STAND. COM. REP. NO. 505

Honolulu, Hawaii Fem 20, 2009

RE: H.B. No. 1784 H.D. 1

Honorable Calvin K.Y. Say Speaker, House of Representatives Twenty-Fifth State Legislature Regular Session of 2009 State of Hawaii

Sir:

Your Committee on Health, to which was referred H.B. No. 1784 entitled:

"A BILL FOR AN ACT RELATING TO MEDICAL TORTS,"

begs leave to report as follows:

The purpose of this bill is to protect physicians and allow medical malpractice carriers to better predict the amount of claims and losses enabling them to stabilize the medical malpractice insurance market by:

- (1) Allowing for more flexible claims on economic damages;
- (2) Providing a cap on attorney's fees paid out of a claimant's award in a medical malpractice suit;
- (3) Setting a cap on non-economic damages of \$750,000 aggregate and \$250,000 per physician, healthcare provider, healthcare facility, and any other involved parties; and
- (4) Providing for an increase in non-economic damages of up to \$3,000,000 in cases of gross negligence.

The Administration, the Department of Health, the Department of Commerce and Consumer Affairs (DCCA), the Hawaii Medical Association, the Hawaii Association of Health Plans, the National Federation of Independent Business, the League of Women Voters

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Hawaii, and numerous concerned individuals supported this bill. The Hawaii Association for Justice and a concerned individual opposed this measure. Several concerned individuals submitted comments.

Your Committee has amended this bill by, among other things:

- (1) Making the cap on economic damages applicable only for physician specialists board certified in emergency medicine, neurological surgery, obstetrics and gynecology, orthopedic surgery, or surgery (Physician Specialists).
- (2) Requiring a 25 percent rollback on medical malpractice insurance premiums for the Physician Specialists;
- (3) Requiring DCCA to submit a report to the Legislature prior to the 2013 Regular Session on the effects of the noneconomic damages cap and the insurance rollback for the Physician Specialists;
- (4) Repealing the noneconomic damages cap and the insurance rollback for Physician Specialists on July 1, 2014;
- (5) Requiring a health care provider to disclose to patients adverse events relating to their medical treatment;
- (6) Requiring the Hawaii Medical Board to collect and publish information about physicians licensed in the state to allow consumers to make informed decisions in selecting physicians; and
- (7) Making technical, nonsubstantive changes for clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1784, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1784, H.D. 1, and be referred to the Committee on Judiciary.



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Respectfully submitted on behalf of the members of the Committee on Health,

Chair



State of Hawaii House of Representatives The Twenty-fifth Legislature



Record of Votes of the Committee on Health

Bill/Resolution No.:	Committee Referral:		Date:	
HB 1784	HLT, JUD 2-10-09			
The committee is reconsidering its previous decision on the measure.				
The recommendation is to: Dess, unamended (as is) Pass, with amendments (HD) Dess, Hold				
Pass short form bill with HD to recommit for future public hearing (recommit)				
HLT Members	Ayes	Ayes (WR)	Nays	Excused
1. YAMANE, Ryan I. (C)				
2. NISHIMOTO, Scott Y. (VC)				
2 DELATTI Delle An				
3. BELATTI, Della Au				
4. BERTRAM, Joe, III				
	1			
5. BROWER, Tom				
6. CARROLL, Mele				
7 MIZUNO Lete M				
7. MIZUNO, John M.				
8. SHIMABUKURO, Maile S.L.				
	/			
9. FINNEGAN, Lynn				
TOTAL (9)	e B			l
The recommendation is: Adopted If joint referral, did not support recommendation.				
Vice Chair's or designee's signature: 694.2				
Distribution: Original (White) – Committee Duplicate (Yellow) – Chief Clerk's Office Duplicate (Pink) – HMSO				