

JAN 23 2008

A BILL FOR AN ACT

RELATING TO MEDICAL TORTS.

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

1 SECTION 1. The purpose of this Act is to require a
2 claimant who rejects the decision of a medical claim
3 conciliation panel on a claim and subsequently institutes
4 litigation to pay a fee of \$10,000 to the court; provided that
5 the fee is refundable if the claimant prevails in court. This
6 Act also allows the decision, conclusion, finding, or
7 recommendation of the medical claim conciliation panel to be
8 submitted as evidence in court.

9 SECTION 2. Section 671-16, Hawaii Revised Statutes, is
10 amended to read as follows:

11 "§671-16 Subsequent litigation; excluded evidence. (a)
12 The claimant may institute litigation based upon the claim in an
13 appropriate court only after a party to a medical claim
14 conciliation panel hearing rejects the decision of the panel [7]
15 or after the twelve-month period under section 671-18 has
16 expired. A claimant who rejects the decision of a medical claim
17 conciliation panel on a claim and subsequently institutes



1 litigation based upon the claim shall pay a fee of \$10,000 to
2 the court when instituting the action or proceeding. This fee
3 shall be additional to all other fees and costs imposed upon the
4 claimant pursuant to chapter 607. The court may waive or reduce
5 the fee in accordance with section 607-3. The court shall
6 refund the fee if the claimant prevails in the appropriate
7 court.

8 (b) No statement made in the course of the hearing of the
9 medical claim conciliation panel shall be admissible in evidence
10 either as an admission, to impeach the credibility of a witness,
11 or for any other purpose in any trial of the action; provided
12 that such statements may be admissible for the purpose of
13 section 671-19 [~~hereof. No decision, conclusion, finding, or~~
14 ~~recommendation of the medical claim conciliation panel on the~~
15 ~~issue of liability or on the issue of damages shall be admitted~~
16 ~~into evidence in any subsequent trial, nor shall any party to~~
17 ~~the medical claim conciliation panel hearing, or the counsel or~~
18 ~~other representative of such party, refer or comment thereon in~~
19 ~~an opening statement, an argument, or at any other time, to the~~
20 ~~court or jury, provided that such decision, conclusion, finding,~~
21 ~~or recommendation may be admissible for the purpose of section~~
22 ~~671-19, hereof]. "~~



S.B. NO. 3192

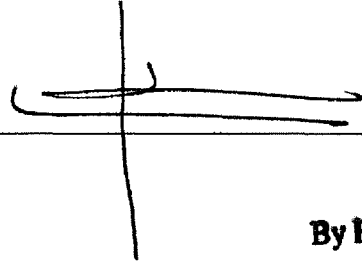
1 SECTION 3. This Act shall apply to any medical tort claim
2 submitted to a medical claim conciliation panel in accordance
3 with section 671-12, Hawaii Revised Statutes, after June 30,
4 2008.

5 SECTION 4. Statutory material to be repealed is bracketed
6 and stricken. New statutory material is underscored.

7 SECTION 5. This Act shall take effect on July 1, 2008.

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INTRODUCED BY: _____

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By Request



Report Title:

Medical Torts; Fee; Evidence

Description:

Requires a claimant who rejects the decision of a medical claim conciliation panel and subsequently institutes litigation to pay a fee of \$10,000 to the court. Allows a refund of the \$10,000 if the claimant prevails in court. Allows the claimant to use a decision, conclusion, finding, or recommendation of the medical claim conciliation panel as evidence at trial.

