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January 25, 2008

**LATE  
Testimony**

To: Rep. Josh Green, M.D., Chair  
Rep. John Mizuno, Vice Chair  
House Health Committee

From: Cynthia J. Goto, M.D., President  
Linda Rasmussen, M.D., Legislative Co-Chair  
Philip Hellreich, M.D., Legislative Co-Chair  
Paula Arcena, Executive Director  
Dick Botti, Government Affairs Liaison

Re: HB1992 Relating to Medical Liability

PLEASE DELIVER

To rm 329 for:  
HTH Committee  
Friday  
1/25/08  
9:35am

The Hawaii Medical Association strongly supports HB1992.

HB1992 proposes to establish a cap on non-economic damages and limits on attorney fees. The HMA supports these actions because they will help to stabilize now volatile medical malpractice insurance premiums, which is a major cause of Hawaii's patient access to care crisis.

Caps on non-economic damages—

- The HMA suggests a \$250,000 cap on non-economic damages, which has been proven to stabilize otherwise volatile premiums.
- Non-economic damages are compensation for pain and suffering, loss of consortium and loss of enjoyment. These are difficult damages to quantify and a cap would establish a much needed standard.
- The HMA proposes no cap on economic damages, which are compensation for past and future medical expenses, rehabilitative expenses, living expenses and lost income or income-equivalents (in the case of a homemaker, for instance). These damages can be quantified.
- The HMA proposes no cap on punitive damages, which is compensation intended to punish the defendant.

Attorney's Fees –

The HMA supports establishing limits based on attorney's fees and suggests following the California example.

- 40% of the first \$50,000
- 33.3% of the next \$50,000
- 25% of the next \$500,000
- 15% of any amount over \$600,000

The purpose of this provision is to give more of damages awarded to the injured patient, rather than the attorney.

In other states, caps on non-economic damages and limits on attorney fees have been powerful tools for stabilizing medical malpractice insurance premiums in other states.

Formerly in crisis, the state of Texas has successfully overcome its patient access to care crisis in large part due to establishing caps on non-economic damages. Improvements include:

- Licensing 3324 new doctors in 2007, including a net gain of 186 obstetricians
- Bringing specialty care to underserved areas, including the addition of 189 physicians in Rio Grande Valley and other rural areas
- Stabilized and reduced medical malpractice insurance premiums
- Four new admitted, rate-regulated malpractice insurance carriers (Advocate MD of the Southwest, Medical Liability Insurance Company of America, Medicus Insurance Company and the Physicians Insurance Company).

In order to address Hawaii growing patient access to care crisis, the Hawaii legislature needs to take major steps. HB1992 represents positive change that needed now to prevent failure of Hawaii's healthcare system.

Thank you for the opportunity to testify on this matter.

mizuno1-Edgar

**LATE**  
**Testimony**

**From:** Louis Copman [louiscope@earthlink.net]  
**Sent:** Thursday, January 24, 2008 11:55 PM  
**To:** HLTtestimony  
**Subject:** Medical liability reform

*Please deliver 5 copies to room 329 for the House Health Committee hearing, Friday, 1/25/08, 9:35am.*

<!--[if !supportEmptyParas]--> <!--[endif]-->

*January 25, 2008*

<!--[if !supportEmptyParas]--> <!--[endif]-->

*To: Rep. Josh Green, MD, Chair  
Rep. John Mizuno, Vice Chair  
House Health Committee*

*From: Your name  
Your address  
Your phone number*

*Re: HB 1992 Relating to Medical Liability  
HB 1995 Relating to Torts  
HB 2071 Relating to Insurance  
HB 2151 Relating to Captive Insurance  
HB2161 Relating to Medical Malpractice Insurance*

*I am a Hawaii physician and I strongly support HB1992 and HB1995.*

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*Both bills will help to stabilize medical malpractice insurance premiums. For a cap on non-economic damages, I support a \$250,000 cap, which has been proven by other states to be effective in stabilizing premiums. I also support limits on attorney fees, which will give more money to the injured plaintiff.*

1/25/2008

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*I oppose HB2071, HB2151 and HB2161 because they will not stabilize malpractice insurance premiums.*

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*Hawaii is unable to recruit and retain an adequate supply of physicians due to the lack of liability reform and other issues such as inadequate reimbursements.*

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*As a result, physicians are leaving Hawaii and its residents are unable to obtain the medical care.*

<!--[if !supportEmptyParas]--> <!--[endif]-->

*Medical liability reform is an important part of the solution. Texas and other states have had great success in improving access to care since passing reforms.*

<!--[if !supportEmptyParas]--> <!--[endif]-->

*Thank you for the opportunity to provide this testimony.*

*Louis Copman, M.D.  
68-1771 Makenahele Pl.  
Waikoloa, HI 96738  
Tel: 808-883-0059*



**HAWAII HEALTH SYSTEMS**  
C O R P O R A T I O N

*"Touching Lives Every Day"*

**LATE**  
Testimony

**House Committee on Health**  
**Rep. Josh Green M.D., Chair**  
**Rep. John Mizuno, Vice Chair**

January 25, 2008  
9:35 a.m.  
Conference Room 329  
State Capitol

**Testimony Supporting HB 1992 Relating to Medical Liability**

Limits non-economic damages that may be recovered in medical tort actions. Limits the amount of attorney's fees that may be collected in connection with a medical tort action. Amends the definition of "health care provider" and "medical tort".

By Thomas M. Driskill, Jr.  
President and Chief Executive Officer

Good morning Chair Green, Vice Chair Mizuno and members of the Committee on Health. Thank you for the opportunity to testify in support of HB 1992, to affect changes that pressure the healthcare environment and to help address life-style issues impacting physicians who practice in Hawaii, particularly on the Neighbor Islands.

In light of a complex and ever-challenging healthcare environment, recruitment and retention of healthcare professionals, particularly in rural and underserved areas, is very difficult. The cost of very high medical malpractice insurance is a burden on health care professionals and the costs related to medical tort actions contribute to ever increasing health care costs.

As the state's authorized safety-net health care system, HHSC strongly supports this measure that proposes actions to address the aforementioned concerns, and ultimately help to improve access to healthcare for all of our citizens. Thank you.

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