
A BILL FOR AN ACT

RELATING TO TORTS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The increasing cost of medical malpractice
2 insurance and escalating monetary awards in malpractice lawsuits
3 are major factors in the current shortage of physicians in the
4 State of Hawaii, particularly on the neighbor islands.
5 Malpractice insurance premiums have skyrocketed for Hawaii
6 physicians, with physicians in high-risk specialties such as
7 surgery and obstetrics experiencing the highest increase.
8 Monetary awards in malpractice lawsuits are rising, especially
9 with respect to awards for noneconomic damages.

10 As a result of the higher costs associated with medical
11 malpractice, many physicians are choosing to retire early, limit
12 their practice, or refrain from practicing in Hawaii. Medical
13 students are avoiding medical specialties that have a high risk
14 of medical malpractice exposure. Defensive medicine may also be
15 practiced, where a physician orders tests and procedures to
16 protect themselves from malpractice liability. Diminishing
17 access to health care is of particular concern in rural areas



1 such as the neighbor islands, where relatively few doctors and
2 fewer specialists and sub-specialists continue to practice.

3 The legislature finds that to address this critical
4 situation, a patient's right to recover noneconomic damages for
5 injuries suffered as a result of health care negligence must be
6 balanced against the State's interest in ensuring access to
7 health care services.

8 The purpose of this Act is to limit the amount of
9 noneconomic damages that may be recovered in medical malpractice
10 actions in Hawaii.

11 SECTION 2. Chapter 663, Hawaii Revised Statutes, is
12 amended by adding a new section to be appropriately designated
13 and to read as follows:

14 "§663- Limitation on noneconomic damages in medical tort
15 actions. Noneconomic damages as defined in section 663-8.5
16 shall be limited in medical tort actions to a maximum award of
17 \$500,000.

18 For the purposes of this section, "medical tort" has the
19 same meaning as in section 671-1."

20 SECTION 3. Chapter 671, Hawaii Revised Statutes, is
21 amended by adding a new section to be appropriately designated
22 and to read as follows:



1 "§671- Limitation on noneconomic damages. Noneconomic
2 damages as defined in section 663-8.5 shall be limited in
3 medical tort actions to a maximum award of \$500,000."

4 SECTION 4. Section 663-8.7, Hawaii Revised Statutes, is
5 amended to read as follows:

6 "~~[†]~~§663-8.7~~[‡]~~ **Limitation on pain and suffering.** Damages
7 recoverable for pain and suffering as defined in section 663-8.5
8 shall be limited to a maximum award of \$375,000; provided that
9 this limitation shall not apply ~~[to tort]~~ to:

- 10 (1) Tort actions enumerated in section 663-10.9(2) [-]; and
11 (2) Medical tort actions as provided in sections 663-
12 and 671- ."

13 SECTION 5. Statutory material to be repealed is bracketed
14 and stricken. New statutory material is underscored.

15 SECTION 6. This Act shall take effect upon its approval.

16

INTRODUCED BY: Josh Mee MD

John M. M. [Signature]

JAN 10 2008



Report Title:

Tort Reform; Medical Malpractice; Noneconomic Damages

Description:

Limits noneconomic damages in medical tort actions to \$500,000.

