

TESTIMONY OF ROBERT TOYOFUKU ON BEHALF OF THE HAWAII ASSOCIATION FOR JUSTICE (HAJ) formerly known as the CONSUMER LAWYERS OF HAWAII (CLH) REGARDING H.B. NO. 439

February 10, 2009

To: Chairman Ryan Yamane and Members of the House Committee on Health:

My name is Bob Toyofuku and I am presenting this testimony on behalf of the Hawaii Association for Justice (HAJ) regarding H.B. No. 439.

Health courts, like all other specialty courts, have their advantages and disadvantages. Those specific factors can be studied by the working group proposed in this measure.

The primary issue to be considered in deciding whether to convene a working group for the establishment of health courts at this time is fiscal. Health courts cost money. All specialty courts do, but specialty courts that deal with legal issues, such as family, traffic, probate or land court, tend to cost less because judges tend to be better suited by their legal training and experience to handle legal issues. Health courts require specialized medical training that judges lack. This requires additional appropriations for training health court judges on a continual basis as judges go on vacation, take leaves of absences, retire or are reassigned to other courts. These costs must be considered in addition to the usual costs for infrastructure, staffing and other start-up cost considerations necessary when a new court system is established.

The question is whether the convening of a health court working group now is an effective use of time and resources if the state's fiscal situation cannot accommodate the creation and funding of health courts at this time. On the other hand, starting now might

allow a working group a longer time to consider the matter thoroughly and properly prepare for the day when the state may be able to afford the costs of establishing a health court.

HAI requests that it be allowed a member in the working group in as much as its members have extensive experience in the trials of these cases and since the Hawaii Insurer's Council has a member.

Thank you for the opportunity to testify on this bill.



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

From: Hawaii Medical Association
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Lauren Zirbel, Government Affairs

Health Committee

2/10/2009
8:30 a.m.
Room 329

Re: HB 439 RELATING TO MEDICAL INJURIES

Chairs & Committee Members:

Discussions on the creation of a Health Court System should be a subject that is on the table. However, the Dean of the School of Medicine should also be a part of the working group.

Also included in this proposal should be classes at the medical schools teaching medical students something about how the court system works relative to malpractice suits. Although some students may change their mind and want to enroll in law school after they find out how things work, it is still necessary that some basics be taught.

Thank you for the opportunity to provide this testimony.

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February 10, 2009

The Honorable Ryan Yamane, Chair
The Honorable Scott Nishimoto, Vice Chair
House Committee on Health

Re: HB 439 – Relating to Medical Injuries

Dear Chair Yamane, Vice Chair Nishimoto and Members of the Committee:

My name is Rick Jackson and I am President of the Hawaii Association of Health Plans (“HAHP”). HAHP is a non-profit organization consisting of seven (7) member organizations:

AlohaCare
Hawaii Medical Assurance Association
HMSA
Hawaii-Western Management Group, Inc.

MDX Hawai'i
University Health Alliance
UnitedHealthcare

Our mission is to promote initiatives aimed at improving the overall health of Hawaii. We are also active participants in the legislative process. Before providing any testimony at a Legislative hearing, all HAHP member organizations must be in unanimous agreement of the statement or position.

HAHP appreciates the opportunity to testify in support of HB 439 which would lower medical malpractice insurance premiums by adopting legislation that directly affects elements impacting medical malpractice insurance rates. HAHP supports the intent of this bill as a good first step toward helping to contain the spiraling cost of medical malpractice insurance.

We agree with statements made by local physician organizations that the current medical tort system drives significant “defensive medicine” costs and has led to Neighbor Island shortages in key surgical specialties. The members of HAHP see these facts daily in our medical claims costs and in limitations in the numbers and types of our contracted physicians on neighbor islands.

Thank you for the opportunity to offer comments today.

Sincerely,

Rick Jackson
President

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Memo

To: Chair, House Health Committee
From: Marty Fritz
Date: February 10, 2009, Tuesday at 8:30 a.m.
Re: **HB 439**

Honorable Chair and Committee Members. My name is Marty Fritz. I am a lawyer who represents a small number of medical malpractice victims who suffer horrific injuries or death from doctors errs.

The bills your committee is hearing relating to tort reform have one basic assumption--- there is a need for some change. The arguments I have heard supporting these bills are primarily that there is an explosion in medical malpractice verdicts in the State of Hawaii which is leading large numbers of physicians to leave the state. There are no specifics presented, rather emotional non specific allegations of the negative effects of the current system. The reason why these arguments are non specific is because they are unable to be supported by relating on evidence and analysis.

As a former member of the bipartisan committee appointed by the legislature in the late 1990's to make a two year study of the tort system, I am quite aware of how faulty perceptions combined with emotions and publicity can powerfully impact the legislative process. In the 1990's there was a perception that the costs of the tort system were out of control. The study, which thoroughly reviewed actual cases and filings, found to nearly everyone's surprise that just the opposite was true i.e. *there had been a significant drop in accidents and court filings.*

Of Counsel:
Steven J. Trecker