

**EXECUTIVE CHAMBERS**  
HONOLULU

**LINDA LINGLE**  
GOVERNOR

Testimony of Linda L. Smith  
Senior Policy Advisor to the Governor

Before the

House Committee on Health

Friday, January 25, 2008  
9:35 AM

HB 1992, HB 1995, HB 2071, HB 2151, HB 2161

Representative Green and Members of the Committee:

Thank you for the opportunity to testify. I would like to express my sincere gratitude to the Chair for agreeing to hear medical liability reform legislation in the Committee today. The Governor is committed to initiatives that expand access to quality health care in the State. I commend the Chair and the Committee for making a serious effort to work through this and other important health care issues.

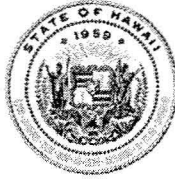
Hawaii's health care system suffers because of a physician shortage, especially in the specialty areas. The Administration strongly believes that the enactment of medical liability reform legislation is one of the best ways to address this issue and to retain and recruit a strong physician workforce in our State. Many health care industry officials are here today who will articulate this problem and the need for reform. The time is now to come together to address their concerns.

Insurance Commissioner Schmidt has prepared detailed testimony on each of the bills before the Committee and the Administration will defer to him for analysis. As you may know, the Administration has introduced its own medical liability reform bill, HB3102/SB3024. We respectfully ask that the Committee schedule a hearing on our bill in the coming weeks. In short, the Administration's bill would:

- Cap non-economic damage awards to \$250,000;
- Establish a sliding scale on attorney contingent fees;
- Define "economic damages"; and
- Require that economic damages be allocated on the percentage of negligence.

The Administration understands that medical malpractice reform is a complex and emotional issue. Although we may not agree on all the details, we intend to work closely with you to get a bill passed this year.

Again, I commend the Chair for bringing this important issue before the Committee and thank you for the opportunity to testify.



LINDA LINGLE  
GOVERNOR  
JAMES R. AIONA, JR.  
LT. GOVERNOR

STATE OF HAWAII  
OFFICE OF THE DIRECTOR  
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS

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[www.hawaii.gov/dcca](http://www.hawaii.gov/dcca)

TO THE HOUSE COMMITTEE ON HEALTH

TWENTY-FOURTH LEGISLATURE  
Regular Session of 2008

Friday, January 25, 2008  
9:35 a.m.

**TESTIMONY ON HOUSE BILL NO. 2071 – RELATING TO INSURANCE.**

TO THE HONORABLE JOSH GREEN, M.D., CHAIR, AND MEMBERS OF THE  
COMMITTEE:

My name is J. P. Schmidt, State Insurance Commissioner (“Commissioner”), testifying on behalf of the Department of Commerce and Consumer Affairs (“Department”). The Department supports the intent of this bill, but prefers the Administration’s bill, H.B. No. 3102, which takes a comprehensive approach to medical liability reform.

The purpose of this bill and H.B. No. 3102 is to address the increasing cost and unavailability of medical malpractice insurance in Hawaii.

This measure proposes establishing the Hawaii Medical Malpractice Relief Fund (“Fund”) to provide medical malpractice insurance to licensed physicians. This bill also appropriates an unspecified sum from the general fund for the medical malpractice insurance reserve trust fund.

This legislation appears to be modeled after the Hawaii Hurricane Relief Fund (“HHRF”) in Hawaii Revised Statutes (“HRS”) chapter 431P.

A six-member Board of Directors would establish policies for the administration and operations of the Fund. The Fund would issue medical malpractice insurance policies and pay claims over the mandatory deductible. The Fund would be authorized

to make assessments upon all insurers writing casualty insurance. Every insurer authorized to write casualty insurance would serve as a claims servicing facility.

Medical malpractice insurers exiting the Hawaii market would be required to provide 13-month notice to the Commissioner, prior to discontinuation of writing medical malpractice insurance coverage.

Although this bill is modeled after HHRF, there are numerous differences between providing coverage for homeowners and for physicians. Unlike homeowners insurance covering physical property, medical malpractice claims and losses involve third-party liability claimants and are difficult to quantify. Medical malpractice claims have low frequency and high severity, meaning that there are a low number of claims, but the losses are high on those claims.

Currently, there are a limited number of carriers writing medical malpractice in Hawaii; the two major writers are physician-owned non-profit reciprocal insurers. Most of the business is provided through a number of other entities, such as private cooperative indemnity corporations under HRS chapter 435E, risk purchasing groups and risk retention groups under the federal Liability Risk Retention Act and HRS chapter 431K, and captive insurers under HRS chapter 431:19.

It is unclear whether the Fund is intended to replace or supplement the voluntary insurance market and the surplus market. In any case, the Department believes that any measure that may have the unintended effect of displacing the voluntary market should be averted.

The Department prefers the medical liability reform proposed in H. B. No. 3102, because it will stabilize the medical malpractice insurance market by allowing medical malpractice carriers to better predict the amount of claims and losses. Increased certainty will have the effect of decreasing or moderating premium costs.

Our support for the intent of this bill notwithstanding, it is respectfully requested that this Committee consider H.B. No. 3102 as an alternative to H.B. No. 2071. Thank you for the opportunity to testify on this measure.

**mizuno1-Edgar**

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**From:** Tabrah, Frank [ftabrah@straub.net]  
**Sent:** Thursday, January 24, 2008 9:22 AM  
**To:** HLTtestimony

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

*January 25, 2008*

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

*From: Frank L Tabrah MD  
2333 Kapiolani Blvd. Apt. 3408, Honolulu, HI  
808 947 1739*

*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.*

*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.*

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

*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.*

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

*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.*

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

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1/24/2008



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

*January 25, 2008*

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

*From: Kimberley Gerard  
91-228 Wakamalii Place  
Kapolei, HI 96707  
(808) 256-7247*

*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 currently a second-year medical student and I plan to practice medicine in Hawaii. I strongly support HB1992 and HB1995, because it will directly affect my decision to practice medicine in Hawaii or on the mainland.*

*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.*

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

*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.*

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

*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.*

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

*Sincerely,*

*KG*

*Kimberley Gerard*

January 23, 2008

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

From: James McGreevy, MD  
5900 Waipouli Road, Kapaa HI, 96746  
651 523-2520

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 have practiced surgery in Kauai for the last 5 years. I have recently relocated my practice to the mainland. This has come at a great cost to the community hospital I supported for the last several years. One of the reasons I have just left Hawaii is the heightened medical legal climate. I personally have been subjected to legal scrutiny which I consider frivolous and unfounded. Still these claims take a tremendous emotional toll on myself and an excessive amount of time away from my patients and family who are otherwise requesting my services and time. Something needs to be done to reduce the incentives to pursue medical-legal action in Hawaii. I will keep my Hawaii Medical License for now but I will not return to that state until something is done about the Tort laws. I strongly support HB1992 and HB1995.*

*These 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.*

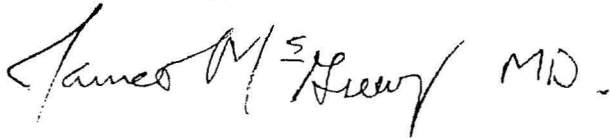
*I oppose HB2071, HB2151 and HB2161 because I only see where they will allow more access to malpractice insurance, they do nothing to deal with the problems causing this insurance crisis. These bills will not stabilize malpractice insurance premiums.*

*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. I am another physician who loves Hawaii but I find the working environment unfavorable with low poor reimbursement and high malpractice premiums. The medical-legal climate in Hawaii is hostile and this contributed to my decision to leave the state.*

*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.*

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

*James McGreevy, MD*

A handwritten signature in black ink that reads "James McGreevy MD". The signature is written in a cursive style, with the first name "James" and the last name "McGreevy" being the most prominent parts. The "MD" is written in a simpler, more upright font to the right of the name.

**mizuno1-Edgar**

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**From:** Alexandra Takayesu [agt@hawaii.edu]  
**Sent:** Wednesday, January 23, 2008 10:48 PM  
**To:** HLTtestimony  
**Subject:** Medical Liability Testimony

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

January 23, 2008

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

**From:** Alexandra Takayesu  
323 Kepa Rd.  
Kula, HI 96790

808-264-5355

**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 medical student from Maui and I strongly support HB1992 and HB1995.

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.

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

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.

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

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.

Thank you for the opportunity to provide this testimony.

Alexandra Takayesu

**mizuno1-Edgar**

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**From:** Galen Chock [gchock@aap.net]  
**Sent:** Thursday, January 24, 2008 8:44 AM  
**To:** HLTtestimony  
**Subject:** Opposition to HB 2071, HB 2151, HB 2161

Sergeant of Arms: Please deliver five (5) copies of this e-mail testimony to Rm 329 for the House Health Committee Meeting on Friday 1/25/08 @ 0935. Thank you

Honorable Representatives Green and Mizuno, COMMITTEE ON HEALTH:  
HAAP understands that you will be hearing **HB 2071, HB 2151 and HB 2161** Relating to Insurance, Relating to Captive Insurance and Relating to Medical Malpractice Insurance, on Friday, January 25, 2008 @ 9:35 a.m. in Conference Room 329.

We are unable to appear in person, however, the Hawaii Chapter of the American Academy of Pediatrics is opposed to HB 2071, HB 2151 and HB 2161. These bills will not improve the Hawaii health care environment, will not enhance patients' ability to access quality health care in Hawaii and would only serve to divert scarce resources to nonproductive endeavors.

Respectfully

Galen Chock MD  
President  
Hawaii Chapter of the American Academy of Pediatrics (HAAP)  
1380 Lusitana St. Suite 501  
Honolulu, HI 96813  
(808) 521-6030, fax (808) 521-6273  
gchock@aap.net

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1/24/2008

**mizuno1-Edgar**

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**From:** Scott Harvey [sharvey5@mac.com]  
**Sent:** Thursday, January 24, 2008 8:40 AM  
**To:** HLTtestimony  
**Subject:** Testimony

*January 25, 2008*

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

*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 Medical Student and I strongly support HB1992 and HB1995.*

*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.*

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

*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. As a future physician, I hope to practice and serve the Hawaiian Public. However, I keep hearing from physicians that it is too difficult to maintain a practice here due to the laws currently en-stated. As a result, physicians are leaving Hawaii and its residents are unable to obtain medical care. I hope this may change as I will get into practice so that I may stay in Hawaii.*

*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.*

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

Scott A Harvey

John A Burns School of Medicine  
651 Ilalo Street  
Honolulu, HI 96813  
[sharvey@hawaii.edu](mailto:sharvey@hawaii.edu)  
808-772-2700

1/24/2008

**mizuno1-Edgar**

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**From:** Johnson, Sidney MD [Sidney.Johnson@kapiolani.org]  
**Sent:** Thursday, January 24, 2008 12:07 PM  
**To:** HLTtestimony  
**Subject:** Medical Liability/tort reform

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

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

*From: Sid Johnson, MD  
Pediatric Surgery  
600 KMCWC  
1319 Punahou St  
Honolulu, HI 96825*

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

Sid Johnson

Sid Johnson, MD  
Pediatric Surgery  
General, Thoracic and  
Minimally Invasive Surgery

KMCWC suite 600  
1319 Punahou Street  
Honolulu, HI 96826  
(808)265-6754

1/24/2008





Pauahi Tower, Suite 2010  
1003 Bishop Street  
Honolulu, Hawaii 96813  
Telephone (808) 525-5877  
Facsimile (808) 525-5879

**Alison Powers**  
Executive Director

## TESTIMONY OF ALISON POWERS

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HOUSE COMMITTEE ON HEALTH  
Representative Josh Green, M.D., Chair  
Representative John Mizuno, Vice Chair

Friday, January 25, 2008  
9:35 a.m.

### **H.B. 2071**

Chair Green, Vice Chair Mizuno, and members of the committee, my name is Alison Powers, Executive Director of Hawaii Insurers Council. Hawaii Insurers Council is a non-profit trade association of property and casualty insurance companies licensed to do business in Hawaii. Member companies underwrite approximately 60% of all property and casualty insurance premiums in the state.

The Hawaii Insurers Council **opposes** H.B. 2071. The bill would create a new Hawaii Medical Malpractice Insurance Relief Fund ("Fund") to provide medical malpractice insurance to physicians in the State of Hawaii.

In relevant part, the Fund would be empowered to assess all insurers authorized to write casualty insurance in the State of Hawaii to raise funds necessary to meet the obligation of the Fund. "Casualty insurance" is a broad category of insurance which includes workers' compensation insurance, commercial general liability, homeowner's liability insurance and other personal and professional liability insurance policies.

Assessments paid to the Fund would be passed on to the policyholders of non-medical malpractice insurance policies in the form of higher premiums or through reduced market participants. The bill would effectively require employers, homeowners and non-

medical professionals to subsidize the medical malpractice insurance costs of physicians.

Currently there is an existing market to insure medical malpractice risks. It is a highly specialized field of the insurance industry, which includes physician-owned reciprocal insurers. Hawaii Insurers Council respectfully questions whether that market is so inadequate as to require the Legislature to create a new market entrant.

We respectfully request that H.B. 2071 be held.

Thank you for the opportunity to testify.

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

*January 25, 2008*

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

*From: Dr. Gautam A. Deshpande, MD  
347 N. Kuakini St, Medical Education 8th Floor, Honolulu, HI 96817  
832-215-3120*

*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*

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

*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.*

1/24/2008

*As a result, physicians are leaving Hawaii and its residents are unable to obtain the medical care. As a new physician in Hawaii and one dedicated to providing much-needed care to Hawaii's underserved and culturally diverse population, I am saddened that I have been forced to consider moving back to California or Texas due to the lack of tort reform in this state.*

*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.*

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

Gautam A. Deshpande, MD

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UH Internal Medicine Training Program  
Assistant Clinical Professor  
Kuakini Hospital  
Chief Medical Resident

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**May Mizuno**

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**From:** Linda Jenks [linda.jenks@gmail.com]  
**Sent:** Thursday, January 24, 2008 1:14 PM  
**To:** HLTtestimony  
**Subject:** Medical Liability Reform

January 25, 2008

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

**From:** Linda Jenks, M.D.  
98-1079 Moana Lua Rd, Aiea, HI 96701  
808-371-2154

**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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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.

Thank you for the opportunity to provide this testimony.

January 25, 2008

Representative Josh Green, M.D.  
Representative John Mizuno  
Health Committee Members

RE: HB 1992, HB 1995, HB 2071

I am a volunteer advocate and I am here today to share with you my testimony regarding the current access to physician care crisis in the state. Today I am voluntarily representing thousands of patients in this state who have lost their doctors or have not been able to get timely medical care.

I lost two of my doctors this past year. My internist closed her practice with three months notice. Her husband is a cardiologist and has recently been sued twice. They have young children and my Doctor told me she could not sleep at night due to the stress these suits have caused in their family. She was worried about getting sued herself and this was what caused her to close her practice. She has been doing paper work for her husband in his practice the past few months and in a note she sent me she said, "now he can come home and have dinner with the family two nights a week instead of only one." This is insane! Doctors should be able to have lives too.

My other Doctor was Dr. Michael Hahn, a board certified orthopedic hand specialist. He left and went to Texas where they have passed major malpractice reform legislation. He e-mailed his former partner here and said he can now practice medicine as he was trained to do in medical school. He no longer orders unnecessary tests for patients to protect himself from malpractice suits. He doesn't have to practice defensive medicine. His stress is gone and he enjoys going to work each day. In February 2006 Dr. Hahn diagnosed me with carpal tunnel in both of my hands and was treating me for this problem. In the summer of 2007 I read in the paper that he had gone to Texas. I was upset! In October 2007 my right thumb went to sleep. It didn't wake up. I went to see a new Doctor and decided to have surgery on November 28, 2007. My new Doctor is an orthopedic surgeon but not a board certified hand specialist. I had to take my chances because there wasn't anyone else to help me. I couldn't just wait until my whole hand went to sleep, never woke up and I had permanent nerve damage. He is originally from Hawaii and recently returned. His wife is a radiologist and the only way they could come home was if she could keep her practice. So she continues her practice to the mainland via the internet as a radiologist.

This is the reason I volunteered to become involved in this issue. This is not a partisan issue. This is not a doctor vs. attorney issue. THIS IS NOT EVEN A MONEY ISSUE. The state doesn't have to pay for anything. That's the best news I've heard all year! THIS IS A PEOPLE ISSUE. THIS IS A PATIENT ISSUE. Since I have been involved I have heard one horror story after another from patients and your constituents. Story after story from neighbor island people who have lost an eye, lost a foot, lost a leg because it took 10 or more hours to medevac them to Oahu. Every time I talk to someone they tell me about losing their doctor. My good friend was also Dr. Hahn's patient. Dr. Hahn did arthroscopic surgery on another friend. My surgery nurse lost two doctors. A couple I met at a windward legislative meeting both went to my internist. My internist had 3,000 patients. Where are 3,000 patients going to go in Kailua? The couple has been unable to find a new doctor. Every doctor they call said they are not taking new patients and/or will not take Medicare patients. Senior citizens are usually on some kind of medication, and if you stop it on a moments notice it can be life threatening. This happened to me. I had to get my OB/Gyn to refill my prescriptions from my internist.

This issue is not about eliminating the option to obtain damages for negligence in catastrophic cases. When definite malpractice and permanent damages/disabilities occur people have the right to remuneration. My son was born with cerebral palsy. He is spastic quadriplegic, has never walked one step and has spent his entire life in a wheelchair. There were malpractice issues when he was born. That was 41 years ago before machines and monitors. I did not sue anyone. I have lived with his disability for 41 years so I know how hard it can be. I have walked the walk.

The following Doctors from the windward side of Oahu have closed their practice and/or left Hawaii in the past two years: Dr. Kerry Hubbs, orthopedic surgeon; Dr. Terry Smith, the only orthopedic back surgeon; Dr. Neil Katz, orthopedic surgeon; Dr. Richard Rose, orthopedic surgeon; Dr. Michael Hahn, the only board certified orthopedic hand surgeon; Dr. Helen Ing, internist; Dr. Jeffrey Ryan, family practice; Dr. Cynthia Mosbrucker, OB/Gyn; Dr. Theodore Teruya, vascular surgeon; Dr. Sam Smith, anesthesiologist, only here six months. Dr. James F. Pierce, a neurologist at Queens, retired November 30, 2007. In his Star Bulletin notice of retirement he said, "I tried unsuccessfully for 1 1/2 years to find someone to continue my practice. Cost of living in Hawaii, ever-rising costs in the medical practice and inadequate reimbursements..... do not cover these needs" The Doctors who have left have relocated to states that have passed malpractice reform.

Dr. Linda Rasmussen is taking up the slack for these orthopedic surgeons who have left. She is about to kill herself. Last Saturday she took care of one joint patient who was refused treatment by Queens. On Martin Luther King Day she did seven joint replacements. She is seeing 25 patients in her half-day clinics. Her personal friends are calling her or showing up at her front door with their orthopedic problems because they cannot get an appointment to see her through her office staff. I know this is true because I pulled strings one day to see her and waited 2 hours in her office. Doctors cannot continue to work like this without drastic consequences to their health and family.

OB/Gyn is in chaos in the state right now. There is not a hospital Ewa of Queens and Kapiolani that delivers babies. That is where the majority of young families who are of child bearing age live on Oahu. An OB/Gyn who practices in Wahiawa sends his patients to Kapiolani as soon as they begin contractions. He says if they wait and there are traffic problems they won't make it. There is only one OB/Gyn delivering babies on Maui. Molokai and Lanai have NONE. These patients have to come to Oahu 1-2 weeks before their due date and stay here until they give birth to make sure they are here when they go into labor. Once you are in labor the airlines won't let you on an airplane. You're not suppose to fly in your last month of pregnancy either. The OB/Gyn in the Kahuku area is discontinuing delivering babies. She said she can no longer drive back and forth between Kahuku and Castle Medical Center to to the deliveries. Kahuku Hospital closed its obstetrics department. When mothers are forced to deliver babies in unsafe circumstances the chances of developmental disabilities increases drastically and developmental disabilities becomes another cost to the state.

During the past couple of weeks I have read several newspaper articles regarding the chaotic situation with medical and health care in our state. It is more than I can comprehend. The idea of giving UH medical students tuition waivers if they will practice in the "country" is being discussed. But these students will still have to pay high malpractice premiums and receive low reimbursements even if they are in the "country." The Hawaii Health Care Systems Corporation is broke. They can't pay their bills however they say they are "putting forth a huge effort to recruit, hire and contract physicians" to replace those who are leaving." Crazy! Maui Memorial Hospital talks of building a new heart unit and they are going to hire an open heart surgeon, and pay him/her \$1,000,000 a year with my tax dollars. I don't think so! How are they going to find an open heart surgeon on Maui when patients can't even get an internist in Kailua? Dr. Greg Sakamoto, who graduated from Waiialua High School and UH medical school, was recently named chief resident of the dermatology program at Harvard. Why isn't he practicing medicine at home? It is way past time for this state to get its health care act together. Obviously everyone is working in isolation. We need to address the real problems as to why our physicians are leaving and not create another revolving door. If there are no doctors left in the state there will be no need for hospitals. Without doctors you can't run a hospital.

"I believe in my heart and with my whole being we can make Hawaii a better place. To do that we must embrace change not as a political slogan, but as a way of life." This is a quote from Speaker Calvin Say's opening day message. He is right we must embrace change and forget the politics. Malpractice insurance must be changed in such a way to reduce the malpractice premiums so that our Doctors will stop leaving the state and we will have quality of life. The Texas model is an excellent example for us to follow.

It has solved Texas' problem with malpractice. I hope you will really take Speaker Say's words to heart and create change in the malpractice area.

The health care situation is scary, really scary. In fact it scares me to death. However, it might be a good thing if we all got scared to death, because that would solve our crisis. Seriously, it's not just about us patients, it's about you legislators also. You are being affected the same as us. If you haven't felt the impact of the malpractice problem yet, your turn will come, it's only a matter of time. You are the only ones who can help us and yourselves. I am putting my trust in you to solve the physician shortage in our state this session. I have heard Doctors testify that the system is broke, in crisis and chaos. By passing malpractice reform this year it will be a big step in solving the health crisis in this state. Will you please help because this is a situation in which we can not help ourselves. Again this is not a partisan issue, nor an attorney vs. doctor issue. The Legislature needs to take care of their constituents by solving this problem NOW. Please help us and thank you for listening.

Sincerely,

A handwritten signature in black ink that reads "Kathy F. Campbell". The signature is written in a cursive, flowing style.

Kathy F. Campbell



**TESTIMONY OF ROBERT TOYOFUKU ON BEHALF OF THE CONSUMER  
LAWYERS OF HAWAII (CLH) IN SUPPORT OF H.B. NO. 2071, HB No. 2151,  
and HB No. 2161**

January 25, 2008

To: Chairman Josh Green and Members of the House Committee on Health:

My name is Bob Toyofuku and I am presenting this testimony on behalf of the Consumer Lawyers of Hawaii (CLH) in support of the purpose of several bills; namely, H.B. No.2071, H.B. No. 2151, and H.B. No. 2161.

CLH agrees with and supports the purpose of these bills which attempts to establish alternatives to the medical malpractice insurance companies currently offering insurance in Hawaii, whether it be a relief fund, a captive insurance company, or a mutual insurance company. CLH has testified in past hearings that because Hawaii's population is not large enough to have many insurance companies in "specialty" lines (i.e., only for medical malpractice insurance) write policies here, it would be prudent to look at other alternatives to be supplemental in the marketplace. Being that this is just a fact that we all have to deal with, CLH feels that these bills, if any become reality, could help to alleviate the cost of medical malpractice insurance. In that sense we support the purpose of these bills.

As to the actual funding for the various concepts outlined in these bills CLH does not have enough information to comment on the amount of funding that would be deemed adequate for this undertaking and leaves that decision to this committee and the committee on Finance.

Thank you for the opportunity to testify.