

**SB2032**

**SD1**

**Testimony of the Office of the Public Defender  
State of Hawaii  
to the Senate Committee on Judiciary and Labor**

**February 12, 2014**

**S.B. 2032 SD1: Relating to Violence Against Health Care Personnel**

Chair Hee and Members of the Committee:

This bill proposes to expand the special treatment under the Assault law which is now afforded to a growing category of individuals by expanding the definition in Assault in the Second Degree of “medical services provider.” This change would elevate what is now the misdemeanor offense of Assault in the Third Degree [“intentionally or knowingly causing bodily injury to another person”] to a class “C” felony if the offense is committed against a person falling under the expanded definition. As a result, conduct currently classified as Assault in the Third Degree, punishable by up to one year in prison, would become Assault in the Second Degree, punishable by up to five years in prison.

When the special protection for medical service providers was passed, the category approved was “emergency medical service providers.” It was understood that this protection was for ambulance personnel and other first responders. S.B. No. 2032 SD1 greatly expands the definition of anyone involved in the treatment of a patient. As a result, a patient who slaps or punches anyone involved in his care would be prosecuted on a felony offense, even though no substantial or serious injury resulted. We believe that punishment under the current Assault in the Third Degree law is sufficient in such a situation.

To the extent that this measure is targeting recent assaultive incidents against employees at the Hawaii State Hospital, those employees are already covered in the Assault in the Second Degree statute. Under that provision, the protection also extends to workers at a private facility which is under contract with the state.

This bill is the latest in a line of proposed legislation seeking to single out particular occupations for special treatment as a class of victims. The problem with such legislation is that it does not afford greater protection from harm but it does create an ongoing desire by other occupations to be afforded the same special treatment. Our current Assault in the Second Degree assault statute gives special consideration to correctional workers, educational workers, emergency medical services personnel and persons employed at a state-operated or -contracted mental health facilities. As soon as there is an assaultive incident involving another occupation, the door has already been opened to ask why their group was not entitled to the same special treatment.

Other than the exceptions noted above, the structure of our penal code bases the level of an assault charge on three criteria:

- 1) the level of injury, if any, if caused by the defendant's conduct,
- 2) the state of mind with which the conduct was done, and
- 3) the actual conduct itself, including whether or not a weapon was used.

We believe that the current structure should not be further changed to include this additional proposed category.

We do not support passage of S.B. No. 2032 SD1. Thank you for the opportunity to provide testimony on this bill.



**HPCA**

HAWAII PRIMARY CARE ASSOCIATION

**Senate Committee on Judiciary and Labor**

The Hon. Clayton Hee, Chair

The Hon. Maile S.L. Shimabukuro, Vice Chair

**Testimony in Strong Support of Senate Bill 2032, SD1**

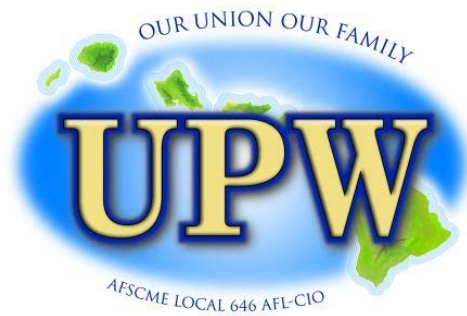
**Relating to Violence Against Health Care Personnel**

**Submitted by Robert Hirokawa, Chief Executive Officer**

**February 12, 2014, 10:00 am, Room 016**

The Hawaii Primary Care Association (HPCA), which represents the federally qualified community health centers in Hawaii, supports Senate Bill 2032, SD1, increasing the penalties for causing bodily injury to medical service providers.

The HPCA strongly supports this measure and thanks you for the opportunity to testify.



THE HAWAII STATE SENATE  
The Twenty-Seventh Legislature  
Regular Session of 2014

COMMITTEE ON JUDICIARY AND LABOR  
The Honorable Clayton Hee, Chair  
The Honorable Maile S. L. Shimabukuro, Vice Chair

DATE OF HEARING: Wednesday, February 12, 2014  
TIME OF HEARING: 10:00 AM  
PLACE OF HEARING: Conference Room 016

**TESTIMONY ON SB2032 SD1 RELATING TO VIOLENCE AGAINST HEALTH CARE  
PERSONNEL**

By DAYTON M. NAKANELUA,  
State Director of the United Public Workers,  
AFSCME Local 646, AFL-CIO ("UPW")

My name is Dayton M. Nakanelua and I am the State Director of the United Public Workers, AFSCME, Local 646, AFL-CIO (UPW). The UPW is the exclusive representative for approximately 14,000 public employees, which include blue collar, non-supervisory employees in Bargaining Unit 1 and institutional, health and correctional employees in Bargaining Unit 10, in the State of Hawaii and various counties. The UPW also represents about 1,500 members of the private sector.

The UPW strongly supports SB2032 SD1, which adds intentionally or knowingly causing bodily injury to medical services providers to assault in the second-degree offense. Expands the medical services providers to which the offense would apply.

We ask that the committee pass this bill.

Thank you for the opportunity to testify on this measure.



## **S.B. 2032, S.D. 1**

### **Relating to Violence Against Health Care Personnel**

#### **Senate Committee on Judiciary and Labor**

**February 12, 2014; 10:00 a.m.**

My name is Cindy Kamikawa, Vice President, Nursing, Trauma, ED and Chief Nursing Officer of The Queen's Medical Center (QMC), testifying in **support** of SB 2032, SD1 which provides critical protections for all medical providers from unnecessary violence in the workplace.

Health care workers have faced increase risks of job-related violence in recent years. At Queens, our staff too often find themselves blocking a kick or a bite. QMC's ER receives the highest numbers across Oahu of mental health transports from law enforcement for emergency examination and hospitalization, if the person is believed to be suffering from substance abuse or mental illness. As so many of these patients are drunk or high, not only are they more likely to be belligerent and aggressive, it is also extremely challenging to determine if they also suffer a mental illness. The ER works to determine medical need or mental illness. Indeed, many of these patients are found to have medical conditions that necessitate their hospitalization, and are admitted as a patient. Still, as the person sobers, an underlying mental health conditions subsequently become more apparent. Cared for on our general medical floors, these patients can be volatile and dangerous. Hospitals, like Queens, have needed to respond by adding more staff, to ensure the safety of its staff, other patients, visitors, and the patient. This further drives hospital costs and erodes hospital security.

Serious attacks on hospital caregivers are a reality of healthcare. This measure allows police to charge attackers with felony assault on all health care workers, not just our emergency department staff. This is appropriate because today, all hospital staff are subject to conditions that necessitate these legal protections. This measure is a means to deter violence and to better ensure the safety of hospital staff.

Thank you for the opportunity to provide testimony in support of this measure.

Testimony of  
John M. Kirimitsu  
Legal and Government Relations Consultant

Before:  
Senate Committee on Judiciary and Labor  
The Honorable Clayton Hee, Chair  
The Honorable Maile S.L. Shimabukuro, Vice Chair

February 12, 2014  
10:00 am  
Conference Room 016

**Re: SB 2032, SD1, Relating to Violence Against Health Care Personnel**

Chair, Vice Chair, and committee members thank you for this opportunity to provide testimony on this bill relating to violence against medical personnel.

**Kaiser Permanente Hawaii supports this bill, as amended.**

Violence against healthcare personnel appears to be on the rise. According to a U.S. Department of Labor, Bureau of Statistics, healthcare workers experience violent assaults at a rate four times higher than the national average. This type of violence, ranging from verbal to violent physical attacks, is becoming all too common, which negatively impacts medical personnel by reinforcing a common misconception that this type of violence is just part of the job.

Kaiser Permanente supports this version of the bill, as amended by the Senate Health Committee to also include “unlicensed medical professionals and other medical staff involved in the direct care of patients” within the scope of protection, since these unlicensed professionals are also on the front lines providing necessary medical care and therefore susceptible to the same workplace violence.

Thank you for your consideration.