

TESTIMONY OF ROBERT TOYOFUKU ON BEHALF OF THE HAWAII ASSOCIATION FOR JUSTICE (HAJ) formerly known as the CONSUMER LAWYERS OF HAWAII (CLH) IN SUPPORT OF H.B. NO. 1317

February 10, 2009

My name is Bob Toyofuku and I am testifying on behalf of the Hawaii Association for Justice (formerly known as CLH*) in Support of H.B. No. 1317.

This bill provides tax incentives for the recruitment and retention of physicians in rural and underserved areas of this State. This measure provides a tax credit of between 10 -70% of the cost of insurance for physicians in proportion to their length of practice in rural and underserved areas.

It is important to keep in mind that physician insurance premiums are already 100% deductible under both federal and state income tax laws as ordinary business expenses. The Internal Revenue Service's current Tax Guide for preparing 2008 returns confirms a full tax deduction for physician's insurance premiums for:

“Malpractice insurance that covers your personal liability for professional negligence resulting in injury or damage to patients or clients.”

IRS publication 334, Ch. 8 Business Expenses, p. 34.

Because malpractice insurance premiums are already fully deductible, the addition of tax credits could result in a net offset (and perhaps even a small gain) for physicians who practice in rural areas for the long term. This will essentially make malpractice insurance free for rural doctors.

If the claim is that it is the high cost of malpractice insurance which is the cause of the doctor shortage in rural areas and that the reduction of premiums as the cure is true,

then this measure alone should solve the doctor shortage problem because it will eliminate the cost of insurance through tax incentives.

Thank you for this opportunity to testify in SUPPORT of H.B. No. 1317.

* CLH has changed its name to conform to the name of its national organization the American Association for Justice.



OFFICERS

Gary Okamoto, MD
President

Robert Marvit, MD
President Elect

Cynthia Jean Goto, MD
Immediate Past President

Thomas Kosasa, MD
Secretary

Jonathan Cho, MD
Treasurer

April Donahue
Executive Director

To: House Committee on Health
Rep. Ryan I. Yamane, Chair
Rep. Scott Y. Nishimoto, Vice Chair

Health Committee

2/10/2009
8:30 a.m.
Room 329

From: Hawaii Medical Association
Gary A. Okamoto, MD, President
Philip Hellreich, MD, Legislative Co-Chair
Linda Rasmussen, MD, Legislative Co-Chair
April Donahue, Executive Director
Richard C. Botti, Government Affairs
Lauren Zirbel, Government Affairs

Re: HB 1317 RELATING TO RURAL PHYSICIANS TAX CREDIT

In Support

Chairs & Committee Members:

HMA supports this measure as something that can be done immediately to provide some relief to physicians in rural areas of Hawaii and address the access to care shortage.

Further, the sliding scale for tax credits provides an inducement for each year as the physician gains experience, decreasing the chances of the physician leaving for greener pastures.

Thank you for the opportunity to provide this testimony.

Hawaii Medical Association
1360 S. Beretania St.
Suite 200
Honolulu, HI 96814
(808) 536-7702
(808) 528-2376 fax
www.hmaonline.net



February 10, 2009

The Honorable Ryan Yamane, Chair
The Honorable Scott Nishimoto, Vice Chair
House Committee on Health

Re: HB 1317 – Relating to Rural Physicians Tax Credit

Dear Chair Yamane, Vice Chair Nishimoto and Members of the Committee:

My name is Rick Jackson and I am President of the Hawaii Association of Health Plans (“HAHP”). HAHP is a non-profit organization consisting of seven (7) member organizations:

| | |
|---------------------------------------|----------------------------|
| AlohaCare | MDX Hawai‘i |
| Hawaii Medical Assurance Association | University Health Alliance |
| HMSA | UnitedHealthcare |
| Hawaii-Western Management Group, Inc. | |

Our mission is to promote initiatives aimed at improving the overall health of Hawaii. We are also active participants in the legislative process. Before providing any testimony at a Legislative hearing, all HAHP member organizations must be in unanimous agreement of the statement or position.

HAHP appreciates the opportunity to testify in support of HB 1317 which would lower medical malpractice insurance premiums by adopting legislation that directly affects elements impacting medical malpractice insurance rates. HAHP supports the intent of this bill as a good first step toward helping to contain the spiraling cost of medical malpractice insurance.

We agree with statements made by local physician organizations that the current medical tort system drives significant “defensive medicine” costs and has led to Neighbor Island shortages in key surgical specialties. The members of HAHP see these facts daily in our medical claims costs and in limitations in the numbers and types of our contracted physicians on neighbor islands.

Thank you for the opportunity to offer comments today.

Sincerely,

Rick Jackson
President

**Trecker
&
Fritz**

Attorneys At Law

Collin M. (Marty) Fritz
Allen K. Williams
Suite 701
820 Mililani Street
Honolulu, Hawaii 96813-2937

(808) 528-3900
Fax: (808) 533-3684
Toll Free: (800) 237-9300

Memo

To: Chair, House Health Committee
From: Marty Fritz
Date: February 10, 2009, Tuesday at 8:30 a.m.
Re: **HB 1317**

Honorable Chair and Committee Members. My name is Marty Fritz. I am a lawyer who represents a small number of medical malpractice victims who suffer horrific injuries or death from doctors errs.

The bills your committee is hearing relating to tort reform have one basic assumption--- there is a need for some change. The arguments I have heard supporting these bills are primarily that there is an explosion in medical malpractice verdicts in the State of Hawaii which is leading large numbers of physicians to leave the state. There are no specifics presented, rather emotional non specific allegations of the negative effects of the current system. The reason why these arguments are non specific is because they are unable to be supported by relating on evidence and analysis.

As a former member of the bipartisan committee appointed by the legislature in the late 1990's to make a two year study of the tort system, I am quite aware of how faulty perceptions combined with emotions and publicity can powerfully impact the legislative process. In the 1990's there was a perception that the costs of the tort system were out of control. The study, which thoroughly reviewed actual cases and filings, found to nearly everyone's surprise that just the opposite was true i.e. *there had been a significant drop in accidents and court filings.*

Of Counsel:
Steven J. Trecker