

**SB2728**

**SD1**



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**STATE OF HAWAII**  
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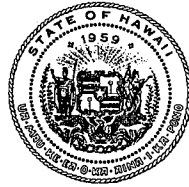
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To: House Committee on Health  
From: Cathy L. Takase, Acting Director  
Hearing: Wednesday, February 24, 2010, 11:00 a.m.  
State Capitol, Room 016  
Re: Testimony on S.B. 2728, SD1  
Relating to Trauma

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The Office of Information Practices (OIP) supports the amendment proposed by DOH for S.B. 2728, SD1. The amendment would satisfy OIP's technical and policy concerns regarding the confidentiality clause in the current bill.

Thank you for the opportunity to testify.



STATE OF HAWAII  
DEPARTMENT OF HEALTH  
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In reply, please refer to:  
File:

**Senate Committee on Judiciary And Government Operations**

**SB 2728, SD 1, RELATING TO TRAUMA**

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

**Wednesday, February 24, 2010, 11:00 am**

1 **Department's Position:** The Department of Health strongly supports this Administration bill.

2 **Fiscal Implications:** None

3 **Purpose and Justification:** In Hawaii, trauma is the leading cause of death and disability for those  
4 1-44 years of age. The Department has been charged in Section 321-22.5, Hawaii Revised Statutes, with  
5 building a comprehensive statewide trauma system to address this public health problem. The trauma  
6 system will consist of multiple emergency medical service agencies, hospitals, and committees formed  
7 to review and improve the care provided to patients within the system.

8 Multidisciplinary Quality Assurance (QA) and Peer Review (PR) committees seek broad  
9 participation within health organizations to produce improvements in patient care. This involves  
10 personnel from various disciplines reviewing records of care that they did not themselves provide, and  
11 making recommendations for improvement. Without protection from discovery, such reviewers would  
12 potentially become involved in medical malpractice cases just because they reviewed the case.  
13 Recognizing that this seriously affects voluntary participation, QA and PR committees within hospitals  
14 and health maintenance organizations are currently protected from discovery by Section 624-25.5,  
15 Hawaii Revised Statutes. It is important to note that all patient records and other material pertinent to

1 investigation of potential medical malpractice remain available; it is only the committee's deliberations  
2 and proceedings that are protected.

3 The Department has established the Hawaii Trauma Advisory Council (HTAC) consisting of  
4 statewide representatives from hospitals, ambulance providers, and other representatives of  
5 organizations with an interest in creating and improving a comprehensive statewide trauma system. The  
6 HTAC has recommended, and the Department agrees, that subcommittees for QA and PR should be  
7 convened to review cases for the purpose of improving patient outcomes. Finding that current law  
8 would not apply to QA and PR subcommittees convened by the Department, we are seeking this  
9 protection for these subcommittees with this measure. Such protections will assure the full participation  
10 and broad involvement by the many key individuals and agencies needed to produce the best results  
11 from the statewide trauma system. The Department proposes the attached amendments, developed with  
12 the assistance of the Office of Information Practices, to clarify that the protections requested are not  
13 broader than the intended purpose.

14 Thank you for the opportunity to testify on this bill.

15 **SB2728 PROPOSED SD2 DRAFT**

16 SECTION 1. The legislature has recognized that in Hawaii injury  
17 is the leading cause of death for persons between the ages of one to  
18 forty-four and, therefore, the improvement of trauma care in Hawaii  
19 is a public health priority.

20 By Act 305, Session Laws of Hawaii 2006, the department of  
21 health was charged with the continuing development and operation of a  
22 comprehensive statewide trauma system in order to save lives and  
23 improve outcomes of injured patients. To improve patient care, a  
24 comprehensive trauma system requires the systematic review of

1 information related to patient care and system performance by all  
2 parties involved in a protected environment that supports  
3 participation and frank discussion. The importance of protecting  
4 peer review of health care provided is recognized in Hawaii by  
5 statute in section 624-25.5, Hawaii Revised Statutes. The department  
6 of health's child death review is also protected under sections 321-  
7 341 and 321-345, Hawaii Revised Statutes. This measure seeks to  
8 establish that statewide emergency and trauma system multiagency and  
9 multidisciplinary quality assurance and peer review subcommittees  
10 convened and conducted by the department of health for the purposes  
11 of making system improvements, have similar protections as those  
12 committees formed by hospitals and health maintenance organizations.

13 SECTION 2. Section 321-230, Hawaii Revised Statutes, is amended  
14 to read as follows:

15 **"§321-230 Technical assistance, data collection, evaluation.**

16 (a) The department may contract for technical assistance and  
17 consultation, including but not limited to categorization, data  
18 collection, and evaluation appropriate to the needs of the state  
19 system. The collection and analysis of statewide emergency medical  
20 services data, including pediatrics, trauma, cardiac, medical, and  
21 behavioral medical emergencies, shall be for the purpose of improving  
22 the quality of services provided.

23 The department may implement and maintain a trauma registry for  
24 the collection of information concerning the treatment of critical

1 trauma patients at state designated trauma centers, and carry out a  
2 system for the management of that information. The system may  
3 provide for the recording of information concerning treatment  
4 received before and after a trauma patient's admission to a hospital  
5 or medical center. All state designated trauma centers shall submit  
6 to the department [~~of health~~] periodic reports of each patient  
7 treated for trauma in the state system in such manner as the  
8 department shall specify.

9 In order to analyze, evaluate, and improve the statewide trauma  
10 system and the services it provides to the public, the department may  
11 form multidisciplinary and multiagency quality assurance and peer  
12 review committees. These committees shall comprise representatives  
13 of trauma, emergency, and tertiary care providers and agencies.  
14 Within these committees, subcommittees may be created with the  
15 express purpose of making recommendations to the department for  
16 system improvements. These subcommittees shall have access to  
17 patient care records and system performance data and shall be exempt  
18 from chapter 92.

19 For the purposes of this subsection, "categorization" means  
20 systematic identification of the readiness and capabilities of  
21 hospitals and their staffs to adequately, expeditiously, and  
22 efficiently receive and treat emergency patients.

23 (b) The department shall establish, administer, and maintain an  
24 aeromedical emergency medical services system designed to collect and

1 analyze data to measure the efficiency and effectiveness of each  
2 phase of an emergency aeromedical program.

3 The aeromedical emergency medical services system shall serve  
4 the emergency health needs of the people of the State by identifying:

- 5 (1) The system's strengths and weaknesses;
- 6 (2) The allocation of resources; and
- 7 (3) The development of rotary-wing emergency aeromedical  
8 services standards;

9 provided that emergency helicopter use, including triage protocols,  
10 shall be based on national aeromedical triage and transport  
11 guidelines established by the Association of Air Medical Services,  
12 the American College of Surgeons and the National Association of  
13 Emergency Medical Service Physicians. The department, in the  
14 implementation of this subsection, shall plan, coordinate, and  
15 provide assistance to all entities and agencies, public and private,  
16 involved in the system.

17 (c) The department shall use an emergency aeromedical services  
18 quality improvement committee comprised of representatives of trauma,  
19 emergency, and tertiary care physicians and providers to analyze  
20 information collected from the aeromedical quality improvement  
21 performance measures as established by the American College of  
22 Surgeons, and to recommend system standards and resources to maintain  
23 and improve the Hawaii emergency aeromedical services system.

1        (d) No individual participating in the review of patient care  
2 records and system performance as part of the department's quality  
3 assurance, quality improvement, and peer review subcommittees  
4 established for the purpose of making recommendations to the  
5 department for system improvements, as set forth in subsection (a) of  
6 this section, may be questioned in any civil or criminal proceeding  
7 regarding information presented in or opinions formed as a result of  
8 participation in those reviews. Nothing in this subsection shall be  
9 construed to prevent a person from testifying to information obtained  
10 independently of the department's multidisciplinary and multiagency  
11 review of patient care records and system performance, or which is  
12 public information, or where disclosure is required by law or court  
13 order.

14        (e) Information held by the department as a result of patient care  
15 records and system performance reviews conducted by the department's  
16 quality assurance, quality improvement, and peer review subcommittees  
17 is confidential and is not subject to subpoena, discovery, or  
18 introduction into evidence in any civil or criminal proceeding,  
19 except that patient care records and system performance review  
20 information otherwise available from other sources is not immune from  
21 chapter 92F, subpoena, discovery, or introduction into evidence  
22 through those sources solely because they were provided as required  
23 by this part.



1        (f) To the extent that this section conflicts with other state  
2 confidentiality laws, this section shall prevail."

3        SECTION 3.    New statutory material is underscored.

4        SECTION 4.    This Act shall take effect July 1, 2050.

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# THE QUEEN'S MEDICAL CENTER

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Senator Brian T. Taniguchi, Chair  
Senator Dwight Y. Takamine, Vice Chair

## COMMITTEE ON JUDICIARY AND GOVERNMENT OPERATIONS

February 24, 2010 – 11:00 a.m.  
State Capitol, Conference Room 016

### Re: SB 2728, SD1 Relating to Trauma

Chair Taniguchi, Vice Chair Takamine, 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.



SENATE COMMITTEE ON JUDICIARY AND GOVERNMENT OPERATIONS  
Senator Brian Taniguchi, Chair

Conference Room 016  
Feb. 24, 2010 at 11:00 a.m.

**Supporting SB 2728 SD 1.**

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 SB 2728 SD 1, 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 SB 2728 SD 1.