

**PRESENTATION OF THE  
HAWAII MEDICAL BOARD**

TO THE SENATE COMMITTEE ON  
JUDICIARY AND LABOR

TWENTY-EIGHTH LEGISLATURE  
Regular Session of 2016

Friday, February 26, 2016  
10:00 a.m.

**WRITTEN TESTIMONY ONLY**

**TESTIMONY ON SENATE BILL NO. 3105, S.D. 1, RELATING TO HEALTH CARE  
REFERRALS.**

TO THE HONORABLE GILBERT S.C. KEITH-AGARAN, CHAIR,  
AND MEMBERS OF THE COMMITTEE:

My name is Ahlani Quiogue, and I am the Executive Officer of the Hawaii Medical Board ("Board"). Thank you for the opportunity to submit written testimony in support of the intent of Senate Bill No. 3105, S.D. 1, Relating to Health Care Referrals.

The purpose of this bill is to clarify that a health care provider who refers patients to facilities in which the health care provider has a financial interest, must provide patients with sufficient information regarding financial incentives for referral in order to allow the patient to make meaningful treatment decisions.

While the Board supports the intent of this measure, the Board is unsure if this bill would be duplicative for physicians licensed through Hawaii Revised Statutes Chapter 453. The Board would like to bring to the Committee's attention that the Stark law, a federal law mandated through Section 1877 of the Social Security Act, already places limitations on certain physician referrals. Generally, the Stark law prohibits physician referrals of designated health services payable by Medicare to an entity with which a physician (or an immediate family member) has a financial relationship, unless

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an exception applies. Furthermore, the American Medical Association Code of Medical Ethics addresses this matter through Opinion 8.0321 – Physician Self-Referral.

Thank you for the opportunity to submit written testimony on Senate Bill No. 3105, S.D. 1, Relating to Health Care Referrals.



TO:

COMMITTEE ON JUDICIARY AND LABOR

Senator Gilbert S.C. Keith-Agaran, Chair

Senator Maile S.L. Shimabukuro, Vice Chair

DATE: Friday, February 26, 2016

TIME: 9:00 a.m. 10:00 a.m.

PLACE: Conference Room 016

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: SB3105 - RELATING TO HEALTH CARE REFERRALS

IN OPPOSITION

Chair, Vice Chair, and Committee Members:

The Hawaii Medical Association opposes SB 3105 which would serve to discourage the continued formation of these efficient, high quality facilities in Hawaii.

Physician owned facilities are often the most efficient, state-of-the-art facilities in the area, the result of doctor's desire to be involved in making detailed decisions about the staff, equipment, training, and procedures that can best serve their patients.

Physician owned facilities often charge less for the same procedures as their non-physician owned counterparts. An analysis by Avalon Health Economics said that physician-owned facilities are saving Medicare \$3.2 billion over 10 years. They also provide more charity care than not-for-profit hospitals and clinics which receive subsidies and tax exemptions. A CMS study found that physician owned facilities spend nearly 6% of their total revenue on community benefits compared to less than 1% for other facilities.

**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**

The HMA would additionally question the legality of establishing a retroactive effective date.

Thank you for the opportunity to provide this testimony.

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**From:** Scott McCaffrey, MD < >  
**Sent:** Thursday, February 25, 2016 10:50 AM  
**To:** JDLTestimony  
**Subject:** SB 3105--Opposed

**Dear Committee Members:**

**I am writing in opposition to SB 3105. As owner of a physical therapy facility, my patients are happy to know I am referring them to a facility where they can expect the same level of quality care they have come to expect from me! They love the confident, seamless care.**

**Please also remember that doctors here in Hawaii are paid well below the U.S. median mandating that we develop services in house to survive. In rejecting this bill please bear in mind that doctors hold themselves to a higher professional standard of ethics. Also, did you ever wonder how Dr. Straub founded and developed our state's most reputable hospital?**

**Thank you for your continued public service.**

**Sincerely,**

**Scott McCaffrey, MD**