

# SB3077

**Measure Title:**

RELATING TO VOLUNTEER MEDICAL ASSISTANCE SERVICES.

**Report Title:**

Volunteer Medical Assistance Services

**Description:**

Provides immunity from liability and workers' compensation for licensed medical personnel providing volunteer medical services on behalf of the State or a county.

**Package:**

Governor

**Companion:**

HB3155

**Introducer(s):**

HANABUSA (BR)

**Current Referral:**

HTH, JDL/WAM

LINDA LINGLE  
GOVERNOR OF HAWAII



CHIYOME LEINAALA FUKINO, M.D.  
DIRECTOR OF HEALTH

STATE OF HAWAII  
DEPARTMENT OF HEALTH  
P.O. Box 3378  
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In reply, please refer to:  
File:

### Committee on Health

### SB 3077, Relating to Volunteer Medical Assistance Services

Testimony of Chiyome Leinaala Fukino, M.D.  
Director of Health

February 6, 2008, 2:00 p.m.

- 1 **Department's Position:** This is an administration proposal that the Department strongly supports.
- 2 **Fiscal Implications:** No impact, except in cases of injuries or deaths to volunteers covered by this  
3 measure.
- 4 **Purpose and Justification:** This measure would provide immunity from liability and workers'  
5 compensation for licensed medical personnel providing volunteer services in non-emergency situations,  
6 such as school-based immunization clinics, on behalf of the State or a county. Volunteer workers who  
7 hold medical licenses and who are performing volunteer activities within the scope of their license are  
8 indemnified under Hawaii law when responding to an emergency, but are not protected from liability if  
9 they are volunteering for the State for a non-emergency activity, including training for future volunteer  
10 service. Lack of coverage for professional liability may mean that these valuable workers will not  
11 participate as state volunteers, thereby limiting the ability of the State to draw upon their skills as a  
12 critical public health resource.
- 13 Thank you for the opportunity to testify.

Dear Committee Members,

I am the Medical Director of the Aloha Medical Mission Free Clinic.

I support the granting of immunity to volunteer health care professionals.

In reviewing this bill I am confused by the wording on page 1, line 12 which states "employed by a health care facility, while providing volunteer assistance..."

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Perhaps this bill was written for a specific purpose, but I do not understand how the medical personnel can be employees, yet volunteers.

Would this bill include granting immunity to health professionals volunteering to provide medical or oral health care in a facility that is supported by state or federal funds?

As you are aware, Aloha Medical Mission Honolulu Free Clinic provides free, interim medical and oral health services to homeless, indigent, immigrant, and uninsured residents of Hawaii. We rely on volunteer physicians, dentists, nurses, medical and dental assistants, and others to take time away from their families and work, and give freely to help the patients that come to our clinic. We do not bill and accept no fee for service.

Having laws that support professionals that generously give to helping others would encourage others to volunteer and allow us to provide services to more people.

Please feel free to contact me should you have any questions.

Thank you for your time and consideration,

Jerry Allison, MD, MS

Medical Director

Aloha Medical Mission Honolulu Free Clinic

352-7824

**TESTIMONY OF ROBERT TOYOFUKU ON BEHALF OF THE CONSUMER  
LAWYERS OF HAWAII (CLH) IN OPPOSITION TO S.B. NO. 3077**

February 6, 2008

To: Chairman David Ige and Members of the Senate Committee on Health:

My name is Bob Toyofuku and I am presenting this testimony on behalf of the Consumer Lawyers of Hawaii (CLH) in strong opposition to S.B. No. 3077.

CLH supports the purpose of the bill as stated in the justification sheet: "In order to build a strong volunteer workforce of medical professionals to support public health interventions and for emergency medical surge capacity, we strongly believe that licensed medical professionals who volunteer for the state should be indemnified in both emergency and non-emergency situations, providing that they are acting within the scope of their license and assigned volunteer role and without willful misconduct." The bill as currently drafted, however, does not provide for the indemnification of medical volunteers, but instead provides for immunity with no expressed indemnification. For this reason, CLH is opposed to this bill as currently drafted because it fails to implement its stated purpose while arbitrarily and unfairly depriving those harmed by medical negligence of fair and adequate redress.

The purpose of the measure can be more clearly implemented by replacing subsection (e) with language from the current volunteer service provisions of Chapter 662D, such as follows:

In any suit against the state or a county for civil damages based upon the negligent act or omission of a volunteer, proof of the act or omission shall be sufficient to establish the responsibility of the state or a county therefore under the doctrine of respondeat superior, notwithstanding the immunity granted to the volunteer with respect to any act or omission included under subsection (a).

The proposed amendment clearly specifies that the negligence of any volunteer shall be indemnified by the state or county for which such volunteer services are provided. Section 2 of

the bill which amends Section 662D-3 should now be deleted as the immunity and indemnity for volunteer medical assistance personnel will now be wholly contained within a new section rather than split between different sections in Chapters 321 and 662D to promote clarity, simplicity and avoid confusion.

Thank you very much for this opportunity to testify in opposition to S.B. No. 3077.