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Testimony in **SUPPORT** on behalf of:
House Bill 2312 Relating to Torts
Thursday, February 23, 2012
State Capitol Conference Room 325
415 South Beretania Street

Heart disease is the number one killer of citizens in the United States. Every single day nearly 1000 individuals die from sudden cardiac arrest (SCA) in the United States. Every year, year after year, sudden cardiac arrest claims the lives of at least 325,000 people in the United States, including more than 6,000 young people under the age of 18 years old. Cardiac arrest can happen to anyone, anywhere, and at anytime. Sudden cardiac arrest is a public health crisis.

In the state of Hawaii it is estimated that more than 1,000 citizens of our state will experience a cardiac arrest annually, of those only 5% will survive, but it does not have to be this way. SCA is completely treatable. We are learning that the battle for life is not won in the hospital or in the ambulance, but on the living room floor. Chest compressions must to be started within the first minutes of collapse in order to make the difference between life and death.

A number of national reports have illustrated that bystander CPR can substantially improve rates of survival from SCA. A bystander is a person who happens to be near the victim and who is not part of the organized emergency response system. In most events, the bystanders do not have professional healthcare education. With early initiation of CPR survival rates improve, and when bystanders perform CPR well, the victim's chance of survival can double and even triple. In several studies, high-quality CPR was associated with a marked improvement in survival to hospital discharge. Furthermore, recent evidence suggests that CPR may be particularly important in cases of prolonged cardiac arrest (ie, an arrest duration of 4 to 5 minutes without treatment).

CPR is a highly accessible therapy that requires little medical training and no equipment when provided in its most basic form. Potential rescuers from school age to the elderly can learn CPR skills in as little as 20-30 minutes. With the new CPR they simply need their hands to save a life.

In the airports of Hawaii where widespread CPR/AED training has been provided, survival rates from witnessed SCA associated with ventricular fibrillation have been as high as 84%. Surpassing any other program in the country proving that equipping the public with the skills to perform the first three links in the American Heart Association chain of survival can make a dramatic difference in survival from SCA.

THE PROBLEM: If bystander CPR can markedly improve outcomes, why are our survival rates from out-of-hospital SCA still so poor? **The low rate of bystander CPR performed is a significant contributor. Local reports have documented that in many communities, only 15% to 30% of SCA victims will receive bystander CPR before Fire or EMS personnel arrive at the scene. Low rates of bystander CPR have been**



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documented even in settings where trained rescuers were present. Given that the time interval for EMS arrival is often 7 to 8 minutes or longer and that survival falls 7% to 10% or each minute without CPR, the lack of bystander CPR has a large impact on outcomes.

In 2007 and again in 2009, the Hawaii Good Samaritan Law (H.B. 1537 pertaining to AEDs) was approved and released bystanders from any liability when using an AED no matter where the AED was located. However when teaching in the community every student has the same fear, FEAR of injuring the victim, FEAR of doing the wrong thing, and FEAR of liability. Even with sharing the current Good Samaritan law students will still ask “what if I perform CPR” am I covered. Most believe that because it is not stated in the Good Samaritan Law then they are not covered. This FEAR is one reason why Hawaii has an estimated 5% survival rate.

As the AED Program Coordinator for Hawaii’s largest Public Access Defibrillation (PAD) Program I am here today to testify on behalf of House Bill 2312 Relating to Torts. The DOT-A has been responsible for the public implementation of over 125 Automated External Defibrillators (AED) on six islands and in 13 airports. Each of the AEDs has been placed in a public location for rapid response to a possible cardiac arrest victim. With the installation of the AEDs we felt the most important part of the program was to ensure that there would be a confident citizen to step forward, start chest compressions, and bring the AED to the victim’s side. In the last six years we have educated more than 8,000 airport employees, airport users, and concessionaires in a classroom format on how to respond to a cardiac arrest victim and how to perform proper CPR and use the AED. Our goal was to ensure that every airport user had the opportunity to have the education, knowledge, and confidence to save the life of a friend or loved one. The class teaches the student that you really do not need to know very much to save a life. But this is something that the responder does not know unless they are given the education. We share the law with each student but there is still an apprehension and concern about liability because the law does not include the words “chest compressions or CPR”.

CPR is a potentially lifesaving intervention that can be implemented by the public without the need for expensive equipment or professional credentials. If the rate and quality of bystander CPR are increased substantially, the potential exists to save the lives of hundreds of victims of SCA in Hawaii each year. We can do the training and education but we need you to pass this bill to help alleviate the FEAR of liability to the potential responder.

Sincerely,

Pamela Foster, RN
President and CEO for AED Institute of America, Inc
Founder of Hawaii Heart Foundation (a local non-profit with the mission to improve the cardiac arrest survival rates in Hawaii through *Educating Hawaii to Save Lives*)
PAD Program Director for the Airports of Hawaii
Cell: 808-388-5911



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Testimony on HB 2312, HD1 "Relating To Torts"

The American Heart Association finds that current Hawaii "Good Samaritan" law provides adequate liability protections for those who would provide CPR, use an AED, or maintain an AED program. The opening paragraph of that Act reads:

"Hawaii Good Samaritan Act §663-1.5 Exception to liability.

(a) Any person who in good faith renders emergency care, without remuneration or expectation of remuneration, at the scene of an accident or emergency to a victim of the accident or emergency shall not be liable for any civil damages resulting from the person's acts or omissions, except for such damages as may result from the person's gross negligence or wanton acts or omissions."

The language of that Act is broadly written to encompass all "emergency care," which would include CPR, thus, HB 2312, HD1 is unnecessary.

With that said, should the legislature choose to pursue passage of amendments to the existing law, the AHA would recommend the following amendments to HB 2312, HD1.

On page 1, Section 1, paragraph 2, line 11, we recommend the addition of the phrase "prompt activation of 9-1-1," after the words "cardiac arrest,". Also, we recommend the addition of the phrase "use of 9-1-1, and of" on Page 1, Section 1, line 18, following the words "In Hawaii, the promotion of".

Activation of the 9-1-1 system is the first link in what has been coined the "Chain of Survival." Unfortunately, only approximately 50 percent of patients with cardiovascular-related ailments currently are delivered to hospitals via ambulance. Especially in lieu of the recent closures of hospitals on Oahu and the resulting overcrowding effects that those closures have had on emergency rooms throughout the island, it is more important than ever for the public to call 9-1-1 when witnessing or experiencing a medical emergency so that EMS personnel can communicate with hospitals to determine which is best prepared to handle incoming patients.

For consistency, we recommend that the words "a patient" on Page 2, Section 2, lines 11 and 12 be replaced with the words "an individual". Again, we recommend the word "patients" on Page 5, line 12, be replaced with the word "individuals". The phrase individual is used in the amended section on Pages 4-5, lines 21-4, to describe the person receiving medical care, so that phrase should be used consistently throughout the measure to avoid confusion.

On page 2, line 19, we recommend the addition of the phrase ", or business or organization that," following the phrase "Any person who". Omitting businesses or organizations from that section could raise liability concerns of businesses or organizations that institute CPR/AED training, or house an AED, and have the opposite effect of the bill's stated purpose.

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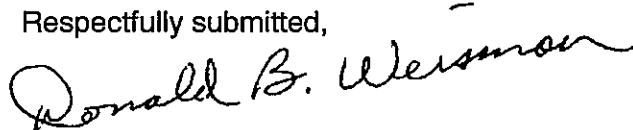
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**"Building healthier lives,
free of cardiovascular
diseases and stroke."**

Finally, on Page 4, lines 15-16, we recommend that the sentence be amended to read, "Providing immediate notification to *professional emergency responders* by calling 9-1-1. The term "emergency medical services" is generally accepted as applying to EMS paramedic services. However, in Hawaii, first responders to medical emergencies can often include lifeguards, fire fighters or police officers. Also, for consistency, and to adhere to national standards, when referring to the United States' universal emergency phone number, hyphens are included between the numbers "911". By calling 9-1-1, emergency dispatchers will often send co-emergency responders to the scene of the medical emergency depending on the location, and anticipated arrival times of EMS personnel. All of the aforementioned co-responders in Hawaii are trained in CPR and are equipped with AEDs.

Hawaii's "Good Samaritan" law currently provides adequate liability protection to members of the public who provide emergency aid. What is needed is broader public education about the importance of knowing and performing CPR when appropriate. With the development of new guidelines eliminating the need to perform mouth-to-mouth resuscitation, there are few reasonable physical barriers that should prevent members of the public from saving another's life should a medical emergency arise.

Respectfully submitted,

A handwritten signature in black ink that reads "Donald B. Weisman". The signature is written in a cursive style with a horizontal line above the name.

Donald B. Weisman
Hawaii Government Relations/Mission:Lifeline Director

WRITTEN TESTIMONY ONLY

Date: 02/23/2012

Committee: House Judiciary

Department: Education

Person Testifying: Kathryn S. Matayoshi, Superintendent of Education

Title of Bill: HB 2312,HD1 RELATING TO TORTS. Liability; Exceptions; Good Faith; Cardiopulmonary Resuscitation; Automated External Defibrillator Program

Purpose of Bill: Relieves good Samaritans who perform cardiopulmonary resuscitation in good faith to victims in a perceived medical emergency from civil damages. Amends definition of automated external defibrillator program to include proper maintenance of such devices. Amends definition of good faith to include a reasonably prudent person standard. Defines school and perceived medical emergency

Department's Position:

The Department of Education (Department) supports H.B. 2312, H.D. 1 (hscr 353-12) as written. The Department currently has automated external defibrillators (AEDs) in 43 high school athletic departments via a grant from the Hawaii Medical Service Association (HMSA) in 2006. There are also schools that may have purchased AEDs or received AEDs through other grant programs.

Testimony for HB2312 on 2/23/2012 2:00:00 PM

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Sent: Thursday, February 23, 2012 7:51 AM

To: JUDtestimony

Cc: thomas.payne@chaminade.edu

Testimony for JUD 2/23/2012 2:00:00 PM HB2312

Conference room: 325

Testifier position: Support

Testifier will be present: No

Submitted by: Thomas Arthur Payne, SM

Organization: Individual

E-mail: thomas.payne@chaminade.edu

Submitted on: 2/23/2012

Comments:

I have personally been involved in giving CPR to strangers, I teach others to give CPR to victims, because it works. Here at Chaminade, several students were involved in the CPR save of Bobby Command, the Executive Assistant to the Mayor of the Big Island. PLEASE vote in favor of this bill.