

STAND. COM. REP. NO. 504

Honolulu, Hawaii
Feb 20, 2009

RE: H.B. No. 575
H.D. 1

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

Sir:

Your Committee on Health, to which was referred H.B. No. 575
entitled:

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

begs leave to report as follows:

The purpose of this bill is to discourage frivolous medical
malpractice claims from being brought to court after a hearing by
the Medical Claims Conciliation Panel (MCCP) by:

- (1) Requiring claimants who reject the MCCP'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 percent of the MCCP's award; and
- (2) Requiring 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.

The Hawaii Medical Association and Hawaii Association of
Health Plans supported this bill. The Department of Commerce and
Consumer Affairs (DCCA), Hawaii Association for Justice, and a
concerned individual submitted comments.

HB575 HD1 HSCR HLT HMS 2009-2352



Your Committee has amended this bill by, among other things:


- (1) Inserting provisions that:
 - (A) Establish the Medical Claim Conciliation Office in DCCA and the positions of Executive Director and Hearing Officer;
 - (B) Direct the Hearing Officer to conduct hearings on medical claims in accordance with the Administrative Procedure Act; and
 - (C) Make opinions issued by the hearing officer binding upon the parties;

and

- (2) Making technical, nonsustantive changes for clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 575, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 575, H.D. 1, and be referred to the Committee on Judiciary.

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


RYAN I. YAMANE, Chair



