

EXECUTIVE CHAMBERS

HONOLULU

July 10, 2006

STATEMENT OF OBJECTIONS TO SENATE BILL NO. 2166

Honorable Members
Twenty-Third Legislature
State of Hawaii

Pursuant to Section 16 of Article III of the Constitution of the State of Hawaii, I am returning herewith, without my approval, Senate Bill No. 2166, entitled "A Bill for an Act Relating to Minors."

The purposes of this bill are to (1) allow minors without guardians to consent to the provision of primary or preventive medical care and services if a licensed healthcare practitioner makes certain determinations; (2) provide immunity from civil and criminal liability to a practitioner who provides primary care to a minor without a guardian in certain circumstances; (3) allow a minor to request that a managed care or health insurance plan billed for the minor's care not disclose information to certain individuals; and (4) deletes current statutory language that would have required parental consent for a minor (14 to 17 years of age) to terminate a pregnancy.

Although it is certainly important for minors without guardians, including homeless, runaway, and immigrant minors, to be able to consent to medical services, this bill is objectionable because it goes beyond that goal. In addition to allowing minors without guardians to consent to primary and preventive medical care and services, the bill would expressly allow some minors as young as fourteen years of age to consent to complex medical procedures including surgery. These types of medical procedures are serious and have long-term consequences for the health and well-being of the child. Yet, this bill would allow young people to make their decisions who may not have the maturity or judgment to understand the full consequences of this decision.

First, the purpose section of this measure indicates the target population is homeless, runaway, and immigrant minors who find themselves unable to obtain medical services. While this is referenced in the preamble to this bill, the actual statutory language contains no phraseology specifying this target population. The law, as drafted, applies to any minor over age 14. Further, the stipulation that it "not be practicable" to obtain legal consent from an adult, is overly broad.

Second, Senate Bill No. 2166 provides immunity to licensed or certified health practitioners who provide care and treatment to minors. However, the bill expands the type of person who can perform medical treatments on a minor beyond the current statutory limit of licensed practicing physicians. Further, while it is likely the medical practitioner could be held liable for improper medical care, the practitioner could not be held liable for any errors in determining that the minor had no adult supervision and understood the nature and consequence of the medical procedure performed.

The bill also contains a confidentiality provision that may prevent parents from being informed about the medical care and treatment that their children receive. There is merit in the concern that parent rights as well as obligations are being undermined when the State sanctions in laws the ability of a child to avoid, for whatever valid reason may exist, the involvement of a parent or responsible adult.

Further, this measure requires a health insurer to not disclose payment information to the adult who owns an insurance policy covering the minor, if the minor asks that the information be withheld. Homeless, runaway, and immigrant minors are usually not covered by a parent's insurance policy, leaving the intent of this provision questionable while requiring insurance firms to participate in this concealment.

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For the foregoing reasons, I am returning Senate Bill
No. 2166 without my approval.

Respectfully,

A handwritten signature in black ink, appearing to read "Linda Lingle", written in a cursive style.

LINDA LINGLE
Governor of Hawaii