
A BILL FOR AN ACT

RELATING TO HEALTH.

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

1 SECTION 1. Chapter 321, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:

4 "§321-_____ Health professional shortage areas;
5 professional liability insurance. (a) The department of health
6 shall pay a percentage of the costs of professional liability
7 insurance for a physician licensed under chapter 453 with a
8 qualified practice in a health professional shortage area of the
9 state equal to that percentage of the physician's patients
10 residing in a health professional shortage area whose services
11 are compensated by receipts from the medicaid program.

12 (b) A report shall be prepared by the department of health
13 to be presented annually to the legislature not less than twenty
14 days prior to the start of each regular session, beginning with
15 the 2009 regular session. The report shall include:

16 (1) The annual costs incurred by providing professional
17 liability insurance to physicians with an established



1 practice in a health professional shortage area of the
2 state;

3 (2) Any increase or decrease in the number or physicians
4 establishing practices in health professional shortage
5 areas of the state that can be attributed to this
6 section; and

7 (3) Any recommendations and proposed legislation.

8 (c) The department of health shall adopt rules pursuant to
9 chapter 91 to implement this section.

10 (d) As used in this section:

11 "Health professional shortage area" means areas of the
12 state designated by the Health Resources and Services
13 Administration of the United States Department of Health and
14 Human Services as having shortages of primary medical care,
15 dental care, or mental health care providers.

16 "Qualified practice" means a practice at which fifty per
17 cent or more of the total amount received for services at that
18 practice for the taxable year are receipts from the medicaid
19 program and fifty per cent or more of the patients whose
20 services are compensated by receipts from the medicaid program
21 reside in a health professional shortage area.



1 SECTION 2. Section 663-1.5, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "§663-1.5 Exception to liability. (a) Any person who in
4 good faith renders emergency care, without remuneration or
5 expectation of remuneration, at the scene of an accident or
6 emergency to a victim of the accident or emergency shall not be
7 liable for any civil damages resulting from the person's acts or
8 omissions, except for such damages as may result from the
9 person's gross negligence or wanton acts or omissions.

10 (b) No act or omission of any rescue team or physician
11 working in direct communication with a rescue team operating in
12 conjunction with a hospital or an authorized emergency vehicle
13 of the hospital or the [~~State~~] state or county, while attempting
14 to resuscitate any person who is in immediate danger of loss of
15 life, shall impose any liability upon the rescue team, the
16 physicians, or the owners or operators of such hospital or
17 authorized emergency vehicle, if good faith is exercised.

18 This section shall not relieve the owners or operators of
19 the hospital or authorized emergency vehicle of any other duty
20 imposed upon them by law for the designation and training of
21 members of a rescue team or for any provisions regarding
22 maintenance of equipment to be used by the rescue team or any



1 damages resulting from gross negligence or wanton acts or
2 omissions.

3 (c) Any physician licensed to practice under the laws of
4 this [~~State~~] state or any other state who in good faith renders
5 emergency medical care in a hospital to a person, who is in
6 immediate danger of loss of life, without remuneration or
7 expectation of remuneration, shall not be liable for any civil
8 damages, if the physician exercises that standard of care
9 expected of similar physicians under similar circumstances.

10 (d) Any physician licensed to practice under the laws of
11 this state or any other state practicing medicine as provided
12 under chapter 453, in a health professional shortage area of the
13 state, shall not be liable for any civil damages, if the
14 physician exercises that standard of care expected of similar
15 physicians under similar circumstances.

16 As used in this subsection, "health professional shortage
17 area" means areas of the state designated by the Health
18 Resources and Services Administration of the United States
19 Department of Health and Human Services as having shortages of
20 primary medical care, dental care, or mental health care
21 providers.



1 ~~(d)~~ (e) Any person or other entity who as a public
2 service publishes written general first aid information dealing
3 with emergency first aid treatment, without remuneration or
4 expectation of remuneration for providing this public service,
5 shall not be liable for any civil damages resulting from the
6 written publication of such first aid information except as may
7 result from its gross negligence or wanton acts or omissions.

8 ~~(e)~~ (f) Any person who in good faith, without
9 remuneration or expectation of remuneration, attempts to
10 resuscitate a person in immediate danger of loss of life when
11 administering any automated external defibrillator, regardless
12 of where the automated external defibrillator that is used is
13 located, shall not be liable for any civil damages resulting
14 from any act or omission except as may result from the person's
15 gross negligence or wanton acts or omissions.

16 Any person, including an employer, who provides for an
17 automated external defibrillator shall not be vicariously liable
18 for any civil damages resulting from any act or omission of the
19 persons or employees who, in good faith and without remuneration
20 or the expectation of remuneration, attempt to resuscitate a
21 person in immediate danger of loss of life by administering an
22 automated external defibrillator, except as may result from a



1 person's or employer's gross negligence or wanton acts or
2 omissions.

3 ~~(f)~~ (g) Any physician who administers an automated
4 external defibrillator program without remuneration or
5 expectation of remuneration shall not be liable for any civil
6 damages resulting from any act or omission involving the use of
7 an automated external defibrillator, except as may result from
8 the physician's gross negligence or wanton acts or omissions.

9 ~~(g)~~ (h) This section shall not relieve any person,
10 physician, or employer of:

- 11 (1) Any other duty imposed by law regarding the
12 designation and training of persons or employees;
- 13 (2) Any other duty imposed by provisions regarding the
14 maintenance of equipment to be used for resuscitation;
15 or
- 16 (3) Liability for any damages resulting from gross
17 negligence, or wanton acts or omissions.

18 ~~(h)~~ (i) For the purposes of this section:

19 "Automated external defibrillator program" means an
20 appropriate training course that includes cardiopulmonary
21 resuscitation and proficiency in the use of an automated
22 external defibrillator.



1 "Good faith" includes but is not limited to a reasonable
2 opinion that the immediacy of the situation is such that the
3 rendering of care should not be postponed.

4 "Rescue team" means a special group of physicians, basic
5 life support personnel, advanced life support personnel,
6 surgeons, nurses, volunteers, or employees of the owners or
7 operators of the hospital or authorized emergency vehicle who
8 have been trained in basic or advanced life support and have
9 been designated by the owners or operators of the hospital or
10 authorized emergency vehicle to attempt to provide such support
11 and resuscitate persons who are in immediate danger of loss of
12 life in cases of emergency."

13 SECTION 3. There is appropriated out of the general
14 revenues of the State of Hawaii the sum of \$ or so
15 much thereof as may be necessary for fiscal year 2008-2009 for
16 professional liability insurance for physicians who establish a
17 practice in a health professional shortage area of the state.

18 The sum appropriated shall be expended by the department of
19 health for the purposes of this Act.

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



1 SECTION 5. This Act shall take effect on July 1, 2008.

2

INTRODUCED BY:

John M. Nijme

John M. Nijme

JAN 17 2008



Report Title:

Health Professional Shortage Areas; Good Samaritan; Physicians

Description:

Provides a good Samaritan exemption from civil damages for physicians practicing medicine in health professional shortage areas and rural areas of the state.

