

SB 2487

HD1

A BILL FOR AN ACT

RELATING TO HEALTH.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that quality assurance
2 committees provide hospitals, health plans, long term care
3 facilities, and other healthcare organizations with a mechanism
4 to evaluate, monitor, and improve quality of care; reduce
5 patient risk and error; and assess the overall effectiveness of
6 care provided to patients. Quality assurance committees are
7 well established and essential to our healthcare delivery
8 system.

9 However, the legislature notes that there are two separate
10 and inconsistent definitions of "quality assurance committee" in
11 the Hawaii Revised Statutes. Because of this inconsistency,
12 quality assurance committees established by different types of
13 health care organizations may face different confidentiality and
14 liability protection provisions.

15 The purpose of this Act is to make the usage of the term
16 "quality assurance committee" consistent throughout the Hawaii
17 Revised Statutes.



1 Specifically, this Act amends the definition of "quality
2 assurance committee", for the purpose of liability protection,
3 to:

4 (1) Include committees established by long-term care
5 facilities, skilled nursing facilities, assisted
6 living facilities, home care agencies, hospices, and
7 authorized state agencies; and

8 (2) Allow for the creation of a quality assurance
9 committee outside of a single health plan or hospital.

10 SECTION 2. Section 663-1.7, Hawaii Revised Statutes, is
11 amended by amending subsection (a) to read as follows:

12 "(a) As used in this section:

13 "Ethics committee" means a committee that may be an
14 interdisciplinary committee appointed by the administrative
15 staff of a licensed hospital, whose function is to consult,
16 educate, review, and make decisions regarding ethical questions,
17 including decisions on life-sustaining therapy.

18 "Licensed health maintenance organization" means a health
19 maintenance organization licensed in Hawaii under chapter 432D.

20 "Peer review committee" means a committee created by a
21 professional society, or by the medical or administrative staff



1 of a licensed hospital, clinic, health maintenance organization,
2 preferred provider organization, or preferred provider network,
3 whose function is to maintain the professional standards of
4 persons engaged in its profession, occupation, specialty, or
5 practice established by the bylaws of the society, hospital,
6 clinic, health maintenance organization, preferred provider
7 organization, or preferred provider network of the persons
8 engaged in its profession or occupation, or area of specialty
9 practice, or in its hospital, clinic, health maintenance
10 organization, preferred provider organization, or preferred
11 provider network.

12 "Preferred provider organization" and "preferred provider
13 network" means a partnership, association, corporation, or other
14 entity which delivers or arranges for the delivery of health
15 services, and which has entered into a written service
16 arrangement or arrangements with health professionals, a
17 majority of whom are licensed to practice medicine or
18 osteopathy.

19 "Professional society" or "society" means any association
20 or other organization of persons engaged in the same profession
21 or occupation, or a specialty within a profession or occupation,



1 a primary purpose of which is to maintain the professional
2 standards of the persons engaged in its profession or occupation
3 or specialty practice.

4 "Quality assurance committee" means ~~[an]~~ :

- 5 (1) An interdisciplinary committee established by the
- 6 board of trustees or administrative staff of a
- 7 licensed hospital, clinic, long-term care facility,
- 8 skilled nursing facility, assisted living facility,
- 9 home care agency, hospice, health maintenance
- 10 organization, preferred provider organization, ~~[or]~~
- 11 preferred provider network~~[,]~~ providing medical,
- 12 dental, or optometric care, or an authorized state
- 13 agency whose function is to monitor and evaluate
- 14 patient care~~[, and]~~ to identify, study, and correct
- 15 deficiencies ~~[and seek improvements in the patient~~
- 16 ~~care delivery process.]~~ in the health care delivery
- 17 system, with a goal of reducing the risk of harm to
- 18 patients, improving patient safety, or otherwise
- 19 improving the quality of care delivered to patients;
- 20 or



1 (2) An interdisciplinary committee composed of
2 representatives of organizations described in
3 paragraph (1) that is established collectively by the
4 boards of trustees or administrative staff of these
5 organizations, and whose function is to monitor and
6 evaluate patient care to identify, study, and correct
7 deficiencies in the health care delivery system, with
8 a goal of reducing the risk of harm to patients,
9 improving patient safety, or otherwise improving the
10 quality of care delivered to patients."

11 SECTION 3. Statutory material to be repealed is bracketed
12 and stricken. New statutory material is underscored.

13 SECTION 4. This Act shall take effect on July 1, 3000.



Report Title:

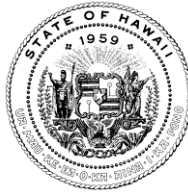
Health; Quality Assurance Committees; Definition

Description:

Amends the definition of "quality assurance committee" to include committees established by long-term care facilities, skilled nursing facilities, assisted living facilities, home care agencies, hospices, and authorized state agencies. Allows for the creation of a quality assurance committee outside of a single health plan or hospital. (SB2487 HD1)

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.





DAVID Y. IGE
GOVERNOR

DOUGLAS S. CHIN
LIEUTENANT GOVERNOR

**STATE OF HAWAII
OFFICE OF THE DIRECTOR
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS**

335 MERCHANT STREET, ROOM 310
P.O. BOX 541
HONOLULU, HAWAII 96809
Phone Number: 586-2850
Fax Number: 586-2856
cca.hawaii.gov

CATHERINE P. AWAKUNI COLÓN
DIRECTOR

JO ANN M. UCHIDA TAKEUCHI
DEPUTY DIRECTOR

**TO THE HOUSE COMMITTEE ON
CONSUMER PROTECTION AND COMMERCE**

**TWENTY-NINTH LEGISLATURE
Regular Session of 2018**

Tuesday, March 20, 2018
2:00 p.m.

TESTIMONY ON SENATE BILL NO. 2487, H.D. 1 – RELATING TO HEALTH.

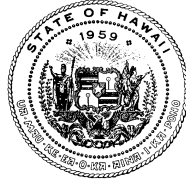
TO THE HONORABLE ROY M. TAKUMI, CHAIR, AND MEMBERS OF THE
COMMITTEE:

The Department of Commerce and Consumer Affairs (“Department”) appreciates the opportunity to testify in support of S.B. 2487, H.D. 1, Relating to Health. My name is Gordon Ito, and I am the Insurance Commissioner for the Department’s Insurance Division.

The purpose of this bill is to amend the definition of “quality assurance committee” to include committees established by long-term facilities, skilled nursing facilities, assisted living facilities, home care agencies, hospice, and authorized state agencies, thereby allowing for the creation of a quality assurance committee outside of a single health plan or hospital.

The Department supports efforts to reduce healthcare cost drivers by improving the care of high-need, complex patients. Better coordination will lead to improved health outcomes for patients, thereby helping to reduce healthcare costs and health insurance premium increases.

Thank you for the opportunity to testify in support of this measure.



STATE OF HAWAII
DEPARTMENT OF HEALTH
P. O. Box 3378
Honolulu, HI 96801-3378
doh.testimony@doh.hawaii.gov

**Testimony in SUPPORT of SB2487 HD1
RELATING TO HEALTH.**

REP. ROY M. TAKUMI, CHAIR
HOUSE COMMITTEE ON CONSUMER PROTECTION AND COMMERCE
Hearing Date: March 20, 2018 Room Number: 329

1 **Fiscal Implications:** N/A.

2 **Department Testimony:** The Department of Health supports the intent of SB2487 HD1, which
3 amends tort law to create a quality assurance committee outside of a single health plan or
4 hospital. Health care entities may better plan, coordinate, and manage a patient's care as they
5 move within the continuum of care is in the patient's best interest and consistent with emerging
6 best practices of patient-centered care.

7 **Offered Amendments:** N/A.



March 20, 2018 at 2:00 PM
Conference Room 329

House Committee on Consumer Protection and Commerce

To: Chair Roy M. Takumi
Vice Chair Linda Ichiyama

From: Paige Heckathorn
Senior Manager, Legislative Affairs
Healthcare Association of Hawaii

Re: Testimony in Support
SB 2487 HD 1, Relating to Health

The Healthcare Association of Hawaii (HAH), established in 1939, serves as the leading voice of healthcare on behalf of 170 member organizations who represent almost every aspect of the health care continuum in Hawaii. Members include acute care hospitals, skilled nursing facilities, home health agencies, hospices, assisted living facilities and durable medical equipment suppliers. In addition to providing access to appropriate, affordable, high quality care to all of Hawaii's residents, our members contribute significantly to Hawaii's economy by employing over 20,000 people statewide.

We would like to thank the committee for the opportunity to **support** SB 2487 HD 1, which would standardize the definition of a quality assurance committee in Hawaii Revised Statute. This measure would also enable medical and social service providers to work together, discuss, and propose solutions for the most difficult and complex cases they encounter. It is increasingly apparent that the needs and most pressing healthcare issues facing our communities require a multi-disciplinary response. Enabling dedicated providers and community members to collaborate more fully will promote the information-sharing needed to successfully address the medical and social reasons people fall into poor health.

This legislation will help providers address health disparities, bring down costs, and treat the non-medical determinants of health, and we would ask for your support of this measure. Thank you for your consideration of this matter.

**TESTIMONY OF NAHELANI WEBSTER ON BEHALF OF THE HAWAII
ASSOCIATION FOR JUSTICE (HAJ) IN OPPOSITION TO S.B. NO. 2487, HD1**

March 20, 2018
2:00 p.m.
Room 329

To: Chair Roy M. Takumi and Members of the House Committee on Consumer Protection and Commerce:

My name is Nahelani Webster and I am presenting this testimony on behalf of the HAJ in opposition to S.B. No. 2487, HD1.

This measure seeks to expand confidentiality currently given medical facility “quality assurance committees” to long-term care, skilled nursing, assisted living, home care and hospice businesses. This is not a good idea for at least two reasons: 1) medical facilities such as hospitals and clinics perform a significantly different function; and 2) confidentiality permits these entities to hide important information regarding failures to improve patient treatment and can actually encourage perpetuation of unsafe practices.

A hospital quality assurance committee evaluates hospital services and procedures in general, as well as specific instances of malpractice or poor outcomes, for the purpose of improving patient care and safety. If a patient goes in for a routine colonoscopy but ends up comatose because of malpractice, the quality assurance committee investigates, examines the cause(s) for the problem, and makes suggestions for improvement so as to avoid future mishaps. Hospitals argued that patients should not have access to quality assurance committee proceedings because the hospital would be turning over a full “confession” of what it did wrong which patients could use against hospitals in malpractice cases. In essence hospitals want to hide proof of their malpractice; or at least hide the fact that their own internal investigation confirmed malpractice.

Hospital quality assurance committees are given confidentiality in order to avoid the situation where hospitals do not investigate and correct deficiencies due to fear that their own actions will be used against them. It has been determined that it is more important to encourage improvements to protect others in the future, than to address the harm caused to patients in the past, because of the threat of death and catastrophic injury associated with large hospital and clinic medical centers. This confidentiality does not apply to the small doctors' office that examines its own malpractice.

Long-term care, assisted living, skilled nursing, home care and hospice services do not provide the same kind of critical care services and patient care that hospitals do. Long-term care facilities, nursing homes and hospice really deal with a different situation, different level of medical care, and an entirely different social problem. Long-term care facilities should constantly strive to improve their services as a normal part of their business responsibilities. Hospice services should do the same, although the nature of those services are oriented more toward comfort rather than treatment. There is no need for confidentiality.

Confidentiality has a dark side that needs to be recognized because it can impede improvements as well as assist. If a hospital's quality assurance committee learns, for example, that a certain surgery can be performed much safer using a different technique but the hospital doesn't want to pay for additional training for doctors to learn the new technique or buy additional equipment, the fact that the hospital knows it is using an inferior surgical procedure can be hidden for years (forever, actually) because it is confidential. On the other hand, if the hospital's determination that it should be using a

safer procedure is made public, it would encourage the hospital to make safety improvements as soon as possible for the benefit of future patients.

Because of these concerns and the need for maximizing the protection of those injured by medical errors, as well as our basic philosophy regarding the purpose of tort law to prevent future injury and death; and the preservation of consumer rights, HAJ strongly opposes this bill.

Thank you for the opportunity to testify and for listening to our concerns and comments.

SB-2487-HD-1

Submitted on: 3/19/2018 2:00:40 PM

Testimony for CPC on 3/20/2018 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Melodie Aduja	Oahu County Committee on Legislative Priorities of the Democratic Party of Hawai'i	Support	No

Comments:

Darryl J. Oliveira
1815 Waianuenue Avenue
Hilo, Hawaii 96720

March 19, 2018

Roy M. Takumi, Chair
House Committee on Consumer Protection & Commerce
Hawaii State Capitol
415 S. Beretania Street
Honolulu, Hawaii 96813

Dear Chair Takumi,

As the co-chair of the Community Action Network, a steering committee under the oversight of the Community First non-profit organization, I would like to provide this testimony on behalf of our members in support of Senate Bill 2487.

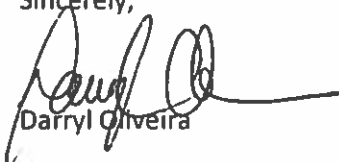
The Community Action Network or CAN is comprised of representatives of the various health care service providers in the East Hawaii region of Hawaii Island along with many of the social service and non-profit service providers.

Over the past year, our organization has been meeting regularly with the goal of identifying issues and gaps in the health care system and how they may be causing or contributing to complex health issues of community members. These complex health conditions often result in high costs and significantly impact the limited available resources. The collective efforts and participation of the many organizations has demonstrated that assessing the problems from a truly comprehensive and all-inclusive perspective is invaluable. In many cases it has revealed that it is the social determinants or non-medical needs of patients that may be greatly affecting their health and health care needs.

The Community Action Network would like to continue to provide the forum and venue for our member organizations to assess and evaluate the challenges and gaps within the health care system and expand upon our objectives to include the conducting of case review under the concept of "quality assurance". In order to provide for that objective and activity, the current statute language defining Quality Assurance Committees would need to be amended to provide for consistency between the respective chapters and to include the provisions for an "interdisciplinary committee". As previously mentioned, the opportunity and platform for medical and non-medical or social service providers to convene to review and discuss health care in the most comprehensive and holistic manner is not only effective but essential and invaluable to identifying the problems and developing and implementing the best solutions with the ultimate goal of improving the quality of care and life for our community members.

Therefore, I strongly request your support of Senate Bill 2487 amending the definition of "Quality Assurance Committee". I would also welcome the opportunity to address any question or concerns you may have and can be reached at (808)987-8615 or by email at oliveiradarryl@gmail.com.

Sincerely,


Darryl Oliveira



in affiliation with DENTONS

COMMITTEE ON CONSUMER PROTECTION & COMMERCE

Representative Roy M. Takumi, Chair

Representative Linda E. Ichiyama, Vice Chair

Tuesday, March 20, 2018

2:00 pm, Conference Room 329

SB2487, HD1 RELATING TO HEALTH

Testimony of

DIANNE BROOKINS, ESQ.

OAHU OFFICE:

1001 Bishop Street
Suite 1800
Honolulu, HI 96813

BIG ISLAND OFFICE:

26-238 Hawai'i Belt Road
Hilo, HI 96720

Phone: (808) 524-1800

Fax: (808) 524-4591

www.ahfi.com

Chair Takumi, Vice Chair Ichiyama and Members of the Committee:

My name is Dianne Brookins, and I represent Community First. I am writing to provide comments on the concerns of the Hawaii Association for Justice (HAJ) as stated in their testimony dated March 8, 2018, which opposed SB2487 when heard before the House Committee on Human Services. HAJ erroneously claims that the bill unreasonably broadens the scope of information regarding Quality Assurance (QA) committees that is protected under current law.

The information generated by QA committees is already protected by current law, HRS § 624-25.5. All SB 2487, HD1 seeks to do is provide **liability protection** for the participants in QA committees formed by the additional types of providers and multi-provider QA committees which are **already included** in the information protection provisions of HRS § 624-25.5. The records generated by QA committees for the broad scope of providers and multi-provider committees **are already protected** by § 624-25.5.

The Bill does not "unreasonably broaden the scope of the **information to be protected.**" The information is already protected by § 624-25.5. It is the participants in the QA process for providers not listed in § 663-1.7 that **are not protected from liability** for their deliberations and decisions, which has a chilling effect on the willingness of those providers to participate in QA discussions.

It also appears that HAJ is amendable to expanding the liability protections to a broader range of providers, but has concerns about how the function of a QA committee is stated—replacing the phrase "to identify, study, and correct deficiencies and seek improvements in the patient care delivery process," with the language in the bill "to identify, study, and correct deficiencies in the health care delivery system, with a goal of reducing the risk of harm to patients, improving patient safety, or otherwise improving the quality of care delivered to patients." The language to which HAJ has objected **already defines the scope of information protected** from discovery by HRS § 624-25.5, and so does not broaden the protection as HAJ has stated in its testimony. We recommend that the stated language in SB2487, HD1 not be changed to maintain consistency with the definition of QA committee in § 624-25.5.

HAJ has also objected to extending the liability protections for QA activities to a committee established collectively by the protected providers. Again, the information protection provisions of § 624-25.5 already apply to such QA committees, so the addition of that language to HRS § 663-17 as proposed by the bill merely makes the liability protections for participants in QA activities consistent with the existing protections for information generated in the QA process.

Thank you for the opportunity to testify.

SB-2487-HD-1

Submitted on: 3/19/2018 4:33:48 PM

Testimony for CPC on 3/20/2018 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Susan Mochizuki	East Hawaii Independent Physicians Association	Support	No

Comments:

The East Hawaii Independent Physicians Association represents the majority of independent physicians on Hawaii Island with a total of 80 members caring for over 50,000 patient lives. Primary care providers are increasingly involved in referring and coordinating a myriad of social, financial, behavioral health and other services for their patients in order to effectively care for their patient's health and well-being. Although many of these services exist in the community, communication and coordination is often fragmented and resources are not always strategically allocated. Passage of this bill will allow agencies and organizations in collaboration with physicians, their staff and their patients to ensure that the right care is delivered in the right way at the right time. It is only through case study evaluation and analysis can improvements be made at the grassroots level where care and services are delivered. We strongly support passage of this bill for the benefit of our patients.

SB-2487-HD-1

Submitted on: 3/17/2018 2:29:27 PM

Testimony for CPC on 3/20/2018 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Barry K. Taniguchi	Individual	Support	No

Comments:

I strongly support SB 2487 and the protection of Quality Assurance discussions for medical and social providers to improve care to high cost high need patients.

Barry Taniguchi

SB-2487-HD-1

Submitted on: 3/18/2018 11:29:31 AM

Testimony for CPC on 3/20/2018 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Carolyn Ma	Individual	Support	No

Comments:

I strongly support this bill as a health care professional (pharmacist) and as a leader/administrator (Dean for the Daniel K. Inouye College of Pharmacy, UH Hilo) of a health professional academic program. Pharmacy practice is one of the professions that have become a key partner on inter-disciplinary health care teams. Certainly, pharmacists have long been in practice in the hospital and clinic setting. Other types of health care facilities are now either required by law, to have a pharmacist consultation to review medications in LTC's, or by an institution's desire to achieve "best practice" standards include pharmacy expertise on a regular basis. Establishing quality assurance and monitoring adherence to safety guidelines, adverse drug reactions, safe and effective drug choices, and monitoring for best outcomes is key in assuring highest level of care especially in vulnerable, high need and often times pharmaceutically and medically complex populations such as the elderly, and patients in the palliative care and hospice facilities. Establishing quality assurance committees is a standard method and is absolutely necessary and assures ongoing review and adjustments in best practice can be implemented on a timely and consistent basis.

Mahalo for allowing me to submit testimony on behalf of this bill.

SB-2487-HD-1

Submitted on: 3/18/2018 8:20:20 PM

Testimony for CPC on 3/20/2018 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Charlene Iboshi	Individual	Support	No

Comments:

Support Testimony for SB 2487, HD 1, Relating To Health

House Committee on Consumer Protection and Commerce

Hearing: Tuesday, March 20, 2018, 2:00 PM; Conference Room 329

Chair Roy Takumi, Vice Chair Linda Ichiyama and Committee Members:

My name is Charlene Iboshi. After retiring as Hawaii County's Prosecuting Attorney, I actively participate on several non-profit and service organizations' Boards. We focus on improving the economic, social and health environment for Hawaii Island and the state. Community First is a non-profit whose mission is to allow the community to find solutions to improve health, while lowering healthcare costs.

I support SB 2487, which harmonizes the current definitions that provide for interdisciplinary quality assurance committees. These quality assurance committees' objectives include achieving quality outcomes for those served by the health care and service organizations. Additionally, the communications are protected to safeguard patients' interests. With the "legislative intent" clearly stated, any underlying civil litigation claims would be no different than currently allowed.

Interdisciplinary models have proven effective in other models adopted by the state. When dealing with complex medical-social issues, communication is the key component to successful, long-term outcomes. As stated in the transmittals, "The purpose of this Act is to make the usage of the term 'quality assurance committee' consistent throughout the Hawaii Revised Statutes."

The Quality Assurance Committee's "function is to monitor and evaluate patient care to identify, study, and correct deficiencies in the health care delivery system, with a goal of reducing the risk of harm to patients, improving patient safety, or otherwise improving the quality of care delivered to patients."

Please support the passage of SB 2487. Thank you for considering my testimony.

Charlene Iboshi

