
A BILL FOR AN ACT

RELATING TO MEDICAL MALPRACTICE.

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

1 SECTION 1. The legislature finds that Hawaii is facing a
2 critical physician shortage. According to the 2018 report from
3 the Hawaii Physician Workforce Assessment Project, the State is
4 facing a statewide shortage of seven hundred ninety-seven
5 physicians, with the largest shortage of two hundred sixty-three
6 physicians found in the area of primary care. This shortfall is
7 projected to worsen with the increased demand for health care
8 from an aging population and the retirement of an aging
9 physician population, with particular access to care issues in
10 rural areas of Oahu and on the neighbor islands. Even with
11 team-based care practices using other health care providers to
12 help deliver primary care, physicians trained in primary care
13 will be needed to help coordinate services and appropriate care
14 referrals. The need to educate and train, as well as retain,
15 more doctors to care for the State's residents is a critical key
16 component to meeting the ongoing health care needs of Hawaii's
17 communities.



1 Many Hawaii citizens are unable to obtain timely and
2 appropriate health care due to shortages of primary health care
3 providers in the State. These shortages threaten individual
4 health and cumulatively affect the State's health care costs. A
5 significant barrier to increasing the pool of health care
6 providers is the exposure of medical residents and fellows to
7 medical malpractice litigation. Medical residents are graduates
8 of medical school who are pursuing postgraduate residencies or
9 fellowships to become specialists in areas including family
10 medicine, pediatrics, surgery, or psychiatry.

11 The increasing frequency at which medical residents and
12 fellows are named as parties in lawsuits alleging medical
13 negligence discourages the State's medical school graduates from
14 continuing their education in Hawaii and remaining in the State
15 to practice. The post-medical school training medical residents
16 and fellows participate in is a necessary component to
17 completing the requirements of a medical education, leading to
18 full licensure and specialty board certification. Throughout
19 their training, medical residents and fellows participate in a
20 nationally-recognized accredited program that includes the care
21 of patients under the supervision of a fully-licensed physician.



1 Medical residents and fellows are closely monitored, and the
2 treatment they provide is subject to continual review by a
3 fully-licensed physician, as well as their educational program.

4 Accordingly, the purpose of this Act is to encourage
5 medical residents and fellows to apply to Hawaii-based residency
6 programs and remain in Hawaii by providing medical residents and
7 fellows in a graduate medical education program with limited
8 immunity while under the supervision of a fully-licensed
9 physician.

10 SECTION 2. Chapter 663, Hawaii Revised Statutes, is
11 amended by adding a new section to be appropriately designated
12 and to read as follows:

13 "§663- Medical residents and fellows; limited liability.

14 (a) Any resident or fellow participating in a graduate medical
15 education program and practicing while under supervision of a
16 physician duly licensed pursuant to chapter 453 shall not be
17 liable for any civil damages resulting from the resident's or
18 fellow's acts or omissions, except for such damages as may
19 result from the resident's or fellow's gross negligence or
20 wanton acts or omissions.



1 (b) Nothing in this section shall be construed to limit
2 the supervising physician's liability for the supervising
3 physician's own actions or for the actions of the resident or
4 fellow, except for such damages as may result from the
5 resident's or fellow's gross negligence or wanton acts or
6 omissions.

7 (c) For purposes of this section:

8 "Graduate medical education program" shall have the same
9 meaning as in section 304A-1701.

10 "Under supervision" means under the direction of a duly
11 licensed and credentialed physician who is directing and has
12 ultimate responsibility for the patient care related activities
13 of a resident or fellow in an accredited graduate medical
14 education program, including all levels and methods of
15 supervision as specified by the Accreditation Council for
16 Graduate Medical Education Common Program Requirements."

17 SECTION 3. This Act does not affect rights and duties that
18 matured, penalties that were incurred, and proceedings that were
19 begun before its effective date.

20 SECTION 4. New statutory material is underscored.

21 SECTION 5. This Act shall take effect on July 1, 2050.



Report Title:

Medical Malpractice; Residents and Fellows; Limited Liability;
Supervising Physicians

Description:

Limits medical malpractice liability for residents and fellows
in accredited residency and fellowship programs acting under the
supervision of a licensed physician. Takes effect on 7/1/2050.
(SD1)

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not legislation or evidence of legislative intent.*

