

TESTIMONY OF ROBERT TOYOFUKU ON BEHALF OF THE HAWAII ASSOCIATION FOR JUSTICE (HAJ) formerly known as the CONSUMER LAWYERS OF HAWAII (CLH) IN OPPOSITION TO H.B. NO. 1636

February 10, 2009

To: Chairman Ryan Yamane and Members of the House Committee on Health:

My name is Bob Toyofuku and I am presenting this testimony on behalf of the Hawaii Association for Justice (HAJ) in opposition to H.B. No. 1636.

The Hawaii Legislature recently requested a comprehensive study of the emergency doctor shortage by the Legislative Reference Bureau (LRB). The LRB submitted a 54 page analysis (Report No. 2, 2006) on the causes for the shortage and potential solutions. The LRB study does not support the premise of this bill that tort reform is the answer to the problem.

The LRB studied the alleged causes of the emergency doctor shortage: 1) Insufficient Compensation; 2) Impact on Lifestyle and their own Private Practice; 3) Supply and Demand - - national shortage of emergency and trauma doctors; and 4) Liability concerns. The LRB study confirmed the impact of 1) insufficient compensation, 2) impact on lifestyle and private practice and 3) supply and demand. However, the LRB was unable to confirm the role of medical malpractice. The LRB report cautioned: "However, evidence on how premiums were affected is mixed and findings are at best inconclusive. In this regard, researchers who study the tort system have found only a loose connection between claim filings and outcomes and premium spikes. Policy makers should be wary of exaggerated and misdirected statistics offered in support of partisan positions."

The LRB study offers many suggestions to address the emergency and trauma doctor shortage. The suggestions relating to the major undisputed causes should be pursued before enacting tort limitations whose impact have been determined to be “at best inconclusive.”

The simple fact is that eliminating patient protection from health care malpractice will not solve the emergency and trauma doctor shortage, yet will severely impact the rights and lives of those patients who suffer the consequences of medical negligence.

Because of our concerns stated above HAJ is not supportive of this measure. Thanks you for the opportunity to testify on this bill.



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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: HB1636 RELATING TO EMERGENCY MEDICAL PHYSICIANS

Chairs & Committee Members:

Hawaii Medical Association supports HB1636.

The passage of this measure is a common sense approach to encourage medical professionals to provide help in cases of emergency without thinking about how their actions could create unintended circumstances when an ungrateful individual is looking to create monetary gain.

The measure covers cases of gross negligence as it should.

Thank you for the opportunity to provide this testimony.

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February 10, 2009

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

Re: HB 1636 – Relating to Emergency Medical Physicians

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
Hawaii Medical Assurance Association
HMSA
Hawaii-Western Management Group, Inc.

MDX Hawai‘i
University Health Alliance
UnitedHealthcare

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 1636 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

• AlohaCare • HMAA • HMSA • HWMG • MDX Hawaii • UHA • UnitedHealthcare •
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Memo

To: Chair, House Health Committee
From: Marty Fritz
Date: February 10, 2009, Tuesday at 8:30 a.m.
Re: **HB 1636**

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 errors.

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