

STEPHEN M. SHAW

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September 21, 2005

Office of Information Practices
No. 1, Capital District Bldg
250 S. Hotel Street
Ste: 107
Honolulu, HI 96813

Fax: 586-1412
& 1st Class Mail

COMPLAINT

Re: Sunshine Law Violation

Dear Friends:

This is a complaint against the Temporary Health Care Task Force for violations of the Sunshine Law and related constitutional requirements for open meetings. The DCCA is tasked with administration of the Task Force.

COUNT ONE:

Prior to 9-20-05 Chair Josh Green, M. D. of the Temporary Health Care Task Force apparently appointed Mr. John Radcliffe to chair a subcommittee for the single payer plans. Complainant is informed and believes that said subcommittee has had one or more meetings which were not noticed or open, in violation of HRS §92-3. Op. Attorney Gen No. 85-27 (1985); O.I.P. Guide at 7; Op. Atty Gen No. 86-19 (1986).

Minutes were never made available of the single payer subcommittee meetings as required.

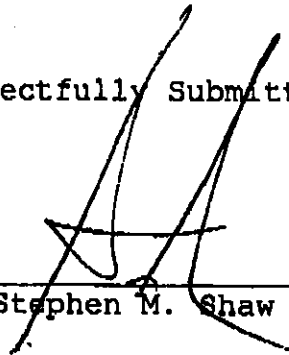
COUNT TWO:

The statute creating this task force, HB 1304 HD1 SD2 provides "There is established a temporary task force to develop a plan to implement health care for all Hawaii residents." The Task Force, due to the presence of financially conflicted members, has attempted to agenda items deviating from this mandate, which has taken up too much meeting time.

To make up for the time wasted, the chair, Representative Green, is unreasonably limiting public testimony to three (3) minutes, where the testimony pertains directly to the only permissible agenda item: "health care for all Hawaii residents." This is not enough time given the extreme complexity of the issue and violates the Sunshine Law.

Respectfully Submitted,

By:



Stephen M. Shaw

Oct-06-2005 03:02pm From-DCCA

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T-111 P.005/006 F-893

Sep-28-2005 03:38pm From-DCCA

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T-108 P.001/002 F-882

LINDA LINSLE
GOVERNOR

MARK E. BUCKENMANN
DIRECTOR

JAMES H. AOKA JR.
LT. GOVERNOR

LT. DEPARTMENT
INSURANCE COMMISSIONER



STATE OF HAWAII
INSURANCE DIVISION
DEPARTMENT OF COMMERCE & CONSUMER AFFAIRS
P. O. BOX 3514
HONOLULU, HAWAII 96811-0014
300 WASHINGTON STREET, 10TH FLOOR
HONOLULU, HAWAII 96813

September 29, 2005

BY FACSIMILE ONLY (586-1412)

Winteha K. T. Park, Esq.
Staff Attorney
Office of Information Practices
No. 1 Capitol District Building
250 South Hotel Street, Suite 107
Honolulu, Hawaii 96813

Re: Temporary Health Care Task Force (S RFO-P 05-018)

Dear Mr. Park:

This is in response to your letter dated September 27, 2005 regarding Mr. Stephen Shaw filed complaint with the Office of Information Practices alleging two violations of law. These are noted below with our responses.

I. Subcommittee meetings not noticed, no open meeting, and do not have the minutes.

Mr. Shaw complains about a subcommittee of the Health Care Task Force ("HCTF"), consisting of Chair Green and Mr. Radloffs, who he believes have had one or more meetings in violation of the Sunshine Law and also that there are no minutes of these meetings.

The subcommittee that Mr. Shaw is complaining about involves permitted interactions among members of the Health Care Task Force ("HCTF") per Hawaii Revised Statutes § 92-3.5(b)(1). That statute permits two or more members of the HCTF to investigate a matter relating to official business. The "single payer system" is one aspect of Act 223, SLE 2005, which the Legislature directed the HCTF to consider.

On August 24, 2005, the HCTF discussed having four focus areas and having respective focus group chairs, who would investigate these areas for the task force:

Winthia K. T. Park
September 29, 2005
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- 1) Delivery of health care, to include primary, specialty and trauma care (Dr. Patricia Blanchette);
- 2) Health insurance coverage issues (Susan Forbes, J.P. Schmidt);
- 3) Efficiency of delivery system/business model, to include information technology and business models adaptable for health care (Gary Allen, Dr. Calvin Wong); and
- 4) Single-payer system; to include exploring full range of options (John Radcliffe, Chair Green).

A motion was made, seconded, and unanimously carried pursuant to HRS § 92-3.5(b)(1) to direct the foregoing focus group chairs to investigate the foregoing focus areas. Thus, there is no violation of the law and no notice, open meeting, or minutes are required for this permitted interaction of task force members.

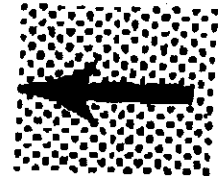
II. Limiting Testimony to 3 Minutes

Because OIP acknowledges that Count Two of Mr. Shaw's complaint is not within their jurisdiction, we are not responding to that issue. However, we believe that no improprieties were associated with the handling of public comment.

If you have any questions, please contact me at 586-2790.

Sincerely,


J.P. SCHMIDT
Insurance Commissioner



**SIGN
HERE**



LINDA LINGLE
GOVERNOR

JAMES F. AIOHA, JR.
LIEUTENANT GOVERNOR

**STATE OF HAWAII
OFFICE OF THE LIEUTENANT GOVERNOR
OFFICE OF INFORMATION PRACTICES**

LESLIE H. KONDO
DIRECTOR

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October 6, 2005

VIA FACSIMILE NO. 531-2129

Stephen M. Shaw, Esq.
P.O. Box 2353
Honolulu, Hawaii 96804

Re: Temporary Health Care Task Force (S RFO-P 05-018)

Dear Mr. Shaw:

This letter responds to your complaint to the Office of Information Practices ("OIP") dated September 21, 2005 alleging violations of Chapter 92, Haw. Rev. Stat. ("Sunshine Law") by the Temporary Health Care Task Force ("Task Force"). Specifically, Count One of your complaint is that a subcommittee for the single payer plans was formed and that it held meetings which were not noticed or open and minutes of those meetings were not made public.

We have received the enclosed response to your complaint from the State of Hawaii, Department of Commerce and Consumer Affairs, Insurance Division ("Insurance Division") on behalf of the Task Force. Based upon the response, we are in agreement with the analysis and conclusion of the Insurance Division and conclude that the committee for single payer plans was an investigative committee properly formed pursuant to Haw. Rev. Stat. § 92-2.5(b)(1).¹ Therefore, in accordance with section 92-2.5(f), communications, interactions, discussions, investigations, and presentations by the investigative committee are not considered as "meetings" under Chapter 92, Haw. Rev. Stat. and the open meeting requirements therein are not applicable to the investigative committee.

¹ The letter from the Insurance Division mistakenly cites to Haw. Rev. Stat. § 92-3.5(b)(1).

Stephen M. Shaw, Esq.
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Please do not hesitate to contact our office if you have any questions.

Very truly yours,



Wintehm K. T. Park
Staff Attorney

Enclosure

cc: Lloyd Lim, Insurance Division (via facsimile)