting them languish in the streets is inhumane – untreated psychosis causes brain damage -- and expensive. We believe they have a right to treatment and to have a chance to live a better life.

I urge you to pass this bill. Thank you for the opportunity to present this testimony.



CATHOLIC CHARITIES HAWAII

TESTIMONY IN SUPPORT OF SB 1465, HD1: Relating to Treatment Insurance Benefits

TO: Representative Roy Takumi, Chair, Representative Linda Ichiyama, Vice Chair, and Members, Committee on Consumer Protection and Commerce

FROM: Betty Lou Larson, Legislative Liaison, Catholic Charities Hawai'i

Hearing: **Wednesday, 3/20/19; 2:15 PM; CR 329**

Chair Takumi, Vice Chair Ichiyama, and Members, Committee on Consumer Protection and Commerce:

Thank you for the opportunity to provide testimony **in support** of SB 1465, SD2, HD1, which establishes a task force to investigate the costs of assisted community treatment (ACT) treatment benefit costs and requires insurance policies/plans to cover certain expenses related to petitions and hearings for persons obtaining assisted community treatment. I am Betty Lou Larson, with Catholic Charities Hawai'i. We are also a member of Partners in Care.

Catholic Charities Hawai'i (CCH) is a tax exempt, non-profit agency that has been providing social services in Hawai'i for over 70 years. CCH has programs serving elders, children, families, homeless and immigrants. Our mission is to provide services and advocacy for the most vulnerable in Hawai'i.

Probably the most vulnerable of all the homeless living on the streets in Hawaii are the severely mentally ill individuals who suffer from psychosis, hallucinations and bizarre behaviors. They are living in degrading and inhumane situations. They are at great risk of assault, and for women, rape. They have been unreachable by homeless outreach teams. The public is afraid of them and demands that the government or police "do something". Yet, often they are just moved along to another location.

Assisted Community Treatment (ACT) is an available but under-utilized option for people with these serious mental illnesses to receive on-going treatment in the least restrictive setting. ACT can help these individuals to achieve stability. With health plans covering the cost of psychiatric evaluations needed for the preparation of ACT orders, this could facilitate the use of this important tool to help this vulnerable population. Covering these costs also has the potential for significant long-term medical cost savings. These homeless individuals often are frequent users of emergency rooms at a high cost.

As Mother Theresa once said, "If we have no peace, it is because we forget that we belong to each other." It's time to demonstrate that we have not forgotten people who struggle with severe mental illness on the streets. We need to seek humane solutions to help these most vulnerable homeless. This bill could provide some resources to increase the use of Assisted Community Treatment. We urge your support.

Please contact me at (808) 373-0356 or bettylou.larson@catholiccharitieshawaii.org if you have any questions.



CLARENCE T. C. CHING CAMPUS • 1822 Ke'eaumoku Street, Honolulu, HI 96822
Phone (808) 373-0356 • bettylou.larson@CatholicCharitiesHawaii.org





March 19, 2019

The Honorable Roy M. Takumi, Chair
The Honorable Linda Ichiyama, Vice Chair
House Committee on Consumer Protection & Commerce

Re: SB 1465, SD2, HD1 – Relating to Treatment Insurance Benefits

Dear Chair Takumi, Vice Chair Ichiyama, and Committee Members:

The Hawaii Medical Service Association (HMSA) appreciates the opportunity to testify on SB 1465, SD2, HD1, which requires health insurance policies and plan contracts to cover certain expenses related to petitions and hearings for persons obtaining assisted community treatment. This measure also establishes a task force to study assisted community treatment benefit costs.

HMSA respectfully opposes this measure. We believe that the administrative services in the bill fall outside of the requirements of medical necessity and therefore should not be covered by health plans.

As this bill has been modified to request that a task force investigate assisted community treatment benefit costs, we respectfully ask the committee to consider either removing Section 1 of this measure, or deferring this measure and allowing a task force to perform their investigation under a concurrent resolution.

Thank you for allowing us to testify in opposition to SB 1465, SD2, HD1. Your consideration of our comments is appreciated.

Sincerely,

Jennifer Diesman
Senior Vice-President-Government Relations



Hawai'i Psychological Association

For a Healthy Hawai'i

P.O. Box 833
Honolulu, HI 96808

www.hawaiipsychology.org

Phone: (808) 521-8995

House Committee on Consumer Protection & Commerce
Representative Roy M. Takumi, Chair
Representative Linda Ichiyama, Vice Chair

Testimony in Support of SB1465 SD2 HD1

March 20, 2019, 2:15 pm, Room 329

The Hawai'i Psychological Association (HPA) supports SB1465 SD21 HD1, which would require health insurance policies and plan contracts to cover certain expenses related to petitions and hearings for persons obtaining assisted community treatment.

By adding assisted community treatment to existing legislation under Section 431M-4, Hawaii Revised Statutes relating to treatment insurance benefits, SB1465 SD2 HD1 ensures coverage for critical services. SB1465 SD21 HD1 would also establish a task force to study assisted community treatment benefit costs.

We respectfully urge you to support SB1465 SD2 HD1.

Respectfully submitted,

Julie Takishima-Lacasa, PhD
Chair, HPA Legislative Action Committee



Testimony of
John M. Kirimitsu
Legal & Government Relations Consultant

Before:
House Committee Consumer Protection & Commerce
The Honorable Roy M. Takumi, Chair
The Honorable Linda Ichiyama, Vice Chair

March 20, 2019
2:15 pm
Conference Room 329

Re: SB 1465, SD2, HD1 Relating to Treatment Insurance Benefits

Chair, Vice Chair, and committee members, thank you for this opportunity to provide testimony on this bill requiring mental health insurers to cover certain expenses relating to petitions and hearings for assisted community treatment.

Kaiser Permanente Hawaii opposes the bill.

Kaiser Permanente opposes this measure because it believes that the assisted community treatment petitions and court proceedings are case management services that would fall outside the scope of medical necessity, and therefore should not be covered. Health insurers provide coverage only for health-related services that are recognized under the industry standard as medically necessary. See § HRS 432E-1.4, Medical Necessity.

Also, the lack of available mental health resources will become even more prevalent if this bill requires mental health providers to attend these case management services (even for non-members), which would divert focus away from providing much needed psychotherapy clinical services to patients.

In the alternative, Kaiser supports the creation of a task force under Section 2 of this bill, and thus removing Section 1. Specifically, this task force would be useful to investigate the payment and costs associated with assisted community treatment, and exploring the option of possible grants to fund this assisted community treatment program.

Thank you for the opportunity to provide testimony.

711 Kapiolani Blvd
Honolulu, Hawaii 96813
Telephone: 808-432-5224
Facsimile: 808-432-5906
Mobile: 808-282-6642
E-mail: John.M.Kirimitsu@kp.org

SB-1465-HD-1

Submitted on: 3/18/2019 12:12:50 PM

Testimony for CPC on 3/20/2019 2:15:00 PM

| Submitted By | Organization | Testifier Position | Present at Hearing |
|---------------------|---------------------|---------------------------|---------------------------|
| James Logue | Individual | Support | No |

Comments: