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TO THE HOUSE COMMITTEE ON JUDICIARY

TWENTY-FOURTH LEGISLATURE
Regular Session of 2008

Friday, March 28, 2008
2:00 p.m.

**TESTIMONY ON HOUSE CONCURRENT RESOLUTION NO. 349 – REQUESTING
THE LEGISLATIVE REFERENCE BUREAU TO STUDY THE EFFECTS OF MEDICAL
TORT REFORM ON ACCESS TO HEALTH CARE.**

TO THE HONORABLE TOMMY WATERS, 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 is willing to cooperate with the Legislative Reference Bureau
study on the effects of medical tort reform on access to health care.

We thank the Committee for this opportunity to testify on this resolution.

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Acting Director

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LEGISLATIVE REFERENCE BUREAU
State of Hawaii
State Capitol
Honolulu, Hawaii 96813

COMMENTS ON HCR 349
REQUESTING THE LEGISLATIVE REFERENCE BUREAU
TO STUDY THE EFFECTS OF
MEDICAL TORT REFORM ON ACCESS TO HEALTH CARE

Testimony by the Legislative Reference Bureau
Ken H. Takayama, Acting Director
or Charlotte A. Carter-Yamauchi, Assistant Director for Research

Presented to the House Committee on Judiciary

Friday, March 28, 2008, 2:00 p.m.
Conference Room 325

Chair Waters and Members of the Committee:

Thank you for this opportunity to testify on H.C.R. 349. The Bureau takes no position for or against this measure but offers the following comments.

The resolution directs the Bureau to study the effects of medical tort reform on access to health care.

We believe that this study may be both difficult and contentious. As presently drafted, however, the scope of the study requested in this measure appears to be manageable.

Accordingly, if this measure is to pass, we request that it not be modified in any way, as attempts to "clarify" a measure may have the unintended effect of broadening the scope of a requested study in a way that makes it unmanageable.

Thank you very much for this opportunity to testify.

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March 28, 2008

To: Rep. Tommy Waters, Chair
Rep. Black Oshiro, Vice Chair
House Judiciary 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

PLEASE DELIVER TO:

Judiciary Committee

Friday
3/28/08
2pm
Room 325

Re: HCR349 Requesting the Legislative Reference Bureau to study the effects of medical tort reform on access to health care

The Hawaii Medical Association believes that ample evidence has been presented to the Hawaii Legislature demonstrating that medical liability reform is necessary in Hawaii and will be effective in Hawaii for improving patient access to care by stabilizing medical liability insurance premiums.

Earlier this year, the Insurance Division of the Hawaii Department of Commerce and Consumer Affairs presented to the Legislature its actuarial study showing that Hawaii's premiums would decrease by 12-18% if medical liability reform is enacted.

The Insurance Division's study is consistent with independent research on the impact of medical liability reform in other states, which show that caps on non-economic damages are effective in lowering medical liability premiums by at least 17% depending on the specialty.

The fact that Hawaii Medical Claims Conciliation Panel found no negligence in 82% of the cases it reviewed in 2006 and 86% of the claims filed against physicians insured by MIEC, Hawaii's major medical malpractice insurance carrier, are found to be without merit and result in to payment to the claimant are clear evidence that the system is being abused and reforms are necessary.

Legislation is required to bring those costs under control.

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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.

Due to medical liability reform, Texas has:

- Licensed 3324 new doctors in 2007, including a net gain of 186 obstetricians
- Brought 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
- Admitted four new, 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's growing patient access to care crisis, the Hawaii legislature needs to take major steps.

While we strongly believe that ample studies have been conducted and it is urgent that the Legislature enact medical liability reform now to address Hawaii's patient access to care crisis, we will cooperate with efforts by the Legislative Reference Bureau to fulfill the requests of HCR349 should it be approved.

Thank you for the opportunity to testify on this matter.

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