

Honolulu, Hawaii

FEB 13 2013

RE: S.B. No. 1078

S.D. 1

Honorable Donna Mercado Kim
President of the Senate
Twenty-Seventh State Legislature
Regular Session of 2013
State of Hawaii

Madam:

Your Committee on Commerce and Consumer Protection, to which was referred S.B. No. 1078 entitled:

"A BILL FOR AN ACT RELATING TO ENFORCEMENT TOOLS TO IMPROVE PATIENT SAFETY,"

begs leave to report as follows:

The purpose and intent of this measure is to authorize the Hawaii Medical Board to:

- (1) Summarily suspend a license; and
- (2) Require a licensee to submit to a mental or physical examination.

Your Committee received testimony in support of this measure from the Regulated Industries Complaints Office of the Department of Commerce and Consumer Affairs, Hawaii Medical Association, and Hawaii Medical Service Association. Your Committee received comments on this measure from the Hawaii Medical Board.

Your Committee finds that the Hawaii Medical Board and the Regulated Industries Complaints Office of the Department of Commerce and Consumer Affairs have implemented a number of initiatives to improve investigation and handling of complaints against physicians and enhance protection of the State's healthcare consumers. One such consumer protection proceeding is the ability for a licensing authority to summarily suspend a professional license. Your Committee further finds that although



licensing authorities are currently able to summarily suspend many different types of licensees, this measure tailors the process for summary suspension to more appropriately address proceedings for physician licensees.

Your Committee additionally finds that this measure will permit the Hawaii Medical Board to remain current with the enforcement and disciplinary proceedings available in other states. Licensing authorities may summarily suspend a license pending disciplinary action in approximately forty-five other states, and may order a licensee to submit to a physical and mental examination in approximately thirty-nine other states.

Your Committee notes that due to Hawaii's small network of professionals, it may be difficult for licensees to come forward with information that could indicate a fellow licensee may be guilty of unprofessional conduct or may be impaired. Your Committee concludes that language providing immunity for these situations should be included in this measure.

Accordingly, your Committee has amended this measure by:

- (1) Clarifying that the authorization in this measure to summarily suspend a license, hold hearings, and determine if a licensee is able to practice medicine with reasonable skill and safety to patients is provided to the Hawaii Medical Board, rather than the Hawaii Medical Board or its delegates;
- (2) Deleting the authority of the Hawaii Medical Board to summarily suspend a license upon a specific determination that failure to do so would result in misrepresentation upon consumers;
- (3) Specifying that a hearing to show cause why an order of summary suspension should be terminated must be held within seven, rather than ten, business days of receipt of a licensee's request for the hearing;
- (4) Requiring that an order summarily suspending a license shall remain in effect no longer than thirty business days;
- (5) Providing for additional immunities that specify any person licensed by the Hawaii Medical Board who provides

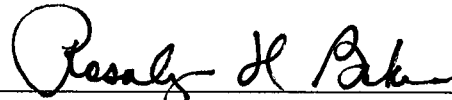


information to the Board indicating that a Board licensee may be guilty of unprofessional conduct or may be impaired because of drug or alcohol abuse or mental illness shall not be liable for any damages in any civil action based on the communication; and

- (6) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

As affirmed by the record of votes of the members of your Committee on Commerce and Consumer Protection that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 1078, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1078, S.D. 1, and be referred to the Committee on Judiciary and Labor.

Respectfully submitted on
behalf of the members of the
Committee on Commerce and
Consumer Protection,



ROSALYN H. BAKER, Chair



