STAND. COM. REP. NO. 925

Honolulu, Hawaii Morch 6, 2009

RE: H.B. No. 310 H.D. 2

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

Sir:

Your Committee on Judiciary, to which was referred H.B. No. 310, H.D. 1, entitled:

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

begs leave to report as follows:

The purpose of this bill is to allow a court to impose sanctions on a nonprevailing party whose rejection of a decision by the Medical Claim Conciliation Panel (MCCP) resulted in litigation.

The Hawaii Medical Association testified in support of this bill. The Hawaii Association for Justice and a concerned individual opposed this measure. The Department of Commerce and Consumer Affairs provided comments.

Because the measure principally addresses the consequences for a nonprevailing party in an MCCP hearing, your Committee has amended this measure by deleting the definition for "prevailing party" and inserting a definition for the "nonprevailing party." Your Committee has further amended this measure by:

 Clarifying that the sanctions contemplated by this measure may apply not only to trial results but other results obtained through subsequent litigation, such as summary judgement; and



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(2) Making technical, nonsubstantive amendments for style, clarity, and consistency.

Your Committee notes that the effective date for this measure is set at July 1, 2020, and finds that this measure should remain under further discussion.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 310, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 310, H.D. 2.

> Respectfully submitted on behalf of the members of the Committee on Judiciary,

JON RIKI KARAMATSU, Chair



State of Hawaii House of Representatives The Twenty-fifth Legislature



Record of Votes of the Committee on Judiciary

| Bill/Resolution No.: | Committee Re | | Date | 3/3/04 | o |
|----------------------------------------------|-----------------------------------------------|----------------|----------------------------------------------|---------------------|-------------------------|
| HB 310, HD I | HLTj | | | יטן כן כ | 1 |
| The committee is reconsidering its pr | revious decision on | the measure. | | | |
| | ss, unamended (as is ss short form bill wi | | ss, with amendments mmit for future publi | | |
| JUD Members | | Ayes | Ayes (WR) | Nays | Excused |
| 1. KARAMATSU, Jon Riki (C) | | V | | | |
| 2. ITO, Ken (VC) | | \checkmark | | | |
| 3. BELATTI, Della Au | | V | | | |
| 4. CABANILLA, Rida | | V | 14 | | |
| 5. CARROLL, Mele | | | | | V |
| 6. HERKES, Robert N. | | | | | ~ |
| 7. LUKE, Sylvia | | | | | |
| 8. McKELVEY, Angus L.K. | | | | | \checkmark |
| 9. MIZUNO, John M. | | ~ | | | |
| 10. MORITA, Hermina M. | | | | | \checkmark |
| 11. OSHIRO, Blake K. | | V | | | |
| 12. SOUKI, Joseph M. | | | | | / |
| 13. TSUJI, Clift | | V | | | |
| 14. WAKAI, Glenn | | | | | $\overline{\mathbf{V}}$ |
| 15. MARUMOTO, Barbara C. | The second second | 1 | | | |
| 16. THIELEN, Cynthia | | \overline{V} | | | |
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| TOTAL (16) | | 9 | l | | þ |
| | nt referral, | Not Adop | did not suppo | ort recommendation. | . |
| Vice Chair's or designee's signature: | - Kil | 40 | | | |
| Distribution: Original (White) – Comr | mittee Duplica | ate (Yellow) | - Chief Clerk's Office | Duplicate (Pi | nk) – HMSO |