
A BILL FOR AN ACT

RELATING TO MEDICAL TORTS.

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

1 SECTION 1. Section 671-16, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "**§671-16 Subsequent litigation; costs and fees; excluded**
4 **evidence.** (a) The claimant may institute litigation based upon
5 the claim in an appropriate court only after a party to a
6 medical claim conciliation panel hearing rejects the decision of
7 the panel, or after the twelve-month period under section 671-18
8 has expired.

9 (b) In cases where the claimant rejects damages awarded by
10 the panel and institutes litigation, the claimant shall be
11 liable for the health care provider's attorneys' fees and costs
12 and the provider's time in preparing for and attending any court
13 hearings, unless the litigation results in an award of more than
14 two hundred per cent of the damages awarded by the medical claim
15 conciliation panel.

16 (c) In cases where the claimant rejects the panel's
17 finding that the health care provider was not negligent and
18 institutes litigation, the claimant shall be liable for the



1 attorneys' fees and costs of all defendants to the action,
2 unless the litigation results in a judgment in favor of the
3 claimant.

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

19 SECTION 2. New statutory material is underscored.

20 SECTION 3. This Act shall take effect upon its approval.

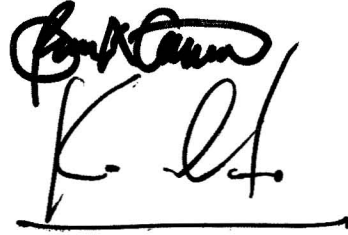
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INTRODUCED BY:

[Handwritten signatures: Paul C. ...]
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H.B. NO. 575

A handwritten signature in black ink, appearing to read "Paul Quinn", written over a horizontal line.

JAN 23 2009



Report Title:

Medical Torts

Description:

Requires claimants who reject the medical claim conciliation panel's award of damages and pursue litigation to pay the health care provider's attorneys' fees, costs, and cost of the provider's time, unless the litigation results in an award of more than 200% of the panel's award. Requires claimants who reject the panel's finding of no negligence and pursue litigation to pay the attorneys' fees and costs of all defendants, unless the result of litigation is a judgment in favor of the claimant.

