

**TESTIMONY OF ROBERT TOYOFUKU ON BEHALF OF THE HAWAII
ASSOCIATION FOR JUSTICE (HAJ) formerly known as the CONSUMER LAWYERS
OF HAWAII (CLH) REGARDING H.B. NO. 1785**

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) regarding H.B. No. 1785.

This bill provides for the establishment of a task force to develop a strategic plan to address the cost of medical malpractice rates in the State as it relates to a purported shortage of doctors. We feel that it is a good idea to have a task force look into whether medical malpractice insurance rates is a significant factor in a purported doctor shortage crisis; and the effect that changes to the tort system may solve the alleged crisis in relation to other solutions. Our comments and suggestions are listed below.

First as to the membership of the task force: HAJ feels that it would be beneficial if the members of the task force had background on the issue of tort law and an understanding of how insurance works. We request that you have a representative from the Hawaii Association for Justice with practical experience handling these cases since there will be a member of the insurance industry.

We feel that the focus should be on the primary purpose of the task force; that is, to address whether in fact a doctor shortage crisis exists, the reason for the shortage, and whether solutions to the shortage depends on considerations of the cost of medical malpractice insurance, and possible alternatives such as captive insurance companies and a patients' compensation fund. Our concern is that if the big picture is not examined, i.e., what are the main causes of the doctor

shortage and what are the most effective solutions, the purpose for forming the task force will not be achieved.

Thank you for the opportunity to testify on this bill.



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 1785 RELATING TO MEDICAL MALPRACTICE

Chairs & Committee Members:

HB 1785 is not necessary.

This measure would delay action on solutions for another year. If Hawaii's health care was not already in a crisis situation, this would be a positive step. The issues have been on the table for the past five years with HMA warning the Legislature of the coming crisis. There isn't anyone who disputes it at this point in time, and all the solutions have been brought forth.

It's time for the Legislature to make some tough decisions.

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 1785 – Relating to Medical Malpractice Claims

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 1785 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 •
HAHP c/o Howard Lee, UHA, 700 Bishop Street, Suite 300 Honolulu 96813
www.hahp.org

**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 1785**

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