

HB 847, HD2

Measure Title: RELATING TO ENFORCEMENT TOOLS TO IMPROVE PATIENT SAFETY.

Report Title: Hawaii Medical Board; Summary Suspension of a License

Description: Authorizes the Hawaii Medical Board to summarily suspend a license and order a licensee to submit to a physical and mental examination under specific circumstances. Specifies immunities for licensees who provide certain information to the board. Effective July 1, 2050. (HB847 HD2)

Companion: SB1078

Package: Gov

Current Referral: CPN, JDL

Introducer(s): SOUKI (Introduced by request of another party)



NEIL ABERCROMBIE
GOVERNOR

SHAN S. TSUTSUI
LT. GOVERNOR

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PRESENTATION OF
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
REGULATED INDUSTRIES COMPLAINTS OFFICE

TO THE SENATE COMMITTEE ON
COMMERCE AND CONSUMER PROTECTION

TWENTY-SEVENTH STATE LEGISLATURE
REGULAR SESSION, 2013

TUESDAY, MARCH 19, 2013
9:30 A.M.

TESTIMONY ON HOUSE BILL NO. 847 H.D.2
RELATING TO ENFORCEMENT TOOLS TO IMPROVE PATIENT SAFETY

TO THE HONORABLE ROSALYN H. BAKER, CHAIR,
AND TO THE HONORABLE BRICKWOOD GALUTERIA, VICE CHAIR,
AND MEMBERS OF THE COMMITTEE:

The Department of Commerce and Consumer Affairs ("Department") appreciates the opportunity to testify on House Bill No. 847 H.D.2, Relating to Enforcement Tools to Improve Patient Safety. My name is Daria Loy-Goto. I am the Complaints and Enforcement Officer for the Department's Regulated Industries Complaints Office ("RICO"). The Department strongly supports this Administration bill.

House Bill No. 847 H.D.2 amends chapter 453, Hawaii Revised Statutes ("HRS"), to authorize the Hawaii Medical Board ("Board") to summarily suspend a license and require a licensee to submit to a mental or physical examination.

This Committee heard the companion bill, Senate Bill No. 1078, and passed out a Senate Draft 1 that reflected language agreed to between RICO and the Hawaii Medical Association ("HMA"). The bill was not heard by the Senate Committee on Judiciary and Labor and did not cross over to the House.

The differences between House Bill No. 847 H.D.2 and Senate Bill No. 1078 S.D.1, as well as RICO's preferences, are as follows:

(1) House Bill No. 847 H.D.2 adds, on page 1, lines 8-10, that the Board may summarily suspend a license for fraud that endangers the health or safety of patients as determined by the professional standards of care. RICO does not object to this provision.

(2) House Bill No. 847 H.D.2, on page 2, line 5, requires the Board to conduct a hearing within ten business days of a request for a hearing to show cause. Senate Bill No. 1078 S.D.1 requires the Board to conduct the hearing within seven business days. RICO notes that the timeframe contained in Senate Bill No. 1078 S.D.1 represents language agreed to between RICO and the HMA and, as such, supports the Senate version.

(3) House Bill No. 847 H.D.2 requires the Board to hold a hearing for disciplinary action within ten business days of the summary suspension order. Senate Bill No. 1078 S.D.1 provides that the Board shall conduct the hearing

within twenty business days. RICO supports the Senate version. The ten-business-day timeframe contained in House Bill No. 847 H.D.2, on page 2, line 17, was not part of the consensus language agreed to with the HMA, nor was the language requested by RICO. The shortened time period would impose a hardship on the Board and RICO, particularly when the Board would already be required to conduct a hearing on the summary suspension within ten or seven business days of the licensee's request for a hearing to show cause.

(4) House Bill No. 847 H.D.2 contains a defective effective date. Senate Bill No. 1078 S.D.1 provides for an effective date of July 1, 2013. RICO supports an effective date of July 1, 2013.

Both the House and Senate versions seek to prevent situations where consumers may face an immediate threat to their personal safety or may be at risk of receiving medical care from a licensee who is unable to practice with reasonable skill and safety. Except with regard to item (1) above, however, Senate Bill No. 1078 S.D.1, achieves the desired result without hardship to the Board or RICO and represents language agreed to with the HMA.

Thank you for the opportunity to testify on House Bill No. 847 H.D.2. I will be happy to answer any questions the Committee members may have.

**PRESENTATION OF THE
HAWAII MEDICAL BOARD**

TO THE SENATE COMMITTEE ON COMMERCE AND CONSUMER PROTECTION

TWENTY-SEVENTH LEGISLATURE
Regular Session of 2013

Tuesday, March 19, 2013
9:30 a.m.

**TESTIMONY ON HOUSE BILL NO. 847, H.D. 2, RELATING TO ENFORCEMENT TOOLS TO
IMPROVE PATIENT SAFETY.**

TO THE HONORABLE ROSALYN H. BAKER, CHAIR,
AND MEMBERS OF THE COMMITTEE:

My name is Danny M. Takanishi, Jr. and I am the Chairperson of the Hawaii Medical Board ("Board"). As this is a result of collaboration between the Regulated Industries Complaints Office and the Hawaii Medical Association, the Board is in support of this bill which authorizes it to summarily suspend a license and order a licensee to submit to a physical and mental examination under specific circumstances.

The companion bill, S.B. 1078, was heard by this Committee and passed out with amendments but did not cross over. The difference between the Senate and House versions are relatively few and include the following:

On page 1, lines 8 to 10, the following language is not in the Senate version: "that jeopardizes or endangers the health or safety of patients as determined by the professional standards of care".

On page 2, lines 3 and 4, references to the Board's "delegate" are not in the Senate version.

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March 19, 2013
Page 2

On page 2, line 5, the timeframe in which the Board is to hold a meeting to show cause is ten business days (seven business days in the Senate version).

On page 2, line 17, the timeframe in which the Board is to conduct a disciplinary hearing is ten business days (twenty business days in the Senate version).

Thank you for the opportunity to provide testimony on H.B. No. 847, H.D. 2.



HAWAII MEDICAL ASSOCIATION

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Tuesday March 19, 2013

9:15 A.M.

Capitol Rm. 229

To: SENATE COMMITTEE ON COMMERCE AND CONSUMER PROTECTION
Sen. Rosalyn H. Baker, Chair
Sen. Brickwood Galuteria, Vice Chair

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

Re: HB 847 HD2

In Support

Chair, Vice Chair, and Committee Members:

The Hawaii Medical Association supports HB847 HD2.

The Hawaii Medical Association has long advocated for the safety of our patients. While we recognize the enforcement role of the Hawaii Medical Board, we urge restraint in the exercise of summary judgment on licensure suspension. There are situations so egregious as to offend common sense which must be acted on quickly and decisively. However these cases are thankfully rare. We support the ability of the Board to act expediently in these instances.

Thank you for the opportunity to provide this testimony.

OFFICERS

PRESIDENT – STEVE KEMBLE, MD, PRESIDENT ELECT – WALTON SHIM, MD
IMMEDIATE PAST PRESIDENT – ROGER KIMURA, MD, SECRETARY - THOMAS KOSASA, MD,
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HMSA



An Independent Licensee of the Blue Cross and Blue Shield Association

March 19, 2013

The Honorable Rosalyn H. Baker, Chair
The Honorable Brickwood Galuteria, Vice Chair

Senate Committee on Commerce and Consumer Protection

Re: HB 847, HD2 – Relating to Enforcement Tools to Improve Patient Safety

Dear Chair Baker, Vice Chair Galuteria, and Members of the Committee:

The Hawaii Medical Service Association (HMSA) appreciates the opportunity to testify on HB 847, HD2, which establishes criteria for the State Board of Medical Examiners (Board) to summarily suspend a medical license. HMSA supports this measure.

The safety of our members undergoing health and medical treatment is paramount. While we truly believe almost all of our providers absolutely are of the highest caliber, both professionally and ethically, there will be the few that may take actions that jeopardize the health and safety of our members. This measure will provide the Board a tool to further protect our members. At the same time, this Bill affords a licensee the appropriate means to appeal a Board action to also ensure fairness for the licensee.

An action of the Board to suspend or revoke a license must be accompanied with appropriate notice to others in the health care system so that they may take conforming actions. We were informed during the first hearing on this Bill that the agency's actions will be appropriately noticed on the departmental website.

Thank you for the opportunity to testify on this measure.

Sincerely,

A handwritten signature in black ink, appearing to read "JDiesman".

Jennifer Diesman
Vice President
Government Relations