


COUNTY OF MAUI  
DEPARTMENT OF THE CORPORATION COUNSEL  
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INTER-OFFICE CORRESPONDENCE

May 21, 2003

MEMO TO: Richard Fernandez, Chief, Department of Fire and Public Safety  
Thomas M. Phillips, Chief, Department of Police

F R O M: John D. Kim, Deputy Corporation Counsel 

SUBJECT: Voluntary Smallpox Vaccination Program  
Group B First Responders

I have reviewed the opinion letter to Dr. Chiyome L. Fukino, dated February 6, 2003, from Deputy Attorney General Robyn M. Kuwabe, regarding the voluntary smallpox vaccination program. The vaccination program is related to the State of Hawaii's compliance with the Homeland Security Act. The opinion letter responds to a question posed by Dr. Fukino: Whether or not employees vaccinated under the proposed program would be covered by the workers' compensation law?

HRS Chapter 386

Section 386-3 of the Hawaii Revised Statutes provides in part:

- (a) If an employee suffers personal injury either by accident arising out of and in the course of the employment or by disease proximately caused by or resulting from the nature of the employment, the employee's employer or the special compensation fund shall pay compensation to the employee or the employee's dependents as provided in this chapter.

It is clear that, although the vaccination program is voluntary, designated "group B" employees (fire fighters, police officers, and emergency medical personnel) will need to be vaccinated in order to perform their duties as first responders. The proposed vaccination program serves an important interest of

Chief Richard Fernandez  
Department of Fire and Public Safety  
Chief Thomas M. Phillips  
Maui Police Department  
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the Fire and Public Safety Department and the Police Department, whose members are sworn to protect and serve our community. In order to investigate a smallpox outbreak they must be protected from the virus. Therefore, if "group B" employees become ill as a result of receiving this vaccination, the Departments of Fire and Public Safety and Police would acknowledge and accept compensability for the illness under workers' compensation in accordance with Hawaii Revised Statutes Chapter 386.

Should you have any further questions, do not hesitate to contact me at 270-7741

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cc: Kyle Watanabe, Civil Defense Agency  
Lt. Danny Matsuura, Plans and Training  
Dr. Lorrin Pang, Department of Health  
Jack Kulp, Managing Director, Office of the Managing Director  
Lynn Krieg, Director, Department of Personnel Services

APPROVED FOR TRANSMITTAL



BRIAN T. MOTO  
Corporation Counsel