

# HB561 HD2

Measure Title: RELATING TO DENTISTRY.

Report Title: Dentistry; Consumer Information; Patient Safety; "Finley's Law"

Description: Requires dentists who administer general anesthesia, deep sedation, or moderate (conscious) sedation to post notice of contact information for verification of the dentist's licensure, and authorization and permit, to administer anesthesia and sedation. Requires inspection of a dentist's facilities, equipment, and personnel as a condition to obtain a written authorization or permit to administer anesthesia or sedation. (HB561 HD2)

Companion:

Package: None

Current Referral: CPH

Introducer(s): BELATTI, AQUINO, EVANS, C. LEE, TAKAYAMA, TAKUMI, THIELEN



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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-NINTH STATE LEGISLATURE  
REGULAR SESSION, 2017

TUESDAY, MARCH 14, 2017  
9:00 A.M.

TESTIMONY ON HOUSE BILL NO. 561 H.D.2  
RELATING TO DENTISTRY

TO THE HONORABLE ROSALYN H. BAKER, CHAIR,  
AND TO THE HONORABLE CLARENCE K. NISHIHARA, VICE CHAIR,  
AND MEMBERS OF THE COMMITTEE:

The Department of Commerce and Consumer Affairs ("Department") appreciates the opportunity to testify on House Bill No. 561 H.D.2, Relating to Dentistry. My name is Daria Loy-Goto and I am the Complaints and Enforcement Officer for the Department's Regulated Industries Complaints Office ("RICO"). RICO offers comments on this bill.

House Bill No. 561 H.D.2 requires dentists who administer general anesthesia, deep sedation, or moderate sedation to conspicuously display a notice at their place of business that any person may contact the Department's Consumer

Resource Center to verify that the dentist is licensed and holds a written authorization or permit to administer the anesthesia or sedation, to request prior complaint history, or to file a complaint. The bill also requires the Board of Dental Examiners ("Board") to ensure that on-site inspections of the facilities, equipment, and personnel be conducted prior to the issuance or renewal of a permit to administer general anesthesia, deep sedation, or moderate sedation.

RICO believes posting a conspicuous notice containing the contact information for RICO's Consumer Resource Center will readily identify for consumers where they can obtain important consumer protection information. Such information includes whether a dentist is licensed and authorized to administer general anesthesia, prior complaint history information on a dentist, or how to file a complaint. Information on the special privilege accorded to a dentist to administer general anesthesia, deep sedation, or moderate sedation is maintained and provided on the Department's Professional and Vocational Licensing Division website and reported by the Department's Consumer Resource Center upon request.

RICO defers to the Board on the issue of on-site inspection of dental facilities, equipment, and personnel.

Thank you for the opportunity to testify on House Bill No. 561 H.D.2. I will be happy to answer any questions the Committee may have.

**PRESENTATION OF THE  
BOARD OF DENTAL EXAMINERS**

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

TWENTY-NINTH LEGISLATURE  
Regular Session of 2017

Tuesday, March 14, 2017  
9:00 a.m.

**TESTIMONY ON HOUSE BILL NO. 561, H.D. 2, RELATING TO DENTISTRY.**

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

My name is Paul Guevara, D.M.D., M.D.S., Chairperson of the Board of Dental Examiners ("Board"). I appreciate the opportunity to testify and offer comments on House Bill No. 561, H.D. 2, Relating to Dentistry, which requires dentists who administer general anesthesia, deep sedation, or moderate (conscious) sedation to post notice of contact information for verification of the dentist's licensure, and authorization and permit, to administer anesthesia and sedation. The bill also requires inspection of a dentist's facilities, equipment, and personnel as a condition to obtain a written authorization or permit to administer anesthesia or sedation.

The Board supports the intent of this measure; however, it has made significant rule amendments addressing major issues and implemented the current guidelines and recommendations of the ADA Guidelines for the Use of Sedation and General Anesthesia by Dentist; the American Academy of Pediatrics; and the American Academy of Pediatric Dentistry Guidelines for Monitoring and Management of Pediatric Patients During and After Sedation for Diagnostic and Therapeutic Procedures. The rules have an anesthesia permit application and requirements in place, including the

Anesthesia Site Inspection Check List. Prior to the issuance of a written authorization or permit, the Board conducts an on-site inspection of the facility, equipment, and personnel to determine whether the facilities and staff requirements have been met. A licensed dentist who has received a written authorization or permit shall renew the written authorization or permit biennially. The Board may, at any time, re-evaluate the credentials, facilities, equipment, personnel, and procedures of a licensed dentist to determine if the dentist is still qualified to hold a written authorization or permit.

In regards to the proposed adoption of a “Code Blue” or other emergency plan or protocol, the Board’s rules require a dentist administering general anesthesia or moderate sedation to complete the Advanced Cardiac Life Support (“ACLS”) and/or the Pediatric Advanced Life Support (“PALS”) course if treating pediatric patients, or both ACLS and PALS courses if treating pediatric patients and minors thirteen years or older.

As such, the Board’s administrative rules, under section 16-79-78, HAR, is implemented to a higher standard and degree in comparison to the provisions of this measure. Therefore, the Board believes that legislation is not necessary.

With regard to the display of contact information and verification of a dentist’s license status, the Board defers to the Regulated Industries Complaints Office.

Thank you for the opportunity to testify on House Bill No. 561, H.D. 2.



## Hawaii Dental Association

To: The Senate Committee on Commerce, Consumer Protection & Health  
Time/Date: 9:00 a.m., March 14, 2017  
Location: Capitol Conference Room 229  
Re: **HB 561, HD 2, RELATING TO DENTISTRY**

Aloha Chair Baker, Vice Chair Nishihara and members of the committee! My name is Dr. Chris Lee and I serve as the president of the Hawaii Dental Association, a professional association comprised of nearly 1,000 member dentists. The Hawaii Dental Association (HDA) is a statewide professional membership organization representing dentists practicing in Hawaii and licensed by the State of Hawaii Board of Dental Examiners. HDA members are committed to protecting the oral health and well-being of all the people of Hawaii, from keiki to kupuna and everyone in between.

We opposed a previous version of this bill. The amendments which have been made to specify that posting requirements pertain to dentists who administer anesthesia are consistent with our request. We wish to be included in the dialog around this bill going forward.

We recognize the legislature's intent to ensure the health and safety of Hawaii residents. Likewise, the Hawaii Dental Association is committed to improve oral health in Hawaii. We look forward to continuing to work collaboratively with you on key policy initiatives to accomplish those goals. In addition, and consistent with our longstanding public positions, we believe that water fluoridation would make significant contributions to improving oral health in our state. Mahalo for this opportunity to testify.

Respectfully,  
Dr. Chris Lee, D.D.S  
President, Hawaii Dental Association

**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Saturday, March 11, 2017 9:55 AM  
**To:** CPH Testimony  
**Cc:** dgsinhawaii@yahoo.com  
**Subject:** \*Submitted testimony for HB561 on Mar 14, 2017 09:00AM\*

**HB561**

Submitted on: 3/11/2017

Testimony for CPH on Mar 14, 2017 09:00AM in Conference Room 229

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Diana G. Smith	Individual	Support	No

Comments:

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Monday, March 13, 2017 9:27 AM  
**To:** CPH Testimony  
**Cc:** akpuleo@gmail.com  
**Subject:** Submitted testimony for HB561 on Mar 14, 2017 09:00AM

**HB561**

Submitted on: 3/13/2017

Testimony for CPH on Mar 14, 2017 09:00AM in Conference Room 229

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Ashley Puleo	Individual	Support	Yes

Comments: Hi, I am Ashley Puleo, Finley Boyle's mother. I appreciate the opportunity to testify in support of House Bill No. 561. I believe that publicly displaying the contact information for the Consumer Resource Center of the Regulated Industries Complaints Office in the waiting room will help encourage parents to take the next step and report a complaint about a bad experience with a licensed dentist to the appropriate governing office. Displaying RICOS contact information is a great resource for patients and parents to not only verify the licensure of a practicing dentist, but to check and see if that Dentist has any formal complaints on file against them or to file a formal complaint against that Dentist if the parent feels that is necessary. I believe this is so important because in my personal experience soon after Finley passed away I had multiple parents reach out to me and share their bad experiences. I was shocked to hear these stories. Unfortunately none of these parents reported these incidents, they remained silent. This is the behavior I am trying to change. I want to encourage people to speak out and file a formal complaint if they've had an unsafe or unsettling experience with a licensed Dentist, or any licensed professional for that matter. By taking the extra step and filing a complaint you can drastically change the outcome of a future patients experience. Possibly even save a life. Having this contact information easily available in the waiting room is simply providing patients and parents with the correct resource and helping them become more informed and empowered consumers. The current administrative rules, written by the Board of Dental Examiners under section 16-79-78, HAR section 3C states that, "Prior to the issuance of a written authorization or permit, the board may, at its discretion, require an on-site inspection of the facility, equipment, and personnel to determine whether the facilities and staff requirements have been met." I feel strongly that an onsite inspection be a mandatory, not a discretionary part of the permitting and renewal application process. Inspections are imperative because they make sure the facility, equipment and personnel are evaluated strictly, in person by members of the Board of Dental Examiners who are accountable for the Dentists they permit. A mandatory on site inspection will help ensure that Dentists who are applying to be permitted to administer strong and potentially life threatening medications are indeed following the rules and regulations. I believe this only helps to protect our keiki by making sure that every facility permitted to administer pediatric general anesthesia,



intravenous sedation or Oral sedation has a fine tuned protocol in place in the event of an emergency. Pediatric patients are especially sensitive to sedative drugs, and we know that most, if not all sedatives run the risk of compromising breathing because they suppress respirations. The therapeutic range on some of these sedative drugs is very narrow in children and we don't always know how a child's body will react to such medications. Even when a child is administered the correct dosage for their size and body weight, how their body reacts to a medication is not something we can always predict or control. What we can control however is how prepared we are to help a patient in the event that a complication arises and an emergency occurs. With that being said, making the on site inspection mandatory we are helping capitalize on the factors we can control, the emergency preparedness of the office and staff. I believe strict preventative measures are key to reduce the risk of a tragedy. I realize and respect the fact that new laws and regulations have been put in place since my daughter Finley's death in January of 2014 and I am thankful for that. However, it's deeply disturbing that it took the death of my three and a half year old daughter to have these regulations signed into law. Prior to Finley's death there were no laws or regulations when it came to pediatric dental oral sedation, there were only laws addressing general anesthesia and intravenous sedation. This was a huge loophole and a horrifically consequential oversight by the Board of Dental Examiners and the State of Hawaii. It frustrates me to know legislation pertaining to pediatric oral sedation was sitting under "Administrative Review" in the months before Finley died. For months they sat there, de prioritized and pushed to the side, until this horrific tragedy happened. Finley passed away January 3rd, 2014. The new rules, Rule 16-79-78(b)(1)(B), oral sedation dentistry regulations were signed by the Governor at the time Neil Abercrombie on Jan 16, 2014 and became effective 11 days later on Jan 27, 2014, 24 days after Finley died. This was clearly not a coincidence. It was because my daughter had just died, in large part because of an oversight in seemingly basic dental safety regulations. To this day I'm not sure how a loophole like this existed and why something as potentially dangerous as pediatric dental oral sedation was knowingly allowed to go unregulated. Why was it brushed off as being not that crucial? Why was it allowed to sit under "Administrative Review" for so long, with no existing laws in place to protect our children receiving oral sedation? Why did it take the death of my daughter to shed light on this issue and spark administrative action? These are questions I live with everyday. This may just sound like another Dateline horror story to you, but I assure you it is much more than that. This is not just some story, this is my life now, this is what I live with everyday. Most importantly, this was Finley's life. She isn't just a tragic victim of these circumstances. She was a real, live, happy, outgoing, innocent child. She loved her family, her friends, her animals, she loved life and now she is gone forever. Now, instead of going to the beach with my daughter I go alone, and immerse myself in the water where her ashes are spread, hoping I can feel a little bit closer to her, even for a moment. This is all too real to me. We need to work together for the safety of our children and to help prevent any other parent and family from experiencing what I have gone through. It is my hope that we can learn from my tragedy and take action. It's not enough for us to just trust that dental offices are fully prepared for an emergency situation, they must be held accountable and inspected. Let us not wait for another child to be injured or die before we decide to tighten regulations and make an on site

inspection mandatory. Prevention is the best medicine and I believe making the on site inspection a mandatory part of the permitting process will protect our children, because, after all, our children and their health and safety are all we really have to hold onto in this life. Thank you for your time and thank you for the opportunity to testify on House Bill No. 561 H.D.1.

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