



HOUSE COMMITTEE ON HEALTH  
Rep. Ryan Yamane, Chair

Conference Room 329  
Feb. 5, 2010 at 9:30 a.m.

**LATE**

**Supporting HB 2575.**

The Healthcare Association of Hawaii represents its member organizations that span the entire spectrum of health care, including all acute care hospitals, as well as long term care facilities, home care agencies, and hospices. Thank you for this opportunity to testify in support of HB 2575, which protects information used by multi-agency quality assurance and peer review committees created by the Department of Health from being used in lawsuits.

The continuous improvement of the quality of health care requires physicians, nurses, and other health care practitioners to collaborate and to discuss events involving patients. Participants in the discussion must be able to speak freely among themselves without fear of reprisal so that they will not be afraid of raising relevant issues. These discussions often results in changes to procedures that improve patient safety.

Hawaii's statutes recognize the importance of what is known as the peer review process, and protects information used in this process from being used in lawsuits. Currently the peer review process is limited to being used by individual organizations.

The Department of Health has been charged with developing and maintaining a statewide trauma system, among its emergency care services responsibilities. Since a trauma system and emergency care system involve multiple organizations, peer review protections should be extended to committees with representation from these various organizations. By allowing the Department of Health to create multi-agency committees with peer review protections to discuss trauma care and emergency care, this bill facilitates the development of trauma care and emergency care in Hawaii.

For the foregoing reasons, the Healthcare Association supports HB 2575.



AMERICAN MEDICAL RESPONSE®

February 5, 2010

LATE

The Honorable Representatives  
Ryan Yamane, Health Chair  
Scott Nishimoto, Vice Chair  
House of Representatives, Hawaii State Capitol  
Honolulu, Hawaii 96813

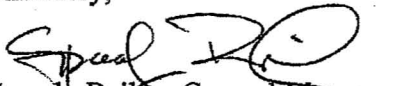
RE: SB 2575 Relating to Trauma

Dear  Chair Yamane:

American Medical Response respectfully supports the passage of SB 2575. In Hawaii, trauma is the leading cause of death and disability for 1-44 years of age. As such, a trauma system consists of multiple emergency medical service agencies, hospitals, and committees formed to review and improve the care provided to patients within the system. Multidisciplinary Quality Assurance (QA) and Peer Review (PR) committees involve broad participation with health organizations to produce improvements in care. This process relies on participation from individuals from various disciplines to review records for care that they did not themselves provide. Without protection from discovery, such reviewers could potentially become involved in medical malpractice cases. This potential adverse outcome seriously affects voluntary participation in QA and PR committees. The protection this bill affords will enable participation and broader involvement by individuals and agencies needed to produce the best results from a statewide trauma system.

Thank you very much for this consideration. Please feel to contact me @ 487-4900 if you have any further questions.

Sincerely,

  
Speedy Bailey, General Manager  
American Medical Response

**From:** Ember Shinn [embershinn@yahoo.com]  
**nt:** Thursday, February 04, 2010 1:19 PM  
**:** HLTtestimony  
**Subject:** HB2575 testimony, HLT hearing 2/5/10, 9:30 am

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

**LATE**

**TESTIMONY OF ROBERT TOYOFUKU ON BEHALF OF  
THE HAWAII ASSOCIATION FOR JUSTICE (HAJ) FORMERLY KNOWN AS  
CONSUMER LAWYERS OF HAWAII (CLH)  
IN OPPOSITION TO H.B. No. 2575**

February 4, 2010

HLT Hearing: February 5, 2010, 9:30 am

TO: Chairman Ryan Yamane and Members of the House Committee on Health:

My name is Bob Toyofuku and I am presenting this testimony on behalf of the Hawaii Association for Justice (HAJ) in opposition to H.B. No. 2575 Relating to Trauma.

This bill allows the DOH to establish multidisciplinary, multiagency quality assurance and peer review committees exempt from the State sunshine laws to analyze, evaluate and improve the statewide trauma system and services to the public. Members of the committee will review patient care records and system performance and make recommendations to the DOH. With some limited exceptions, members are exempt from being questioned in any civil or criminal proceeding regarding information presented or opinions formed in the review. Information held by DOH as a result of the committee's review is not subject to disclosure under the State Information Practices Act and civil or criminal discovery proceedings.

HAJ recognizes the need to have a comprehensive statewide trauma system and particularly government support for trauma centers faced with under compensation or no compensation for emergency care services provided to uninsured or underinsured victims of injuries. When the Legislature created a special fund for this purpose in 2006 (Act 305, SLH 2006, codified at HRS Section 321-22.5), the Legislature signaled a clear intent to bolster financial support for trauma centers. According to the latest DOH report to the Legislature dated October 2009, the Trauma System Special Fund has finally received approximately \$4.7 million in revenues to carry out the legislative mandates. Of this amount, the DOH has expended approximately \$1.2 million primarily to develop the comprehensive statewide trauma system. Unfortunately, the DOH's annual report does not detail the activities undertaken for these expenditures and its progress toward implementing the statewide program.<sup>[1]</sup>

Without further information about the progress toward implementing the statewide comprehensive trauma system and the need to create a multidisciplinary, multiagency review committee whose activities will be shrouded in secrecy, exempt from the State Sunshine laws and all civil and criminal discovery proceedings, HAJ finds it difficult to support the Governor's proposed legislation. At best, the proposed bill is premature in the absence of sound justification for the creation of a new entity or entities during this time of fiscal austerity. At worst, the creation of a new entity or entities that operate in secrecy to advise the DOH in its regulatory and oversight mission is questionable public policy. Today, the trend in most states is toward transparency in health care and medical practices. That is why over 29 states have enacted "sorry" laws and require health care

providers to disclose medical errors. This proposed bill appears to be a step backward, bucking the national trend.

HAJ has other concerns about this bill. Specifically,

- The multidisciplinary, multiagency committee will be composed of members of the trauma care facilities who are the direct beneficiaries of the trauma system special funds. Does this ensure adequate checks and balances for monitoring of the expenditure of the funds?
- The terms “peer review” and “quality assurance” committee are not defined in this proposed legislation. However, these terms are defined in HRS sections 624-25.5 and 663-1.7. The statutory definitions in existing law do not appear to be applicable to the committees formed under the proposed legislation and could result in unintended consequences.
- The intent and purpose behind allowing “peer review” and “quality assurance” committees in a private hospital or health care organization to operate free from public disclosure is to reduce risks and losses in direct patient care services. In contrast, governmental entities are required to operate in public, implement policies benefiting the public at large and are held accountable for the expenditure of public funds. Thus, the very nature of a private organization’s “peer review” and “quality assurance” committee appears contrary to the public purpose of a governmental regulatory agency.

In conclusion, HAJ has concerns about this proposed bill and suggests that further information is necessary to evaluate the merits of whether a review body that operates in secrecy is necessary to carry out the Legislature’s mandate to create a statewide comprehensive trauma system. Thank you for the opportunity to testify.

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# THE QUEEN'S MEDICAL CENTER

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Rep. Ryan I. Yamane, Chair  
Rep. Scott Y. Nishimoto, Vice Chair  
**HOUSE COMMITTEE ON HEALTH**

February 5, 2010 – 9:30 a.m.  
State Capitol, Conference Room 329

## LATE

**Re: HB 2575, Relating to Trauma**

Chair Yamane, Vice Chair Nishimoto, and Members of the Committee,

My name is Caesar Ursic, MD, FACS, Trauma Medical Director for The Queen's Medical Center. I am testifying for The Queen's Medical Center in support of the establishment of statewide emergency and trauma system multiagency and multidisciplinary quality assurance and peer review committees convened and conducted by the department of health for the purposes of improving patient care, that have similar protections as those committees formed by hospitals and health maintenance organizations.

One of the cornerstones of modern medical care is an effective quality assurance program. Such a program must entail a recurrent, methodical and collaborative examination of actual patients and the treatments that they receive, both at an individual and systems level. This will then allow caregivers to identify problems and correct them as well as to improve upon already effective care.

The concept of a Trauma Multidisciplinary Quality Assurance (QA) and Peer Review (PR) process is one that has been validated by multiple national and international studies of trauma care as essential to improving outcomes. In other words, trauma systems with effective QA and PR programs save more lives than those without them. In a trauma system such as exists in Hawaii, *statewide* QA and PR committees would allow for the collection of reliable data, the ongoing and systematic analysis of trauma outcomes, the provision of feedback to participating trauma centers, hospitals and practitioners, and the identification of local or state-wide opportunities for improvement. All of these would result in higher survival and diminished disability for patients sustaining serious injuries in Hawaii.

Hawaii Revised Statutes, Section 624-25.5, recognizes the importance of protecting QA and PR committees within individual hospitals and health maintenance organizations from discovery. In order to encourage the honest, open and voluntary participation in statewide QA and PR committees, it is crucial to establish similar protections for statewide QA and PR committee members.

Thank you for the opportunity to testify.