NEIL ABERCROMBIE
GOVERNOR OF HAWAII

LORETTA J. FUDDY, A.C.S.W., M.P.H.
DIRECTOR OF HEALTH

STATE OF HAWAII
DEPARTMENT OF HEALTH
P.O. Box 3378
HONOLULU, HAWAII 96801-3378

In reply, please refer to:
File:

House Committee on Judiciary

HCR 195 / HR 169, Affirming the Intent of the Legislature that Amendments to the State Health Services and Facilities Plan be Done Through the Public Hearings Process

Testimony of Loretta J. Fuddy, A.C.S.W., M.P.H.
Director of Health

Thursday, April 7, 2011
2:00 p.m.

Department's Position: The Department of Health opposes these resolutions as they do not accurately track the language of the provisions of chapter 323D, Hawaii Revised Statutes (HRS), which govern the State Health Services and Facilities Plan (the Plan) and the procedures for its preparation and revision. Adoption of either resolution would create ambiguity in the interpretation of chapter 323D provisions related to the Plan; such ambiguity would confuse the health providers who are subject to the provisions of chapter 323D, as well as the public.

As background, section 323D-17, HRS states in pertinent part "...the state agency and the statewide council shall conduct a public hearing on the proposed plan or the amendments and shall comply with the provisions ***for notice of public hearings in chapters 91 and 92***" (emphasis added). In the adoption of the most recently amended Plan (2009), the Agency and its advisory Statewide Health Coordinating Council (SHCC) complied with the notice provisions of chapters 91 and 92 for the required public hearing. Reference to chapter 91 in section

323D-17 is limited to the notice provisions of that chapter, and does not indicate legislative intent to require adoption of the Plan according to the rulemaking provisions of chapter 91.

The statutory responsibility to prepare the Plan, and revise it, as necessary, rests with the SHCC pursuant to section 323D-14, HRS. The resolutions, however, would affirm, incorrectly, that the State Health Planning and Development Agency amends the Plan. (H.C.R. No. 195 and H.R. 169, at page 1, lines 29-31). Passage of either resolution will create ambiguity concerning the legislature's intent as to which entity is empowered to prepare and revise the Plan. Correction of this inconsistency, however will not assure that passage of the resolutions does not create ambiguity in the interpretation of the law.

Comparison of the text of the "whereas" clauses of the resolutions with chapter 323D reveals many inconsistencies that will add to the ambiguity that concerns the Department of Health and the Agency tasked with implementing the law. For example, at page 1, lines 20 and 21, both resolutions state that certificate of need decisions of the Agency, "if requested by the health care facility" are "done through the public hearings process[.]" This characterization of the certificate of need hearing process is inconsistent with the relevant provisions of chapter 323D, HRS, which describe holding a **public meeting** (emphasis added), if requested, for administrative review of certain applications, pursuant to section 323D-44.5; as well as review of certificate of need applications through a series of **public meetings** (emphasis added), as required by the provisions of section 323D-45. Exceptions to both processes are made in the case of emergency situations or other unusual circumstances. Additionally, section 323D-17 HRS, specifies that in the adoption of the Plan, the Agency and the SHCC "shall conduct ***a public hearing",*** while the resolutions repeatedly refer to "the public hearings process." As the terms are significantly dissimilar, passage of the resolutions will result in unnecessary ambiguity in the interpretation and the application of SHPDA's governing law.

For all of these reasons, the Department of Health requests respectfully that this Committee defer action on H.C.R. 195 and H.R. 169. Thank you for this opportunity to provide testimony on the resolutions.

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Government Relations

Testimony of
Joan Danieley
Vice President
Health Plan Administration

Before:
House Committee on Judiciary
The Honorable Gilbert S.C. Keith-Agaran, Chair
The Honorable Karl Rhoads, Vice Chair

April 7, 2011
2:00 pm
Conference Room 325

Re: HCR 195/HR 169 – AFFIRMING THE INTENT OF THE LEGISLATURE THAT AMENDMENTS TO THE STATE HEALTH SERVICES AND FACILITIES PLAN BE DONE THROUGH THE PUBLIC HEARINGS PROCESS

Chair, Vice Chair, and committee members, thank you for this opportunity to provide testimony on HCR 195/HR 169.

Kaiser Permanente Hawaii opposes this Resolution as unnecessary and confusing, and provides the following comments for purposes of context and clarification.

My name is Joan Danieley and I am Vice President, Health Plan Administration, for Kaiser Permanente Hawaii (Kaiser). Kaiser feels compelled to submit this testimony because we believe this Resolution is unnecessary.

Recently there have been allegations that SHPDA violated the Sunshine Law when amending the State Health Services and Facilities Plan back in 2009. This issue has already been investigated by the Office of Information Practices (OIP). We attach a copy of the OIP's memorandum, dated December 6, 2010, regarding whether the Sunshine Law had been violated during the development of the current health services and facilities plan. More specifically, the issue was whether the Plan Development Committee (PDC) of the Statewide Health Coordinating Council (SHCC), and the PDC's subcommittees, violated the Sunshine Law.

The Opinion of the OIP is set forth at the top of page 2, which states the following: "We do not find that SHCC intentionally violated the Sunshine Law, given SHCC's reasonable reliance on informal OIP guidance provided regarding the status of the PDC as a Sunshine Law board and the opportunities provided for public participation with respect to the State Plan."

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The OIP Opinion explains that "SHPDA contacted OIP in 2007 seeking guidance on whether the PDC was subject to the Sunshine Law," and further states that, "based upon the facts presented, OIP informally advised SHPDA that the PDC did not appear to be a Sunshine Law board." (See page 4.) The OIP further states on page 3, heading number 1, that "The PDC is Not a Sunshine Law Board."

Moreover, the complainant in this situation attended the hearing regarding the changes to the Plan and testified. Attached for your review is a copy of the sign-in sheet and the testimony.

Kaiser would also like to point out that recital five of the Resolution states that "denial of a certificate of need may prevent a health care facility from receiving reimbursements for Medicare and Medicaid." We do not believe a CON is a requirement of Medicare or Medicaid. In fact, both Medicare and Medicaid exist in states that do not have CON laws at all.

Since the question about the Sunshine Law and SHPDA has been investigated and guidance has been provided by the OIP, we believe this Resolution is unnecessary and confusing, and respectfully request that HCR 195 **be deferred**.

Thank you for the opportunity to submit this testimony.

LINDA LINGLE
GOVERNOR

JAMES R. AIONA, JR.
LIEUTENANT GOVERNOR

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CATHY L. TAKASE
ACTING DIRECTOR

The Office of Information Practices (OIP) is authorized to resolve complaints concerning compliance with part I of chapter 92, Hawaii Revised Statutes (HRS) (the Sunshine Law) pursuant to HRS § 92F-42(18).

MEMORANDUM OPINION

Requester: Liberty Dialysis-Hawaii LLC
Board: Statewide Health Coordinating Council
Date: December 6, 2010
Subject: SHCC Plan Development Committee (S INVES-P 11-1)

Request for Investigation

Requester asked for an investigation into whether the requirements of the Sunshine Law were complied with in the development of the current state health services and facilities plan that was adopted in 2009 (the State Plan). The underlying issue is whether the Plan Development Committee (PDC) of the Statewide Health Coordinating Council (SHCC), and the PDC's subcommittees, violated the Sunshine Law by failing to properly notice its meetings and by meeting without quorum, or by failing to create permitted interaction groups that would allow the PDC and its subcommittees to meet outside of noticed open meetings.

Unless otherwise indicated, this opinion is based solely upon the facts presented in letter to OIP from Requester dated July 19, 2010; letters to OIP from SHPDA dated September 29, 2010 (with attachments), and October 22, 2010; letter to OIP from SHCC Chair Patricia Uyehara-Wong dated August 19, 2010 with attachments; and letter to OIP from Marilyn A. Matsunaga dated October 21, 2010 with attachments.

Opinion

The presence of more than two members on both the SHCC and the PDC caused a violation of the Sunshine Law. The same is true for any subcommittee that had more

than two SHCC members or more than two members of any one subarea health planning council. SHCC is provided guidance below on prospective compliance with the Sunshine Law with respect to the PDC and its subcommittees.

We do not find that SHCC intentionally violated the Sunshine Law, given SHCC's reasonable reliance on informal OIP guidance provided regarding the status of the PDC as a Sunshine Law board and the opportunities provided for public participation with respect to the State Plan. Moreover, we note that the Sunshine Law does not provide a basis for voiding the State Plan based upon the violation because a suit to void a final action under the Sunshine Law must be commenced within ninety days of the action.

Statement of Reasons for Opinion

The SHCC is an advisory board to the State Health Planning and Development Agency (SHPDA). HRS § 323D-13. One function of the SHCC is to "[p]repare and revise as necessary the state health services and facilities plan[.]" HRS § 323D-14. The subarea health planning councils (SACs), each of which serves a geographical subarea of the State, review the state health services and facilities plan "as it relates to the respective subareas and make recommendations to the state agency and the council." HRS § 323D-22(a)(3).

SHPDA is directed by statute to "[s]erve as staff to and provide technical assistance and advice to the statewide council and the subarea councils in the preparation, review, and revision of the state health services and facilities plan." HRS § 323D-12(a)(2). The statute also provides that SHPDA may "[p]repare and revise as necessary the state health services and facilities plan." HRS § 323D-12(b)(2). Thus, although SHCC has the ultimate responsibility to prepare and adopt the state health services and facilities plan, the statute anticipates that SHPDA could be substantially responsible for its creation. The only other statutory provision that concerns the adoption or amendment of the state health services and facilities plan states that SHPDA and SHCC "shall conduct a public hearing on the proposed plan or the amendments and shall comply with the provisions for notice of public hearings in chapters 91 and 92." HRS § 323D-17.

There is no statutory provision that creates the PDC or defines its membership or role with respect to the state health services and facilities plan. However, for some time, the PDC and its subcommittees appear to have served as vehicles to bring members of the health care industry into the State's health and resources planning process, including professionals with specific expertise in the various health care areas addressed by the state health services and facilities plan. The PDC subcommittees, in particular, appear to bring together a wide range of community health care providers and government officials in specialized fields to assist in the development of those portions of the plan that affect those services, namely acute care/technology services, primary care services, psychiatric (behavioral) services,

and long-term care services. The PDC and its subcommittees here were apparently charged with researching specific healthcare issues, and subsequently provided their members' recommendations to SHPDA or SHCC in the form of draft amendments to the state health services and facilities plan.

This opinion first addresses the conduct of the PDC and its subcommittees as they existed at the time complained of, which preceded adoption of the State Plan. The opinion then provides the SHCC and SHPDA with general Sunshine Law guidance in light of the current makeup of the PDC and its subcommittees.

1. The PDC is Not a Sunshine Law Board

OIP does not believe that the PDC meets the definition of a "board" under the Sunshine Law. The Sunshine Law defines a "board" subject to its terms as follows:

> (1) "Board" means any agency, board, commission, authority, or committee of the State or its political subdivisions **which is created by constitution, statute, rule, or executive order,** to have supervision, control, jurisdiction or advisory power over specific matters and which is required to conduct meetings and to take official actions.

HRS § 92-2(1) (emphasis added). To determine whether an entity is a "board" under this definition, OIP looks to whether an entity meets five elements. See OIP Op. Ltr. No. 01-01 (adopting the test articulated in Green Sand Cmty. Ass'n v. Hayward, Civ. No. 93-3259 (Haw. 1996) (mem.)). Specifically, an entity is a "board" if it is: (1) an agency, board, commission, authority, or committee of the State or its political subdivisions; (2) created by constitution, statute, rule, or executive order; (3) given supervision, control, jurisdiction or advisory power over specific matters; (4) required to conduct meetings; and (5) required to take official actions. Id. at 11. As presented, the PDC during the relevant time did not meet elements (2), (4) and (5).

First, the PDC is not created by constitution, statute, rule, or executive order. OIP has reviewed SHCC's governing statute, chapter 323D, SHPDA's administrative rules, and the submittals of the parties. The PDC has apparently existed for many years, but there is no statute, rule or other authority that creates the PDC. The only statutory provision that reflects the existence of the PDC is HRS § 323D-47, which includes the chair of the PDC on the reconsideration committee for SHPDA decisions. The legislative history to HRS § 323D-47 provides no historical background on the PDC. The PDC is informal in formation and makeup – there is no set number of PDC members, who are SHCC and SAC members, government officials, and community health leaders, who are apparently either chosen by SHCC or volunteer.

Second, the PDC is not required to conduct meetings or take official actions. The PDC was charged with researching various healthcare issues and reporting its findings in the form of working papers submitted for use by SHPDA and SHCC in their preparation and adoption of amendments to the state health services and facilities plan. The PDC thus was not required or expected to take any official action. Further, although the PDC did meet, it was not required to and did not vote, and thus it did not always have quorum. It was not therefore required to hold "meetings" as that term is defined in the Sunshine Law. See HRS § 92-2(3); OIP Op. Ltr. No. 05-01 ("meeting" is the convening of a board "for which quorum is required" to make or deliberate toward a decision).

For these same reasons, the PDC's subcommittees are also not "boards" under the Sunshine Law. The subcommittees are also not created by constitution, statute, rule, or executive order. The subcommittees are apparently formed by volunteer PDC members who then sought out government and community volunteers with technical expertise in the subcommittees' assigned health care fields. The subcommittees also did not vote on any of the matters assigned to them.

As stated by SHPDA and confirmed by OIP's records, SHPDA contacted OIP in 2007 seeking guidance on whether the PDC was subject to the Sunshine Law. OIP's records note that the PDC was described to OIP as a working group of individuals with various expertise who would contribute to a draft plan for consideration by SHCC, but OIP was given no indication that SHCC members were or would be serving on the PDC. Based upon the facts presented, OIP informally advised SHPDA that the PDC did not appear to be a Sunshine Law board because it was not required to take formal action, but that SHPDA could seek a formal OIP opinion on that issue.

2. A Violation Occurred Because of the Joint SHCC and PDC Members

Unlike the PDC, SHCC is indisputably subject to the Sunshine Law. At the relevant time, at least five SHCC members served as PDC members along with other community members and government officials. The PDC participation of these joint members of SHCC and the PDC violated the Sunshine Law: the matters discussed by the PDC and its subcommittees were also board business of the SHCC, so the SHCC members could not discuss that SHCC board business outside of a noticed SHCC meeting unless a permitted interaction under HRS § 92-2.5 applied. Based upon the facts presented, none of the permitted interactions applied. The Sunshine Law was therefore violated both whenever three or more SHCC members met as part of a PDC meeting, and whenever three or more SHCC members met in the course of serving on the same PDC subcommittee. Because we do not find that the PDC itself is a Sunshine Law board, no violation occurred where more than two PDC members who were not SHCC members or members of the same SAC served on the same subcommittee.

In light of the informal advice given by OIP, upon which SHPDA reasonably relied, OIP does not find an intent by SHCC to violate the Sunshine Law. As shown by the makeup of the PDC and its subcommittees and the agendas of SHCC and the SACs, [1] as well as SHCC's notices of public hearings, SHCC clearly intended to provide multiple opportunities for public input on revision of the state health services and facilities plan throughout the process, belying an intent to preclude public participation in the amendment of that plan. This included three public hearings on the neighbor islands, which were beyond the one hearing that it was statutorily required to hold to amend the state health services and facilities plan.

OIP cautions SHCC and SHPDA that although this type of collaborative community and government health planning used by SHCC and SHPDA can be highly beneficial, the process must be carefully designed to avoid inadvertent Sunshine Law violations where members of a Sunshine Law board will be involved in other aspects of the planning process outside of their board meetings.

3. The Violation Does Not Provide a Basis for Voiding the State Plan

The Sunshine Law provides that "[a]ny final action taken in violation of sections 92-3 and 92-7 may be voidable upon proof of violation. A suit to void any final action shall be commenced within ninety days of the action." HRS § 92-11. Because SHCC adopted the State Plan in 2009, the Sunshine Law's limitation period bars any future suit to void that action.

4. Guidance for Operating in Compliance With Sunshine Law

By copy of this opinion to SHCC, OIP offers the following guidance to SHCC going forward with respect to operating the PDC and its subcommittees in compliance with the Sunshine Law.

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[1] However, OIP notes that, although certain agendas reviewed provided sufficient notice of the topic to be discussed, the majority of the agendas did not provide sufficient detail to allow the public to understand what was to be discussed. For example, the following agenda items, listed alone and especially utilizing acronyms not generally known by the public, do not allow the reader to understand the subject matter to be discussed under those items: "H2P2 Update," "H2P2 Plan Development Committee Update," "Review of Health Services and Facilities Plan," "Tri-Isle's Recommendations Regarding Highest Priorities," "Finalize KSAC's Kauai County health priorities," Updating H2P2 for Hawaii County," "SAC Priorities for HSFP," and "Administrator's Report." By copy of this opinion to SHCC and SHPDA, we invite them to seek further guidance from OIP regarding the amount of detail that should be provided in agendas filed under the Sunshine Law.

A. Two-Member Permitted Interaction

It is our understanding that currently only two SHCC members are PDC members. This approach falls under a permitted interaction. Specifically, the Sunshine Law provides that "[t]wo members of a board may discuss between themselves matter relating to official board business . . . as long as no commitment to vote is made or sought and the two members do not constitute a quorum of their board." HRS § 92-2.5(a). These members, however, must be very careful not to then discuss the same board business with any other board member. See HRS § 92-5(b); Right to Know Committee v. City Council, 175 P.3d 111 (2008) (serial communications using permitted interaction not allowed); OIP Op. Ltr. No. 05-15. That bar on serial communications under the two person permitted interaction is also likely to present a practical problem in that the discussions of SHCC business these two SHCC members are likely to have with SHPDA staff in the course of their PDC participation, may not then be discussed by SHPDA staff with other board members.[2]

B. Investigative Committee Permitted Interaction

The Sunshine Law also provides that "[t]wo or more members of a board, but less than the number of members which would constitute a quorum for the board, may be assigned to . . . [i]nvestigate a matter relating to the official business of their board." HRS § 92-2.5(b)(1). If it is desirable to have more than two members of the SHCC, or of the same SAC, serve on the PDC or any one subcommittee, this permitted interaction may be used. However, the requirements for setting up this investigative committee as well as the subsequent reporting and other requirements must be closely followed. See id. Note that this permitted interaction would not allow regular, unlimited substantive reports by the PDC and subcommittees to SHCC or the SACs, and would not allow any discussion to occur at the SHCC or SAC meetings on any report made.[3] Instead, the language of the statute anticipates that an investigative task force will undertake an investigation of defined and limited scope, will make a single report of final findings and recommendations back to its board, and that the board will then have any deliberation and decision making on the matter investigated at a subsequent meeting of the board. See id.; OIP Op. Ltr. No. 06-02.

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2 We note that an additional potential for violation exists if two SHCC members serve on both the PDC and a subcommittee unless they both are the only two SHCC members on the same subcommittee.

3 OIP believes that certain limited reports without discussion by the board may not violate the Sunshine Law, but this determination is fact specific.

C. PDC as SHCC Subcommittee

In providing its informal advice in 2007, OIP's understanding of the PDC was apparently that the PDC would consist solely of individuals who were not board members, and who would work with and through SHPDA staff to provide its recommendation to SHCC. OIP suggests that this approach would, in the end, be the least problematic option to receive input on any future amendment to the State Plan. SHPDA staff would be able to freely work with these non-board members and freely report on any progress back to and discuss this input with SHCC.

If SHCC wants certain but not all of its members involved in the initial drafting of future amendments, SHCC may want to form the PDC as a SHCC subcommittee made up of the interested SHCC members. As a committee of the parent board SHCC, the PDC could only consist of SHCC members and would itself be required to follow the Sunshine Law's open meeting requirements. See OIP Op. Ltr. No. 03-07. SHPDA staff would be free to report to this constituted PDC on the progress of any related group made up of the non-board members subcommittees.

OFFICE OF INFORMATION PRACTICES

Cathy L. Takase
Acting Director

SIGN-IN SHEET

MEETING: Public Hearing - HHW HSPP DATE: 6/25/09 PLACE: SDT 204

PLEASE PRINT, MAHALO!

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Jane Gibbons	Liberty Dialysis	2226 Liliha St. #226	585-4600		jgibbons@libertydialysis.com

Attachment C
Total Pages: 6

LIBERTY DIALYSIS-HAWAII

Testimony to the State Health Planning and Development Agency

Thursday, June 25, 2009; 9:00 a.m.

RE: 2009 DRAFT STATE OF HAWAII HEALTH SERVICES AND FACILITIES PLAN

My name is Jane Gibbons and I am the Executive Vice President of Liberty Dialysis. **I am here to state Liberty Dialysis' opposition to the revised utilization thresholds for chronic renal dialysis facilities set forth in the 2009 draft State of Hawaii Health Services and Facilities Plan (the "HSFP").**

Pursuant to Hawaii Revised Statutes § 323D-15, the HSFP must "depict the most economical and efficient system of care commensurate with adequate quality of care." The statute further requires the Plan to "provide for the reduction or elimination of underutilized [or] redundant . . . health care facilities."

The substantial reduction in the utilization threshold that the draft HSFP proposes using to determine the need for chronic renal dialysis facilities does not satisfy this statutory mandate. In fact, the new proposal is likely to increase the proliferation of underutilized or redundant health care facilities in direct contradiction to the statute.

Under the current standard, full utilization of a renal dialysis facility is defined as "a minimum of 3.5 treatments per station." Liberty Dialysis has calculated utilization of its own facilities in accordance with this standard since it first began providing dialysis services in Hawaii and is unaware of any empirical data even suggesting that it is inappropriate or unreasonable. Assuming that a facility is open 6 days each week, this standard requires that each station in a facility be used for 1,092 treatments annually in order to be appropriately utilized.

Under the threshold level established in the H2P2, before a new dialysis service can added, the minimum average annual utilization rate for all other providers in the service area must be 80% -- or 873 treatments per station annually – and a new service provider must project at least 75% utilization – or 815 treatments per station annually – by the third year of its operation. Before being allowed to expand existing services, a provider's utilization must be at the 80% level. These thresholds are consistent with the statutory requirement that the HSFP provide for the reduction or elimination of underutilized or redundant health services.

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Inexplicably, instead of maintaining these standards for utilization of renal dialysis facilities, the HSFP replaces them with the requirement that:

> For a new service, the minimum annual utilization for each provider in the service area is 600 treatments per unit, and the utilization of the new unit/service is projected to meet the minimum utilization rate by the third year of operation.

The proposed new standard represents a more than 30% reduction in the current threshold level. The draft HSFP does not provide any explanation for this precipitous drop in the utilization threshold level required for initiation of new services.

Utilization at the rate of only 600 treatments per station annually constitutes slightly less than 55% of a dialysis station capacity – or less than 2 treatments per station per day. Liberty Dialysis is aware of no study that supports the conclusion that utilization at this level constitutes the "most economical and efficient system of care commensurate with adequate quality of care" that HRS § 323D-15 requires the HSFP to depict.

The lowering of the threshold level to a mere 55% of capacity also introduces a substantial risk of error in forecasting a proposed new facility's third year utilization and applying it as a measure of need for the facility. When existing facilities are being used at a rate of 80% maximum capacity or more, it is reasonable to conclude that increased demand for dialysis services will support appropriate utilization of a new facility. However, when existing facilities are being utilized at only slightly more than half of their maximum capacity, projections of third year utilization are likely to be little more than wishful thinking. The likely result will be underutilization of all facilities. Unfortunately, if a new facility makes an overly optimistic estimate of projected utilization and fails to achieve the 55% of capacity threshold by the end of three years, there is no means of rescinding the grant of a certificate of need, and the excess capacity will drain Hawaii's precious health care dollars until such time, if ever, that demand for the service meets the too optimistic projection.

Finally, while the current standard requires a dialysis facility to maintain a minimum of six stations, this element of the threshold requirement is completely eliminated in the draft HSFP. On average, dialysis facilities in the United States perform more than 9,000 treatments per year – representing full utilization of approximately 9 dialysis stations in each center. These larger dialysis centers advance the goal of optimizing the use of scarce health care personnel resources including nurse manager, nurse educators, nurse care coordinators, renal dieticians, social workers, dialysis-trained biomed technicians and others, all of which are needed in the operation of a quality dialysis program. It is uneconomical and unprecedented for this team of caregivers to be present if a dialysis facility were to have one or two dialysis stations. In addition, dialysis

clinics need to be larger in order to amortize efficiently the investment in physical plant, expensive dialysis equipment, water purification systems, and computer servers. The average dialysis facility in the United States has more than 12 dialysis stations. These larger facilities operate with efficiencies that result in overall lower costs of care combined with improvements in patient care and outcomes. Because it lacks any requirement that a minimum number of stations must be included in a new dialysis center, the draft HSFP promotes development of suboptimal small facilities that undermine this important goal.

The existing standards have provided a realistic benchmark which has assisted Hawaii's dialysis service providers, in cooperation with SHPDA, to coordinate growth of the State's capacity to provide dialysis services to its residents in a manner that balances the need to maintain an adequate supply of renal dialysis services with the need to minimize the useless expenditure of health care dollars to maintain excess capacity. The existing providers have invested millions of dollars in Hawaii's health care infrastructure in reliance on these benchmarks. If these guidelines are not maintained consistently – or at least revised based only upon quantitative data that establishes the need for revision and shows how a proposed revision will improve the quality and accessibility of health care for Hawaii's residents – planned growth of the State's health care system will become impossible and, as a result, future investment in Hawaii's health care system will be jeopardized.

Liberty Dialysis opposes the downward revision of the utilization thresholds set forth in Hawaii Health Performance Plan and urges SHPDA to maintain the existing standards in order to satisfy the statutory mandate that the Plan provide for the reduction or elimination of underutilized and redundant health care facilities and services. Additionally, Liberty Dialysis requests that the data supporting the revised thresholds be released to the public in order to allow its analysis and promote informed public discussion of the new standards.

Thank you for this opportunity to testify. I would be happy to answer any questions you may have.

Sincerely,

Jane Gibbons
Executive Vice President

Attachment D

STATE HEALTH PLANNING AND DEVELOPMENT AGENCY

LINDA LINGLE
GOVERNOR OF HAWAII

CHIYOME LEINAALA FUKINO, M.D.
DIRECTOR OF HEALTH

RONALD E. TERRY
ADMINISTRATOR

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

MEETING NOTICE

Statewide Health Coordinating Council
Leiopapa A Kamehameha Building
235 South Beretania Street, Room 204
Honolulu, Hawaii

June 25, 2009

AGENDA FOR PUBLIC HEARING
9:00 a.m.

I. Call to Order
II. Public hearing on State Health Services and Facilities Plan
III. Adjournment

AGENDA FOR REGULAR MEETING
10:00 a.m.

I. Call to Order
II. Approval of minutes
III. Review of Criteria
IV. Certificate of Need Review

#09-06 for standard review from BCP, Inc., dba Nursefinders of Hawaii, for the establishment of home health agency services at 615 Piikoi Street, Suite 600, Honolulu, Hawaii, at a capital cost of $125,000.

A. Declaration of conflicts of interest
B Applicant presentation
C. Public testimony
D. Members', Administrator's and staff questions
E. Discussion and recommended action

V. Discussion and decision-making on the State Health Services and Facilities Plan
VI. Administrator's Report
VII. Election of Certificate of Need Review Panel members
VIII. Election of SHCC Chair & Vice Chair
IX. Announcement: A Colloquium on Health Care – Having a Discussion on: The Federal Health Care Agenda, The American Recovery and Reinvestment Act and its Impact on the State of Hawaii
X. Adjournment

'09 JUN 17 P1:20
LIEUTENANT GOVERNOR'S OFFICE

If you have special needs due to disability, please contact the Agency at (808) 587-0788 (voice) or (808) 547-0854 (TYY) or (808) 587-0783 (fax).