

HB2335 HD1

Measure Title:	RELATING TO PHYSICIAN DISCIPLINE.
Report Title:	Physician Discipline; Conditions
Description:	Authorizes the Hawaii Medical Board to impose the same disciplinary action, including prohibiting the practice of medicine, against a licensee as was taken by another state or federal agency. Authorizes the Board to summarily suspend a licensee's license within forty-eight hours upon receipt of evidence of disciplinary action by another state or federal agency.
Companion:	SB2864
Package:	Governor
Current Referral:	CPH, JDL
Introducer(s):	SOUKI (Introduced by request of another party)



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

TO THE SENATE COMMITTEE
ON
COMMERCE, CONSUMER PROTECTION, AND HEALTH

TWENTY-EIGHTH STATE LEGISLATURE
REGULAR SESSION, 2016

WEDNESDAY, MARCH 16, 2016
9:00 A.M.

TESTIMONY ON HOUSE BILL NO. 2335 H.D.1
RELATING TO PHYSICIAN DISCIPLINE

TO THE HONORABLE ROSALYN H. BAKER, CHAIR,
AND TO THE HONORABLE MICHELLE N. KIDANI, VICE CHAIR,
AND MEMBERS OF THE COMMITTEE:

The Department of Commerce and Consumer Affairs ("Department") appreciates the opportunity to testify on House Bill No. 2335 H.D.1, Relating to Physician Discipline. My name is Daria Loy-Goto and I am the Complaints and Enforcement Officer for the Department's Regulated Industries Complaints Office ("RICO"). The Department strongly supports Sections 1 and 2 of this Administration bill and offers comments on Section 3 of the bill.

House Bill No. 2335 H.D.1 creates a new mechanism by which the Hawaii Medical Board ("Board") can impose the same disciplinary action against a physician licensed in Hawaii as was taken by another state or federal agency.

Section 3 of House Bill No. 2335 H.D.1 authorizes the Board to summarily suspend a license within forty-eight hours of receipt of evidence of disciplinary action taken elsewhere upon a determination that the license should be suspended for the protection of the public.

The Department strongly supports Sections 1 and 2 of House Bill No. 2335 H.D.1 for the following reasons:

1) House Bill No. 2335 H.D.1 will expedite the disciplinary process when a Hawaii licensee is disciplined by another state or federal agency. In particular, the provision that a certified copy of the disciplinary action taken by another state or federal agency shall constitute prima facie evidence of the disciplinary action will simplify the disciplinary process.

2) House Bill No. 2335 H.D.1 will protect the safety of Hawaii patients during the disciplinary process by prohibiting a licensee who has been banned from practicing in another state from practicing in Hawaii until the Board issues a final order.

3) House Bill No. 2335 H.D.1 will enable the Board to timely and appropriately respond to disciplinary actions taken elsewhere against Hawaii licensees and keep pace with its counterparts nationwide.

RICO appreciates the additional enforcement provision in Section 3 of the bill, but believes that the reciprocal discipline provisions in Section 1 of the bill,

rather than summary suspension procedures, more appropriately address situations when a Hawaii licensee is disciplined by another state or federal agency, and notes that due process requirements may be difficult to satisfy based on disciplinary action taken elsewhere, particularly when a Hawaii licensee is not practicing here.

RICO notes that this Committee heard the companion measure, Senate Bill No. 2864, and passed that bill out without amendments. Thereafter, the Senate Committee on Judiciary and Labor heard the bill and passed out a Senate Draft 1 with a defective effective date. RICO prefers Senate Bill No. 2864 S.D.1 over this bill, subject to a valid effective date of July 1, 2016.

Thank you for the opportunity to testify in strong support of Sections 1 and 2 in House Bill No. 2335 H.D.1. I will be happy to answer any questions the Committee may have.

**PRESENTATION OF THE
HAWAII MEDICAL BOARD**

TO THE SENATE COMMITTEE ON
COMMERCE, CONSUMER PROTECTION, AND HEALTH

TWENTY-EIGHTH LEGISLATURE
Regular Session of 2016

Wednesday, March 16, 2016
9:00 a.m.

**TESTIMONY ON HOUSE BILL NO. 2335, H.D. 1, RELATING TO PHYSICIAN
DISCIPLINE.**

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

My name is Ahlani Quiogue, and I am the Executive Officer for the Hawaii Medical Board (“**Board**”). Thank you for the opportunity to testify on House Bill No. 2335, H.D. 1, Relating to Physician Discipline. The Board supports the intent of this Administration bill with comments.

House Bill No. 2335, H.D. 1, authorizes the Board to impose the same disciplinary action against a licensee as was taken by another state or federal agency, establishes conditions for the disciplinary action, and prohibits the licensee from practicing until a final order of discipline is issued if the licensee has been prohibited from practicing in another state. The bill also allows the Board to summarily suspend a licensee’s license within forty-eight (48) hours of receipt of evidence of revocation, suspension, or other disciplinary action against a licensee by another state or federal agency.

The Board supports the intent of this measure as it will expedite the disciplinary process when a Hawaii licensee is disciplined by another state or federal agency. However, the Board prefers the language of the companion measure, S.B. 2864, S.D. 1.

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Wednesday, March 16, 2016
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Thank you for the opportunity to testify on House Bill No. 2335, H.D. 1, Relating to Physician Discipline.



Wednesday March 16, 2016

9:00 AM.

Capitol Rm. 229

To: SENATE COMMITTEE ON CONSUMER PROTECTION & HEALTH
Sen. Rosalyn Baker, Chair
Sen. Michelle Kidani, Vice Chair

From: Hawaii Medical Association
Dr. Scott McCaffrey, MD, President
Dr. Linda Rasmussen, MD, Legislative Co-Chair
Dr. Ronald Keinitz, MD, Legislative Co-Chair
Dr. Christopher Flanders, DO, Executive Director
Lauren Zirbel, Community and Government Relations

Re: HB 2335 HD1 – RELATING TO PHYSICIAN DISCIPLINE

IN SUPPORT, WITH COMMENTS

Chair, Vice Chair, and Committee Members:

The Hawaii Medical Association supports HB 2335 and its intent to expedite the identification of discipline issues.

The HMA is fully supportive of quick and decisive action in the event of adverse disciplinary actions taken against physicians in other states. The language of the bill maintains the discretionary and decision-making power of the Board of Medicine rather than proscriptive statutory language. It is especially important that we utilize the Board members experience and expertise in dealing with actions involving physician discipline.

The HMA further recommends the establishment of a mechanism by which the Board may exercise its summary suspension powers within 72 hours of discovery of a significant risk to Hawaii patient safety.

Thank you for the opportunity to provide this testimony.

OFFICERS

**PRESIDENT – D. SCOTT MCCAFFREY, MD, PRESIDENT ELECT – BERNARD ROBINSON, MD
IMMEDIATE PAST PRESIDENT – ROBERT SLOAN, MD, SECRETARY - THOMAS KOSASA, MD,
TREASURER – MICHAEL CHAMPION, MD, EXECUTIVE DIRECTOR – CHRISTOPHER FLANDERS, DO**



An Independent Licensee of the Blue Cross and Blue Shield Association

March 16, 2016

The Honorable Rosalyn H. Baker, Chair
The Honorable Michelle N. Kidani, Vice Chair
Senate Committee on Commerce, Consumer Protection, and Health

Re: HB 2335, HD1 – Relating to Physician Discipline

Dear Chair Baker, Vice Chair Kidani, and Committee Member:

The Hawaii Medical Association (HMSA) appreciates the opportunity to testify on HB 2335, HD1, which would authorize the Board of Medical Examiners to take disciplinary action against a physician who has been disciplined by another state or federal agency. HMSA supports this Bill.

The safety of our members is paramount. HMSA holds the credentialed practitioners in our network to the highest standards of quality in the health care and services they provide to our members. The provisions of this legislation will help protect our members and help to ensure our provider network is secured for the best interest of the members.

Thank you for allowing us to testify in support of HB 2335, HD1.

Sincerely,

Jennifer Diesman
Vice President, Government Relations



THE QUEEN'S HEALTH SYSTEMS

To: The Honorable Rosalyn H. Baker, Chair
The Honorable Michelle N. Kidani, Vice Chair
Members, Committee on Commerce, Consumer Protection, and Health

From: Leslie Chun, M.D., Vice President, The Queen's Health Systems 

Date: March 14, 2016

Hrg: Senate Committee on Commerce, Consumer Protection, and Health; Wednesday, March 16, 2016 at 9:00am in Room 229

Re: Support for HB 2335, HD1, Relating to Physician Discipline

My name is Dr. Leslie Chun, and I am the Vice President of Medical Staff Services and Chief Quality Officer at The Queen's Health Systems (Queen's). I would like to express my **support** for HB 2335, HD1, Relating to Physician Discipline. This bill authorizes the Hawaii Medical Board (Board) to impose the same disciplinary action against a licensee as was taken by another state or federal agency.

At Queen's, we take patient safety very seriously. This bill will help to protect the safety of patients in Hawaii by creating a new mechanism by which the Board can discipline physicians who were disciplined by another state or federal agency. During the disciplinary process, the physician will not be allowed to practice in Hawaii and patients will not be at risk of receiving medical treatment from a physician who was seriously disciplined elsewhere.

Thank you for your time and attention to this important issue.

D. DOUGLAS SMITH, M.D.

229 Aiokoa Street
KAILUA, HAWAII 96734

March 16, 2016 at 9:00 AM

Room 229

To: Senate Committee on Consumer Protection and Health
Chair Rosalyn H. Baker, Vice Chair Michelle N. Kidani

From: D. Douglas Smith, M.D.

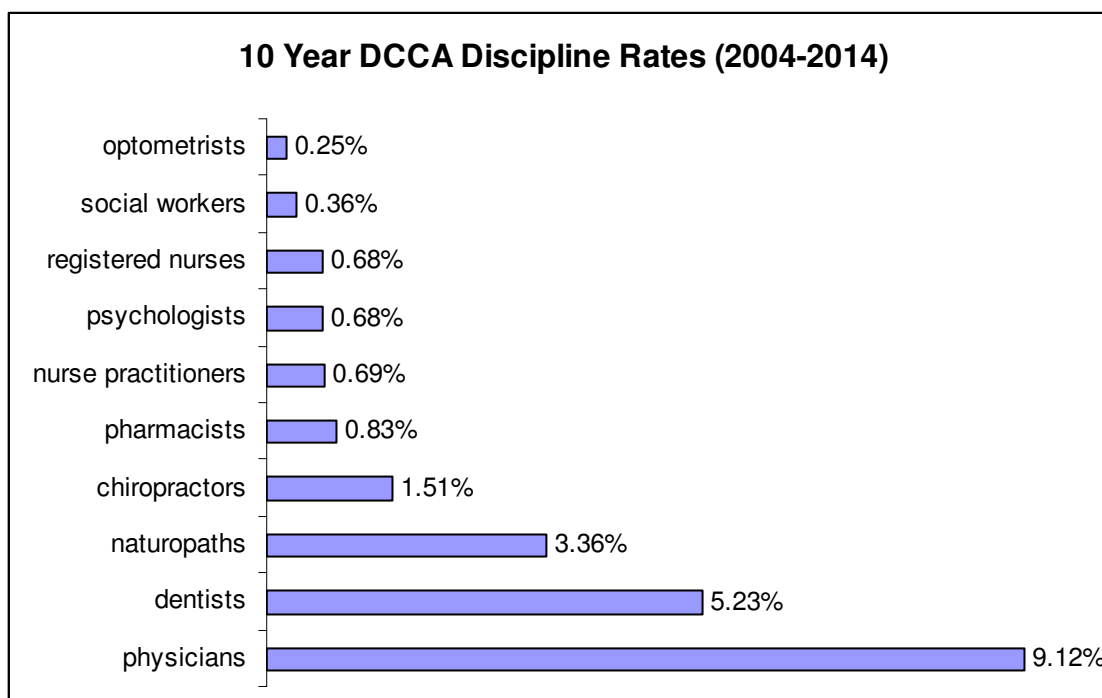
Re: HB-2335-HD1, RELATING TO PHYSICIAN DISCIPLINE

IN OPPOSITION

I would like to thank Chair Baker, Vice Chair Kidani and members of the Senate Committee on Consumer Protection/Health for the opportunity to submit comments on HB-2335-HD1.

I am opposed to this bill as written, and suggest substantial amendment or deferral.

The recent investigation by the Honolulu Star Advertiser indicated room for improvement in the narrow area of reciprocal discipline for physicians. The investigation did not examine the overall adequacy of professional licensure oversight for other clinical disciplines. This is unfortunate, because federally-reported data on adverse licensure actions by the Hawaii DCCA over the decade 2004-2014 is readily available from the National Practitioner Data Bank, and these rates of discipline are the primary indicators of oversight by licensing bodies. If the Honolulu Star Advertiser had taken time to review this data, this is what they would have found:



These official data indicate that physician oversight is robust compared to other clinical professions in Hawaii. The same goes for dentists and naturopaths. On the other hand, DCCA oversight for other clinical professions is apparently deficient. This is especially worrisome for pharmacists, nurse practitioners, psychologists and optometrists in Hawaii who are increasingly engaged in risky clinical practice that used to be reserved for physicians. This vital aspect of consumer protection has not kept up with the times and is a growing threat to public health and safety.

Leaders who have been entrusted with consumer protection must begin to acknowledge the glaring need for better oversight of our psychologists, pharmacists, nurses, social workers and optometrists, and then to ensure that DCCA promptly begins doing so. Even as our legislators and news editors call for more scrutiny of Hawaii's physicians, we have an urgent need to stop ignoring the elephant in the room. There are three times as many poorly regulated clinicians practicing in Hawaii as our intensively regulated physicians.

RECOMMENDATIONS

HB-2335-HD1 should be amended to include not just reciprocal discipline for physicians but also for physician assistants, dentists, pharmacists, nurses, psychologists, optometrists, social workers and chiropractors.

Alternatively, HB-2335-HD1 could be deferred in favor of SB-2675, another bill focused on the narrow issue of reciprocal discipline. SB-2675 but it improves oversight for physicians, as well as physician assistants, dentists, pharmacists, and nurses. If possible, SB-2675 should be amended to include psychologists, optometrists, social workers and chiropractors.

Your consideration of these observations, concerns and recommendations is appreciated.

Sincerely,

A handwritten signature in cursive script that reads "D. Douglas Smith".

D. Douglas Smith, M.D.