Chair Baker and Members of the Committee:

The Department of the Attorney General (Department) offers the following comments on this bill.

This bill clarifies the process for emergency examination and emergency hospitalization in the context of mental health crisis intervention.

There are references to “MH-1” in section 1 on page 1, line 10, and on page 2, line 6. However, “MH-1” is a term that is not currently defined in the statute. Therefore, the Department recommends that instead of references to the term “MH-1”, the wording in section 1 should refer to section 334-59(a), Hawaii Revised Statutes (HRS), setting forth the process for emergency admissions. Therefore, section 1, page 1, lines 9 to 10, should be amended to read as follows:

. . . disposition once an individual has been taken into custody pursuant to section 334-59(a), Hawaii Revised Statutes.

Also, section 1, page 2, lines 5 to 6, should be amended to read as follows:

. . . an emergency room or behavioral health crisis center pursuant to section 334-59(a), Hawaii Revised Statutes, for evaluation and the disposition of the individual. . .

The Department also recommends an amendment to section 2, page 2, lines 10 to 16, of this measure, which allows for emergency examinations to take place at a
“psychiatric facility” or a “behavioral health crisis center”.  “Psychiatric facility” is a term that is defined in section 334-1, HRS, setting forth the definitions of terms used throughout chapter 334, HRS, but “behavioral health crisis center” is not.  For the sake of clarity and consistency, section 334-1, HRS, should be amended by adding a definition of “behavioral health crisis center” to read as follows:

“Behavioral health crisis center” means a facility that is specifically designed and staffed to provide care, diagnosis, or treatment for persons who are experiencing a mental illness or substance use disorder crisis.

A separate definition of “behavioral health crisis center” would then be unnecessary in section 2, page 2, lines 10 to 16, which should be amended to read as follows:

“(b) Emergency examination. A patient who is delivered for emergency examination and treatment to a psychiatric facility [designated by the director] or a behavioral health crisis center shall be [examined] provided an examination, which shall include a . . .

Finally, section 2 of the bill refers to “psychiatric facility” on page 2, lines 11 to 12, and on page 5, line 8.  However, section 2, page 6, line 13, refers to a “licensed psychiatric facility”.  (Emphasis added.)  For the sake of consistency, the Department recommends that the word “licensed” be removed in section 2, page 6, line 13.

If the Committee chooses to pass this measure, we respectfully ask that it make the amendments suggested by the Department.
Testimony in SUPPORT of H.B. 1661 H.D. 3
RELATING TO HEALTH

SENATOR ROSALYN H. BAKER, CHAIR
SENATE COMMITTEE ON COMMERCE, CONSUMER PROTECTION AND HEALTH

Hearing Date and Time:  Tuesday, March 10, 2020 at 9:30 a.m.  Room:  229

1 Department Position: The Department of Health (“Department”) strongly supports this
2 measure offering comments and proposed amendments.
3
4 Department Testimony: The subject matter of this measure intersects with the scope of the
5 Department’s Behavioral Health Administration (BHA) whose statutory mandate is to assure a
6 comprehensive statewide behavioral health care system by leveraging and coordinating public,
7 private and community resources. Through the BHA, the Department is committed to carrying
8 out this mandate by reducing silos, ensuring behavioral health care is readily accessible, and
9 person-centered. The BHA’s Adult Mental Health Division (AMHD) provides the following
10 testimony on behalf of the Department.

11 The Department is committed to addressing the needs of individuals who live with
12 behavioral health issues and are in need of services when there is a danger to self or others.
13 This commitment includes implementing a statewide mental health emergency worker
14 (MHEW) system, conducting emergency examinations, coordinating emergency admissions,
15 and, where appropriate, pursuing involuntary commitment.

16 We acknowledge that active and decisive steps must be taken to better operationalize
17 the emergency examination and hospitalization process so that individuals may be better
18 assisted and to better protect the safety of the public. There are several very significant efforts
underway by the department, and for which we gratefully have broad legislative support, that
will achieve the level of balanced implementation we seek.

The Department continues to collaborate with state agency partners through the task
force and working group of Act 90 and Act 263, Session Laws of Hawaii 2019 and specifically
with the MH-1 work group. For reference, the definition of an MH-1 is generally understood to
mean a mental health emergency worker authorized involuntary transport, pursuant to section
334-59(a)(1), of a person in crisis by either law enforcement and/or emergency medical services
personnel to receive an emergency examination and possible emergency hospitalization.

We are aware of and agree with the amendments proposed in the Department of
Attorney General’s (ATG) testimony. Additionally, in collaboration with the mental health task
force’s MH-1 work group, the attached proposed S.D. 1 was developed. We believe this
measure, with the amendments in the attached proposed S.D. 1, and amendments proposed
by the ATG, further enhance the current efforts of the Department and its stakeholder partners
and maintains alignment with the mental health task force report.

The Department thanks the Legislature for its support of developing more appropriate
and effective pathways for this population.

**Offered Amendments:** The Department respectfully offers the attached proposed S.D. 1.

Thank you for the opportunity to testify.

**Fiscal Implications:** Undetermined.
A BILL FOR AN ACT

RELATING TO HEALTH.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

SECTION 1. The legislature finds that a comprehensive mental health response crisis system is needed to serve the dual purposes of supporting individuals suffering from a behavioral health crisis and maintaining public safety. The legislature further finds that the mental health crisis response system has multiple steps for mental health crisis intervention, including initial contact by first responders, determining need and basis for involuntary transport for evaluation, and determination for disposition once an individual has been taken into custody under an MH-1.

The legislature further finds that the department of health, along with a wide range of stakeholder partners, including the legislature, has been actively evaluating and restructuring the mental health crisis response system through the task force and working group established by Act 90 and Act 263, Session Laws of Hawaii 2019.

The purpose of this Act is to support the efforts of the mental health task force and working group by amending chapter 334, Hawaii Revised Statutes, to further define and guide the
process that occurs when an individual has been transported to
an emergency room or behavioral health crisis center under an
MH-1 order for evaluation and the disposition of the individual
once the evaluation has been completed.

SECTION 2. Section 334-59, Hawaii Revised Statutes, is
amended by amending subsections (b) to (e) to read as follows:

"(b) Emergency examination. A patient who is delivered
for emergency examination and treatment to
a psychiatric facility [designated by the director] or a
behavioral health crisis center specifically designed and
staffed to provide care, diagnosis, or treatment for persons who
are experiencing a mental illness or substance use disorder
crisis shall be [examined] provided an examination, which shall
include a screening to determine whether the criteria for
involuntary hospitalization listed in section 334-60.2
persists, by a licensed physician, medical resident under the
supervision of a licensed physician, or advanced practice
registered nurse without unnecessary delay, and [may] shall be
[given] provided such treatment as is indicated by good
medical mental health practice. [A] If, after the examination,
screening, and treatment, the licensed physician, medical
resident under the supervision of a licensed physician, or
advanced practice registered nurse determines that the
involuntary hospitalization criteria persist, then
a psychiatrist, a psychologist, or an advanced practice
registered nurse[, or psychologist may] who has prescriptive
authority and who holds an accredited national certification in
an advanced practice registered nurse psychiatric
specialization, shall further examine the patient to diagnose
the presence or absence of a mental illness or substance
use disorder, further assess the risk that the patient may be
dangerous to self or others, and assess whether or not the
patient needs to be hospitalized. If it is determined that
hospitalization is not needed, an examination pursuant to
section 334-121.5 shall be completed.

(c) Release from emergency examination. If, after
examination, the licensed physician [or], psychiatrist,
or advanced practice registered nurse [who performs the
emergency examination, in consultation with a psychologist if
applicable, concludes] with prescriptive authority and who holds
an accredited national certification in an advanced practice
registered nurse psychiatric specialization determines that [the
patient need not be hospitalized,] the involuntary
hospitalization criteria set forth in section 334-60.2 are not
met or do not persist and the examination pursuant to section
334-121.5, where required, has been completed, the patient shall
be discharged [immediately] expediently unless the patient is
under criminal charges, in which case the patient shall be returned to the custody of a law enforcement officer.

(d) Emergency hospitalization. If the [physician,] psychiatrist, psychologist, or advanced practice registered nurse, or psychologist] with prescriptive authority and who holds an accredited national certification in an advanced practice registered nurse psychiatric specialization who performs the emergency examination has reason to believe that the patient is:

(1) Mentally ill or suffering from substance abuse;
(2) Imminently dangerous to self or others; and
(3) In need of care or treatment, or both;

the [physician,] psychiatrist, psychologist, or advanced practice registered nurse, or psychologist may] with prescriptive authority and who holds an accredited national certification in an advanced practice registered nurse psychiatric specialization shall direct that the patient be hospitalized on an emergency basis or cause the patient to be transferred to another psychiatric facility for emergency hospitalization, or both. The patient shall have the right immediately upon admission to telephone the patient's guardian or a family member including a reciprocal beneficiary, or an adult friend and an attorney. If the patient declines to
exercise that right, the staff of the facility shall inform the adult patient of the right to waive notification to the family including a reciprocal beneficiary, and shall make reasonable efforts to ensure that the patient's guardian or family including a reciprocal beneficiary, is notified of the emergency admission but the patient's family including a reciprocal beneficiary, need not be notified if the patient is an adult and requests that there be no notification. The patient shall be allowed to confer with an attorney in private.

(e) Release from emergency hospitalization. If at any time during the period of emergency hospitalization the responsible treating physician determines that the patient no longer meets the criteria for emergency hospitalization and the examination pursuant to section 334-121.5 has been completed, the physician shall expediently discharge the patient. If the patient is under criminal charges, the patient shall be returned to the custody of a law enforcement officer. In any event, the patient must be released within forty-eight hours of the patient's admission to a licensed psychiatric facility, unless the patient voluntarily agrees to further hospitalization, or a proceeding for court-ordered evaluation or hospitalization, or both, is initiated as provided in section 334-60.3. If that time expires on a Saturday, Sunday, or holiday, the time for
initiation is extended to the close of the next court day. Upon
initiation of the proceedings, the facility shall be authorized
to detain the patient until further order of the court."

SECTION 3. This Act does not affect rights and duties that
matured, penalties that were incurred, and proceedings that were
begun before its effective date.

SECTION 4. Statutory material to be repealed is bracketed
and stricken. New statutory material is underscored.

SECTION 5. This Act shall take effect on July 1, 2050.

INTRODUCED BY: _____________________________
Report Title:
Emergency Examinations; Emergency Hospitalizations; Behavioral Health Crisis

Description:
Amends criteria for emergency examination, release from emergency examination, emergency hospitalization, and release from emergency hospitalization for individuals suffering from a behavioral health crisis. Effective 7/1/2050. (HD3)

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.
Comments:

We generally have a favorable impression of the bill. We like the idea of the option to transport a patient to a behavioral health crisis center and we believe that the screening process set forth will enable certain individuals to receive mental health treatment. We have some questions about expanding the ability to conduct the examination to medical residents but we assume that we will receive information to address that.
HB1661 HD3 Refer MH-1 to Behavioral Health

COMMITTEE ON CONSUMER PROTECTION AND HEALTH:

• Sen. Rosalyn Baker, Chair; Sen. Stanley Chang, Vice Chair
• Tuesday, March 10, 2020: 9:30 am
• Conference Room 229

Hawaii Substance Abuse Coalition Supports HB1661 HD3:

ALOHA CHAIR, VICE CHAIR AND DISTINGUISHED COMMITTEE MEMBERS. My name is Alan Johnson. I am the current chair of the Hawaii Substance Abuse Coalition (HSAC), a statewide organization of over 30 alcohol and drug treatment and prevention agencies.

HSAC supports new language:

1. **The intent is to help and protect persons who are suffering** from mental illness or substance use disorders as well as others who may be harmed.

2. **People who are high utilizers and refuse to take needed medication are excessive in their use of emergency rooms, police interventions, emergency workers, and jails** while often not engaging access to adequate mental health treatment or substance use disorder treatment. What they get is inadequate care over and over again.


3. **We are broadening our definition to allow systems more options to encourage and engage services.** If persons have historically demonstrated dangerous harm to selves and others while continuing to refuse medications then it is probable that they will continue to do so until they receive the necessary community-based services that could help them.

4. **The need for follow up services is great.** Homeless people, who have chronic conditions of mental illness, substance use disorders or both, have disproportionately high rates of chronic and acute health conditions, traumatic injuries as well as assaults.

5. **Without interventions, high utilizers will continue to overuse emergent care.** They are basically overusing emergent care thus competing priorities for needed services when they have potentially preventable deteriorations in health conditions. They tend to have a predisposing propensity to use emergent services; enabling factors such as personal connections and community resources that direct them to use emergent care; and need factors that would require frequent emergent care.


6. **Effective healthcare system transformation requires developing effective high utilizers’ strategies.** High utilizers are reported to be 5% of the population yet account for up to 50% of healthcare expenditures. The high medical costs of recurring inpatient or emergency department visits is generally regarded as preventable.
System transformation requires fundamental changes to produce high value care with improved outcomes at lower costs. As a community, we are wisely moving towards developing more community-based resources with higher quality treatments to improve coordinated care that would work towards reducing ER visits, incarceration, and the overutilization of police and emergency services.

We appreciate the opportunity to provide testimony and are available for questions.
Katrina Obleada, Testifying for Hawaii Psychological Association, Support, No

Comments:
Testimony of
Jonathan Ching
Government Relations Manager

Before:
Senate Committee on Commerce, Consumer Protection, and Health
The Honorable Rosalyn H. Baker, Chair
The Honorable Stanley Chang, Vice Chair

March 10, 2020
9:30 a.m.
Conference Room 229

Re: HB1661, HD3, Relating to Health

Chair Baker, Vice Chair Chang, and committee members, thank you for this opportunity to provide testimony on HB1661, HD3, which amends the criteria for emergency examination, release from emergency examination, emergency hospitalization, and release from emergency hospitalization for individuals suffering from a behavioral health crisis.

Kaiser Permanente Hawai‘i SUPPORTS HB1661 HD3.

While we generally concur with the amendments being offered by the Department of Health via the Proposed SD1, we request the word “licensed” on page 6, line 13 remain in the bill to be explicitly clear that the time clock for admission starts at the time of actual admission to the licensed facility. This is consistent with other references to “licensed psychiatric facility” in Hawai‘i Revised Statutes § 334-59.

This clarification was based on discussion with the Department, in collaboration with state agency partners through the task force and working group of Act 90 and Act 263, Session Laws of Hawaii 2019; specifically the MH-1 and MH-4 working groups, where there was robust discussion about the ambiguity in practice on when a 48-hour involuntary hold begins.

Thank you for the opportunity to provide testimony on this important measure.