

STAND. COM. REP. NO. 140

Honolulu, Hawaii
Feb 7, 2007

RE: H.B. No. 220
H.D. 1

Honorable Calvin K.Y. Say
Speaker, House of Representatives
Twenty-Fourth State Legislature
Regular Session of 2007
State of Hawaii

Sir:

Your Committee on Health, to which was referred H.B. No. 220
entitled:

"A BILL FOR AN ACT RELATING TO TORTS,"

begs leave to report as follows:

The purpose of this bill is to stem the loss of vital health
care professionals from our state by:

- (1) Placing a cap on the amount of non-economic damages that
may be recovered in medical malpractice actions in
Hawaii; and
- (2) Stabilizing medical malpractice insurance premium rate
increases.

The Department of the Attorney General, University of Hawaii
System, Healthcare Association of Hawaii, Hawaii Health Systems
Corporation, Hawaii Pacific Health, Hawaii Medical Association,
and numerous concerned individuals supported this bill. The
Consumer Lawyers of Hawaii and a concerned individual opposed this
measure. The Department of Commerce and Consumer Affairs and a
concerned individual provided comments on this bill.

Your Committee finds that the subject of medical tort reform
is one that elicits strong emotions from all parties involved in
its discussion of how to provide reasonable malpractice insurance
premiums so we can ensure physicians continue to practice in the

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state, while also providing fair and equitable settlement to people who have incurred serious harm due to physician errors in treatment. Subsequent committee hearings should:

- (1) Explore the Medical Claim Conciliation Panel (MCCP) in which all claims for medical malpractice must be filed prior to being heard in a court of law. Adjustments to this process and lessons learned from the MCCP process may be of some value in this debate to amicably deal with cases of alleged medical negligence;
- (2) Evaluate the financial impact to the State incurred from trying medical malpractice cases which your Committee suggests your Committee on the Judiciary look into; and
- (3) Request more concrete information from the departments and others and require their sources to testify before the House and Senate Committee on this issue.

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

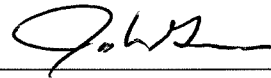
- (1) Remove requirements that health care providers maintain \$1,000,000 coverage for noneconomic damages to be limited to \$500,000;
- (2) Allow juries to assess the percentage of negligence of one party with reference to the negligence of all parties in a medical tort case;
- (3) Require economic damages allocated to a health care provider be based on the health care provider's proportionate percentage of negligence;
- (4) Increase the number of different providers included under the definition of "health care provider" and falling under the medical tort law;
- (5) Narrow the definition of "medical tort" to more specific acts of negligence;
- (6) Change the repeal date of the Act to January 2015; and
- (7) Provide an exception to required premium rates for rates that would cause imminent insolvency or fail to provide a fair rate of return.



Your Committee has also made 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. 220, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 220, H.D. 1, and be referred to the Committee on Consumer Protection & Commerce.

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



JOSHUA B. GREEN, M.D., Chair



ASCR 140

State of Hawaii
House of Representatives
The Twenty-fourth Legislature

Record of Votes of the Committee on Health

Bill/Resolution No.: HB 220		Date: 1-30-07		
Committee Referral: HLT, CPC, JUD		<input type="checkbox"/> The committee is reconsidering its previous decision on the measure.		
The recommendation is to: <input type="checkbox"/> Pass, unamended <input checked="" type="checkbox"/> Pass, with amendments <input type="checkbox"/> Hold <input type="checkbox"/> Pass, with amendments, for recommitment for further consideration				
HLT Members	Ayes	Ayes (WR)	Nays	Excused
1. GREEN, Josh, M.D. (C)	✓			
2. MIZUNO, John (VC)	✓			
3. BELATTI, Della Au		✓		
4. BERTRAM, Joe, III	✓			
5. CABANILLA, Rida T.R.	✓			
6. RHOADS, Karl			✓	
7. SHIMABUKURO, Maile S. L.				✓
8. TAKAI, K. Mark	✓			
9. TOKIOKA, James Kunane	✓			
10. AWANA, Karen Leinani				✓
11. WARD, Gene, Ph.D.	✓			
TOTAL	7	1	1	2
The recommendation is: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted If joint referral, _____ did not support recommendation. committee acronym(s)				
Vice Chair's or designee's signature: 				
Distribution: Original (White) – Committee Duplicate (Yellow) – Clerk's Office				