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February 24, 2020

To: The Honorable Karl Rhoads, Chair,
The Honorable Jarrett Keohokalole, Vice Chair, and
Members of the Senate Committee on Judiciary

Date: Monday, February 24, 2020
Time: 12:15 p.m.
Place: Conference Room 016, State Capitol

From: Scott T. Murakami, Director
Department of Labor and Industrial Relations (DLIR)

Re: S.B. No. 2554 SD1 RELATING TO PUBLIC HEALTH

I. OVERVIEW OF PROPOSED LEGISLATION

SB2554SD1 requires employers to educate employees regarding seizure first aid with information provided by the Department and includes a posting requirement. The DLIR appreciates the intent of this measure, but opposes it as the proposed law would be unenforceable. The Hawaii Occupational Safety and Health Division (HIOSH) can enforce standards or use a general duty clause to help assure safety and health in the workplace. However, enforcing the general duty clause entails meeting specific criteria that serves as a high bar to enforcement.

II. CURRENT LAW

The General Duty Clause (29 C.F.R. § 654) from the OSHA Act of 1970 requires that, in addition to compliance with hazard-specific standards, all employers provide a work environment "free from recognized hazards that are causing or are likely to cause death or serious physical harm." §396-6(a) is the corresponding Hawaii Statute, "Every employer shall furnish to each of the employer's employees employment and a place of employment which are safe as well as free from recognized hazards."

There is no Occupational Safety and Health Administration (OSHA) standards specifically for seizures. HIOSH generally adopts Federal OSHA standards in their entirety. There are instances, however, in which HIOSH has made modifications to conform to Hawaii's laws or to set higher standards.

§396-4 Powers and duties of department includes a section (HRS 396-4(c)(1)) that states, "The department may disseminate through exhibitions, moving pictures, lectures, pamphlets, and any other method of publicity, information to employers, employees and the general public regarding the causes and prevention of industrial accidents and injuries;". The language in this bill is prescriptive (shall) whereas the statute is permissive (may).

§396-4 already contains a provision for chapter 91 rule-making.

III. COMMENTS ON THE SENATE BILL

The DLIR opposes this measure as the intent runs counter to the federal OSH Act and Hawaii Safety and Health Law. The law was designed to address specific hazards through the promulgation of standards. Where no standards exist, then employers can be cited for violation of the General Duty Clause if a recognized serious hazard exists in their workplace and the employer does not take reasonable steps to prevent or abate the hazard.

The following elements are necessary to prove a violation of the General Duty Clause:

1. The employer failed to keep the workplace free of a hazard to which employees of that employer were exposed;
2. The hazard was recognized;
3. The hazard was causing or was likely to cause death or serious physical harm; and
4. There was a feasible and useful method to correct the hazard.

Therefore, the Department opposes this measure.



February 24, 2020

Kenekoa/Senator Karl Rhoads, Luna Ho'omalua/Chair
Kenekoa/Senator Jarrett Keohokalole, Hope Luna Ho'omalua/Vice Chair
Ke Kōmike Ho'okolokolo/Committee on Judiciary
415 South Beretania Street, Conference Room 016
Honolulu, HI 96813

Aloha Chair Rhoads, Vice Chair Keohokalole, and Members of the Committee on Judiciary:

On behalf of the Epilepsy Foundation of Hawaii, we urge your support of Senate Bill 2554. This bill supports a critical priority for the epilepsy community – safety and continuity of care in the event of a seizure. This legislation makes certain that employers educate employees on seizure recognition and proper seizure response.

The Epilepsy Foundation is the leading national voluntary health organization that speaks on behalf of the at least 3.4 million Americans with epilepsy and seizures. Epilepsy Foundation of Hawaii, advocates and provides services for the almost 14,000 individuals living with epilepsy throughout Hawaii. Collectively, we foster the wellbeing of children and adults affected by seizures through research programs, educational activities, advocacy, and direct services. Epilepsy is a medical condition characterized by seizures, which are sudden surges of electrical activity in the brain, that affects a variety of mental and physical functions. Approximately 1 in 26 Americans will develop epilepsy, and approximately 1 in 10 people will experience a seizure, at some point in their lifetime. A seizure can happen to any person, in any place, at any time, and it is vital that members of the public are prepared to appropriately and effectively respond in this very unpredictable event.

Senate Bill 2554 would require employers to educate employees with critical seizure safety information provided by the department of labor and industrial relations or the Epilepsy Foundation's national resource repository. Seizure recognition and first aid training, developed by Epilepsy Foundation of America, and available online or through in-person training provided by Epilepsy Foundation of Hawaii, would come at no additional cost to employers and would educate employees on different seizure types, general seizure first aid, how to recognize a seizure emergency. Knowing what to do in the event of a seizure is just as important as knowing what not to do.

The Epilepsy Foundation of Hawaii and Epilepsy Foundation of America strongly urge your support for Senate Bill 2554.

Sincerely,

A handwritten signature in blue ink that reads "Naomi Manuel".

Naomi Manuel
Executive Director
Epilepsy Foundation of Hawaii

Our mission is to lead the fight to overcome the challenges of living with epilepsy and to accelerate therapies to stop seizures, find cures, and save lives. **Please learn more about our advocacy work at epilepsy.com/advocacy.**

House Committee on Judiciary

Brennan Yamaguchi

State of Hawaii Student (Age 11)

Date: February 24, 2020

Support for SB 2554 SD1 relating to Public Health

As a student and citizen in the State of Hawaii, I want to make sure my fellow members of the community, including my friends who work in or visit state offices and buildings have access to first aid seizure charts and information. I strongly support SB 2554 SD1 which would place first aid seizure charts in shared spaces such as breakrooms, bulletin boards, cafeteria, and other visible areas in State of Hawaii buildings starting with the State Capitol. I would also like brochures and other materials about this same information available in those areas.

While many citizens in the State of Hawaii may not think seizure care applies to them, it does. One in 26 people may be affected by Epilepsy or a similar seizure condition in their lifetime. As of 2019, over 15,000 people in the State of Hawaii and over 3 million in the United States are living in with Epilepsy. Even if they do not have Epilepsy, ten percent of the population may also experience a seizure in their lifetime that could be a result of head trauma like a fall or car accident, another medical condition, or even a high fever. Those with diabetes can also experience seizures.

When I first introduced this bill in person to the Committee for Labor, Culture, and the Arts, I asked the senators present to identify themselves. I also asked the audience to make themselves known if they were a visitor to the State Capitol. I also did research on the Capitol's website counting 25 senators and 11 senate leaders in the State of Hawaii. I explained to the audience that this means 3 to 4 members of the senate body might be prone to having a seizure, and it could even be while they are working! With hundreds of visitors coming to the State Capitol, State libraries, or offices, even more people could experience a seizure while they are at a state building. That means anyone in a committee meeting like this could benefit from the help of having first aid seizure materials available to them.

Senators and other public servants should be able to feel secure in their place of employment. Our state offices, libraries, and other facilities are used by hundreds of members of the community daily. It is our duty to make sure they feel safe in these spaces.

My proposal is simple. By making sure first aid seizure information is placed in state offices and buildings in areas such as libraries, break rooms, bulletin boards, and other shared spaces at the Capitol. We want to create a healthy work environment for our state workers as well as our visitors. I urge the committee to please pass SB No 2554 SD1. Thank you for giving me the opportunity to testify.

SB-2554-SD-1

Submitted on: 2/22/2020 2:44:40 PM

Testimony for JDC on 2/24/2020 12:15:00 PM

| Submitted By | Organization | Testifier Position | Present at Hearing |
|---------------------|---------------------|---------------------------|---------------------------|
| Colby Takeda | Individual | Support | No |

Comments:

I strongly support SB2554 SD1 as it proactively prepares employees to provide seizure first aid through training and educational materials. As a former healthcare employer with over 90 part- and full-time employees, I can confidently say that my staff would have appreciate more materials and training on seizure first aid.

While symptoms and signs of a seizure may vary from person to person, they are typically consistent each individual and may include loss of awareness, mental confusion, speech impairment, paresthesias (abnormal sensations such as numbness or tingling), olfactory, gustatory or visual hallucinations, and/or abdominal discomfort. Empowering employees with the knowledge and skills to not only identify symptoms of a seizure, but also provide appropriate aid, will greatly improve the public health of our communities and save lives.

In addition, this training will further support employees with long-term conditions that greatly increase their risk for seizures, including Epilepsy, more equitable access to supportive work conditions. The Epilepsy Foundation of Hawai'i reports that over 15,000 Hawai'i residents have Epilpesy, and according to the American Epilepsy Society, 1 in 26 people will develop epilepsy or recurring seizures in their lifetime. Please help people save more lives by passing this bill.

Thank you for allowing me to testify in strong support of SB2554 SD1.

Colby Takeda, MPH, MBA

Resident of 96814