

CIVIL RIGHTS COMMISSION

STATE OF HAWAII

In the Matter of	)	DR 93-010
	)	
JEANETTE C. TAKAMURA, Director	)	HEARINGS EXAMINER'S
Executive Office on Aging	)	ORDER REQUESTING
	)	ADDITIONAL FACTS AND
Petitioner,	)	SUPPLEMENTAL INFORMATION
	)	
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LINDA C. TSEU, Executive	)	
Director, Hawaii Civil Rights	)	
Commission;	)	
	)	
	)	
Respondents.	)	
	)	
	)	

HEARINGS EXAMINER'S ORDER REQUESTING  
ADDITIONAL FACTS AND SUPPLEMENTAL INFORMATION

On September 14, 1993 Petitioner Jeanette C. Takamura filed a Petition For Declaratory Relief with the Hawaii Civil Rights Commission alleging certain unlawful discriminatory practices by nursing facilities on the basis of disability. On September 21, 1993 the Commission assigned this petition to the undersigned Hearings Examiner.

By letter dated September 23, 1993 the Hearings Examiner notified Petitioner that she must file an amended petition naming a respondent or respondents who represent the interests of nursing homes by October 6, 1993, and serve copies of the original petition and amended petition to each respondent and the Executive Director by that date.

On September 28, 1993 the Executive Director filed a Motion To Request Additional Facts And Request For Specific Period Of Time To Respond. In this motion, the Executive Director asks that Petitioner Takamura:

- 1) define the terms "mentally ill", "mentally retarded", "previous admission to a mental institution" and "psychotropic medication";
- 2) state the basis for a nursing facility's refusal to admit persons who are mentally ill, mentally retarded, have previously been admitted to a mental institution, or who have taken psychotropic medication;
- 3) state whether persons rejected because they take psychotropic medication presented behavioral problems, and what kind of behavioral problems; and
- 4) whether such problem behaviors caused a threat or injury to property, to themselves or to others.

Pursuant to H.A.R. § 12-46-67, IT IS HEREBY ORDERED that, in addition to naming respondents who represent the interests of nursing homes, the Petitioner is requested to submit the above requested additional facts and information in its amended petition.

IT IS ALSO HEREBY ORDERED that the Petitioner is requested to submit the following additional facts and supplemental information in its amended petition:

- a) the definition of "nursing facility" under federal and state statutes and regulations;
- b) whether nursing facilities by definition are excluded from caring for mentally ill, mentally retarded or mentally disabled persons;
- c) whether there are any other federal or state statutes which exempt nursing facilities from caring for mentally ill, mentally retarded or mentally disabled persons;

d) the evaluation criteria and procedure for determining whether a person requires nursing facility care and the federal or state statutes or regulations, if any, which govern this evaluation process;

e) whether a nursing facility is a "place of public accommodation" as defined under H.R.S. § 489-2 or whether it is a "housing accommodation" as defined under H.R.S. § 515-2.

IT IS ALSO HEREBY ORDERED that the Petitioner shall now file its amended petition with the undersigned hearings examiner by Friday, October 22, 1993 and shall serve copies of the original petition and amended petition to the Executive Director and each respondent by that date.

DATED: Honolulu, Hawaii September 29, 1993.

HAWAII CIVIL RIGHTS COMMISSION

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LIVIA WANG  
Hearings Examiner

copies sent to:

Dr. Jeanette C. Takamura, Petitioner  
Calleen J. Ching, Esq. HCRC Enforcement Attorney