

JAN 21 2016

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# A BILL FOR AN ACT

RELATING TO HEALTH.

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

1           SECTION 1. The legislature finds that the recent decision  
2 in *Slingluff v. State of Hawaii*, 131 Hawai'i 239, 317 P.3d 683  
3 (2013), created a distinction between medical discretion and  
4 governmental discretion for physicians who are employed by the  
5 State, unnecessarily extending personal liability to state  
6 employed physicians who are acting in the course and scope of  
7 their employment.

8           The purpose of this Act is to clarify that physicians and  
9 other medical health professionals who are employed by the State  
10 enjoy a qualified immunity against personal liability when  
11 exercising their professional medical discretion in their state  
12 employment.

13           SECTION 2. Chapter 321, Hawaii Revised Statutes, is  
14 amended by adding a new section to be appropriately designated  
15 and to read as follows:

16           "§321-    Medical health professionals; qualified immunity.  
17 State employees who exercise professional medical discretion



# S.B. NO. 2018

1 within the course and scope of their government employment shall  
 2 receive qualified immunity from any personal liability. Medical  
 3 health professionals shall also be afforded any other privileges  
 4 and immunities that are available under common law, federal law,  
 5 or state law for other government employees who are not medical  
 6 health professionals, when those other government employees are  
 7 acting in the course and scope of their government employment."

8 SECTION 3. This Act does not affect rights and duties that  
 9 matured, penalties that were incurred, and proceedings that were  
 10 begun before its effective date.

11 SECTION 4. New statutory material is underscored.

12 SECTION 5. This Act shall take effect upon its approval.

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INTRODUCED BY: Clarence K. Washburn



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# S.B. NO. 2098

**Report Title:**

Professional Medical Discretion; State Employees

**Description:**

Clarifies that medical health professionals who are employed by the State receive a qualified immunity from personal liability when exercising their governmental discretion as employees of the State when acting in the course and scope of their state employment.

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