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GOVERNOR

JAMES R. AIONA, JR.
LT. GOVERNOR

KURT KAWAFUCHI
DIRECTOR OF TAXATION

SANDRA L. YAHIRO
DEPUTY DIRECTOR

STATE OF HAWAII
DEPARTMENT OF TAXATION
P.O. BOX 259
HONOLULU, HAWAII 96809

PHONE NO: (808) 587-1510
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HOUSE COMMITTEE ON HEALTH

TESTIMONY REGARDING HB 2413
RELATING TO HEALTH

TESTIFIER: KURT KAWAFUCHI, DIRECTOR OF TAXATION
DATE & TIME: JANUARY 30, 2008; 8:00AM

This measure provides an income tax credit equal to fifty percent of their malpractice premiums to physicians who practice in medically underserved areas.

The Department of Taxation (Department) takes **no position** on this measure, provides comments, and cites the revenue impact of this legislation. **The Department defers to the Department of Health on the merits of the legislation.**

TECHNICAL COMMENTS

The Department notes the bill as written would allow a physician to manipulate the payment of medical malpractice premiums to maximize the amount of the credit. For example, if a physician knew that in a following year that he/she would not meet the requirement that at least fifty percent of his/her income would come from Medicaid or QUEST reimbursement, that physician could before the end of the year prepay his next year's premium in order to obtain the credit in the year in which the physician would qualify. The Department suggests that language be added that bases the credit on the amount of the medical malpractice premium that is due for the year in which the physician qualifies and that the physician actually pays.

The Department also notes that it will encounter difficulty in administering this legislation. The Department will have to conduct extensive auditing to determine if the physician was practicing in a medically underserved community as determined by the Department of Human Services and if fifty percent or more of the physician's revenue is derived from Medicaid or QUEST. The Department suggests that it is more practical to have the physician obtain a certification from the Department of Human Services stating that the physician is serving in a medically underserved area, and provide for penalties if the physician overstates the amount of income derived from Medicaid and QUEST.

REVENUE IMPACT

This bill will result in a revenue loss of approximately $3.2 million per year.

PRESENTATION OF THE
BOARD OF MEDICAL EXAMINERS

TO THE HOUSE COMMITTEE ON HEALTH

TWENTY-FOURTH LEGISLATURE
Regular Session of 2008

Wednesday, January 30, 2008
8:00 a.m.

WRITTEN TESTIMONY ONLY

TESTIMONY ON HOUSE BILL NO. 2413, RELATING TO INCOME TAXATION.

TO THE HONORABLE JOSH GREEN, M.D., CHAIR,
AND MEMBERS OF THE COMMITTEE:

The Board of Medical Examiners ("Board") thanks you for the opportunity to provide written testimony on H.B. No. 2413, Relating to Income Taxation. The Board takes no position on the content of this bill but would like to recommend a revision.

Specifically, the Board recommends that osteopathic physicians licensed under chapter 460, Hawaii Revised Statutes ("HRS") be allowed the income tax credit that is being offered to physicians licensed under chapter 453, HRS. The Board regulates both professions and considers physicians and osteopathic physicians to have equal rights and responsibilities, with the ability to practice the full range and scope of medicine.

As such, the Board asks that page 2, lines 2-3 of the bill be revised to read as follows:

"(a) Any taxpayer licensed to practice medicine under chapter 453 **or osteopathic medicine under chapter 460** who files an individual income tax..."

The Board thanks you for the opportunity to provide written comments on this bill.

mizuno1-Edgar

From: Tina Desuacido [tina500@juno.com]
Sent: Monday, January 28, 2008 3:02 PM
To: HLTtestimony
Subject: Tax Foundation Testimony

TAX FOUNDATION
OF HAWAII

126 Queen Street, Suite 304, Honolulu, Hawaii 96813-4415, Telephone 536-4587

EMAIL TRANSMISSION

Date: January 28, 2008

To: House Committee on Health

From: Lowell L. Kalapa, President
Tax Foundation of Hawaii **Phone (voice):** 536-4587

Total Pages(including this sheet): 4

RE: HB 2413 - Relating to Income Taxation (2 pages)
HB 2126 - Relating to Healthcare (1 page)

TO: Rep. Josh Green, Chair
House Health Committee Committee

Date of Hearing: Wednesday, January 30, 2008

Time of Hearing: 8:00 am

Copies: 5 copies

Thank you.

L E G I S L A T I V E

TAXBILLSERVICE

536-4587 126 Queen Street, Suite 304 **TAX FOUNDATION OF HAWAII** Honolulu, Hawaii 96813 Tel.

SUBJECT: INCOME, Credit for physicians practicing in underserved areas

BILL NUMBER: HB 2413

INTRODUCED BY: Green and Mizuno

BRIEF SUMMARY: Adds a new section to HRS chapter 235 to allow a taxpayer licensed to practice medicine under HRS chapter 435 to claim an income tax credit provided the taxpayer starts or expands, or relocates a practice to a medically underserved area after December 31, 2007, as determined by the department of human services.

The credit shall be 50% of the amount of the medical malpractice insurance premium paid by the taxpayer fo the taxable year the credit is claimed. Requires the taxpayer to derive at least 50% of total income from Medicaid or QUEST reimbursements.

Establishes a tax credit of 5% of the amount of malpractice insurance premiums paid by a physician if the taxpayer physician has established a practice in a medically underserved area on or before December 31, 200 provided the taxpayer derives at least 50% of total income from Medicaid or Quest reimbursements.

Tax credits in excess of income tax liability shall be refunded to the taxpayer provided such amounts are in excess of $1. Allows the director of taxation to adopt necessary rules and forms pursuant to HRS chapter 91 to carry out this section. Claims for the credit, including any amended claims, must be filed on or before the end of the twelfth month following the close of the taxable year.

EFFECTIVE DATE: Tax years beginning after December 31, 2007

STAFF COMMENTS: This measure proposes a tax credit to encourage physician taxpayers to practice in underserved areas of the state. It should be remembered that using the tax system to achieve socia goals, as this measure proposes, is an inefficient means of accomplishing such goals. This credit would mere result in a handout of state funds through the state tax system regardless of a taxpayer's need for tax relief.

Apparently the sponsors of this measure believe that medical malpractice insurance is a key cost to physician and therefore the credit should be based on a percentage of the premium for such insurance. If indeed medic malpractice insurance premiums are a financial barrier to providing care to low-income patients, then attackin the problem with a rebate in the form of a tax credit is inane. If the intent is to attract health care providers tc underserved areas of poverty, subsidies in the form of loan forgiveness or scholarships while securing their education would be more attractive to these professionals. At least lawmakers and taxpayers will know what the cost of the program will be as opposed to a credit which is based on a percentage of an insurance premiur

HB 2413 - Continued

If lawmakers truly believe the host of medical malpractice insurance deters physicians from practicing in undeserved areas or even for that matter in largely urbanized areas of the state, then the attack should be on what causes the high insurance premiums. As the professional community has pointed out time and again, th high cost of medical malpractice begs tort reform with limits placed on how much can be sought in damages various types of malpractice. With a sky is the limit approach for any litigation, how can one doubt the high cost of those premiums?

On the other hand, if lawmakers believe that their only alternative is to subsidize the cost of the premiums, th an outright subsidy of those premiums should be put in place staffed by persons who can verify the amount o insurance, the premium that is appropriate to subsidize, and to whom the subsidy should be granted based on the need for medical care throughout the state. Using the state tax system makes absolutely no sense, contributes to complexity of the system which in turn increases the cost of administration and compliance.

This measure is a reflection of the lack of understanding on the part of lawmakers about the state's tax systen its purpose, functions and limitations. If adopted, the measure would result in a lack of accountability as ther no way to determine the cost of the credit to the state's revenue resources.

Digested 1/28/08

HAWAII DEPARTMENT OF PSYCHIATRY RESIDENTS

Please deliver
5 copies to Clerk in Rm. 436
HLT: 1/30/08 at 8:00 in Rm. 329

COMMITTEE ON HOUSE HEALTH
Rep. Josh Green, MD, Chair
Rep. John Mizuno, Vice-Chair

Re: HB 2413, Relating to Income Taxation

SUPPORT

We, the undersigned, are current residents in the University of Hawaii, Department of Psychiatry Residency Training Program at the Queens Medical Center. As residents, many of us are interested to remain in Hawaii to either work for a public or private agency or establish a private practice.

As graduating residents we enter the job market with substantial medical school debt. Any offer to assist to pay down this debt or provide incentives are carefully considered as we decide where to set-up practice after residency.

We support this measure and respectfully request the House Health Committee pass HB 2413.

Thank you.

1. Julienne Ong, R1
2. Nora Bammidi, R1
3. Amber Rohner, R2
4. Rika Suzuki, R2
5. Jullyn Chargualaf, R2
6. Mya Moe Hla, R2
7. Chadd Eaglin, R2
8. Monica Oshita, R2
9. Kristen Low, R3
10. Lori Murayama, R4
11. Kenton Ko, F1 (child)
12. Scott Teraoka, F1 (child)
13. Russ Muramatsu, F1 (geriatrics)

Hawaii Pacific Health
55 Merchant Street • Honolulu, Hawaii 96813 • hawaiipacifichealth.org

[5 Copies]

Wednesday, January 30, 2008 – 8:00am
Conference Room 329

<u>The House Committee on Health</u>

To: The Honorable Joshua Green, M.D., Chair
The Honorable John Mizuno, Vice Chair

From: Virginia Pressler, MD, MBA
Executive Vice President

Re: Testimony in Strong Support of 2413 - Relating to Income Taxation

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Dear Honorable Committee Chairs and Members:

My name is Virginia Pressler, Executive Vice President for Hawaii Pacific Health (HPH). For more than a century, families in Hawaii and the Pacific Region have relied on the hospitals, clinics, physicians and staff of Hawaii Pacific Health as trusted healthcare providers. Our non-profit integrated healthcare system is the state's largest healthcare provider and is committed to improving the health and well-being of the people of Hawaii and the Pacific Region through its four hospitals -- Kapi`olani Medical Center for Women & Children, Kapi`olani Medical Center at Pali Momi, Straub Clinic & Hospital and Wilcox Memorial Hospital -- 18 outpatient centers and a team of 1,100 physicians on the islands of Oahu, Kauai and Lanai.

We are writing in strong support of HB 2413 which would provide an income tax credit to physicians practicing in medically underserved areas for a portion of the amount of medical malpractice premiums.

Access to physicians has reached crisis proportion threatening quality of life in medically underserved areas. In order to make it economically feasible for physicians to practice in areas of need, financial incentives are required to ensure residents have access to an adequate level of medical care. The creation of an income tax credit for physicians who practice in medically underserved areas together with adequate reimbursement to all providers will certainly help address the current crisis.

Thank you for your time regarding this measure. We ask that you pass HB 2413.

KAPI'OLANI MEDICAL CENTER AT PALI MOMI
KAPI'OLANI MEDICAL CENTER FOR WOMEN & CHILDREN
Straub CLINIC & HOSPITAL
Wilcox Health

HAH
Healthcare Association
of Hawaii

HOUSE COMMITTEE ON HEALTH
Rep. Josh Green, M.D., Chair

Conference Room 329
January 30, 2008 at 8:00 a.m.

Testimony in support of HB 2413.

I am Rich Meiers, President and CEO of the Healthcare Association of Hawaii, which represents the entire spectrum of health care, including acute care hospitals, two-thirds of the long term care beds in Hawaii, as well as home care and hospice providers. Thank you for this opportunity to testify in support of HB 2413, which creates tax credits for physicians who practice in medically underserved areas of the state.

In recent weeks the media have featured a number of articles highlighting the complex and multi-faceted crisis that is plaguing Hawaii's health care system. Payments for health care from Medicare, Medicaid, and private insurance are too low. Medical malpractice insurance premiums are too high. Some physicians have already left Hawaii to practice on the mainland where financial conditions are more viable. Kahuku Hospital was on the verge of bankruptcy a year ago and about to close its doors before it was acquired by the Hawaii Health Systems Corporation (HHSC). Meanwhile, HHSC is requesting emergency funding during the current session in order to pay its suppliers. This bill addresses one aspect of Hawaii's health care crisis.

Many rural areas of our state are especially impacted because of a dispersed population. Urban areas, with their population density, provide a much greater potential to attract patients. Also faced with the high cost of medical malpractice insurance premiums, it is no wonder that physicians are leaving many rural areas.

This bill creates innovative tax credits that encourage physicians to locate to medically underserved areas. The bill also encourages those physicians practicing in these areas to remain there. This bill, in conjunction with others being considered by the legislature, is necessary to address Hawaii's health care crisis.

For the foregoing reasons, the Healthcare Association supports HB 2413.

932 Ward Avenue Suite 430 Honolulu, Hawaii 96814-2126 Phone: 808/521-8961 FAX: 808/599-2879

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January 30, 2008

PLEASE DELIVER

To rm 329 for:
HTH Committee
Wed.
1/30/08
8:00am

To: Rep. Josh Green, M.D., Chair
Rep. John Mizuno, Vice Chair
House Health Committee

From: Cynthia J. Goto, M.D., President
Linda Rasmussen, M.D., Legislative Co-Chair
Philip Hellreich, M.D., Legislative Co-Chair
Paula Arcena, Executive Director
Dick Botti, Government Affairs Liaison

Re: HB2413 Relating to Income Taxation (Allows an income tax credit to physicians practicing in medically underserved areas for a portion of the amount of medical malpractice premiums.)

The Hawaii Medical Association support the intent of HB2413.

However, the provision of tax credits for medical liability insurance premiums falls short of addressing the cost driver behind high premiums and shifts costs from private practice physicians to government. This essentially makes government the deep pocket and increases the incentive for filing medical malpractice lawsuits.

Unlimited and unpredictable jury awards have led to unlimited and unpredictable risk for liability insurers. In Hawaii, malpractice insurance is no longer a profitable business and Hawaii is no longer home to any for-profit malpractice insurers.

Medical Insurance Exchange of California (MIEC), The Doctors Company and Hawaii Physicians Indemnity Plan (HAPI) are the remaining malpractice insurers in Hawaii. All are not-for-profit organizations owned and operated by physicians.

Hawaii's average annual medical malpractice insurance premium increased 90% from $33,000 to $63,000 between 2002 and 2006 for physician specialists who provide high risk, life-saving treatment, due to the cost of defending malpractice cases filed in Hawaii. Specialists, such as Orthopedic Surgeons, Neurosurgeons, General Surgeons and Obstetricians have been hit the hardest.

According to the Medical Insurance Exchange of California, Hawaii's major medical malpractice insurer, 86% of claims filed against its insured Hawaii physicians are found to be without merit and result in no payment to the claimant.

The State of Hawaii Medical Claims Conciliation Panel reviews all medical malpractice claims filed in Hawaii. In 2006, the MCCP found no negligence in 82% of the cases it reviewed.

As a result, Hawaii has a shortage of physicians in both primary care and specialty care. Patients do not have access to the medical care they need.

The Hawaii legislature needs to pass laws that stabilize now volatile medical malpractice insurance premiums, which is a major cause of Hawaii's patient access to care crisis.

The HMA recommends the following as meaningful ways to stabilize medical malpractice insurance premiums, proven successful by other states:

1. Establish a $250,000 cap on non-economic damages

    - Non-economic damages are compensation for pain and suffering, loss of consortium and loss of enjoyment. These are difficult damages to quantify and a cap would establish a much needed standard.

    - The HMA proposes no cap on economic damages, which are compensation for past and future medical expenses, rehabilitative expenses, living expenses and lost income or income-equivalents (in the case of a homemaker, for instance). These damages can be quantified.

    - The HMA proposes no cap on punitive damages, which is compensation intended to punish the defendant.

2. Abolish Joint and Several Liability
    - Hold defendants responsible only for the portion of fault attributable to them.

Formerly in crisis, the state of Texas has successfully overcome its patient access to care crisis in large part due to establishing caps on non-economic damages and correcting the inequity of its law on joint and several liability. Improvements include:

- Licensing 3324 new doctors in 2007, including a net gain of 186 obstetricians
- Bringing specialty care to underserved areas, including the addition of 189 physicians in Rio Grande Valley and other rural areas
- Stabilized and reduced medical malpractice insurance premiums
- Four new admitted, rate-regulated malpractice insurance carriers (Advocate MD of the Southwest, Medical Liability Insurance Company of America, Medicus Insurance Company and the Physicians Insurance Company).

Hawaii could reap similar benefits with the passage of meaningful medical liability reform.

Thank you for the opportunity to testify on this matter.