

NEIL ABERCROMBIE
GOVERNOR

BRIAN SCHATZ
LT. GOVERNOR



STATE OF HAWAII
DEPARTMENT OF TAXATION
P.O. BOX 259
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FREDERICK D. PABLO
INTERIM DIRECTOR OF TAXATION

RANDOLF L. M. BALDEMOR
DEPUTY DIRECTOR

HOUSE COMMITTEE ON HEALTH

TESTIMONY OF THE DEPARTMENT OF TAXATION REGARDING HB 598 RELATING TO EMERGENCY ON-CALL PHYSICIANS

WRITTEN TESTIMONY ONLY

TESTIFIER: FREDERICK D. PABLO, INTERIM DIRECTOR OF
TAXATION (OR DESIGNEE)

COMMITTEE: HLT

DATE: JANUARY 28, 2011

TIME: 9:30AM

POSITION: OPPOSED TO REVENUE LOSS

This measure seeks to provide an income tax credit for emergency room on-call physicians, equal to 5% of the doctor's medical malpractice insurance premiums.

The Department of Taxation (Department) takes no position on this measure; however must oppose the revenue loss anticipated by this measure.

DEFER TO DEPT. OF HEALTH & DBEDT ON POLICY PRIORITY

The Department defers to the Departments of Health and Business, Economic Development & Tourism on the merits of whether tax incentives are necessary for on-call emergency room doctors and their malpractice costs. As such, the Department takes no position on the substance of this measure.

OPPOSED TO REVENUE LOSS

As with all measures, the Department must be cognizant of the biennium budget and financial plan. This measure has not been factored into

either. The Department does not support the revenue loss resulting from this measure.

This measure will result in an estimated revenue loss of approximately \$68,204 for 2011 and after.

**TESTIMONY OF ROBERT TOYOFUKU ON BEHALF OF THE HAWAII
ASSOCIATION FOR JUSTICE (HAJ) IN SUPPORT OF H.B. NO. 598**

January 28, 2011

To: Chairman Ryan I. Yamane and Members of the House Committee on Health:

My name is Bob Toyofuku and I am presenting this testimony on behalf of the Hawaii Association of Justice (HAJ) in support of H.B. No. 598.

This measure provides a financial incentive to encourage physicians to provide on-all services to hospital emergency rooms. HAJ has always supported giving tax credits to physician as one of the alternatives to rectify shortages in rural areas of our state as well as shortages in certain services where physicians are needed. A tax credit gives physicians an immediate and tangible incentive and we support this bill.

Thank you for this opportunity to testify in support of this measure.



HAWAII MEDICAL ASSOCIATION

1360 S. Beretania Street, Suite 200, Honolulu, Hawaii 96814
Phone (808) 536-7702 Fax (808) 528-2376 www.hmaonline.net

Friday, January 28, 2011; 9:30AM Conference Room 329

To: COMMITTEE ON HEALTH
Rep. Ryan I. Yamane, Chair
Rep. Dee Morikawa, Vice Chair

From: Hawaii Medical Association
Dr. Morris Mitsunaga, MD, President
Linda Rasmussen, MD, Legislative Co-Chair
Dr. Joseph Zobian, MD, Legislative Co-Chair
Dr. Christopher Flanders, MD, Executive Director
Lauren Zirbel, Community and Government Relations

Re: HB 407 RELATING TO HEALTH CARE

In Support

Chairs & Committee Members:

Hawaii Medical Association supports HB 407. This bill provides needed voice from health care providers on the prepaid health advisory council. One of HMA's members, Dr. John T. McDonnell, currently presides on the council as a medical expert. Health care providers have direct experience with how health plan coverage affects their patients' ability to live healthy lives. Provider input is always necessary when assessing how patients can be best served by our medical system.

Thank you for the opportunity to testify.

OFFICERS

PRESIDENT - MORRIS MITSUNAGA, MD PRESIDENT-ELECT - ROGER KIMURA, MD
SECRETARY - THOMAS KOSASA, MD IMMEDIATE PAST PRESIDENT - DR. ROBERT C. MARVIT, MD TREASURER
- STEPHEN KEMBLE, MD EXECUTIVE DIRECTOR - CHRISTOPHER FLANDERS, MD

HMSA



An Independent Licensee of the Blue Cross and Blue Shield Association

January 28, 2011

The Honorable Ryan Yamane, Chair
The Honorable Dee Morikawa, Vice Chair
House Committee on Health

Re: HB 407 – Relating to Health Care

Dear Chair Yamane, Vice Chair Morikawa and Members of the Committee:

The Hawaii Medical Service Association (HMSA) appreciates the opportunity to testify in opposition to HB 407 which would allow representatives from health care provider organizations to serve on the Prepaid Health Care Council (PHCC).

Hawaii's Prepaid Health Care Act stipulates that the Director of the Department of Labor and Industrial Relations, after being advised by the PHCC, determine whether benefits provided in a health plan comply with the standards specified in the required health care benefits section of the law. The PHCC is appointed by the Director and includes seven representatives of the medical and public health professions, representatives of consumer interests and persons experienced in prepaid health care protection. The statute goes on to specifically exclude representation from an HMO, a mutual benefit society or "*any other health care organization*" from being a member of the PHCC.

We believe that the language excluding "*any other health care organization*" is applicable to hospitals and any other "*health care provider organization*" as described in HB 407. This exclusionary language was added recently in 2003 to avoid any conflict of interest perceptions with the PHCC members reviewing health plans. Placement of representatives from hospitals would again raise conflict of interest concerns since health plans, providers and facilities are frequently engaged in contractual negotiations involving numerous issues including reimbursement rates.

Due to the concerns we have regarding this measure, we would respectfully request the Committee see fit to hold it at this time. Thank you for the opportunity to testify today.

Sincerely,

A handwritten signature in black ink, appearing to read 'JD' with a flourish.

Jennifer Diesman
Vice President
Government Relations

TAXBILLSERVICE

126 Queen Street, Suite 304

TAX FOUNDATION OF HAWAII

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: INCOME, Emergency room physician tax credit

BILL NUMBER: SB 790; HB 598 (Identical)

INTRODUCED BY: SB by Ige, Chun Oakland, Green, Kidani, Tokuda, 5 Democrats and 1 Republican;
HB by Yamane, Aquino, Cullen, Manahan, McKelvey, Yamashita and 2 Democrats

BRIEF SUMMARY: Adds a new section to HRS chapter 235 to allow a taxpayer licensed to practice medicine under HRS chapter 453 to claim an income tax credit provided the taxpayer: (1) provides medical care in a state approved hospital emergency room on an on-call basis; (2) has worked a minimum of 576 on-call hours in the year the tax credit is claimed; and (3) does not owe the state delinquent taxes, penalties, or interest.

The credit shall be 5% of the amount of the medical malpractice insurance premium paid by the taxpayer for the taxable year the credit is claimed. Tax credits in excess of income tax liability shall be refunded to the taxpayer provided such amounts are in excess of \$1. Allows the director of taxation to adopt necessary rules and forms pursuant to HRS chapter 91 to carry out this section. Claims for the credit, including any amended claims, must be filed on or before the end of the twelfth month following the close of the taxable year.

EFFECTIVE DATE: Tax years beginning after December 31, 2010

STAFF COMMENTS: This measure proposes a tax credit for taxpayers who are emergency room physicians. This credit would merely result in a handout of state funds through the state tax system regardless of a taxpayer's need for tax relief. While the amount of the proposed credit is 5% of the amount of malpractice insurance premiums paid for a taxable year by the physician, apparently the sponsors of this measure believe that medical malpractice insurance is a key cost to such physicians and, therefore, the credit should be based on a percentage of the premium for such insurance. If, indeed, medical malpractice insurance premiums are a financial barrier to attracting physicians to become emergency room physicians, then attacking the problem with a rebate in the form of a tax credit is inane.

If lawmakers truly believe the cost of medical malpractice insurance deters physicians from becoming emergency room physicians, then the attack should be on what causes the high insurance premiums. As the professional community has pointed out time and again, the high cost of medical malpractice begs tort reform with limits placed on how much can be sought in damages for various types of malpractice. With the sky is the limit approach for any litigation, how can one doubt the high cost of those premiums?

On the other hand, if lawmakers believe that their only alternative is to subsidize the cost of the premiums, then an outright subsidy of those premiums should be put in place staffed by persons who can verify the amount of insurance, the premium that is appropriate to subsidize, and to whom the subsidy

SB 790; HB 598 - Continued

should be granted based on the need for medical care throughout the state. Using the state tax system makes absolutely no sense, contributes to complexity of the system which, in turn, increases the cost of administration and compliance.

This measure is a reflection of the lack of understanding on the part of lawmakers about the state's tax system, its purpose, functions and limitations. If adopted, the measure would result in a lack of accountability as there is no way to determine the cost of the credit to the state's revenue resources. This makes about as much sense as imposing a special tax on trial lawyers who bring such malpractice suits to fund the tax credit proposed in this measure.

Digested 1/27/11



THE QUEEN'S MEDICAL CENTER

1301 Punchbowl Street • Honolulu, Hawaii 96813 • Phone (808) 538-9011 • Fax: (808) 547-4646

Rep. Ryan I. Yamane, Chair
Rep. Dee Morikawa, Vice Chair
COMMITTEE ON HEALTH

January 28, 2011 - 9:30 a.m.
State Capitol, Conference Room 329

In Strong Support of HB 598, Relating to Emergency On-Call Physicians

Chair Yamane, Vice Chair Morikawa and Members of the Committee,

My name is Dr. Gerard Akaka, Vice President of Medical Affairs for The Queen's Medical Center, testifying in strong support of HB 598, which provides a tax credit for physicians who work a minimum of 576 on-call hours in a state-approved emergency department.

Queen's has a severe shortage of neurosurgeons, oral & maxillofacial surgeons and ENT (Ear, Nose and Throat) surgeons willing to take emergency call. Fewer physicians are providing on-call services for reasons related to inadequate reimbursements, liability concerns and quality of life issues. Many physicians believe payment for care provided while on call is inadequate, and when they are required to care for uninsured patients, the situation becomes untenable.

The weakening role of physicians taking emergency call is contributing to the overcrowding of emergency departments and longer waiting times nationwide. In fiscal year 2010 Queen's emergency department saw over 52,000 patients. As the heart of the State's trauma care system, Queen's maintains a full complement of specialists, surgeons and clinicians, 24 hours a day, 365 days a year to immediately respond to trauma patients arriving in our emergency department.

In 2006, the Hawaii Legislative Reference Bureau published a report, "On-Call Crisis in Trauma Care: Government Responses," which details the causes of the on-call physician specialist shortage, and notes, *"With trauma injuries, seconds count; the chances of survival significantly decrease and the side effects of injury significantly increase if appropriate care is not given in the first hour immediately following the injury. A shortage of physician specialists can jeopardize a trauma team's ability to provide care. It also increases the risk of delay in patient treatment which in turn increases patients' risk of harm."*

The Queen's Medical Center appreciates the Legislature's support of physicians who provide on-call services to emergency departments and hospitals that provide care to trauma patients.

Thank you for the opportunity to testify.



HOUSE COMMITTEE ON HEALTH
Rep. Ryan Yamane, Chair

Conference Room 329
Jan. 28, 2011 at 9:30 a.m.

Supporting HB 598.

The Healthcare Association of Hawaii advocates for 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 HB 598, which creates a tax credit for physicians who provide medical care in an emergency department on an on-call basis.

Historically, physicians provided on-call emergency coverage in exchange for hospital admitting privileges, which allowed them to meet potential new patients and helped build their practices. In addition, medical education subsidies and residency training have traditionally been accompanied by an unwritten social contract for physicians to maintain the core competencies of their specialty in hospitals where they practice and to provide some emergency call.

However, attitudes and practices are changing. Fewer physicians are providing on-call services for reasons related to inadequate reimbursements, liability concerns, and quality of life issues. Many physicians believe payment for care provided while on call is inadequate, and when they are required to care for uninsured patients, the situation becomes untenable. Time spent by a physician seeing emergency department patients has an opportunity cost in terms of time away from insured patients in their office practice. In addition, many physicians prefer not to be obligated to be available for those long periods when they are on-call. Finally, many specialists are now shifting the focus of their practices away from hospital settings, so they are less reliant on hospital admitting privileges to care for their patients or to maintain a practice.

The weakening role of physicians taking emergency call is contributing to the overcrowding of emergency departments and longer waiting times. Nationally, 73% of emergency departments report inadequate on-call coverage by specialist physicians. Specialists who are particularly difficult to secure for on-call coverage include orthopedic surgeons, neurosurgeons, plastic surgeons, trauma surgeons, hand surgeons, obstetrician-gynecologists, neurologists, ophthalmologists and dermatologists.

For the foregoing reasons, the Healthcare Association supports HB 598.

morikawa2 - Grant

From: Site Administrator [webmaster@hah.org] on behalf of Kevin Roberts [robertka@ah.org]
Sent: Thursday, January 27, 2011 5:25 PM
To: Rep. Ryan Yamane
Subject: Supporting HB 598: Emergency Room Physicians; Tax Credit

Jan 27, 2011

Representative Ryan Yamane
State Capitol, Room 419
415 South Beretania Street
Honolulu, HI 96813

Dear Representative Yamane,

Historically, physicians provided on-call emergency coverage in exchange for hospital admitting privileges, which allowed them to meet potential new patients and helped build their practices. In addition, medical education subsidies and residency training have traditionally been accompanied by an unwritten social contract for physicians to maintain the core competencies of their specialty in hospitals where they practice and to provide some emergency call.

However, attitudes and practices are changing. Fewer physicians are providing on-call services for reasons related to inadequate reimbursements, liability concerns, and quality of life issues. Many physicians believe payment for care provided while on call is inadequate, and when they are required to care for uninsured patients, the situation becomes untenable. Time spent by a physician seeing emergency department patients has an opportunity cost in terms of time away from insured patients in their office practice. In addition, many physicians prefer not to be obligated to be available for those long periods when they are on-call. Finally, many specialists are now shifting the focus of their practices away from hospital settings, so they are less reliant on hospital admitting privileges to care for their patients or to maintain a practice.

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Nationally, 73% of emergency departments report inadequate on-call coverage by specialist physicians. Specialists who are particularly difficult to secure for on-call coverage include orthopedic surgeons, neurosurgeons, plastic surgeons, trauma surgeons, hand surgeons, obstetrician-gynecologists, neurologists, ophthalmologists and dermatologists.

For the foregoing reasons, I support HB 598.

Thank you.

Sincerely,

Mr. Kevin Roberts
640 Ulukahiki St
Kailua, HI 96734-4454