

# **TESTIMONY**

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# **HB2312, HD2**

**HTH  
Committee Hearing  
03-16-2012**



**STATE OF HAWAII**  
**DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS**

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March 15, 2011

The Honorable Josh Green, M.D., Chair  
Committee on Health  
The State Senate  
State Capitol, Room 222  
Honolulu, Hawaii 96813

Dear Chair Green:

Subject: H.B. 2312, H.D. 2 Relating to Torts

I am Kenneth G. Silva, Chair of the State Fire Council (SFC) and Fire Chief of the Honolulu Fire Department (HFD). The SFC and the HFD support H.B. 2312, H.D. 2, which proposes to relieve good Samaritans who perform cardiopulmonary resuscitation (CPR) or use an automated external defibrillator (AED) in response to a perceived medical emergency from liability.

We believe the bill's intent is to limit the liability of individuals who administer CPR or use an AED in a perceived medical emergency and those who instruct individuals in these life-saving procedures.

Fire service personnel are instructed and recertified in these procedures and participate in the Family and Friends CPR Anytime Program, which instructs lay rescuers. The success of these procedures is, in many cases, dependent on a quick response in the administration of CPR and the usage of an AED from the onset of the emergency. We believe this bill will promote and encourage individuals to take life-saving actions without fear of liability.

The SFC and the HFD urge your committee's support on the passage of H.B. 2312, H.D. 2.

Should you have any questions, please contact SFC Administrator Socrates Bratakos at 723-7151 or [sbratakos@honolulu.gov](mailto:sbratakos@honolulu.gov).

Sincerely,

A handwritten signature in black ink, appearing to read "Kenneth G. Silva".

KENNETH G. SILVA  
Chair

KGS/LR:cn

**WRITTEN TESTIMONY ONLY**

**Date:** 03/16/2012

**Committee:** Senate Health

**Department:** Education

**Person Testifying:** Kathryn S. Matayoshi, Superintendent of Education

**Title of Bill:** HB 2312, HD2 (hscr705-12) 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. 2 (hscr 705-12) as written. The purpose of this act is to encourage people to conduct early cardiopulmonary resuscitation (CPR) for individuals in cardiac arrest by excepting from liability persons who, in good faith, perform or train others to perform CPR.



American Heart Association | American Stroke Association

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## [ COMMENTS ONLY ]

### Testimony on HB 2312, HD2 "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, HD2 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, HD2.

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".

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

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.

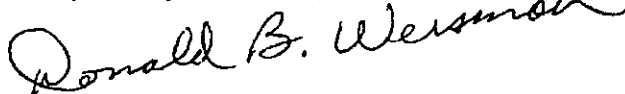
For consistency, we recommend that the words "a patient" on Page 2, Section 2, lines 11 and 12 be replaced with the words "an individual". Again, we recommend the word "patients" on Page 5, line 12, be replaced with the word "individuals". The phrase individual is used in the amended section on Pages 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 20, 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. Hawaii's current "Good Samaritan" law provides liability protection to employers who institute those life-saving programs.

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