

STAND. COM. REP. NO.

925

Honolulu, Hawaii

March 6, 2009

RE: H.B. No. 310
H.D. 2

Honorable Calvin K.Y. Say
Speaker, House of Representatives
Twenty-Fifth State Legislature
Regular Session of 2009
State of Hawaii

Sir:

Your Committee on Judiciary, to which was referred H.B. No. 310, H.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO MEDICAL TORTS,"

begs leave to report as follows:

The purpose of this bill is to allow a court to impose sanctions on a nonprevailing party whose rejection of a decision by the Medical Claim Conciliation Panel (MCCP) resulted in litigation.

The Hawaii Medical Association testified in support of this bill. The Hawaii Association for Justice and a concerned individual opposed this measure. The Department of Commerce and Consumer Affairs provided comments.

Because the measure principally addresses the consequences for a nonprevailing party in an MCCP hearing, your Committee has amended this measure by deleting the definition for "prevailing party" and inserting a definition for the "nonprevailing party." Your Committee has further amended this measure by:

- (1) Clarifying that the sanctions contemplated by this measure may apply not only to trial results but other results obtained through subsequent litigation, such as summary judgement; and

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- (2) Making technical, nonsubstantive amendments for style, clarity, and consistency.

Your Committee notes that the effective date for this measure is set at July 1, 2020, and finds that this measure should remain under further discussion.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 310, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 310, H.D. 2.

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



JON RIKI KARAMATSU, Chair



