

SB2600



THE QUEEN'S MEDICAL CENTER **LATE**

1301 Punchbowl Street • Honolulu, Hawaii 96813 • Phone (808) 538-9011 • FAX: (808) 547-4646 • www.queens.org

To: Senate Committee on Health & Commerce & Consumer Protection

Committee on Health
Senator David Y. Ige, Chair
Senator Josh Green, MD Vice Chair

Committee on Commerce & Consumer Protection
Senator Rosalyn H. Baker, Chair
Senator David Y. Ige, Vice Chair

Hearing: Tuesday, February 9, 2010 @ 9:00 a.m. RM 229

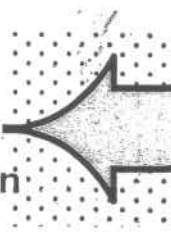
Re: SB 2600 Relating to Healthcare

My name is Carol Agard and I am the manager of Respiratory Care Services and the Sleep Center at the Queen's Medical Center.

I support the intent of SB 2600 to regulate the practice of respiratory care in Hawaii for these reasons:

- The practice of respiratory care has evolved over the years to include much more pharmacological interventions and invasive procedures with increased potential for harm.
- Therapists also have increased autonomy within their scope of practice and this will continue.
- As Physician's patient-loads are increasing, especially on the neighbor islands, they are relying on Respiratory Care Practitioners more than ever, to manage their most challenging patients, those with pulmonary diseases, including Asthma, COPD and respiratory pandemics such as SARS and H1N1.
- Federal Medicare laws for reimbursement are currently undergoing a significant change that affects reimbursement to all Medical Centers. Medicare soon will not reimburse for patient care given by an unlicensed healthcare provider. This would reduce the Federal dollars to our state as Medicare is reformed on this important point.

Because the intent of the bill is to be non-exclusionary I will address in more detail the Exemptions that should be considered for inclusion in the bill. Suggested language:



- **Limited Exemption** - The set-up, titration, and monitoring of CPAP or BiPAP, for diagnostic purposes may be undertaken by an individual who is not licensed, certified, or registered as a respiratory therapist and who has passed an examination covering this practice.
- Any individual employed by a durable medical equipment or home medical equipment company who delivers, sets up, or maintains respiratory equipment but not including assessment or evaluation of the patient.

I offer the following recommendations for minor changes to the bill, in the following areas: Continuing Education Credits – 6 credits per year, the title should be licensed Respiratory Therapists throughout the document, Replace biomedical therapy – with invasive and non invasive modalities, Written, verbal and to include telecommunicated orders, and related to respiratory therapist examination – National Board for Respiratory Care or their successors.

Thank you for the opportunity to present testimony.

Carol Agard

Carol Agard RRT, FAARC
Manager Respiratory Care Services/Neurodiagnostics
The Queen's Medical Center



LATE

LINDA LINGLE
GOVERNOR
JAMES R. AIONA, JR.
LT. GOVERNOR

STATE OF HAWAII
OFFICE OF THE DIRECTOR
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
335 MERCHANT STREET, ROOM 310
P.O. Box 541
HONOLULU, HAWAII 96809
Phone Number: 586-2850
Fax Number: 586-2856
www.hawaii.gov/dcca

LAWRENCE M. REIFURTH
DIRECTOR
RONALD BOYER
DEPUTY DIRECTOR

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

TO THE SENATE COMMITTEE ON HEALTH

AND

TO THE SENATE COMMITTEE ON COMMERCE AND CONSUMER PROTECTION

TWENTY-FIFTH LEGISLATURE
Regular Session of 2010

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

TESTIMONY ON SENATE BILL NO. 2600, RELATING TO HEALTHCARE.

TO THE HONORABLE DAVID Y. IGE, CHAIR,
TO THE HONORABLE ROSALYN H. BAKER, CHAIR,
AND MEMBERS OF THE COMMITTEES:

My name is Celia Suzuki, Acting Licensing Administrator for the Professional and Vocational Licensing Division ("PVLD") of the Department of Commerce and Consumer Affairs ("DCCA"). PVLD appreciates the opportunity to testify on S.B. No. 2600, Relating to Healthcare.

For the Committee's information, last year we met with the supporters of the licensure of respiratory therapists while Senate Bill No. 1332 was moving during the

2009 Legislative session. We attempted to find consensus on the bill and drafted a proposed H.D. 2, of which much of the contents are in this bill.

Our position was and is that if regulation is enacted, it should be in the form of a certification program and not licensure. We also advised that a licensure structure would entail higher costs as additional staff and general funds for start-up costs were needed, whereas a certification structure would not.

Minimally, we would like to request amendments to Senate Bill No. 2600, since these amendments are critical to DCCA's position on this bill.

On page 1, line 16 [~~a state respiratory care board~~] should be deleted because "a respiratory care board" is not mentioned elsewhere in the bill.

Notwithstanding our preference for a certification program, if this bill is to proceed as a licensing program, a new section should be included to read: **Respiratory therapist program.** There is established a respiratory therapist program within the department to be administered by the director. This will clarify who is in charge of administering the program.

On page 6, line 15, section (b) should be changed to "Application fees paid pursuant to" because only application fees are non-refundable, whereas all other fees are refundable.

On page 8, lines 19 – 22 should be amended as follows: "**§ -9 Renewal of license.** [~~Licenses issued pursuant to this chapter shall be valid for three years and shall be renewed upon the payment of a renewal fee within sixty days before the expiration of the license.] Licenses shall be renewed triennially on or before June 30,~~

with the first renewal deadline occurring on July 1, 2014. Failure to renew a license shall result in forfeiture of that license. Licenses that have been forfeited may be restored within one year of the forfeiture date upon payment of renewal and restoration fees. Failure to restore a forfeited license within one year shall result in the automatic termination of the license. A person whose license has been terminated pursuant to this section shall be required to reapply for a new license as a new applicant.”

On page 9, lines 3 - 4 should be amended to read: “Failure to restore a forfeited license within one year of the date of its expiration shall result in the automatic termination of the license. “ This is to clarify the period of time by which a forfeited license must be restored.

This bill provides that this act shall take effect on July 1, 2010. We request that should this bill pass, the effective date be July 1, 2011 to allow us sufficient time to ensure an efficient and smooth transition for the licensure of respiratory therapists. A one year delayed effective date has consistently been supported by the Legislature.

If the Legislature is amenable to our request to delay implementation of the bill, then page 12, line 16 should be amended as follows: “fiscal year [~~2010-2011~~] 2011-2012...”.

For the Committee's information, there will be start-up costs to implement the program. And those additional costs will be passed on to licensees in addition to regular fees for the new biennium.

Thank you for the opportunity to testify on Senate Bill No. 2600.

Hawaii Sleep Society

An organization for physicians, technologists and health care professionals
interested in Sleep Disorders Medicine.

February 8, 2010

Senator Rosalyn H. Baker
Chair, Committee on Commerce and Consumer Protection
Hawaii State Capitol, Room 231
415 South Beretania Street
Honolulu, HI 96813

LATE

Dear Senator Baker:

The Hawaii Sleep Society (HSS) Board of Directors is pleased to submit comments on Senate Bill 2600, which would establish licensure for respiratory therapists. Since the representatives for HSS will not be able to attend this hearing, we are submitting written testimony to express our opposition to SB2600, which is based on the possible restrictive language in the bill, and what we feel could be significant repercussions if such legislation is passed.

As you may recall, similar licensure bills were introduced, but did not pass out of committee, during last year's legislative session. The HSS opposed these bills since they could be interpreted as precluding sleep technologists from providing sleep-related care. In light of these concerns, legislators recommended that the HSS and the Hawaii Society for Respiratory Care (HSRC) work together to develop licensure language to which both organizations could agree. Since that time, HSS Board members have met with the HSRC Legislative Committee co-chairpersons to develop licensure language. However, SB2600 was introduced before agreed language could be finalized.

The HSS Board is particularly concerned with the definition of "Practice of respiratory care." Item (D) of this section states that respiratory therapists can perform:

*Mechanical or physiological ventilatory support, including **maintenance of natural airways** and insertion and maintenance of artificial airways.*

The phrase "maintenance of natural airway" could be interpreted to prevent non-Respiratory Therapists (RTs) from performing essential sleep-related duties such as applying mechanical support of the airways, e.g. Positive Airway Pressure (PAP) devices (Continuous Positive Airway Pressure and BiLevel Positive Airway Pressure).

Precedent in trying to interpret the phrase "maintenance of natural airways" to prevent non-RT's from providing sleep care services has already occurred. In the fall of 2007, the California Respiratory Care Board issued a statement stating that only respiratory therapists could perform sleep-related procedures. This determination was based upon an interpretation of this phrase in their practice act.

The California Respiratory Care Board interpreted the phrase to mean that only licensed respiratory therapist could perform sleep-related procedures. Any facility using non-RT's to perform these services were faced with a fine of \$15,000. Fortunately this problematic situation was resolved when Senate Bill 132 (attached), which established educational and training requirements for sleep technologists, was signed into law.

If SB 2600 is passed without any changes, the HSS is concerned that sleep technologists in Hawaii could be precluded from performing sleep procedures. If that were to happen, many sleep testing centers in Hawaii will be forced to close because currently working sleep technologists will be forced to seek other employment. These facilities would then need to find a qualified respiratory therapist to perform sleep tests as well as the added cost to hire them. This will have a negative result for the general public as it will seriously limit access to this essential service to many people. It has been estimated that at least 5 percent of the population has some type of sleep disorder. In a recently published long term study of over 6,000 people in the US, it was estimated that people with undiagnosed sleep apnea had at least a 46% higher mortality rate compared to those without the disorder. It is imperative for the overall well being of the citizens of Hawaii that we ensure that sleep testing facilities in Hawaii are kept open and well staffed by qualified sleep technologists.

The HSS is eager to support licensure legislation for both sleep technologists and respiratory care practitioners in Hawaii. We urge you to step back from SB 2600 and instead support that the HSS and the HSRC work together on developing licensure language for **both** professions.

Respectfully yours,

The Hawaii Sleep Society Board of Directors:

Gabriele Barthlen, MD
President

Roger Yim, MD
President-Elect

Linda, Kapuniaia, DrPH
Treasurer

Carol Yoshimura, RRT, RPSGT
Secretary



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To: Senate Committee on Health & Commerce & Consumer Protection

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Senator David Y. Ige, Chair
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Committee on Commerce & Consumer Protection
Senator Rosalyn H. Baker, Chair
Senator David Y. Ige, Vice Chair


Hearing: Tuesday, February 9, 2009 @ 9:00 a.m. RM 229

Re: SB 2600 Relating to Healthcare

I strongly support the intent of SB2600 to regulate the practice of respiratory care in Hawaii.

- ◆ As Physician's patient-loads are increasing, especially on the neighbor islands, they are relying on Respiratory Care Practitioners more than ever, to manage their most challenging patients, those with pulmonary diseases, including Asthma, COPD and respiratory pandemics such as SARS and H1 N1.
- ◆ Federal Medicare laws for reimbursement are currently undergoing a significant change that affects reimbursement to all Medical Centers. Medicare soon will not reimburse for patient care given by an unlicensed healthcare provider. This would reduce the Federal dollars to our state as Medicare is reformed on this important point.

Thank you for your consideration on this important issue,


Reid Ikeda MD
Medical Intensivist Medical Intensive Care Unit
Assistant Professor of Medicine John A. Burns School of Medicine
University of Hawaii
Medical Director Respiratory Care Service

02/08/2010

Dear Senator Rosalyn Baker and Committee Members,

RE: RETRACT SB2600, Licensure for Respiratory Therapists

LATE

I am a trained sleep technologist with 5 years experience in Hawaii.

I respectfully request that SB2600 that creates licensing and regulatory standards for respiratory therapists be **retracted**. The language in this bill will prohibit non-Respiratory Therapists from working in established sleep testing facilities in Hawaii, including the Queens Medical Center, Castle Medical Center, Straub Clinic and Hospital, and other free-standing laboratories.

The most life threatening sleep disorder diagnosed in the sleep laboratory is obstructive sleep apnea. Most sleep centers already have wait lists delaying diagnosis and treatment of patients with sleep centers.

It is recommended that the Hawaii Society for Respiratory Care (HSRC) work in collaboration with the Hawaii Sleep Society (HSS) to edit the language of this bill to serve all patients and stakeholders

I am particularly concerned with the definition of "Practice of respiratory care." Item (D) of this section states that respiratory therapists can perform:

Mechanical or physiological ventilatory support, including **maintenance of natural airways** and insertion and maintenance of artificial airways.

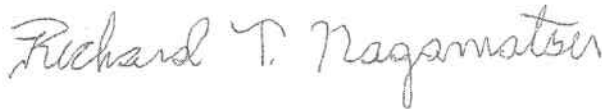
The phrase "maintenance of natural airway" could be interpreted to prevent non-Respiratory Therapists (RTs) from performing essential sleep-related duties such as applying mechanical support of the airways, e.g. Positive Airway Pressure (PAP) devices (Continuous Positive Airway Pressure and BiLevel Positive Airway Pressure).

The practice of Sleep Technology includes performing the above tasks during sleep studies upon the order of, and under the general supervision of, a physician licensed by the State Board of Medicine. Go to <http://www.aastweb.org/SleepTechnologist.aspx> to read the description of a Sleep Technologist.

Should SB2600 pass with it's current language, many Hawaii sleep centers will severely curtail patient services due to a shortage of respiratory therapists who have the special training necessary to perform sleep studies. The Kapiolani Community College Respiratory Therapy (RT) program currently offers RT students exposure to the sleep technologist experience, however, at graduation, these Respiratory Therapists are **not** competent to work in a sleep laboratory. This shortage of trained sleep center personnel will result in decreased access to a very important healthcare service to the public and jeopardize patient health and public safety.

Please contact me if you wish to discuss this further. My phone: (808) 291-5861

Respectfully yours, Richard T. Nagamatsu



98-171 Puaalii St.
Aiea, Hi 96701

To: **Senate Committees on Health & Commerce & Consumer Protection**
Committee on Health
Senator David Y. Ige, Chair
Senator Josh Green, MD, Vice Chair
Committee on Commerce & Consumer Protection
Senator Rosalyn H. Baker, Chair
Senator David Y. Ige, Vice Chair

LATE

RE: **Senate Bill 2600 relating to Healthcare**

Chairs and Committee Members:

I support the intent of bill Senate Bill 2600 relating to the regulation of the Respiratory Care profession.

There is little question that there is a need for oversight for the profession of Respiratory Care Practitioners. Forty-eight of our fifty states already have oversight protection.

From a safety standpoint, many professions are required to be licensed. In the practice of respiratory care, we are involved with diagnostic and life saving equipment/procedures. Errors could lead to very serious injury to the patient.

Physician's patient-loads are increasing and they rely on Respiratory Care Practitioners to help them in managing their patients with various types of breathing issues due to trauma, pulmonary diseases like Asthma, Chronic Obstructive Pulmonary Disease, and respiratory pandemics such as SARS and H1N1.

Federal Medicare laws for reimbursement are currently undergoing a change that affects reimbursement to all Medical Centers. Medicare soon will not reimburse for patient care given by an unlicensed healthcare provider. This would reduce the Federal dollars to our state as Medicare reformed comes about.

Please help support this very crucial bill and thank you for your attention.



Stephen Kaya RRT

LATE

To: **Senate Committees on Health & Commerce & Consumer Protection**
Committee on Health
Senator David Y. Ige, Chair
Senator Josh Green, MD, Vice Chair
Committee on Commerce & Consumer Protection
Senator Rosalyn H. Baker, Chair

RE: **Senate Bill 2600 relating to Healthcare**

Chairs and Committee Members:

I support the intent of bill **Senate Bill 2600** regarding the regulation of the Respiratory Care Profession.

There is without a question a strong need for the oversight of the Respiratory profession, as evidenced by the fact that all but two of our states have already seen fit to enact legislation to oversee our profession.

As a manager of one of Hawaii's largest Respiratory Care Department, I understand the desperate need to have licensed practitioners caring for our states sick and injured. Our profession is one that deals with the father mothers brothers and sisters of this great state of Hawaii, but for the life of me I cannot grasp how anyone cannot see the critical nature of this pressing issue. As a respiratory manager I am personally responsible for hiring competent and qualified staff to care for Hawaii's people who for one reason or another cannot care for themselves. I am asking you...no I implore you to help me to bring a level of accountability to Hawaii Respiratory Care Practitioners that the rest of our nations state legislatures have seen fit to enact.

How can I be required to have a license to cut your hair, sell you a house or even massage your back, but not need a license to perform invasive procedures on you as a patient or even possibly save your life? Without licensure our state will become the dumping ground of the nation for Respiratory Care Practitioners who have lost the ability to practice in 48 other states. I do not think that this is the vision that our Queen had when going door to door to raise funds to care for Hawaii's people.

Please consider this issue before our local hospitals become scattered with practitioners that will not be welcome to practice throughout the rest of our nation. Thank you for your action on this matter.



Everett A. Bransford
Manager
Respiratory Care Department
Queens Medical Center

To: **Senate Committees on Health & Commerce & Consumer Protection**
Committee on Health
Senator David Y. Ige, Chair
Senator Josh Green, MD, Vice Chair
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From a safety standpoint, if a barber or beautician is required to be licensed, the practice of respiratory care is far more invasive and an error can be far more damaging to a patient.

The bottom line is the sooner this issue is resolved, the sooner a firewall is installed against Respiratory Practitioners that have lost their privileges in other states from applying for a position in Hawaii.

Thank you for your kind attention.

Eva → RRT

Eva Kalmanczhey
91-1004 Laanui St. #C
Ewa Beach, HI 96706

To: **Senate Committees on Health & Commerce & Consumer Protection**
Committee on Health
Senator David Y. Ige, Chair
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Thank you for your kind attention.

Jackie Locke, RRT-NPS
Respiratory Care Manager at Kapiolani Medical Cent
at Pali Momi

1114 Kena St
Kailua HI
96734

To: **Senate Committees on Health & Commerce & Consumer Protection**
Committee on Health
Senator David Y. Ige, Chair
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Thank you for your kind attention.



Melody Favox
911028 Holoimua St.
Kapolei HI 96707

LATE

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Senator David Y. Ige, Chair
Senator Josh Green, MD, Vice Chair
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Thank you for your kind attention.

Diiane Brewessel, RRT, BS, D.Ed, AETC
DIANE BREWESSEL

LATE

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Senator David Y. Ige, Chair
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Thank you for your kind attention.



Divia Garcia RPT

ATTN

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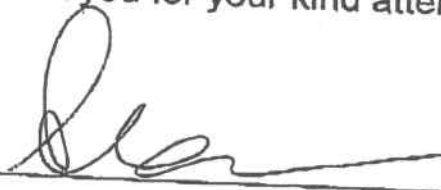
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Thank you for your kind attention.

 2/8/2010
Jingru Wan-Peckham RRT

LATE

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Thank you for your kind attention.

Limarchey RRT

Lidian V Choy

3043 Lopaka Place

Honolulu Hawaii 96817

LATE

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Committee on Health
Senator David Y. Ige, Chair
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Thank you for your kind attention.

Wesley Carter RRT

Wesley Carter

LATE



Testimony in **strong support of SB2600** Relating to Healthcare
House Committee on Health
Hearing scheduled for Tuesday, February 9, 2010 @ 9am in room 229, HTH/CPN

February 8, 2010

To: Honorable Senator David Ige, Chair of Health Committee
Honorable Senator Rosalind Baker, Chair of Commerce and Consumer Protection
Honorable Senator Josh Green, Vice-Chair of Health Committee
Honorable Senator David Ige, Vice-Chair of Commerce and Consumer Protection
Members of Health and Commerce & Consumer Protection Committees

By: Valerie Chang, JD, Executive Director
Hawaii COPD Coalition, <http://hawaiicopd.org>
733 Bishop Street, Suite 1550, Honolulu, HI 96813
(808)699-9839

Re: **STRONG SUPPORT OF SB2600** Relating to Healthcare (licensing respiratory therapists)

Dear Chair Ige, Chair Baker, Vice-Chair Green, Vice-Chair Ige and Committee Members,

Please support SB2600, licensing respiratory therapists in Hawaii, and pass it out of committee. We need this protection NOW!

My name is Valerie Chang. I am Executive Director of the Hawaii COPD Coalition. Our organization provides services and support to Hawaii's people affected by Chronic Obstructive Pulmonary Disease, more commonly known as emphysema, chronic bronchitis and similar conditions. COPD is the fourth leading cause of death in the US and second leading cause of disability. In 2008, 30,364 Hawaii adults reported being diagnosed with COPD; it is estimated that at least as many are undiagnosed. Many, many more people in Hawaii suffer from asthma, tuberculosis, pneumonia and other respiratory conditions.

I **strongly SUPPORT** the prompt passage of legislation to establish licensing and regulatory requirements for practice of respiratory care so that all Hawaii respiratory therapists are licensed. Respiratory Therapists are critical for COPD patients and their loved ones, as well as all people with any breathing problem. They help the patients get their medication, keep their lungs clear, and learn to manage their breathing conditions. Respiratory therapists provide life support for keeping the airways of patients open in the hospital setting; the equipment they use is increasingly sophisticated and needs careful monitoring. As has been noted, only Hawaii and Alaska lack licensing for respiratory therapists. Hawaii needs a licensing process in place to insure that all of therapists meet appropriate standards and are providing quality care to our many people in Hawaii who need respiratory care, including having a place and process for reporting and investigating incompetence and/or professional misconduct.

My husband, children, and I have asthma and additionally, I have severe emphysema. We have all used the services of respiratory therapists to test how well our lungs are working. I have also been fortunate enough to have a respiratory therapist in Colorado help me develop a personalized exercise program which is safe and appropriate for my lung condition. Respiratory nurses and respiratory therapists have also provided me with education on how to live actively with asthma and emphysema.

I have also enjoyed working with many respiratory therapists with our Hawaii COPD Coalition where we have:

- (1) Free breathing testing at various locations throughout Hawaii;
- (2) Free support group (run by two respiratory therapists); and
- (3) Free annual COPD education day.

Thanks for the opportunity to testify about this issue that is so vital to the health of Hawaii's people. Please support SB2600 and pass it out of committee so that Hawaii respiratory therapists will be licensed. This protection for the health and safety of Hawaii's people is urgently needed!

Jamil S. Sulieman, M.D., Inc.
Pulmonary and Sleep Medicine



THE SLEEP LAB and OFFICE
Accredited by the American Academy of Sleep Medicine
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February 8, 2010

To Whom It May Concern:

I am writing this letter in support of the request that you consider modification of the wording of Senate Bill 2600 as it reflects the ability to apply ventilation as an exclusive skill of respiratory therapy. I would propose for your consideration a modification to reflect the overlapping skills set by a separate technical group the Sleep Technologist. In 2007 the American Board of Medical Subspecialties established the certification in Sleep Medicine. This was supported by 4 different colleges including Medicine, Neurology, Pediatrics, and Anesthesiology and reflected how this discipline crossed multiple specialties. So to, the Sleep Technologist has skills and requirements that reflect a familiarity with techniques from Neurology, Urology, Pediatrics, as well as Respiratory Therapy.

Although patients with a sleep related breathing disorder (sleep apnea) who may require ventilatory support are the majority of patients seen in a sleep center, they do not reflect all the patient's nor in some cases the most difficult patients. Evaluations of these patients are part of the training and experience of the Sleep Technologist and I am unaware of this being part of the basic training or clinical experience of most respiratory therapist, who have not been additionally trained in sleep medicine.

These "overlapping" skills of Sleep Technologist need to be recognized as an exception in this bill. Not making this exception would have a significant medical and financial impact in our society. The Respiratory Therapist not trained in sleep could not perform the necessary functions in the near future which would impact medical care, and would revoke the standards of accreditation required for all sleep laboratories in Hawaii.

Sleep apnea as you may know effects a significant amount of citizen's with direct impact on major medical illnesses such as heart disease, diabetes, hypertension, and strokes. The inability to provide the studies would directly impact people from obtaining timely care for these problems. Additionally, every day we see in our laboratories patients who work as bus driver's, truck drivers and pilots as well as regular citizen's. If they have sleep apnea, they suffer from fatigue and lack of alertness known to produce an increase in automobile accidents, work accidents, as well as reduced general productivity. It is unclear to me how this body could explain the benefits of this adverse care decision to the citizens of Hawaii.

Jamil S. Sulieman, M.D., Inc.
Pulmonary and Sleep Medicine



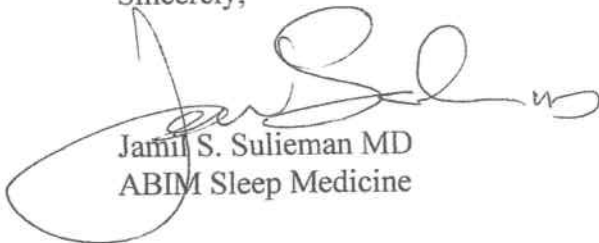
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Sleep Technologists have multiple skills which as stated above overlap in some respect with several different forms of technology. In Hawaii, our major insurance carrier has requested that all laboratories be nationally accredited and part of this process evaluates the skills and the credentials of the sleep technologist. Increasingly, sleep laboratories and centers are required to show evidence of the technologists certification to maintain the accreditation of the laboratories. Therefore our sleep technologist, while not licensed in this state by virtue of this system have their skills and their technical proficiency measured and recorded.

Therefore, I again urge this body to consider modifications in the wording of this Bill to recognize Sleep Technologists as fully capable and qualified to perform these services as Sleep Technologists and that while Respiratory Therapist may embody some of the same skill, these skills are not exclusive to their training nor does their training make them Sleep Technologists.

Sincerely,



Jamil S. Sulieman MD
ABIM Sleep Medicine