STAND. COM. REP. NO. 504

Honolulu, Hawaii

Fey 20, 2009

RE: H.B. No. 575 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. 575 entitled:

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

begs leave to report as follows:

The purpose of this bill is to discourage frivolous medical malpractice claims from being brought to court after a hearing by the Medical Claims Conciliation Panel (MCCP) by:

- (1) Requiring claimants who reject the MCCP's award of damages and pursue litigation, to pay the health care provider's attorneys' fees, costs, and cost of the provider's time, unless the litigation results in an award of more than 200 percent of the MCCP's award; and
- (2) Requiring claimants who reject the panel's finding of no negligence and pursue litigation to pay the attorneys' fees and costs of all defendants, unless the result of litigation is a judgment in favor of the claimant.

The Hawaii Medical Association and Hawaii Association of Health Plans supported this bill. The Department of Commerce and Consumer Affairs (DCCA), Hawaii Association for Justice, and a concerned individual submitted comments.

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

- (1) Inserting provisions that:
 - (A) Establish the Medical Claim Conciliation Office in DCCA and the positions of Executive Director and Hearing Officer;
 - (B) Direct the Hearing Officer to conduct hearings on medical claims in accordance with the Administrative Procedure Act; and
 - (C) Make opinions issued by the hearing officer binding upon the parties;

and

(2) Making technical, nonsustantive 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. 575, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 575, H.D. 1, and be referred to the Committee on Judiciary.

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

RYAN I. YAMAME, Chair

State of Hawaii House of Representatives The Twenty-fifth Legislature



Record of Votes of the Committee on Health

Bill/Resolution No.: HB 575	Committee Referral: HLT, JUD		Date: 2-10-09	
☐ The committee is reconsidering its previous decision on the measure.				
The recommendation is to: Pass, unamended (as is) Pass, with amendments (HD) 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)				TO STATE OF THE ST
2. NISHIMOTO, Scott Y. (VC)			, and the second	
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3. BELATTI, Della Au				
		Company of the Compan		in sold application is
4. BERTRAM, Joe, III				
			1,41	
5. BROWER, Tom				
6. CARROLL, Mele			**	
7. MIZUNO, John M.				
8. SHIMABUKURO, Maile S.L.				
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9. FINNEGAN, Lynn				

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TOTAL (9)	8			\
The recommendation is: Adopted If joint referral, did not support recommendation. committee acronym(s)				
Vice Chair's or designee's signature:				
Distribution: Original (White) – Committee Duplicate (Yellow) – Chief Clerk's Office Duplicate (Pink) – HMSO				