

**PRESENTATION OF THE
BOARD OF PUBLIC ACCOUNTANCY**

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

**TWENTY-FIFTH LEGISLATURE
Regular Session of 2010**

**Wednesday, February 3, 2010
2:00 p.m.**

**TESTIMONY ON HOUSE BILL NO. 2731, RELATING TO PUBLIC
ACCOUNTANCY.**

**TO THE HONORABLE ROBERT N. HERKES, CHAIR,
AND MEMBERS OF THE COMMITTEE:**

My name is Thomas Ueno and I am the Vice-Chairperson of the Board of Public Accountancy ("Board"). Thank you for the opportunity to present testimony on House Bill No. 2731, Relating to Public Accountancy.

The purpose of this bill is to provide a mechanism for firms engaged in the practice of public accountancy to undergo peer review on a regular basis; and to grant the Board appropriate power to regulate the peer review process.

The Board has not yet held a meeting at which the language or substance of this bill has been available; therefore, there is no Board position on this measure at this time. The Board is scheduled to meet next Thursday, February 11, 2010, and will review this proposal in order to formulate its position, after which we will be prepared to report the Board's position to this Committee.

Although we have no official position at this time, the Board has worked over the past years with a number of interested parties, including the Hawaii Society of Certified Public Accountants, the Hawaii Association of Public

Accountants, the Accountants Coalition, and the Department of Commerce of Consumer Affairs, in an ongoing effort to craft legislation that would establish and implement a peer review program, which would require satisfactory compliance by certified public accountants and certified public accountancy firms for the renewal of permits to practice public accountancy. The Board and its partners continue to seek to develop a viable program that would address the critical concerns of all members and fulfill the Board's mandate of regulating the profession in order to sustain and enhance public protection.

It is the Board's understanding that the establishment and implementation of a peer review program in this State and requiring completion of a satisfactory peer review as a condition of licensure would align Hawaii with at least forty-two (42) United States jurisdictions that require peer review for their certified public accountancy firms and individuals to become licensed and/or to maintain licensure. The programs of a number of these forty-two jurisdictions, as well as the national program of the American Institute of Certified Public Accountants, have been examined in depth by the Board and its partners to better determine the provisions that should be included in Hawaii's program.

Thank you for the opportunity to testify. I will be happy to answer any questions you may have.



HAWAII ASSOCIATION OF PUBLIC ACCOUNTANTS

Organized August 7, 1943
P.O. BOX 61043
HONOLULU, HAWAII 96839



Before the Committee on Consumer Protection & Commerce

Wednesday, February 3, 2010 at 2:00 p.m.

Conference Room 325

Re: Opposition to HB2731

Relating to Public Accountancy

John W. Roberts, MBA, CPA

Chair Herkes, Vice Chair Wakai, and committee members:

I am a certified public accountant (CPA) and State President of the Hawaii Association of Public Accountants (HAPA). I am also a principal of Niwao & Roberts, CPAs, a P.C.

Although HAPA is in favor measures to improve the quality of the accounting profession, HAPA's board opposes the language of HB2731 for the following reasons:

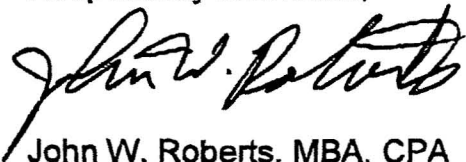
1. This bill is premature in that it refers to a requirement for peer review in conjunction with the renewal of firms' permits to practice. In fact, CPA firms have not yet been issued firm permits to practice since the Board of Public Accountancy still has not issued final rules on the guidelines for issuance of firm permits to practice. (If you recall from last year's testimony on firm permits, the Board failed to issue rules for firm permits even though the requirement for firm permits had been in the Hawaii Revised Statutes for approximately 20 years.)
2. It appears that the vast majority of CPA firms in Hawaii performing audit work are already undergoing peer review voluntarily for educational and quality control purposes. CPA firms doing attest work are required to undergo peer review as a requirement for membership with the AICPA. The AICPA peer review program was established as a voluntary peer review program that was meant to be educational, not punitive (where someone loses his/her CPA license) and regulatory.
3. There is no definition of "attest" work or "peer review" in the Hawaii Revised Statutes.
4. We strongly object to delegating to the Board of Public Accountancy the authority to establish guidelines for peer review and the ability to exempt certain CPA firms from the requirement of a peer review. The current Chair and most of the current Board members are partners or former partners, former managers, or former employees of

the Accountants' Coalition (large international CPA firms). The Coalition's position in the past 10 or more years has been to exempt their Hawaii offices from the peer review requirement, even though they perform a significant amount of Hawaii audits. That would mean that potentially only the local, smaller Hawaii CPA firms would be subject to the mandatory peer review requirement as a condition for licensing. In addition, many of the current Board members are tax practitioners or consultants, not auditors, and are not familiar with the peer review process. If peer review is made mandatory, the provisions should be specified by statute, not rules.

5. The HSCPA is currently the only organization in Hawaii that administers peer review for a fee. The HSCPA is also the organization that wishes to have mandatory peer review made a requirement for CPA firm licensing. If mandatory peer review is required, the HSCPA should allow nonmembers to undergo peer review without having to join the HSCPA or pay more fees than what a member normally is charged.
6. To our knowledge, there have been no complaints to the Board of Public Accountancy in the last 10 years on audit failures from a firm that has not undergone peer review.
7. The CPA firms that experienced major audit failures in the last 10 years (e.g., Enron, Global Crossing, etc.) were peer reviewed. Peer review did not stop the audit failures.
8. As soon as the rules for firm permits are promulgated, CPA firms will have to pay fees of approximately \$250 for firm permits, in addition to individual CPA license fees and individual CPA permit-to-practice fees. Since most CPA firms performing attest work already are undergoing peer review, assessing additional administrative fees to CPA firms (in addition to the thousands of dollars they pay to peer reviewers and the HSCPA) is unduly burdensome to CPA firms in these current economic times. These additional administrative costs will be passed on to consumers when they can least afford to pay them.
9. In the past, our organization has been concerned that proposed peer review legislation had not addressed the concept of due process for licensees who may lose their right to practice due to the mandatory peer review requirement. Proper appeal procedures need to be established, and these procedures should be specified by statute, not rules.
10. We question whether the Board of Public Accountancy and the Department of Commerce & Consumer Affairs (DCCA) have adequate resources to administer a peer review program.

Thank you for your consideration of the above.

Respectfully submitted,



John W. Roberts, MBA, CPA
HAPA State President

**NIWAO
&
ROBERTS**

Certified Public Accountants, A Professional Corporation

Before the Committee on Consumer Protection & Commerce

Wednesday, February 3, 2010 at 2:00 p.m.

Conference Room 325

Re: Opposition to HB2731

Relating to Public Accountancy

Marilyn M. Niwao, J.D., CPA

Chair Herkes, Vice Chair Wakai, and committee members:

I am a licensed certified public accountant (CPA) and attorney in the State of Hawaii. I am also a principal of Niwao & Roberts, CPAs, a P.C. Our firm has voluntarily obtained on-site peer reviews from 1990, when it was first required for membership in the AICPA.

I support measures to improve the quality of the accounting profession in Hawaii. However, I oppose the language of HB2731 for the following reasons:

1. This bill is premature in that it refers to a requirement for peer review in conjunction with the renewal of firms' permits to practice. In fact, CPA firms have not yet been issued firm permits to practice since the Board of Public Accountancy still has not issued final rules on the guidelines for issuance of firm permits to practice. (If you recall from last year's testimony on firm permits, the Board failed to issue rules for firm permits even though the requirement for firm permits had been in the Hawaii Revised Statutes for approximately 20 years.)
2. Peer review was developed and approved by AICPA members as an educational tool for CPA firms, and was not meant to be regulatory and punitive. It is a check of a firm's system of quality control.
3. Peer review is subjective and findings may not be consistent from firm to firm.
4. Consumers have recourse for substandard work by CPA firms, and that is through litigation.

5. The Board should not be delegating its peer review (or quality review) function to organizations since there is currently only one trade organization, the HSCPA, that administers peer reviews for its members, for a fee. There are CPAs who are not members of the HSCPA and who do not wish to become HSCPA members. Accordingly, the Board's peer review committee should also provide peer review for CPA firms at a low cost if peer review becomes a mandatory requirement for CPA firm licensing.
6. The Board should not have the authority to exempt CPA firms from peer review under Section 466-13 (b)(3) as proposed – all CPA firms performing attest work in Hawaii should be required to have their Hawaii offices or Hawaii work peer reviewed. Otherwise, the requirement for peer review is discriminatory against small and medium-sized local CPA firms, who will be the only ones at risk for losing their CPA firm's permit to practice because of the peer review requirement.
7. The Board should be allowed to provide extensions of time to obtain a peer reviews in limited circumstances (i.e., health issues of the firm principals or circumstances that are beyond the control of the CPA firm).
8. I have had the opportunity to discuss mandatory peer review with small firm practitioners from other states as a board member of a national accounting organization. When peer review became mandatory in one state, for example, many small firm practitioners gave up attest work because of the cost of peer review (peer reviewers in the state raised their prices to perform peer review). Therefore, the cost of requiring peer review for CPA firms performing attest work should be considered, and any administrative fees assessed should be kept low.
9. To my knowledge, there have been no complaints to the Board of Public Accountancy in the last 10 years on audit failures from a firm that has not undergone peer review.
10. The CPA firms that experienced major audit failures in the last 10 years (e.g., Enron, Global Crossing, etc.) were peer reviewed. Peer review did not stop the audit failures.
11. Due process provisions should be added to insure that proper appeal procedures are available to CPA firms who fail peer review.

Should this committee decide to pass this bill despite the above objections, our firm respectfully requests the following:

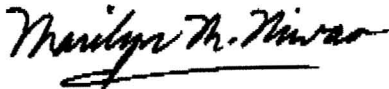
1. All firms doing business in Hawaii and performing attest work should be required to have peer review or a quality review for their Hawaii offices or Hawaii business. Peer review should not be made a requirement only for local Hawaii CPA firms, and mandatory peer review should apply to all CPA firms who perform attest work and who obtain Hawaii CPA firm permits to practice.
2. The Board should not have the authority to exempt CPA firms from the requirement of peer review, for those firms performing attest work. Doing so will mean that only certain local CPA firms will be at risk for losing their CPA firms' permit-to-practice. The Board should only have the authority to provide for extensions of time for firms to complete their peer review or quality review inspections in light of health or other

hardship circumstances that are beyond a firm's ability to complete prior to obtaining the firm's permit to practice.

3. Definitions should be added for "peer review" and "attest".
4. Should a CPA firm fail peer review or a quality review inspection, due process provisions should be provided to allow for appeals prior to the denial of a CPA firm's permit-to-practice.
5. A quality review inspection program should be conducted and administered by the Board of Public Accountancy and the Department of Commerce & Consumer Affairs, not by any trade or other organization in order to protect privacy rights and avoid conflict of interest problems inherent in peer reviews.
6. If a trade or other organization is allowed to conduct peer review as a requirement for issuance of CPA firm permits, those records should also not be subject to discovery.

Thank you for your consideration of the above.

Respectfully submitted,



Marilyn M. Niwao, J.D., CPA



Taketa, Iwata, Hara & Associates, LLC

Certified Public Accountants & Consultants

101 Aupuni Street, Suite 139

Hilo, Hawaii 96720-4260

Before the Committee on Consumer Protection & Commerce

**Wednesday, February 3, 2010 at 2:00 p.m.
Conference Room 325**

Re: Opposition to HB 2731

Relating to Public Accountancy

Testimony of Gregg M. Taketa

Chair Herkes, Vice Chair Wakai and committee members:

I respectfully ask that you vote NO on HB 2731.

I am a partner in the CPA firm of Taketa, Iwata, Hara & Associates, LLC in Hilo and the immediate past State President of the Hawaii Association of Public Accountants (HAPA). I am also a member of the Hawaii Society of Certified Public Accountants (HSCPA) and the American Institute of Certified Public Accountants (AICPA). I oppose HB 2731 that amends Section 466-13 of the Hawaii Revised Statutes to expand the scope of the Board of Public Accountancy (Board) peer review committee's review of publicly available professional attest work to all attest work and to require peer review in conjunction with the renewal of a CPA firm's permit to practice due to the following reasons:

- **The Board has never taken action under Section 466-13.** Based on my review of the minutes to Board meetings over the past four years and discussions with a past Board member that served from 1997 to 2005, the Board has not appointed a peer review committee to review publicly available professional attest work of CPA firms on a random periodic basis as provided under the current Section 466-13 of the Hawaii Revised Statutes. As it implies, publicly available professional attest work is widely used by third parties and results in the greatest risk to consumer protection. If the Board has not taken action on reviewing publicly available professional attest work one can assume that the Board did not perceive a need to do so. Consequently, it can also be concluded that it is not necessary to expand the scope of Section 466-13 to other attest work that does not fall under the definition of "publicly available professional attest work, which would be less widely relied upon by third parties.
- **The guidelines and procedures for mandatory peer review should be created by statute rather than rules adopted by the Board.** The rules and procedures to be adopted by the Board, as mentioned in HB 2731 are far-reaching and cover areas never fully discussed before by all of the stakeholders. The statute should also include due process for firms that receive an unfavorable peer review and the process of correcting such unfavorable peer reviews.
- **The effective date of January 1, 2012 is unrealistic.** Given the fact that the Board of Public Accountancy has taken over two years to draft amendments, hear comments from the public

Gregg M. Taketa, CPA • Brian M. Iwata, CPA • Janet W. Hara, CPA

Tel (808) 935-5404 Fax (808) 969-1499 E-mail: info@tihcpa.com Website: www.tihcpa.com

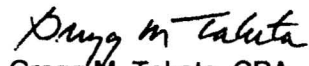
and licensees, and approve amendments to existing rules that are considered to be housekeeping and nonsubstantive in nature, more time will be needed to carry out HB 2731, if passed.

As an example of a more realistic time frame, Illinois passed mandatory peer review in 2006 with a requirement that firms submit their peer review report for permit renewal as of September 30, 2012.

I urge the committee to oppose HB 2731 for these reasons.

Thank you for this opportunity to testify.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Gregg M. Taketa".

Gregg M. Taketa, CPA

Brian M. Iwata, CPA
101 Aupuni St., #139
Hilo, HI 96720

February 2, 2010

The Honorable Representative Robert N. Herkes, Chair
The Honorable Representative Glenn Wakai, Vice Chair
Committee on Commerce, Consumer Protection, and Housing
Hawaii State Capitol, Conference Room 325
415 South Beretania Street
Honolulu, HI 96813

Re: **Opposition to HB 2731**
Relating to Public Accountancy

Chair Herkes, Vice-chair Wakai, and committee members:

I oppose the requirements of HB 2731.

It is my understanding that the quality review committee included under the HRS 466 has not been used for many years and to now change the committee to a peer review committee when Hawaii does not have a peer review program is again unnecessary.

I ask that your committee oppose passing HB 2731 because your time and resources should be directed to other more important issues then this.

Respectfully submitted,



Brian M. Iwata, CPA

E. Diana Burg, MBA, CPA
47-158 Mapele Way
Kaneohe, HI 96744

House Committee on Consumer Protection & Commerce
Wednesday, February 3, 2010, 2:00 p.m.
Conference room 325

Testimony Opposing HB2731 and HB 2827

Dear Chair Herkes, Vice-Chair Wakai and Committee Members:

I strongly oppose the mandatory peer review requirement for CPAs required by HB 2731 and HB 2827. If this bill passes you will be taking away my CPA license and probably driving me out of business. And the cruelest cut is that this requirement will not do what its advocates purport that it will do. Advocates do not provide measurable evidence of additional public protection created by this bill. While the accounting profession has taken a beating for actions of its wild, irresponsible members, these bills will not measurably add to the protection already in place due to the Sarbanes Oxley Act and to AICPA member imposed requirements.

In fact, the public will be harmed by increasing the cost of providing service. This predictable result will occur because the direct cost of peer review will need to be passed on in the fees charged particularly to small Hawaii business. There are items that a peer review examines such as written personal policies that small firms many not have, so those firms will either fail those parts or incur cost to create these items. There will be indirect increases resulting from the cost that the State will likely assess CPAs due to the additional cost of imposing this new requirement. There will also be additional costs as the pool of firms offering service declines since smaller firms may decide to stop offering service due to the cost increases leaving a smaller pool of higher cost firms. I will be one small firm driven out of business.

What segment of the public will benefit? Contractors are required to submit compilations in order to be licensed. Many times these are new firms or individuals that have few assets. These contractors need very little work so reasonable fees can be charged. This will change if peer review is mandatory. It will cost more to for contractors to be licensed which will mean that it will cost more to hire a contractor and there will be less licensed contractors.

This is unnecessary anti-competitive regulation that destroys small CPA firms and harms the public.

There are 225 similar
testimonies in support
of HB 2731.

Copies of these
testimonies were
provided to the chair
for consideration and
not provided to
members in order to
reduce and not recycle.

HB 2731 Relating to Public Accountancy – Peer Review Committee	Position
Young Brothers – Roy Catalani	Support
William L. Wong CPA & Associates, Inc-William Wong	Support
Gary T. Nishikawa	Support
Ron Heller	Support
Ross Murakami	Support
Lee Rousslang	Support
Andrew Kurata	Support
Krista Stanfill	Support
Shannon Asato	Support
Alyssa Oshiro	Support
Brandon Ogimi	Support
Anna M. Mori	Support
Kyle Starmer	Support
Grace C.M. Lee	Support
Krystal Ching	Support
Marc E. Rousseau	Support
Keith Asato	Support
Hanim Sanders	Support
Daniel H. Devaney IV	Support
Lloyd Oshiro	Support
Jody Teruya	Support
Ricky Hernandez	Support
Garet Sasaki	Support
Chris Mashiba	Support
Shirley Choi	Support
Gary Kuba	Support
Yuka Tarui	Support
Laura Bresnahan	Support
Christoper T. Harrison	Support
Robin Freitas	Support
Jamse Nakayama	Support
Deanna Awa	Support
Luther Beck	Support
Stuart Burnham	Support
Adam Campbell	Support
Brenda F. Cutwright	Support
Lawrence J. Cutwright	Support
Jonathon K. Dalit	Support
Roger N. Epslein	Support
Peter Hanashiro	Support
Rodney M. Harano	Support
Robert Hatanaka	Support
Mark Hayes	Support
Marsha Higashi	Support
Krystal Hirose-Janicki	Support
Yoon Hwang	Support

Reid Ikemori	Support
Dustin Ino	Support
Sandra Kamiya	Support
Dori Kaneshiro	Support
Kent Kasaoka	Support
Joella Kawamoto	Support
Richard C. Keene	Support
Kara Kitazaki-Chun	Support
Lisa Kong	Support
Valerie K. Kono	Support
Raymond Koo	Support
Julie V. Layugan	Support
Rachel Ledford	Support
Kara lee-Maeda	Support
Jenny Lemaota	Support
Catherine Madden	Support
Suzanne Miller	Support
Sean Mochizuki	Support
Susan Moore	Support
Dayle N. Murakami	Support
Erin Nakamoto	Support
Denny Nakayama	Support
Timothy Ng	Support
Darryl Nitta	Support
Barbara I. Nomura	Support
Martha Norton	Support
Patrick H. Oki	Support
Rhea Ortega	Support
Truddy Lynn Pajinag	Support
Luz Peirson	Support
Joshua Penick	Support
Kahina Perkins	Support
Mary Jean Saguid	Support
Juliann Saito	Support
Matthew Sakamoto	Support
Dallas Shiroma	Support
Derrick Shiroma	Support
Donna Shiroma	Support
Kurtis Sumida	Support
Kimberly Sung	Support
Travis Tamura	Support
Del Tanabe	Support
Maria Tarmoun	Support
Cheryl Tasaki	Support
Kimberly Teruya	Support
Howard S. Todo	Support
Kim Tomlinson	Support
Loren Tsugawa	Support

Kent K. Tsukamoto	Support
Nadine Uratsuka	Support
Barbara Watanabe	Support
Harriet Watanabe	Support
Carleton L. Williams	Support
Amanda Wydra	Support
Thomas Yamachika	Support
Danielle Yanagihara	Support
Cindy Yee	Support
Meagan Yoneshige	Support
Garret Yoshimi	Support
Jason Yoshimi	Support
Harlan Batac	Support
Aedward Los Banos	Support
Shelah Aczon	Support
Charise Shigeta	Support
Burt Yoneshige	Support
Derek Moore	Support
Ashlee Kishimoto	Support
Karen Arakaki	Support
Ryan J. Cutwright	Support
Laura Yoshida	Support
Ryan Wilson	Support
Eric Stojkovich	Support
Kristi Lefforge	Support
Edward Kosaki	Support
May Tay-Chang	Support
Dallas Weyand	Support
Helen Kawano	Support
Geri Yara	Support
Jennifer Scherrman	Support
Roy Ishioka	Support
Thu Nguyen	Support
James Merrill	Support
Shelly Swan	Support
Clifford Isara	Support
Russell Adkins	Support
Brett Aka	Support
Rodney Akamine	Support
Terence Akamine	Support
Regina Akpinar	Support
Brent H.Arakaki	Support
Grace Basilio	Support
Chuck Blandford	Support
Keric Chang	Support
Lawrence K.Y. Chang	Support
Michael Ching	Support
Judith Chock	Support

Ben Choi	Support
Kathleen R. Clark	Support
Catha Lee Combs	Support
Terri Fujii	Support
Ernest H. Fukeda, Jr.	Support
Chris Gossert	Support
Greg Hanna	Support
Ramona G. Hincki	Support
Roan K. Hirose	Support
Connie Ho	Support
Byron Ige	Support
Valerie Lyn Ikemori	Support
Lorie S. Ishii	Support
Horwarth Kam and Company	Support
Michele A. Kato	Support
Keriann Kau	Support
Robert S. Kawahara	Support
Randall T. Kawano	Support
Laurie Kawasaki	Support
Liyanne Kimura	Support
Brent Kobayashi	Support
Jodi Lam	Support
Tony Lau	Support
Nathan Lee	Support
Karen Lei	Support
Wendy Manuel	Support
Brian Marting	Support
Linda Merris	Support
Wesley Mikuni	Support
Marc Miura	Support
Jason Nagai	Support
Michael Y. Nakamoto	Support
Sean Nakamura	Support
Grayson Nose	Support
Roderick Nystul	Support
Sondra Ouye	Support
Christine Perez	Support
Carolyn Roberts	Support
Lawrence D. Rodriguez	Support
Megumi Sasada	Support
Randy Shinagawa	Support
Edward D. Sultan	Support
Mitchell Taira	Support
Stephanie Tancayo	Support
Randal Taniguchi	Support
Allison Toma	Support
Dennis M. Tsuhako	Support
Kenneth T. Uemura	Support

Robin Uson	Support
Hongchay Vixaysack	Support
Charlie Wicklund	Support
Craig Watanabe	Support
Joseph L. Wikoff	Support
Glenn Yee	Support
Jennie Y. M. Yu	Support
Chris Yuen	Support
Deanna Alices	Support
Anne Butac	Support
Erin Eno	Support
Karl Fujii	Support
Jennifer Gee	Support
Eva Hang	Support
Kristen Elaine Hauanio-Tonogan	Support
Elizabeth Koo	Support
Curtis Nakashima	Support
Deneen Nakashima	Support
Mike Nitta	Support
Gale Oberg	Support
Ruth Ono	Support
Kristoffer F. Pascual	Support
Shan-Mei Phillips	Support
Alicia Sitan	Support
Kenneth Stanley	Support
Amy Sugihara	Support
Lin Sun	Support
Dwayne Takeno	Support
Jonathan A. Townsley	Support
Dustin Verity	Support
Tim Wong	Support
Darrell Yamagata	Support
Craig Yamasaki	Support
Donald Yannell	Support
Petition with 37 names and signatures	Support

A BILL FOR AN ACT

RELATING TO PUBLIC ACCOUNTANCY.

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

1 SECTION 1. The purpose of this Act is to require firms
2 engaged in the practice of public accountancy to undergo peer
3 review on a regular basis, as regulated by the state board of
4 public accountancy.

5 SECTION 2. Section 466-7, Hawaii Revised Statutes, is
6 amended by amending subsection (d) to read as follows:

7 "(d) All firms shall obtain a permit to practice. The
8 board may issue or renew a permit to actively engage in the
9 practice of public accountancy to any firm ~~[which]~~ that submits
10 a completed application and demonstrates qualifications as
11 prescribed by the board~~[-]~~; provided that the board shall not
12 renew the permit of a firm that is not in compliance with the
13 peer review requirement under section 466-13."

14 SECTION 3. Section 466-13, Hawaii Revised Statutes, is
15 amended to read as follows:

16 "\$466-13 ~~[Quality]~~ Peer review ~~[committee]~~. (a) The
17 board ~~[may]~~ shall appoint a ~~[quality]~~ peer review committee to
18 review the ~~[publicly available professional]~~ attest work of



1 circumstances under which a firm may be exempt from
2 the requirement of peer review.

3 Neither the proceedings nor the records of the ~~[quality]~~
4 peer review ~~[committees]~~ committee shall be subject to
5 discovery. Except as hereinafter provided, no person in
6 attendance at a meeting of the committee shall be required to
7 testify as to what transpired at the meeting; provided that the
8 statements made by any person in attendance at the meeting who
9 is a party to an action or proceeding the subject matter of
10 which was reviewed at the meeting, shall be subject to
11 discovery."

12 SECTION 4. The state board of public accountancy shall
13 adopt rules, pursuant to chapter 91, Hawaii Revised Statutes,
14 establishing requirements and procedures for peer reviews of
15 public accountancy firms, as described in section 466-13(b) in
16 section 3 of this Act.

17 SECTION 5. Statutory material to be repealed is bracketed
18 and stricken. New statutory material is underscored.

19 SECTION 6. This Act shall take effect upon its approval;
20 provided that sections 2 and 3 of this Act shall take effect
21 upon:



Report Title:

Public Accountancy Firms; Peer Review

Description:

Requires public accountancy firms to undergo peer review on a periodic basis, following the adoption of rules for peer review and firm permits.

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



**PRESENTATION OF THE
BOARD OF PUBLIC ACCOUNTANCY**

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

**TWENTY-FIFTH LEGISLATURE
Regular Session of 2010**

**Wednesday, February 3, 2010
2:00 p.m.**

**TESTIMONY ON HOUSE BILL NO. 2827, RELATING TO PUBLIC
ACCOUNTANCY.**

**TO THE HONORABLE ROBERT N. HERKES, CHAIR,
AND MEMBERS OF THE COMMITTEE:**

My name is Thomas Ueno and I am the Vice-Chairperson of the Board of Public Accountancy ("Board"). Thank you for the opportunity to present testimony on House Bill No. 2827, Relating to Public Accountancy.

The purpose of this bill is to require firms engaged in the practice of public accountancy to undergo peer review on a regular basis as regulated by the state board of public accountancy.

The Board has not yet held a meeting at which the language or substance of this bill has been available; therefore, there is no Board position on this measure at this time. The Board is scheduled to meet next Thursday, February 11, 2010, and will review this proposal in order to formulate its position, after which we will be prepared to report the Board's position to this Committee.

However, as this Committee is aware, and each of the parties interested in this legislation is aware, the Board has continually supported and actively worked toward the establishment of a viable peer review program that would require

satisfactory compliance by certified public accountancy firms for the renewal of firm permits to practice. In this work over the past years, the Board and its partners were especially mindful to focus efforts to address the critical concerns of all contingencies in order to fulfill the Board's mandate of regulating the profession in order to sustain and enhance public protection.

The establishment and implementation of a peer review program in Hawaii and requiring completion of a satisfactory peer review as a condition of licensure would align our State with the significant majority of U.S. states and jurisdictions that require peer review for their certified public accountancy firms and individuals to become licensed and/or to maintain licensure. In examining these other states' programs, as well as the national peer review program of the American Institute of Certified Public Accountants, the Board and its constituents have worked toward identifying the provisions, or "best practices" that should be included in Hawaii's program.

The recent adoption of the Board's comprehensive revision of its administrative rules has laid the foundation for the implementation of a peer review program by requiring CPA firms to obtain and maintain permits to practice public accountancy in Hawaii. This regulatory mechanism may provide the means by which a viable peer review program could be implemented.

Thank you for the opportunity to testify. I will be happy to answer any questions you may have.

Ronald I. Heller
700 Bishop Street, Suite 1500
Honolulu, Hawaii 96813

phone 808 523 6000 fax 808 523 6001
rheller@torkildson.com

**TESTIMONY BEFORE THE HOUSE COMMITTEE
ON CONSUMER PROTECTION & COMMERCE**

Re: House Bills 2731 and 2827

**Wednesday, February 3, 2010 at 2:00 pm
State Capitol, Conference Room 325**

Chair Herkes, Vice-Chair Wakai, and Members of the Committee:

My name is Ronald Heller. I am a practicing attorney, and also licensed as a Certified Public Accountant. I support House Bill 2731 and House Bill 2827.

In order to obtain a CPA license in Hawaii, the applicant is required to satisfy strict criteria regarding education and experience, and to pass an examination. Those rules exist to make sure that anyone holding himself or herself out to the public as a CPA is qualified to perform professional services. However, we can and should improve on that protection. The existing rules focus on the initial licensing of a CPA. This bill would add a system for reviewing the quality of a CPA's professional work on a continuing basis throughout his or her career.

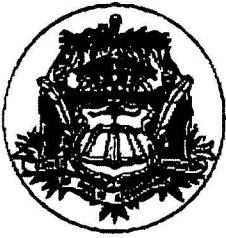
Many CPAs already participate in peer-review programs on a voluntary basis. Unfortunately, some do not. Typically, consumers are not aware of this, and do not know whether they are receiving services from a CPA who has been through a peer review process.

House Bill 2731 and House Bill 2827 would tie the peer review process to license renewal, to create a process that lasts throughout a CPA's entire career. This would enhance professionalism and competence, and improve protection for the public.

Respectfully submitted,

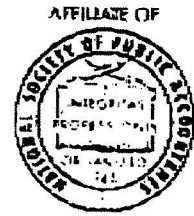


Ronald I. Heller



HAWAII ASSOCIATION OF PUBLIC ACCOUNTANTS

Organized August 7, 1943
P.O. BOX 61043
HONOLULU, HAWAII 96839



Before the Committee on Consumer Protection & Commerce

Wednesday, February 3, 2010 at 2:00 p.m.

Conference Room 325

Re: Opposition to HB2827

Relating to Public Accountancy

John W. Roberts, MBA, CPA

Chair Herkes, Vice Chair Wakai, and committee members:

I am a certified public accountant (CPA) and State President of the Hawaii Association of Public Accountants (HAPA). I am also a principal of Niwao & Roberts, CPAs, a P.C. My CPA firm has voluntarily obtained on-site peer reviews from 1990, when it was first required for membership in the AICPA, and I am familiar with the peer review process.

Although HAPA is in favor of measures to improve the quality of the accounting profession, HAPA's board opposes the language of HB2827 for the following reasons:

1. There is no definition of "attest" work or "peer review" in the Hawaii Revised Statutes.
2. The vast majority of CPA firms in Hawaii performing attest work are already undergoing peer review voluntarily for educational and quality control purposes. CPA firms doing attest work are required to undergo peer review as a requirement for membership with the AICPA. The AICPA peer review program was established as a voluntary peer review program that was meant to be educational, not punitive (where someone loses his/her CPA license) and regulatory.
3. We strongly object to delegating to the Board of Public Accountancy the authority to exempt certain CPA firms from the requirement of a peer review. If mandatory peer review is adopted, all CPA firms doing business in Hawaii and all Hawaii offices of multi-state or international CPA firms should be required to have their Hawaii offices or Hawaii work peer reviewed. Currently the Hawaii offices of large international CPA firms are oftentimes not peer reviewed. Instead, on-site peer reviews are conducted at other mainland offices of these large international CPA firms, and the Hawaii offices are not chosen in the sample. Perhaps the only exemption that should be allowed is an extension of time to obtain a peer review in limited circumstances (i.e., health

issues of the firm principals or circumstances that are beyond the control of the CPA firm).

4. The HSCPA is currently the only trade organization in Hawaii that administers voluntary peer review for a fee for its members. The HSCPA is also the organization that wishes to have mandatory peer review made a requirement for CPA firm licensing.
5. To our knowledge, there have been no complaints to the Board of Public Accountancy in the last 10 years on audit failures from a firm that has not undergone peer review.
6. The CPA firms that experienced major audit failures in the last 10 years (e.g., Enron, Global Crossing, etc.) were peer reviewed. Peer review did not stop the audit failures.
7. As soon as the rules for firm permits are promulgated, CPA firms will have to pay fees of approximately \$250 for firm permits, in addition to individual CPA license fees and individual CPA permit-to-practice fees. Since most Hawaii CPA firms already are peer reviewed, assessing additional administrative fees to CPA firms (in addition to the thousands of dollars they pay to peer reviewers and the HSCPA) is unduly burdensome to CPA firms in these current economic times. These additional administrative costs will be passed on to consumers when they can least afford to pay them.
8. As in the past, our organization is concerned that the proposed peer review legislation does not address the concept of due process for licensees who may lose their right to practice due to the mandatory peer review requirement. Proper appeal procedures need to be established for failure to pass peer review, and these procedures should be specified by statute, not rules.
9. We question whether the Board of Public Accountancy and the Department of Commerce & Consumer Affairs (DCCA) have adequate resources to administer a peer review program.

Should this committee decide to pass this bill despite the above objections, we respectfully request that the following changes be made on behalf of small and medium-sized local CPA firms whose principals are HAPA members:

1. All firms doing business in Hawaii and performing attest work should be required to have peer review or a quality review for their Hawaii offices or Hawaii business. In other words, the Hawaii offices or Hawaii businesses of multi-state or international CPA firms should be subject to the mandatory peer review or a quality review requirement. This will mandate that peer review or the quality control review will be applied fairly and equitably to all firms performing any attestation work in Hawaii, regardless of size.
2. The Board of Public Accountancy should not have the discretion to exempt firms from mandatory peer review or quality control inspections, once the requirement is adopted. Instead, the Board should only have the authority to provide an extension of time for firms to complete their peer review or quality review inspections in light of health or

other hardship circumstances that are beyond a firm's ability to complete prior to obtaining the firm's permit to practice.

3. Definitions should be added for "peer review" and "attest".
4. Should a CPA firm fail peer review or a quality review inspection, due process provisions should be provided to allow for appeals prior to the denial of a CPA firm's permit-to-practice.
5. A quality review inspection program should be conducted and administered by the Board of Public Accountancy and the Department of Commerce & Consumer Affairs, not by any trade or other organization in order to protect privacy rights, avoid conflict of interest problems inherent in peer reviews, and afford due process rights to individuals who fail peer review and who could lose their right to practice. The State of Washington is an example where an alternative quality assurance system has been successfully implemented for the benefit of consumers and small and medium-sized CPA firms and at a lower cost to practitioners. The Washington model uses the volunteer services of qualified peer reviewers in exchange for continuing professional education credits.
6. If a trade or other organization is allowed to conduct peer review as a requirement for issuance of CPA firm permits, those records should also not be subject to discovery.

Thank you for your consideration of the above.

Respectfully submitted,



John W. Roberts, MBA, CPA
HAPA State President

**NIWAO
&
ROBERTS**

Certified Public Accountants, A Professional Corporation

Before the Committee on Consumer Protection & Commerce

Wednesday, February 3, 2010 at 2:00 p.m.

Conference Room 325

Re: Opposition to HB2827

Relating to Public Accountancy

Marilyn M. Niwao, J.D., CPA

Chair Herkes, Vice Chair Wakai, and committee members:

I am a licensed certified public accountant (CPA) and attorney in the State of Hawaii. I am also a principal of Niwao & Roberts, CPAs, a P.C. Our firm has voluntarily obtained on-site peer reviews from 1990, when it was first required for membership in the AICPA.

I support measures to improve the quality of the accounting profession in Hawaii. However, I oppose the language of HB2827 for the following reasons:

1. Peer review was developed and approved by AICPA members as an educational tool for CPA firms, and was not meant to be regulatory and punitive. It is a check of a firm's system of quality control.
2. Peer review is subjective and findings may not be consistent from firm to firm because of the size and nature of business.
3. Consumers have recourse for substandard work by CPA firms, and that is through litigation.
4. Our firm strongly objects to delegating to the Board of Public Accountancy the authority to exempt certain CPA firms from the requirement of a peer review. If mandatory peer review is required, all firms doing attest work in Hawaii should have their Hawaii engagements peer reviewed.
5. The Board should be allowed to provide extensions of time to obtain a peer reviews in limited circumstances (i.e., health issues of the firm principals or circumstances that are beyond the control of the CPA firm).

6. I have had the opportunity to discuss mandatory peer review with small firm practitioners from other states as a board member of a national accounting organization. When peer review became mandatory in one state, for example, many small firm practitioners gave up attest work because of the cost of peer review (peer reviewers in the state raised their prices to perform peer review). Therefore, the cost of requiring peer review for CPA firms performing attest work should be considered.
7. The HSCPA is currently the only trade organization in Hawaii that administers voluntary peer review for a fee for its members. The HSCPA is also the organization that wishes to have mandatory peer review made a requirement for CPA firm licensing.
8. To my knowledge, there have been no complaints to the Board of Public Accountancy in the last 10 years on audit failures from a firm that has not undergone peer review.
9. The CPA firms that experienced major audit failures in the last 10 years (e.g., Enron, Global Crossing, etc.) were peer reviewed. Peer review did not stop the audit failures.
10. The Board of Public Accountancy and the Department of Commerce & Consumer affairs should be responsible for any quality control checks, not a private trade or other organization. However, the current Board now consists of many tax and consulting practitioners (not auditors) who will be tasked to develop rules for peer review when they may not have sufficient knowledge or experience with the peer review process.
11. Due process provisions should be added to insure that proper appeal procedures are available to CPA firms who fail peer review.

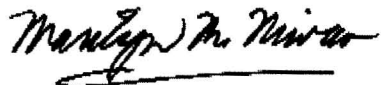
Should this committee decide to pass this bill despite the above objections, our firm respectfully requests the following:

1. All firms doing business in Hawaii and performing attest work should be required to have peer review or a quality review for their Hawaii offices or Hawaii business. Peer review should not be made a requirement only for local Hawaii CPA firms, and mandatory peer review should apply to all CPA firms who perform attest work and who obtain Hawaii CPA firm permits to practice.
2. The Board should only have the authority to provide extensions of time for firms to complete their peer review or quality review inspections in light of health or other hardship circumstances that are beyond a firm's ability to complete prior to obtaining the firm's permit to practice.
3. Definitions should be added for "peer review" and "attest".
4. Should a CPA firm fail peer review or a quality review inspection, due process provisions should be provided to allow for appeals prior to the denial of a CPA firm's permit-to-practice.
5. A quality review inspection program should be conducted and administered by the Board of Public Accountancy and the Department of Commerce & Consumer Affairs, not by any trade or other organization in order to protect privacy rights and avoid conflict of interest problems inherent in peer reviews.

6. If a trade or other organization is allowed to conduct peer review as a requirement for issuance of CPA firm permits, those records should also not be subject to discovery.

Thank you for your consideration of the above.

Respectfully submitted,



Marilyn M. Niwao, J.D., CPA
Principal



Taketa, Iwata, Hara & Associates, LLC

Certified Public Accountants & Consultants

101 Aupuni Street, Suite 139

Hilo, Hawaii 96720-4260

Before the Committee on Consumer Protection & Commerce

**Wednesday, February 3, 2010 at 2:00 p.m.
Conference Room 325**

Re: Opposition To HB 2827

Relating to Public Accountancy

Testimony of Gregg M. Taketa

Chair Herkes, Vice Chair Wakai and committee members:

I respectfully ask that you vote NO on HB 2827.

I am a partner in the CPA firm of Taketa, Iwata, Hara & Associates, LLC in Hilo and the immediate past State President of the Hawaii Association of Public Accountants (HAPA). I am also a member of the Hawaii Society of Certified Public Accountants (HSCPA) and the American Institute of Certified Public Accountants (AICPA).

Our firm has been a member of the Private Companies Practice Section (PCPS) of the AICPA since 1989 and we completed our first on-site peer review (now known as a system review) in 1991 when peer reviews were required for membership in the PCPS but not for the general members of the AICPA. I am a firm believer in the benefits of having a peer review as it provides a healthy exchange of information and ideas between peer reviewer and the firm with the objective of continued improvement in attest work. However, I oppose HB 2827 that amends Sections 466-7 and 466-13 of the Hawaii Revised Statutes to firms to receive an acceptable peer review report in order to obtain a permit to practice due to the following reasons:

- Despite experiencing the most severe recession since the Great Depression with record numbers of bankruptcy filings in Hawaii, there is no evidence that the complaints filed against Hawaii CPAs for substandard attest work has significantly increased.
- There are only a few publicly-owned companies in Hawaii and these companies are audited by the Big Four CPA firms. The Big Four CPA firms are already subject to periodic inspections by the Public Company Accounting Oversight Board (PCAOB).

In contrast, Hawaii CPAs perform attest work primarily for privately-owned companies and non-profit organizations, where the auditor's reports are less-widely relied upon by third parties.

- HB 2827 will change the tone of the peer review process as the objective switches from remedial to punitive. The change in the relationship between peer reviewer and CPA firm will

Gregg M. Taketa, CPA • Brian M. Iwata, CPA • Janet W. Hara, CPA

Tel (808) 935-5404 Fax (808) 969-1499 E-mail: info@tihcpa.com Website: www.tihcpa.com

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hinder the exchange of information and ideas necessary for the continued improvement of professional services.

- Even if there was a perceived problem with substandard attest work among Hawaii CPAs, the peer review process would not be effective in correcting this problem because the peer review is performed only once every three years and the peer reviewer selects a sample of engagements that represents only 10% of the attest hours in the year under review. In other words, the peer reviewer will be looking at 3.3% of the total attest hours in each triennium period. The test nature of the peer review and the resulting limitations is clearly stated in the fourth sentence of the next-to-last paragraph of the system review report (Exhibit A).
- The Board of Public Accountancy will be relying on a single peer reviewer's opinion to determine whether a CPA firm is competent, prior to the permit renewal. However, the standard peer review opinion (see the last paragraph of Exhibit A), only opines on whether a firm's system of quality control has been designed to meet the requirements of the AICPA's quality control standards and whether the firm has complied with its quality control system. The opinion does not provide any assurance that the CPA firm has not, or will not commit attest failures as these types of failures may occur even with the best quality control system in place because attest work requires the exercising of professional judgment.
- The AICPA adopted Statement of Quality Control Standards No. 7, which requires a quality control review to be performed by an independent CPA for certain high-risk engagements as defined by the firm's quality control system. The quality control review must be performed prior to the issuance of the respective attest report. Therefore, this procedure is more effective and proactive to **prevent** substandard attest work than a post-issuance peer review.

I urge the committee to oppose HB 2827 for these reasons.

Thank you for this opportunity to testify.

Respectfully submitted,


Gregg M. Taketa, CPA

Dugan & Lopatka

Certified Public Accountants & Consultants
A Professional Corporation
104 East Roosevelt Road
Wheaton, Illinois 60187
(630) 665-4440
Fax (630) 665-5030
<http://www.tdip.com>
e-mail: info@tdip.com

Michael J. Dugan
Jerry Lopatka
Mark F. Schultz
Gwen Henry
Peter J. Zich
Leo M. Misdom
T. Brett Flickinger
Karen M. Olson

November 17, 2006

To the Members
Taketa, Iwata, Hara & Associates, LLC

We have reviewed the system of quality control for the accounting and auditing practice of Taketa, Iwata, Hara & Associates, LLC (the firm) in effect for the year ended June 30, 2006. A system of quality control encompasses the firm's organizational structure, the policies adopted and procedures established to provide it with reasonable assurance of conforming with professional standards. The elements of quality control are described in the Statements on Quality Control Standards issued by the American Institute of CPAs (AICPA). The firm is responsible for designing a system of quality control and complying with it to provide the firm reasonable assurance of conforming with professional standards in all material respects. Our responsibility is to express an opinion on the design of the system of quality control and the firm's compliance with its system of quality control based on our review.

Our review was conducted in accordance with standards established by the Peer Review Board of the AICPA. During our review, we read required representations from the firm, interviewed firm personnel and obtained an understanding of the nature of the firm's accounting and auditing practice, and the design of the firm's system of quality control sufficient to assess the risks implicit in its practice. Based on our assessments, we selected engagements and administrative files to test for conformity with professional standards and compliance with the firm's system of quality control. The engagements selected represented a reasonable cross-section of the firm's accounting and auditing practice with emphasis on higher-risk engagements. The engagements selected included among others, audits of Employee Benefit Plans and engagements performed under *Government Auditing Standards*. Prior to concluding the review, we reassessed the adequacy of the scope of the peer review procedures and met with firm management to discuss the results of our review. We believe that the procedures we performed provide a reasonable basis for our opinion.

In performing our review, we obtained an understanding of the system of quality control for the firm's accounting and auditing practice. In addition, we tested compliance with the firm's quality control policies and procedures to the extent we considered appropriate. These tests covered the application of the firm's policies and procedures on selected engagements. Our review was based on selected tests therefore it would not necessarily detect all weaknesses in the system of quality control or all instances of noncompliance with it. There are inherent limitations in the effectiveness of any system of quality control and therefore noncompliance with the system of quality control may occur and not be detected. Projection of any evaluation of a system of quality control to future periods is subject to the risk that the system of quality control may become inadequate because of changes in conditions, or because the degree of compliance with the policies or procedures may deteriorate.

In our opinion, the system of quality control for the accounting and auditing practice of Taketa, Iwata, Hara & Associates, LLC in effect for the year ended June 30, 2006, has been designed to meet the requirements of the quality control standards for an accounting and auditing practice established by the AICPA and was complied with during the year then ended to provide the firm with reasonable assurance of conforming with professional standards.

Dugan & Lopatka

AFFILIATE
INPACT
INTERNATIONAL NETWORK OF
PROFESSIONAL ACCOUNTANTS

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Brian M. Iwata, CPA
101 Aupuni St., #139
Hilo, HI 96720

February 2, 2010

The Honorable Representative Robert N. Herkes, Chair
The Honorable Representative Glenn Wakai, Vice Chair
Committee on Commerce, Consumer Protection, and Housing
Hawaii State Capitol, Conference Room 325
415 South Beretania Street
Honolulu, HI 96813

Re: **Opposition to HB 2827**
Relating to Public Accountancy

Chair Herkes, Vice-chair Wakai, and committee members:

I oppose the mandatory peer review requirement of HB 2827. Presently, peer review program is voluntary and educational. If this bill is passed peer review will become mandatory and punitive in nature where a CPA and its employees can lose their jobs because of a negative peer review done by a peer reviewer.

HB 2827 does not address the many questions that remain regarding mandatory peer review, such as the significant additional cost to undergo the peer review process, will the DCCA administer the program without delegating it to an outside entity or board, whether CPAs will have due process concerns properly addressed and will the program be equally applied to all CPA offices in the state. Therefore, I urge this committee to oppose HB 2827.

Respectfully submitted,



Brian M. Iwata, CPA

E. Diana Burg, MBA, CPA
47-158 Mapele Way
Kaneohe, HI 96744

House Committee on Consumer Protection & Commerce
Wednesday, February 3, 2010, 2:00 p.m.
Conference room 325

Testimony Opposing HB2731 and HB 2827

Dear Chair Herkes, Vice-Chair Wakai and Committee Members:

I strongly oppose the mandatory peer review requirement for CPAs required by HB 2731 and HB 2827. If this bill passes you will be taking away my CPA license and probably driving me out of business. And the cruelest cut is that this requirement will not do what its advocates purport that it will do. Advocates do not provide measurable evidence of additional public protection created by this bill. While the accounting profession has taken a beating for actions of its wild, irresponsible members, these bills will not measurably add to the protection already in place due to the Sarbanes Oxley Act and to AICPA member imposed requirements.

In fact, the public will be harmed by increasing the cost of providing service. This predictable result will occur because the direct cost of peer review will need to be passed on in the fees charged particularly to small Hawaii business. There are items that a peer review examines such as written personal policies that small firms many not have, so those firms will either fail those parts or incur cost to create these items. There will be indirect increases resulting from the cost that the State will likely assess CPAs due to the additional cost of imposing this new requirement. There will also be additional costs as the pool of firms offering service declines since smaller firms may decide to stop offering service due to the cost increases leaving a smaller pool of higher cost firms. I will be one small firm driven out of business.

What segment of the public will benefit? Contractors are required to submit compilations in order to be licensed. Many times these are new firms or individuals that have few assets. These contractors need very little work so reasonable fees can be charged. This will change if peer review is mandatory. It will cost more to for contractors to be licensed which will mean that it will cost more to hire a contractor and there will be less licensed contractors.

This is unnecessary anti-competitive regulation that destroys small CPA firms and harms the public.