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GOVERNOR
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LT. GOVERNOR

STATE OF HAWAII
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LAWRENCE M. REIFURTH
DIRECTOR
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DEPUTY DIRECTOR

**PRESENTATION OF THE
PROFESSIONAL AND VOCATIONAL LICENSING DIVISION**

TO THE HOUSE COMMITTEE ON HEALTH

TWENTY-FIFTH STATE LEGISLATURE
REGULAR SESSION of 2009

Tuesday, February 3, 2009
8:30 a.m.

TESTIMONY ON HOUSE BILL NO. 1823, RELATING TO RESPIRATORY CARE.

TO THE HONORABLE RYAN I. YAMANE, CHAIR,
AND MEMBERS OF THE COMMITTEE:

My name is Celia Suzuki, Program Specialist of the Professional and Vocational Licensing Division, Department of Commerce and Consumer Affairs ("Department").

The Department appreciates the opportunity to testify on House Bill No. 1823, Relating to Respiratory Care.

House Bill No. 1823 creates a new chapter to regulate the practice of respiratory care. Section 26H-6, Hawaii Revised Statutes, requires that new regulatory measures being considered for enactment be referred to the Auditor for a sunrise analysis. The statute further requires that the analysis shall set forth the probable effects of regulation, assess whether its enactment is consistent with the legislative policies of the Hawaii Regulatory Licensing Reform Act, and assess alternative forms of regulation.

Testimony on H.B. No. 1823
Tuesday, February 3, 2009
Page 2

The Department strongly supports a sunrise study on this measure, as mandated by law, before regulating the practice of respiratory care. Thank you for the opportunity to testify on House Bill No. 1823.



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February 2, 2009

To: House Committee on Health
Rep. Ryan I. Yamane, Chair
Rep. Scott Y. Nishimoto, Vice Chair

PLEASE DELIVER TO:

Health Committee

2/3/2009
8:30 a.m.
Room 329

From: Hawaii Medical Association
Gary A. Okamoto, MD, President
Philip Hellreich, MD, Legislative Co-Chair
Linda Rasmussen, MD, Legislative Co-Chair
April Donahue, Executive Director
Richard C. Botti, Government Affairs
Lauren Zirbel, Government Affairs

Re: HB 1823 RELATING TO RESPIRATORY CARE (Establishes licensing and regulatory requirements for practice of respiratory care. Establishes board of respiratory care in the department of commerce and consumer affairs, provides for disciplinary criteria, and penalties.)

Chairs & Committee Members:

Hawaii Medical Association supports this measure as an important element in protecting patients from medical errors by providing assurance that educational requirements and qualifications are met for respiratory practitioners, who currently have no educational requirements by any government agency.

Forty-eight other states have oversight of respiratory care practitioners. This not only provides patient protection, but provides assurance to hospitals and medical professionals who contract with respiratory care practitioners that when they do there is some guarantee that the practitioners meet educational requirements of knowledge for their profession.

Thank you for the opportunity to provide this testimony.

Hawaii Medical Association
1360 S. Beretania St.
Suite 200
Honolulu, HI 96814
(808) 536-7702
(808) 528-2376 fax
www.hmaonline.net

nishimoto2-Bryce

From: catnap@hawaii.rr.com
Sent: Sunday, February 01, 2009 9:26 AM
To: HLTtestimony
Subject: Testimony in Support of HB1823

TESTIMONY IN SUPPORT OF HB 1823,
Relating to Respiratory Care
February 1, 2009

Representative Yamane, Members of the Committee, my name is Joan Loke. Uncle Joe referred to me as Joan of Arc. I am a Respiratory Therapist at Kaiser Permanente Moanalua. I am the PACT Representative in the American Association for Respiratory Care. The PACT team lobbies for respiratory issues in Washington D.C. I would like to present testimony in support of HB 1823 which seeks to establish licensing and regulatory requirements for practice of respiratory care and to create a board of respiratory care.

☐ The trend nationwide is to move patient care outside the hospital. This will be a cost saving move for the hospital and Medicare. At this time, patients cannot gain access to respiratory therapy services outside the hospital. The wording of the Medicare Bill needs to be changed from "direct" to "general" supervision from the doctor. The Ways and Means committee in Washington D.C. would like to be assured that all States are licensed before they approve of the change. Hawaii and Alaska is stalling the process.

☐ We are not recognized by the Federal Government as part of the health team. The Federal Government only recognize licensed professionals such as physicians and nurses on their list. The patients missed out on grants and programs since our professional is invisible.

☐ Hawaii and Alaska are the only States that are not licensed. Respiratory therapists who have problems getting licensed in other States will apply for jobs in Hawaii. We will get the therapists that other States do not want in order to protect their patients.

☐ In a Federal disaster, only licensed personal can cross the line and help disaster victims. Respiratory therapists have no license . We are the first to response in the hospital setting. We cannot do the same outside of the hospital when disaster strikes.

☐ Your decision to grant us our license in Hawaii will affect the outcome of the Bills in the Federal Government.

Respectfully submitted,

Joan Loke
PACT Team Representative for AARC
HSRC

nishimoto2-Bryce

From: steve camara [stevecamara@hotmail.com]
Sent: Sunday, February 01, 2009 4:18 PM
To: HLTtestimony
Subject: Testimony on HB 1823 for 03 FEB 2009

I support HB 1823. My name is Steve Camara and I have been a Respiratory Care Practitioner for over a decade at many hospitals in Honolulu. I know first hand the need for action on this Bill. I befriended a Respiratory Practitioner from the Mainland that shared with me some disturbing news. He told me that his California license was pulled after a Domestic Violence Complaint had been lodged against him by his live in girlfriend. He told me that he had two options for work; Alaska and Hawaii, the only two states that do not have Licensure. He said the choice to freeze or work in Paradise was a no brainer. A few months later, his temper issues flared in the workplace at co-workers. Maybe he is working in Alaska now. I can't help but wonder how scary it was that this guy was running life support equipment. In Hawaii, you need a license to cut hair, but not run life support. Please give us the tools to protect our Aina from bottom tier Respiratory Practitioners running from their past mistakes in the Mainland ; as those tools currently screen other important bedside healthcare professions currently. Thank you for listening.

Windows Live™ Hotmail®:...more than just e-mail. [Check it out.](#)

TESTIMONY IN SUPPORT OF HB 1823

Relating to Respiratory Care

Tuesday, February 3, 2009 @8:30 a.m.

House Committee on Health

Conference Room 329

Honorable Chair Yamane and Members of the Health Committee, my name is Abegail Kopf. I am an instructor in a Respiratory Care Program with over 10 years of experience working and teaching in respiratory care. I would like to present testimony in support of HB 1823 as an educator, but not as a representative of Kapi'olani Community College where I work. The current bill seeks to establish licensing and regulatory requirements for practice of respiratory care.

- **To protect the public, a respiratory care practitioner is the best qualified person to assist a physician in managing patients with breathing disorders.** Students enrolled in the Respiratory Care program at KCC go through seven intense semesters of didactics and clinical rotations. Pulmonologists, anesthesiologists, and intensivists are the only other people in health care who have specific training in dealing with respiratory concerns.
- **Licensure ensures that a patient has a caregiver with adequate training in the respiratory field.** By defining a standard level of optimal care in cardiopulmonary health, accountability and patient safety is improved. Respiratory Care is a very dynamic field with new medications, life-support machines, and monitoring equipment introduced regularly. As an educator, it is my responsibility to ensure that graduates are able to meet the health demands of the public.
- **There is a growing number of people with Chronic Obstructive Pulmonary Disease (COPD) requiring specialized treatment providers.** COPD is a major cause of disability and is the fourth leading cause of death in the nation. The number of deaths resulting from COPD continues to rise while other causes have declined. Licensure ensures that these patients have proper care from appropriately trained professionals.

Respectfully submitted,

Abegail Kopf
Instructor, Respiratory Care Program
Kapi'olani Community College
February 1, 2009

nishimoto2-Bryce

From: mailinglist@capitol.hawaii.gov
Sent: Monday, February 02, 2009 8:45 AM
To: HLTtestimony
Cc: thorton323@aol.com
Subject: Testimony for HB1823 on 2/3/2009 8:30:00 AM

Testimony for HLT 2/3/2009 8:30:00 AM HB1823

Conference room: 329
Testifier position: support
Testifier will be present: No
Submitted by: Tom Horton
Organization: COPD Coalition
Address: 1237 Palolo #4 Honolulu, HI 96816-6202
Phone: 808 734 7996
E-mail: thorton323@aol.com
Submitted on: 2/2/2009

Comments:
TESTIMONY IN SUPPORT OF HB 1823,
Relating to Respiratory Care
February 1, 2009

Representative Yamane, Members of the Committee, my name is Tom Horton I am a member of the COPD Coalition. I would like to present testimony in support of HB 1823, which seeks to establish licensing and regulatory requirements for practice of respiratory care and to create a board of respiratory care.

- As a COPD patient, having prompt, professional respiratory care available outside a hospital environment in a time of civic emergency is of great concern to me and others similarly affected.

Respectfully submitted,

Tom Horton
COPD Coalition

nishimoto2-Bryce

From: Michelle Moy [moym@hawaii.rr.com]
Sent: Monday, February 02, 2009 7:20 AM
To: HLTtestimony
Subject: Testimony on HB 1823

To: House Committee on Health
Representative Ryan I. Yamane, Chair
Representative Scott Y. Nishimoto, Vice Chair

By: Michelle Moy, RN

Re: Testimony on HB 1823 Relating to Respiratory Care for February 3,
2009

Chairs & Committee Members

I am writing to support HB 1823.

I have been a Registered Nurse for 14 years and currently work in the intensive care unit. I frequently call upon the expertise of the Respiratory Care Practitioners when new respiratory technology is introduced or when I need their respiratory assessment and assistance in life threatening situations. I possess a license to practice nursing and therefore I would expect the same of a Respiratory Care Practitioner, given their role in emergent respiratory interventions and advanced technology applications frequently supporting patients being mechanically ventilated.

nishimoto2-Bryce

From: Angel [anelart@yahoo.com]
Sent: Monday, February 02, 2009 6:47 AM
To: HLTtestimony
Subject: Testimony on HB 1823 Relating to Respiratory Care for Feb3,2009

To: House Committee on Health
Representative Ryan I. Yamane, Chair
Representative Scott Y. Nishimoto, Vice Chair

By: April M.Mabe

Chairs & Committee Members:

I am a Registered Respiratory Therapist and have worked in the acute care and home care setting for 8 years. Because the practice of respiratory care in Hawaii is not regulated we attract undesirable and incompetent respiratory care practitioners who have lost their license in other states since Hawaii and Alaska are the only two states without regulation. Please support HB 1823 for the benefit of all individuals needing respiratory services.

February 2, 2009

To: House Committee on Health
Rep. Ryan I. Yamane, Chair
Rep. Scott Y. Nishimoto, Vice Chair

By: Diane Brenessel, BS, D.Ed., RRT, AE-C
Clinical Educator for Respiratory Care

RE: HB 1823 RELATING TO RESPIRATORY CARE on Feb 3, 2009 at 0830

Chairs and Committee Members:

I am writing in support HB 1823. I see my role as not just an educator but as a strong patient advocate ensuring a consistent high level of care delivery that produces positive patient outcomes and promotes patient safety.

I have practiced respiratory care for over 20 years and I have witnessed the role change for the respiratory care practitioner from prior task-driven physician ordering pattern to our current practice that requires critical thinking, dependent assessment and individual clinical judgment in the management of patients suffering from respiratory disorders and diseases. Physicians rely on our clinical assessment and recommendations and they assume all respiratory care practitioners are required to comply with established standards that support on-going education and competency testing and this is not the case.

My role as an educator at my facility is to assist in the orientation of new hires. My observation and concern is that a new hire respiratory care practitioner can pass the didactic and clinical orientation, successfully complete the probation period, and then lapse into previous patterns of behavior that resulted in poor clinical judgment and harm to patients. These types of situations can and should be avoided through licensing where people with these problems are identified prior to employment.

With threats of bioterrorism and pandemic flu outbreaks, it's just a matter of time before Hawaii will be called on to produce resources to deal with these situations. Currently, there is no requirement for respiratory care practitioners to gain the knowledge and competence to be able to deal with these catastrophic respiratory events as addressed in other states.

TESTIMONY IN SUPPORT OF HB 1823

Relating to Respiratory Care

Tuesday, February 3, 2009 @8:30 a.m.

House Committee on Health

Conference Room 329

February 1, 2009

To: House Committee on Health

Rep. Ryan I. Yamane, Chair

Rep. Scott Y. Nishimoto, Vice-chair

By: Mark Sappington RRT

Manager -Respiratory Therapy and Non Invasive Cardiopulmonary Diagnostics

Re: HB 1823 RELATING TO RESPIRATORY CARE

Honorable Chair and Committee Members:

I am in support of HB 1823. This measure seeks to establish licensing and regulatory requirements for practice of respiratory care that would safeguard the care of the respiratory patients in our community.

- Respiratory Therapy has developed into a highly specific field of practice. No other adjunct medical profession assisting the physician goes through the respiratory specific training that is necessary to obtain a credential in RT. That is why medical institutions utilize the expertise of a credentialed Respiratory Therapist. They know what can happen when a critical life function is interrupted by a mistaken medical gas delivery or failure of an intensive care device. These are the worst of medical negligence. Many errors go unseen and unreported.
- The credential serves only a portion of our responsibility to patient care. As 48 other states have recognized, professional regulation assures that not only do we utilize credentialed personnel but we also employ medical practitioners who are morally, ethically, and criminally scrutinized before providing care to our patients and families. In Hawaii Respiratory Therapists can:
 - Have their license revoked in another state and come here to practice.
 - Be fired for ethical issues and hired at another hospital as there is no agency to report to.
 - Test positive for drugs or alcohol and continue to work in the field without treatment or counseling.
 - Can have criminal records that affect safe practice of Respiratory Care.
 - Assume the role of a respiratory employee without a credential.

I come from a healthcare family. My father a physician, my mother a nurse, and my daughter is presently in the Nursing Program at the UH. I have been a Respiratory Therapist for 32 years, with 22 years of that as a Clinical Manager. I consider myself not only a healthcare provider, but also a patient advocate. The safety and care of our patients always comes first. Having some years ago come from a state with legislative regulation I have seen and have been directly involved with cases of employees who are unfit, incompetent, or negligent in the delivery of respiratory care. I am asking this committee to strongly consider the protection of our state's medical patients by supporting HB 1823.

To: House Committee on Health
Representative Ryan I. Yamane, Chair
Representative Scott Y. Nishimoto, Vice Chair

By: Carol Agard RRT, RPFT, FAARC
Hawaii Society for Respiratory Care

RE: HB 1823 Relating to Respiratory Care for February 3, 2009 at 0830

Chairs & Committee Members:

We support the intent of HB 1823.

My name is Carol Agard and I am a Registered Respiratory Therapist, a Fellow with the American Association for Respiratory Care, currently Co-Chair of Legislative Affairs for Hawaii Society for Respiratory Care and the society's past president. I have over thirty years experience as a respiratory care practitioner and I am currently a manager of respiratory cares services.

I have witnessed the evolution of the profession and the expanded scope of practice that includes more invasive interventions and the application of advanced technology that require ongoing education and competency validation to ensure patient safety.

The 1995 Auditor's Report may have been accurate then, but evidence of negligence has caused at least one newborn to suffer severe brain damage leading to a vegetative state and more incidents go unreported. Medical professionals and patients need to be assured that when they require the services of a respiratory care practitioner, that there are government standards that allow them to provide the services and such standards do not exist currently. This addresses a major concern of the previous Auditor's Report.

This legislation will provide consumers, medical professionals and government institutions that utilize the services of respiratory care practitioners, protection that currently does not exist. Currently there are no government requirements for educational standards, sanctions for negligence, or license requirement.

As the local affiliate for the American Association for Respiratory Care, we are the patient's advocate facilitating processes to educate and ensure safety for patients and the public relating to the standards, practice and delivery of respiratory care in any setting.

Due to the urgent nature of this regulation, coupled with our desire to be fiscally responsible, we have submitted for your review a redraft of the legislation that proposes to eliminate the independent board and place the licensing for respiratory care under the DCCA with the support of an appropriate advisory committee. This change also addresses a major concern of the last Auditor's report.

Testimony on HB1823 for Tuesday, February 3, 2009 to House Committee on Health @
8:30 A.M. in conference room 329

House Committee on Health
Rep. Ryan Yamane, Chair
Rep Scott Nishimoto, Vice Chair

By: Edmund J. Borza, BA, RRT-NPS, CPFT
Hawaii Society for Respiratory Care
President-Elect, co-chair Legislative committee

Re: HB 1823 RELATING TO RESPIRATORY CARE

Chairs & Committee Members:

I support HB 1823. The measure is necessary to protect the people of Hawaii from negligent, untrained or unscrupulous respiratory therapists. The scope of practice of respiratory care professionals (RCPs) includes many things that put our most vulnerable citizens at risk from incompetent or irresponsible practitioners. There is currently no laws or regulations that protect against such negligent or malicious behavior.

I have practiced the art and science of respiratory care in Hawaii for 25 years, my entire adult life. I have worked as a clinician specializing in the care of infants and children as well as a clinical manager and as an educator. I am keenly aware of how the practice of respiratory care has changed over the last 25 years. In the 1980's and before, RCPs largely followed the direct orders of a physician and worked with mechanical devices with few controls. Today, RCPs work under protocols, often assessing patients' needs and treating without direct physician supervision. The modern ventilators and life support equipment the RCP works with are far more complex and sophisticated than the simple mechanical devices of previous decades and the dangers of improper use can cause the patient harm or even death.

As a leader of the RCP community, I am aware of examples of respiratory care being provided by "therapists" without national credentials or RCP's who have falsified credentials. I am also aware of therapists coming to Hawaii from mainland states, who it was later discovered, had lost their license in the other state due to disciplinary action. As one of only 2 states left in the union without RCP license laws, our state has become a target for RCPs who can't work elsewhere. It is evident that the employers cannot always screen adequately for such issues. In fact, often the license boards of other states will only share disciplinary action with other license boards, so it is sometimes impossible for Hawaii based employers to access the critical data.

I know the legislature has looked at this issue in the past and decided that the respiratory care profession did not require regulation, but I feel the profession and environment have changed considerably over the last 10-15 years and that the State of Hawaii owes it's citizens the protection that HB1823 offers.

Thank you for your thoughtful consideration and vote in favor of HB1823.

Sincerely,

Edmund J. Borza, BA, RRT-NPS, CPFT

**TESTIMONY IN SUPPORT OF HB 1823,
Relating to Respiratory Care
February 2, 2009**

Representative Yamane, Members of the Committee, my name is Christopher Johnson, MD. I am a physician who is trained in Critical Care Medicine, Pulmonary Medicine and Internal Medicine and am the Director of the Critical Care Unit at the Kaiser Moanaloa Hospital. I would like to present testimony in support of HB 1823, which seeks to establish licensing and regulatory requirements for practice of respiratory care and to create a board of respiratory care.

- Respiratory Therapists are an integral part of the Health Care Team caring for our patient's here in Hawaii.
- To ensure consistent standards, licensure and regulatory requirements as well as a Board of Respiratory Care are important so the people of Hawaii can be assured those Respiratory Therapists caring for them are trained to the highest standards and are providing the finest of care.
- Respiratory Therapists deserve the stature and recognition that licensure brings and the ability to work with general rather than direct physician supervision to help in more effectively meeting our patient's health care needs.

Respectfully submitted,

Christopher Johnson, MD
Director, Critical Care Medicine
Kaiser Foundation Hospital
Honolulu, HI

February 2, 2009

To: House Committee on Health
Rep. Ryan I. Yamane, Chair
Rep. Scott Y. Nishimoto, Vice Chair

By: Jo Ann Ikehara, BS, CRTT, CPFT, RRT
Honolulu, Hawaii

RE: HB 1823 RELATING TO RESPIRATORY CARE on 2/3/09 at 0830

Chairs and Committee Members:

I support the intent of HB 1823 to regulate the practice of respiratory care in the interest of patient safety. I am a registered respiratory therapist (RRT) who has worked on Oahu for over 30 years. In 1975 I graduated from Kapiolani Community College with an AS degree in what was then called Inhalation Therapy. I took my first national board exam that same year earning the designation Certified Respiratory Therapy Technician (CRTT) from the National Board for Respiratory Therapy (NBRT), the body that assesses the professional competence of respiratory therapists. In 1980, I earned the designation of Registered Respiratory Therapist (RRT) by passing two required exams, a written and clinical simulation. Then in 1991 when my interests expanded to include respiratory diagnostics, i.e. pulmonary function testing, I obtained the Certified Pulmonary Function Technologist credential from the now National Board for Respiratory Care (NBRC).

As has its name, this allied health specialty has evolved over the past 55+ years. From the administration of simple oxygen and aerosol therapies, chest physiotherapy and suctioning of the respiratory tract in the wards of hospitals, the practice now includes the bedside management of the breathing or life support equipment and therapies employed via physician sanctioned protocols for care, in both hospital and home settings. Physicians and other members of the healthcare team have come to rely on the assessment skills and expertise of respiratory therapists. The names of our professional association for respiratory therapists, our education programs and our competency testing organization have all changed to more accurately reflect the expanded role and responsibilities we have in the various settings of care. Forty eight states, including the District of Columbia and Puerto Rico have acted to protect their publics by enacting licensure.

For the past 30+ years, I have worked in a variety of settings as diverse as a pulmonary (lung) physician's office, hospitals, intermediate care and skilled nursing facilities, and patients' homes. There is no mandate for me to retest and re-demonstrate my competence to practice. That is no longer the case however for those who have taken their board exams after 2004. The NBRC now mandates continuing education to maintain one's credential. I do not have to comply with that mandate. Yet testing and re-demonstrating competency should be just as important for me, as the art and science of respiratory care has evolved and become more technologically complex. If I am to work in settings where additional expertise is needed, I need to be qualified by training and return demonstration that I am able to safely provide the quality care that patients deserve and expect. Depending on my work setting and how I represent myself, the workplace orientation process may or may not satisfactorily assess this, potentially putting those in my care in jeopardy.

Therefore, I ask that you support the intent of this bill, to regulate the practice of respiratory care.