Testimony of the Hawaii Medical Board

Before the
House Committee on Health
and
House Committee on Intrastate Commerce

Thursday, January 30, 2020
8:30 a.m.
State Capitol, Conference Room 329

On the following measure:
H.B. 39, RELATING TO HEALTH

Chair Mizuno, Chair Ono and Members of the Committees:

My name is Ahlani Quiogue, and I am the Executive Officer of the Hawaii Medical Board (Board). The Board offers comments on this bill.

The purpose of this bill is to establish a three-year pilot program to create a new category of professional licensure for assistant physicians: who are recent medical school graduates; who have passed certain medical exams; who have not been placed into a residency program; and who work under the supervision of a licensed physician to provide primary care in medically underserved areas.

The Board will review this bill at its next publicly noticed meeting on February 13, 2020. In the meantime, the Board offers comments on this bill based on its discussion of H.B. 1813, H.D. 2, Relating to Health, from the 2018 legislative session, which the Board strongly opposed. The Board expressed the following concerns:

- *Definition of "medical school graduate"*

  The Board's current statutory provisions do not allow an osteopathic physician to become licensed in the State if his or her program is not accredited by the American Osteopathic Association (AOA). The language in H.B. 1813, H.D. 2 would open the doors for foreign-trained osteopaths to qualify for licensure when the curriculum is subpar to AOA accredited programs.

- *For purposes of reimbursement, an "assistant physician" shall be considered a "physician assistant."*

  The use of the term "physician assistant" by anyone who does not hold a license issued by the Board to practice as a physician assistant violates Hawaii Revised

Statutes section 453-2(5). Further, the interchangeable use of the terms "assistant physician" and "physician assistant" will cause confusion among the general public.

- *Collaborative practice arrangements "may delegate to an assistant physician the authority to administer or dispense prescription drugs and provide treatment; provided that the delivery of those health care services is within the scope of practice of the assistant physician and is consistent with the assistant physician's skill, training, and competence and the skill and training of the collaborating physician."*

  H.B. 1813, H.D. 2 does not define "scope of practice of an assistant physician" or an assistant physician's "skill, training, and competence."

- *"Maintain geographic proximity; provided that: (i) The collaborative practice arrangement may allow for geographic proximity to be waived for a maximum of twenty-eight days per calendar year for a rural health clinic as defined by the Rural Health Clinic Services Act of 1977, P.L. 95-210, as amended, as long as the collaborative practice arrangement includes alternative plans."*

  The Board was concerned that the term "geographic proximity" lacks specificity and could lead to the collaborating physician being on Oahu and the assistant physician in a location that is not easily accessible.

- *"Provide for coverage during the absence, incapacity, infirmity, or emergency of the collaborating physician."*

  The Board questioned whether this provision would allow an assistant physician to work independently without the collaborative physician in "geographic proximity" and being accessible by any means. The Board also questioned whether a collaborative physician relationship is even required in these instances.

- *"The Hawaii medical board shall not deny, revoke, suspend, or otherwise take disciplinary action against a collaborating physician in relation to health care services that are delegated to an assistant physician; provided that the*

collaborating physician is in compliance with this part and the rules adopted thereunder."

This provision clearly prohibits the Board from carrying out its legislative mandate, which is to protect consumers from unsafe, incompetent, and unprofessional practitioners. The Board was unsure what remedies it would have if an assistant physician harmed a patient.

- *"The Hawaii medical board shall adopt rules pursuant to chapter 91 regulating the use of collaborative practice arrangements for assistant physicians that specify:*

  (1) Geographic areas to be covered.

  The Board believed that this provision is beyond its scope and that it does not establish medical specialty shortage areas.

  (3) The development and implementation, in conjunction with the dean of the John A. Burns school of medicine and primary care residency program directors in State, of educational methods and programs undertaken during the collaborative practice arrangements service that shall facilitate the advancement of the assistant physician's medical knowledge and capabilities, and that may lead to credit toward a future residency program for programs that deem such documented achievements acceptable.

  This language goes beyond the Board's statutory authority and legislative mandate. The Board believed it does not have the requisite expertise in this area. In contrast, recognized organizations such as the Accreditation Council for Graduate Medical Education and the AOA have the expertise and knowledge of the nuances of graduate medical education training.

Thank you for the opportunity to testify on this bill.

Harry Kim
Mayor

Roy Takemoto
Managing Director

Barbara J. Kossow
Deputy Managing Director

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January 28, 2020

Representative John M. Mizuno, Chair
Representative Bertrand Kobayashi, Vice Chair
Committee on Health

Representative Takashi Ohno, Chair
Representative Dale T. Kobayashi, Vice Chair
Committee on Interstate Commerce

Dear Chairs Mizuno and Ohno, Vice Chairs Kobayashi, and Committee Members:

RE: **HB 39, Relating to Health (Assistant Physicians)**

Thank you for this opportunity to testify on a bill which deals with a crucial issue facing our State.

“Making Hawai‘i a nice place to live” is simple to say, and almost too obvious a goal to highlight, but nevertheless that phrase sums up the most important task facing our elected leaders. For this reason alone, I want to thank and praise any effort to deal with one of the most critical issues that we must confront, and that is the crisis in our healthcare system caused by our physician shortage.

We are justly proud of the Hawai‘i Prepaid Healthcare Act, but how valuable is insurance if you cannot find a provider? How can we expect our people, especially our aging population, to live comfortably, if they believe that quality healthcare is only available if they have the time and ability to travel to the mainland? How can we attract more providers when they realize that they will be expected to work extraordinary hours because there is not a reasonable number of other providers to share the burden?

And the ramifications are important, too. To what extent do we limit our primary economic driver, tourism, when visitors are warned “Don’t get sick in Hawai‘i”?

I do not pretend to know how to entirely solve our physician shortage problem, but I look at HB 39 and think it could be a positive step in increasing the number of competent healthcare professionals in Hawai‘i, perhaps encouraging existing providers to stay in practice longer, and enticing new providers to join us. If the experts in the field agree, and the statistics from other states are supportive, I hope you will give this pilot project a chance.

Respectfully Submitted,

Roy Takemoto

For Harry Kim
MAYOR

County of Hawai‘i is an Equal Opportunity Provider and Employer.

TESTIMONY OF NAHELANI WEBSTER ON BEHALF OF THE HAWAII ASSOCIATION FOR JUSTICE (HAJ) IN OPPOSITION TO H.B. 39

Hearing: Thursday, January 30, 2020
Room: Conference Room 329
Time: 8:30 am

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My name is Nahelani Webster and I am presenting this testimony on behalf of the Hawaii Association for Justice (HAJ) in opposition to H.B. 39, Relating to Health.

While we appreciate the intent to increase the number of providers of medical services available in our communities, creating a new less qualified medical provider to act in limited capacity as a physician will result in a substandard level of care in some of our areas of most need.

The issue of a statewide shortage of physicians should not be resolved by lowering the qualifications required to provide medical care to our patients. The residency program already allows for a new physician to provide medical care under appropriate supervision and with guidance when they first graduate from medical school. In addition, the supervising physician or medical school is responsible for the insurance coverage for the resident.

The training of new physicians to teach them to become competent to safely provide the best medical treatment for our state is a very important process. It is also a very risky and dangerous time for both the training physician and their patients. We have established residency programs very carefully in order to ensure their knowledge and capacity reaches a level appropriate enough for them to treat and care for patients under supervision.

We raise the question, why did the student not obtain a placement in a residency program? If it is because there are not enough positions then the easy answer is to create more, not to create a lower qualified position that will only expose our patients to increased risk. If the

answer is because they did not meet the competency threshold, then perhaps more education is needed. Placing these individuals in a new category is unnecessary and places our patients at greater risk.

We have medical students graduating but not enough positions to train them to be board-certified physicians. For those medical school graduates who do not obtain a placement in a residency program, we need a more comprehensive way to establish if they are safe and competent to practice in a well-supervised role with appropriate limits. Passing legislation that creates pathways to practice before these issues are worked out is putting the cart before the horse.

Currently medical residents are covered by insurance from the hospital or the medical school. This ensures that should an incident occur then the patient may have an opportunity for recovery and the resident has protection. There is no language in this measure to ensure that the individual would have insurance coverage. This places them at a personal risk to liability.

Underserved rural areas often have a higher population of patients with Medicaid which means in the situation where there is no insurance coverage for the assistant physician then the state will end up covering the cost should anything happen.

In some instances the assistant physician can go without supervision for up to 28 days. This is far too extensive a time period for that individual to operate without a supervising physician.

Scope of practice, oversight and supervision are concerning issues in this measure. We should put safety concerns at the forefront. Respectfully ask this committee to defer this measure.

Thank you for the opportunity to testify.