

SB 2372

JAN 22 2010

A BILL FOR AN ACT

RELATING TO SUNRISE REVIEWS.

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

1 SECTION 1. Section 26H-6, Hawaii Revised Statutes, is
2 amended to read as follows:

3 **"§26H-6 New regulatory measures.** (a) New regulatory
4 measures being considered for enactment that, if enacted, would
5 subject unregulated professions and vocations to licensing or
6 other regulatory controls shall be referred to the auditor for
7 analysis. Referral shall be by concurrent resolution that
8 identifies a specific legislative bill to be analyzed. The
9 analysis required by this section shall set forth the probable
10 effects of the proposed regulatory measure and assess whether
11 its enactment is consistent with the policies set forth in
12 section 26H-2. The analysis also shall assess alternative forms
13 of regulation. The auditor shall submit each report of analysis
14 to the legislature.

15 (b) The analysis required by this section shall be used
16 for advisory or informational purposes only and the legislature
17 shall not be bound by the auditor's findings. The requirements



1 of this section shall in no way waive or dilute the legislative
2 and policy making power vested in the legislature by article III
3 of the Hawaii State Constitution.

4 (c) The legislature may waive the requirements of
5 subsection (a) if the legislature finds that:

6 (1) The auditor has been unable or unwilling to conduct a
7 previously requested review of the proposed regulatory
8 measure;

9 (2) Immediate implementation of a proposed regulatory
10 measure is necessary to serve the interest of public
11 health, safety, or welfare; or

12 (3) An auditor's analysis is unnecessary because the
13 legislature possesses sufficient information to assess
14 the probable effects of a proposed regulatory measure
15 and to determine whether its enactment is consistent
16 with the policies set forth in section 26H-2."

17 SECTION 2. New statutory material is underscored.

18 SECTION 3. This Act shall take effect on July 1, 2010.

19

INTRODUCED BY:

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Report Title:

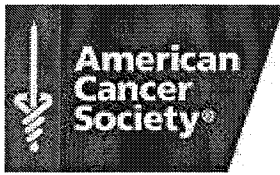
Sunrise Review; Auditor

Description:

Clarifies that the statutorily required auditor's review of new regulatory measures does not interfere with the Legislature's constitutional legislative function and may be waived under specified circumstances.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.





The Official Sponsor of Birthdays

January 31, 2010

Committee on Commerce and Consumer Protection
Senator Rosalyn Baker, Chair
Senator David Ige, Vice Chair

Hearing:

9:00 A.M. Tuesday, February 2, 2010
Hawaii State Capitol, Room 229

RE: SB2372 – Relating to Sunrise Reviews

Testimony in Support

Chair Baker, Vice Chair Ige, and members of the Committee on Commerce and Consumer Protection. Thank you for the opportunity to offer testimony in support of SB2372, which if enacted, would waive the State Auditor's review under certain conditions.

The American Cancer Society Hawaii Pacific is a community-based, voluntary health organization dedicated to eliminating cancer as a major health problem by preventing cancer, saving lives, and diminishing suffering from cancer, through research, education, advocacy, and service. Our mission also includes advocating for policies that eliminate barriers that delay implementation of life saving health procedures and measures.

Last session, several bills were introduced in both the Senate and House mandating colorectal cancer screening using colonoscopy and other state of the art screening tests. As a result, a concurrent resolution was passed directing the State Auditor to conduct an assessment of the social and financial impact of mandating colorectal cancer screenings that included colonoscopy.

Upon conclusion of the 2009 session, the Society learned that the study would not be completed due to state budget considerations. Subsequent re-evaluation of the Auditor's budget determined that the budget constraints would not be a problem and the study was begun in September 2009.

We believe that when §23-51 of the Hawaii Revised Statutes was enacted in 1990, the Legislature did not have access to the latest information as it pertained to best practices in the treatment of cancers and other chronic diseases including heart, lung and diabetes. Also in 1990, the Legislature could not have imagined an economic downturn in Hawaii that it would necessitate state employee layoffs, office closures, and major reductions in services.

From our review of SB2372, we conclude that this is a reasonable and appropriate piece of legislation that provides legislative flexibility that addresses future critical health and welfare concerns.

American Cancer Society Hawai'i Pacific, Inc., 2370 Nu'uuanu Avenue, Honolulu, Hawaii 96817-1714
●Phone: (808) 595-7500 ●Fax: (808) 595-7502 ●24-Hour Cancer Info: (800) 227-2345 ●<http://www.cancer.org>

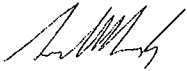
In closing, we note that since 1990 when §23-51 was enacted, there have been seventeen State Auditor assessments to the proposed changes of our pre-paid health care act. Of these, two assessments addressed the need for cancer screenings and follow-up treatment.

- 1990 - Study of Proposed Mandatory Health Insurance for Mammogram Screening
- 1993 - Study of Proposed Mandatory Health Insurance for PapTests

We wonder how many more lives could have been saved if women had been provided early mammograms and pap tests had there not been the additional delay due to need of an audit.

Mahalo for the opportunity to provide testimony in strong support of this measure; the passage of which will reduce the implementation time to provide life saving screening and treatment procedures.

Sincerely,



George S. Massengale, JD
Director of Government Relations

TESTIMONY TO THE SENATE COMMITTEE ON COMMERCE AND CONSUMER PROTECTION
REGARDING SB 2372 RELATING TO SUNRISE REVIEWS

The Hawaii Athletic Trainers' Association supports SB 2372 Relating to Sunrise Reviews. The practice of Athletic Training is regulated in the form of licensure in 46 states. Hawaii is one of only four states without licensure or an equivalent form of regulation. Our organization has been advocating for regulation of our profession for many years in the interest of public protection and preventing inevitable harm if left unregulated. We understand the process requiring a Sunrise Analysis and the purpose of such. However, we have been frustrated by how difficult the process can be. In 2005 a concurrent resolution was passed requesting a Sunrise Analysis of our profession. We waited eagerly for the auditors' office to perform the analysis and it was not done. The following year several legislators inquired as to why it was not performed. We received conflicting messages. We were told it was "request and not a requirement", we were told the Auditor's office was "too busy"; we were told there was a "technical flaw" in the wording of the resolution. We never got a straight answer. Our group was confused and discouraged by the process.

While the requirement for Sunrise Analysis exists across the country, the method as to who performs them varies. Many states have groups submit a self study to the Department that would have oversight such as a state department of health (Washington), or state department of regulatory agencies(Colorado), or state department of consumer affairs (California) These agencies review the self study, then perform the Sunrise Analysis and make recommendations to the legislature. Thus, any group seeking regulation is guaranteed to have their application reviewed in a timely fashion.

We agree that if the Auditor's Office is unable or unwilling to perform a Sunrise Analysis and if the legislature has compelling evidence of harm or risk of harm; that the legislature should have the latitude to proceed with enacting legislation. We worry that our state is reactive in enacting legislation after something tragic occurs rather than proactive in taking steps to prevent the initial harm from taking place.

Cindy Clivio, Hawaii Athletic Trainers' Association Governmental Affairs Chair

Darryl Funai, President Hawaii Athletic Trainers' Association

PO Box 23181, Honolulu, Hawaii 96816



LINDA LINGLE
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**PRESENTATION OF THE
PROFESSIONAL AND VOCATIONAL LICENSING DIVISION**

TO THE SENATE COMMITTEE ON COMMERCE AND
CONSUMER PROTECTION

TWENTY-FIFTH STATE LEGISLATURE
REGULAR SESSION of 2010

Tuesday, February 2, 2010
9:00 a.m.

TESTIMONY ON SENATE BILL NO. 2372, RELATING TO SUNRISE REVIEWS.

TO THE HONORABLE ROSALYN H. BAKER, CHAIR,
AND MEMBERS OF THE COMMITTEE:

My name is Celia Suzuki, Acting Licensing Administrator of the Professional and Vocational Licensing Division ("PVLD"), Department of Commerce and Consumer Affairs ("Department"). The Department appreciates the opportunity to submit comments on Senate Bill No. 2372, Relating to Sunrise Reviews.

Our comments relate only to the newly proposed subsection (c) on page 2, lines 4-16. This subsection proposes that the Legislature may, under certain circumstances, waive the mandate that requires the Auditor to do a sunrise study. PVLD has found that sunrise studies are very beneficial and valuable as they provide us with information that we would not otherwise be able to gather (given our resources). Such studies have

provided us with information on how other States regulate the affected professions; positive and the negative issues about the legislative proposal being set forth; and most importantly, information as to whether the proposed new regulation should be established as a registration, certification, or licensure regulatory structure. This is vital information not only for PVLD but the Legislature as well, as it affects PVLD's costs and fees.

While we recognize subsection (c) is discretionary, we believe its utilization would remove a very valuable step towards informed and sound decision making.

Thank you for the opportunity to provide comments on Senate Bill No. 2372.