

JAN 26 2009

A BILL FOR AN ACT

RELATING TO MEDICAL MALPRACTICE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Chapter 235, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:

4 "§235- Medical malpractice insurance premium tax credit.

5 (a) There shall be allowed to each qualified taxpayer who is a
6 physician or surgeon licensed under chapter 453 or an
7 osteopathic physician and or surgeon licensed under chapter 460,
8 a medical malpractice insurance premium tax credit that shall be
9 deducted from the taxpayer's net income tax liability, if any,
10 imposed by this chapter for the taxable year in which the
11 medical malpractice insurance premium is paid, in an amount of
12 fifty per cent of the cost of the premium.

13 (b) The credit allowed under this section shall be claimed
14 against the net income tax liability for the taxable year. For
15 the purpose of this section, "net income tax liability" means
16 net income tax liability reduced by all other credits allowed
17 under this chapter.



1 (c) Every claim, including amended claims, for a tax
2 credit under this section shall be filed on or before the end of
3 the twelfth month following the close of the taxable year for
4 which the credit may be claimed. Failure to comply with the
5 foregoing provision shall constitute a waiver of the right to
6 claim the credit.

7 (d) To qualify for a credit under this section, the
8 taxpayer shall:

9 (1) Practice in a recognized medical specialty that has a
10 shortage in the number of practitioners desirable to
11 meet the demand, as determined by the board of medical
12 examiners or the board of osteopathic examiners, as
13 applicable; or

14 (2) Have practiced continuously in the State, in any
15 specialty or as a general practitioner or family
16 practitioner, for a period exceeding five years.

17 (e) The director of taxation may adopt rules under chapter
18 91 and forms necessary to carry out this section.

19 (f) This section shall apply to taxable years beginning
20 after December 31, 2008."



1 SECTION 2. Chapter 671, Hawaii Revised Statutes, is
2 amended by adding a new section to part I to be appropriately
3 designated and to read as follows:

4 "§671- Limitation on damages. Notwithstanding section
5 663-8.7, an award for noneconomic damages as defined in section
6 663-8.5 in a claim or action under this chapter for a medical
7 tort shall be limited to a maximum award of \$1,000,000. If a
8 court, rather than a jury, makes a specific finding that the
9 injury is catastrophic, the award for noneconomic damages as
10 defined in section 663-8.5 in a claim or action under this
11 chapter for a medical tort shall be limited to a maximum award
12 of \$3,000,000.

13 For purposes of this section, "catastrophic injury" refers
14 to, but is not limited to:

- 15 (1) Severe brain or spinal cord injury; or
16 (2) Permanent paralysis resulting in severe functional
17 disability."

18 SECTION 3. The appropriate committees of the legislature
19 shall periodically evaluate the effectiveness of this Act,
20 including holding hearings and informational briefings if
21 necessary.



S.B. NO. 1074

1 SECTION 4. This Act does not affect rights and duties that
2 matured, penalties that were incurred, and proceedings that were
3 begun, before its effective date.

4 SECTION 5. New statutory material is underscored.

5 SECTION 6. This Act shall take effect upon its approval
6 and shall be repealed on July 31, 2014.

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Report Title:

Medical Malpractice Claims; Limitation on Damages; Malpractice Insurance Tax Credit

Description:

Limits damages in medical malpractice claims to \$1,000,000 for noneconomic damages and to \$3,000,000 for noneconomic damages arising from injuries found to be catastrophic by a court. Provides income tax credit for fifty per cent of the cost of medical malpractice insurance premiums under certain circumstances. Sunset 7/31/2014.

