

# OVERVIEW

THE AUDITOR  
STATE OF HAWAII

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## Sunset Evaluation Update: Medicine and Surgery

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### Summary

We evaluated the regulation of physicians, physician assistants, and emergency medical service personnel under Chapter 453, Hawaii Revised Statutes, and conclude that the public interest is best served by continuance of the chapter.

We found that continued regulation of physicians, physician assistants, and emergency medical service personnel is needed. If practiced incompetently, these occupations have a significant potential for harm to consumers.

This evaluation and repeal of the chapter had been scheduled under the Sunset Law. Subsequently, Act 279 of 1994 removed the repeal date and with it the evaluation requirement. Nevertheless, since the work had already been done, we are issuing the report to help decision makers in assessing the regulatory program.

Physicians are independent practitioners who diagnose and treat injury, illness, or disease. Physician assistants practice medicine under the supervision of a licensed physician; their functions include taking medical histories, performing physical examinations, and treating minor injuries. Emergency medical service personnel—who may be emergency medical technicians (EMTs) or mobile intensive care technicians (MICTs)—work from ambulances to provide prehospital care for medical emergencies due to an accident or sudden illness. They serve under the direction and control of a physician.

In Hawaii, a nine-member Board of Medical Examiners regulates these occupations. The board is administratively attached to the Department of Commerce and Consumer Affairs. The department's Professional and Vocational Licensing Division provides administrative services to the board and the Regulated Industries Complaints Office handles consumer complaints and pursues legal action when appropriate.

Since our last sunset evaluation in 1992, improvements have been initiated but implementation has been slow. Specifically, the board's rule relating to the supervision of physician assistants, which places physician assistants in impractical situations, still needs correcting. Also, discrimination continues against mainland-trained EMTs and MICTs because they are still required to pass an "equivalency examination." We also found that policies are still needed to address relicensure requirements following an automatic termination of a physician license.

Additional improvements are also needed in several areas. Tracking of disciplinary actions is needed for physician assistants and emergency medical service personnel similar to the tracking done for physicians. The board's executive meeting minutes lack sufficient detail and do not comply with the law.



The board still needs clarification about information it gets from RICO for settlement agreements.

Some improvements have been made. The informed consent guidelines for breast cancer have been updated. Implementation of amendments to the physician licensing statute and rules to address a national development in examinations for physicians is on schedule. DCCA's examination administration has improved.

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## Recommendations and Response

We recommend that the Legislature maintain Chapter 453, Hawaii Revised Statutes, to continue the regulation of physicians, physician assistants, and emergency medical service personnel.

We further recommend that the board place priority on clarifying the requirements for the supervision of physician assistants and expedite rule amendments for the certification of EMTs and MICTs to avoid further discrimination against mainland-trained applicants. It should also reevaluate the equivalency exam; develop tracking procedures for disciplinary actions against physician assistants and emergency medical service personnel; participate in reporting disciplinary actions to national organizations; and develop policies for relicensing after a physician license has been automatically terminated. The board should work with DCCA to ensure that executive meeting minutes comply with the law. It should request a written opinion from the Attorney General as to what information the board is entitled to receive in reviewing settlement agreements.

The Board of Medical Examiners responded that it concurs that Chapter 453 should be continued and agrees with most of the other recommendations. It disputes that its rules are discriminatory toward mainland-trained emergency medical service personnel and says our recommendation to reevaluate the equivalency exam would be moot under the proposed rule amendments that eliminate the exam. It deferred responding to our recommendation concerning executive session minutes to the department and will take under advisement our recommendation to request an attorney general opinion on settlement agreements. The board disagrees that there is a need to develop policies for exceptions to relicensure requirements after an automatic termination of a physician license. We continue to believe that exceptions to the law should not be made inconsistently on a case-by-case basis.

The department responded that it believes that all parties involved in the executive meeting minutes of the board have followed and will continue to follow all provisions of Chapter 92, HRS, to ensure compliance with the law. Our review of the minutes indicate, however, that they lack sufficient detail to be in compliance with the law.

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