

Honolulu, Hawaii

MAR 03 2016

RE: S.B. No. 3085
S.D. 1

Honorable Ronald D. Kouchi
President of the Senate
Twenty-Eighth State Legislature
Regular Session of 2016
State of Hawaii

Sir:

Your Committee on Commerce, Consumer Protection, and Health,
to which was referred S.B. No. 3085 entitled:

"A BILL FOR AN ACT RELATING TO HEALTH,"

begs leave to report as follows:

The purpose and intent of this measure is to:

- (1) Clarify the requirements for an individual to become a dental hygienist;
- (2) Repeal the authority of the Board of Dental Examiners to adopt rules to delineate duties of dental assistants and regulatory directives; and
- (3) Prohibit dental assistants from performing certain intra-oral functions and related activities.

Your Committee received testimony in support of this measure from the Hawaii Dental Hygienists' Association and thirty-one individuals. Your Committee received testimony in opposition to this measure from the Hawaii Dental Association and four individuals. Your Committee received comments on this measure from the Board of Dental Examiners and Hawai'i Primary Care Association.

Your Committee finds that since the implementation of the dental anesthesia law in the 1990s, Hawaii's licensed dental hygienists have been held to the highest standards of patient



safety and care, including a requirement that all new applicants for dental hygienist licensure be certified in local infiltration anesthesia and block anesthesia. According to testimony received by your Committee, this stringent certification requirement was enforced until recently, when some dental hygienist applicants started to become licensed without a block anesthesia certification. Accordingly, this measure clarifies the original intent behind the requirements for licensure as a dental hygienist by specifying that an applicant must be officially certified in the administration of intra-oral infiltration local anesthesia and officially certified in the administration of intra-oral block anesthesia prior to being licensed in Hawaii as a dental hygienist.

Your Committee further finds that existing law permits duly licensed and registered dentists to employ auxiliary personnel, known as dental assistants, to assist a dentist in the dentist's practice. Like dental hygienists, dental assistants are a valuable part of a dental team. However, dental assistants are not currently licensed or certified in Hawaii and are not required to meet the same stringent standards of training and care as licensed dental hygienists. According to testimony received by your Committee, concerns have been raised over proposed expansion by rule of the duties of a dental assistant, and whether those duties would overlap with duties currently within the scope of practice for licensed dental hygienists.

Your Committee notes that it is important for those in the field of dentistry to be aware of and adhere to legislatively determined parameters regarding duty and scope of practice for licensed dental hygienists. It is also important that unlicensed persons do not infringe upon a particular licensed profession's scope of practice. Your Committee additionally finds that while training and education for dental assistants are important, it is inappropriate for unlicensed auxiliary personnel to be expected or required to perform the very duties, activities, or functions that, if performed by a dental hygienist, would require licensure.

Finally, your Committee concludes that placing language from current and proposed rules into statute will ensure that the duties and training of dental assistants remain clear and do not overlap with the duties and scope of practice for licensed dental hygienists.

Accordingly, your Committee has amended this measure by:



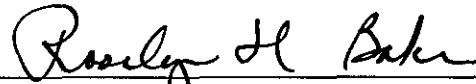
- (1) Clarifying that additional duties of dental assistants and regulatory directives may be delineated under rules adopted by the Board of Dental Examiners; provided that these rules shall not infringe upon or overlap or conflict with existing law, including the duties and scope of practice for licensed dental hygienists, rather than repealing the authority of the Board to adopt rules to delineate duties of dental assistants and regulatory directives;
- (2) Specifying the supportive dental procedures a dental assistant may perform under the direct supervision, direction, evaluation, and responsibility of a licensed dentist;
- (3) Requiring dental assistants to be appropriately trained in proper sterilization and disinfection procedures, ethics, proper recordkeeping and patient confidentiality, and cardiopulmonary resuscitation; provided that the training may be provided by:
 - (A) Programs approved or accredited by the Board of Dental Examiners; or
 - (B) A licensed dentist; provided further that a dentist who trains the dentist's auxiliary personnel must first complete a continuing education program on how to train auxiliary personnel;
- (4) Clarifying the activities that dental assistants are prohibited from performing;
- (5) Clarifying that any person licensed under chapter 448, Hawaii Revised Statutes, who instructs or assigns an unlicensed person to perform duties or actions outside the allowable parameters for auxiliary personnel shall be subject to penalties;
- (6) Updating the purpose section;
- (7) Inserting an effective date of July 1, 2050, to encourage further discussion; and



- (8) 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, Consumer Protection, and Health that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 3085, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3085, S.D. 1, and be placed on the calendar for Third Reading.

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



ROSALYN H. BAKER, Chair



The Senate
 Twenty-Eighth Legislature
 State of Hawai'i

Record of Votes
Committee on Commerce, Consumer Protection, and Health
CPH

Bill / Resolution No.:*	Committee Referral:	Date:		
SB 3085	CPH	2-24-16		
<input checked="" type="checkbox"/> The Committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: <u>PASS, UNAMENDED</u>				
The Recommendation is: <input type="checkbox"/> Pass, unamended 2312 <input checked="" type="checkbox"/> Pass, with amendments 2311 <input type="checkbox"/> Hold 2310 <input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
BAKER, Rosalyn H. (C)	/			
KIDANI, Michelle N. (VC)	/			
ESPERO, Will	/			
IHARA, Jr., Les	/			
NISHIHARA, Clarence K.	/			
RUDERMAN, Russell E.				/
SLOM, Sam				/
TOTAL	5			2
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: <i>Michelle N. Kidani</i>				
Distribution: Original Yellow Pink Goldenrod File with Committee Report Clerk's Office Drafting Agency Committee File Copy				

*Only one measure per Record of Votes