

STAND. COM. REP. NO. **2549**

Honolulu, Hawaii

MAR 01 2018

RE: S.B. No. 2638
S.D. 1

Honorable Ronald D. Kouchi
President of the Senate
Twenty-Ninth State Legislature
Regular Session of 2018
State of Hawaii

Sir:

Your Committee on Commerce, Consumer Protection, and Health,
to which was referred S.B. No. 2638 entitled:

"A BILL FOR AN ACT RELATING TO PROFESSIONAL AND VOCATIONAL
LICENSING,"

begs leave to report as follows:

The purpose and intent of this measure is to prohibit a
licensing authority from adopting rules that authorize an
unlicensed individual to perform duties that may overlap or
conflict with the duties and scope of licensed professions or
vocations.

Your Committee received testimony in support of this measure
from the Hawaii Dental Hygienists' Association, two individuals,
and a petition with ninety-seven names. Your Committee received
testimony in opposition to this measure from the Professional and
Vocational Licensing Division of the Department of Commerce and
Consumer Affairs, Board of Dental Examiners, and Hawaii Dental
Association. Your Committee received comments on this measure
from the Hawai'i Psychological Association.

Your Committee finds that professional or vocational licensed
individuals may employ auxiliary personnel to assist these
licensed individuals in the practice of the profession or
vocation. Although these auxiliary personnel are a valuable part
of a team, they may not be licensed or certified in Hawaii or



required to meet the same stringent standards of training and care as licensed individuals in certain professions or vocations. Accordingly, it is important that these unlicensed individuals do not infringe upon a particular licensed profession's scope of practice.

Your Committee further finds that it is the Legislature who determines duty and scope of practice for licensed professionals in the State. Therefore, your Committee finds that it is not appropriate for a licensing authority to adopt rules that attempt to circumvent or supersede existing law regarding duty and scope of practice for other licensed professionals. Your Committee additionally finds that in the case of a conflict between licensing laws and rules passed by a licensing authority, the licensing laws prevail.

Finally, although your Committee acknowledges that the scope of practice for certain licensed professionals may overlap, your Committee notes that this measure addresses situations where unlicensed personnel are being asked to take on responsibilities for which the Legislature, through the legislatively determined parameters contained in the Hawaii Revised Statutes, has determined that a license is required.

Your Committee has amended this measure by:

- (1) Specifying that a licensing authority shall not use rules to supersede requirements under applicable licensing laws;
- (2) Clarifying that a licensing authority shall not adopt rules that authorize an unlicensed individual to perform duties, activities, or functions that, if performed by another professional, would require licensure of that professional, rather than prohibiting a licensing authority from adopting rules that infringe upon, overlap with, or conflict with the scope of practice of any licensed professional;
- (3) Specifying that in the case of a conflict between licensing laws and rules, the licensing laws shall prevail;



- (4) Specifying that the requirements do not apply to apprentices or trainees working toward licensure in an apprenticeship program or clinical program; and
- (5) 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. 2638, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2638, 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



