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Testimony of the Department of Commerce and Consumer Affairs

**Before the
House Committee on Health
Thursday, March 14, 2019
9:00 a.m.
State Capitol, Conference Room 329**

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

Chair Mizuno 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.

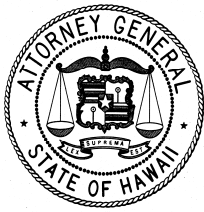
The purpose of this bill is to require health insurance policies and plan contracts to cover certain expenses related to petitions and hearings for persons obtaining assisted community treatment.

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, RELATING TO TREATMENT INSURANCE BENEFITS.

BEFORE THE:

HOUSE COMMITTEE ON HEALTH

DATE: Thursday, March 14, 2019

TIME: 9:00 a.m.

LOCATION: State Capitol, Room 329

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

Chair Mizuno and Members of the Committee:

The Department of the Attorney General makes the following comments.

The purpose of this bill is to require insurance companies to provide coverage for assisted community treatment benefits.

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.



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, RELATING TO MENTAL HEALTH TREATMENT

TO: Rep John Mizuno, Chair, Rep Bertrand Kobayashi, Vice Chair, and members, House Committee on Health

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

Hearing: **Thursday 2/14/19; 9:00 am; CR 329**

Chair Mizuno. Vice Chair Kobayashi, and Members, Committee on Health:

Thank you for the opportunity to provide testimony **in support** of SB 1465 SD2. 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.

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 HAWAI'I

TESTIMONY IN SUPPORT OF SB 1465, SD2: Relating to Mental Health Treatment

TO: Representative John Mizuno, Chair, Representative Bertrand Kobayashi, Vice Chair, and Members, Committee on Health

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

Hearing: **Thursday, 3/14/19; 9:00 am; CR 329**

Chair Mizuno, Vice Chair Kobayashi, and Members, Committee on Health:

Thank you for the opportunity to provide testimony **in support** of SB 1465, SD2 , which 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 would 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.





Testimony of
John M. Kirimitsu
Legal & Government Relations Consultant

Before:
House Committee on Health
The Honorable John M. Mizuno, Chair
The Honorable Bertrand Kobayashi, Vice Chair

March 14, 2019
9:00 am
Conference Room 329

Re: SB 1465, SD2 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, as drafted.

Kaiser Permanente appreciates this bill's intent to require mental health coverage for assisted community treatment services, however, Kaiser respectfully opposes this measure because if allowed, this would mandate expanded coverage beyond what is currently covered. It is well recognized that 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. Kaiser 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.

Also, the lack of available mental health resources will become even more prevalent if this bill requires health insurers to cover these case management services, because the demand for mental health providers to attend these court proceedings may potentially increase. Thus, this bill's unintended consequence would divert focus away from providing much needed psychotherapy clinical services.

Thank you for the opportunity to provide testimony.

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SB-1465-SD-2

Submitted on: 3/12/2019 9:34:10 PM

Testimony for HLT on 3/14/2019 9:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
CHU LAN SHUBERT-KWOCK	CHINATOWN BUSINESS & COMMUNITY ASSOCIATION	Support	No

Comments:



Inspiring Hope, Changing Lives

Visit us on the web: www.hopeserviceshawaii.org

Connect via email: info@hopeserviceshawaii.org

HOPE Help Line: 808-935-3050

Hearing: **HB 1465, SD2 in support**
Date: March 14, 2019
Location: State Capitol, Room 329

Aloha Committee Chair, Vice-Chair, and Committee Members:

I am submitting testimony on behalf of HOPE Services Hawai'i, a nonprofit homelessness service provider, in support of SB 1465--a bill that, if passed, will immensely help us in our mission to end homelessness in Hawai'i.

We are all familiar with the problems caused by combination of chronic homelessness and severe mental illness: individuals exhibiting psychotic and erratic behavior, poor hygiene, and creating makeshift homes in destitute and substandard conditions: in parks, on sidewalks, in storefronts, and in tent cities. These individuals are extremely high utilizers of public services such as ambulance, police, ER, inpatient treatment, crisis services, arrest, and adjudication, at great expense to both the government and their communities. They frequently do not understand that they are ill, and therefore refuse outreach attempts and treatment, leaving themselves at risk for further harm--both men and women are frequent victims of assault, and women are at an especially high risk of rape. Additionally, untreated psychosis and schizophrenia cause brain damage. Every day we allow someone suffering from these illnesses to live on the street marks a decrease in the likelihood that they will recover and be able to live as a healthy, high-functioning, adult.

Our neighbors who suffer from the afflictions enumerated above have a "right to treatment." One avenue for providing this treatment is the Assisted Community Treatment (ACT) law, which enables the Court to order individuals like these, who meet very specific criteria, to receive treatment in the community; a related mechanism is that of obtaining guardianship. SB 1465 would require insurance companies to cover the cost of psychiatric evaluations in preparation for ACT.

The passage of this bill benefits all of us. It will help cover the cost to assist those who desperately need our help, and also will benefit many others, including: medical personnel, social service providers, police, and the court system, who will be able to free up their resources to meet other needs; business owners, who may worry less about these individuals driving away customers; parents, who will feel safer with their children being out in public; and finally our keiki, who will learn by example how we show aloha to those less fortunate than ourselves.

For these reasons, HOPE Services Hawai'i urges the passage of SB 1465.

Mahalo nui for your consideration.

Sincerely,

Brandee Menino,
Chief Executive Officer

JOIN OUR COMMUNITY



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March 13, 2019

The Honorable John M. Mizuno, Chair
The Honorable Bertrand Kobayashi, Vice Chair
House Committee on Health

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

Dear Chair Mizuno, Vice Chair Kobayashi, and Committee Members:

The Hawaii Medical Service Association (HMSA) appreciates the opportunity to testify on SB 1465, SD2, which requires health insurance policies and plan contracts to cover certain expenses related to petitions and hearings for persons obtaining assisted community treatment.

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.

Thank you for allowing us to testify in opposition to SB 1465, SD2.

Sincerely,

Pono Chong
Vice President, Government Relations

SB-1465-SD-2

Submitted on: 3/13/2019 5:57:13 AM

Testimony for HLT on 3/14/2019 9:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
"Phil" Augustus Acosta	ALEA Bridge	Support	No

Comments:

SB-1465-SD-2

Submitted on: 3/12/2019 3:01:22 PM

Testimony for HLT on 3/14/2019 9:00:00 AM

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

Comments:

SB-1465-SD-2

Submitted on: 3/12/2019 8:14:55 AM

Testimony for HLT on 3/14/2019 9:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Ellen Godbey Carson	Individual	Support	No

Comments:

I support this bill to assist those who need community assisted treatment. I am a former president of the Institute for Human Services, and former attorney in the health care field. Appropriate medical care is critical for stabilizing homeless persons with severe mental illness. Yet without financial support for the petitions and hearings to order their community assisted treatment, there will likely not be a viable means to get the orders needed to secure their treatment. Thus, the court proceeding is an essential and integral part of their treatment process, since their disease process prevents them from consenting to the treatment on their own. Following the order for treatment, the treatment itself should greatly improve the person's mental and physical health, thus saving money in the long run.

TESTIMONY IN SUPPORT OF SB 1465, SD 2

TO: House Committee on Health

FROM: Nikos Leverenz
Grants, Development & Policy Manager

DATE: March 14, 2019 (9:00 AM)

Chair Mizuno, Vice-Chair Kobayashi, and Members of the Committee:

Hawai'i Health & Harm Reduction Center (HHRC) **supports** SB 1465, SD 2, which requires health insurance policies and plan contracts to cover the costs of a psychiatric evaluation for the preparation of assisted community treatment (ACT) orders.

A petition to file an ACT order requires the services of a psychiatrist or an advance practice nurse with prescriptive authority and psychiatric specialization. Many family members do not have the financial resources to pay for such services. A key section of SB 1465 enables such services to be a covered benefit.

It is inhumane to leave people with severe mental illness languishing in the streets. We cannot simply ignore people's needs when they are in such a state of psychosis that they are refusing treatment and assistance because they do not understand they are ill, and as a result are posing a serious risk to themselves. While we have had increased access to ACT in recent years, lack of capacity within the system has made it challenging to implement. Only 10 individuals have been placed under ACT orders since the law was passed in 2013.

HHRC works with many individuals who are impacted by poverty, housing instability, and other social determinants of health. Many have behavioral health problems, including those relating to substance use and underlying mental health conditions.

Thank you for the opportunity to testify on this measure.

LATE

SB-1465-SD-2

Submitted on: 3/13/2019 5:42:04 PM

Testimony for HLT on 3/14/2019 9:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Mike Goodman	Hawaii Kai Homeless Task Force	Support	No

Comments:

TO: The House Committee on Health

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

RE: SB1465

HEARING: Thursday, March 14, 9:00 a.m. Room 329

Dear Rep. Mizuno, Chair, Rep. Kobayashi, Vice Chair, and all Members of the Committee. Thank you for the opportunity to testify in strong support of SB1465.

The Hawaii Kai Homeless Task Force and PIC supports this bill, because it addresses the crucial issue of how to pay for the treatment of mental illness and substance addiction amongst the homeless and other indigents. The chronic homeless, most of whom are mentally ill, or substance addicted, will benefit from this bill.

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.

LATE

SB-1465-SD-2

Submitted on: 3/14/2019 7:58:28 AM

Testimony for HLT on 3/14/2019 9:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Kimo K. Carvalho	IHS, The Institute for Human Services	Support	No

Comments: