

STAND. COM. REP. NO.

505

Honolulu, Hawaii

Feb 20, 2009

RE: H.B. No. 1784

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. 1784  
entitled:

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

begs leave to report as follows:

The purpose of this bill is to protect physicians and allow  
medical malpractice carriers to better predict the amount of  
claims and losses enabling them to stabilize the medical  
malpractice insurance market by:

- (1) Allowing for more flexible claims on economic damages;
- (2) Providing a cap on attorney's fees paid out of a  
claimant's award in a medical malpractice suit;
- (3) Setting a cap on non-economic damages of \$750,000  
aggregate and \$250,000 per physician, healthcare  
provider, healthcare facility, and any other involved  
parties; and
- (4) Providing for an increase in non-economic damages of up  
to \$3,000,000 in cases of gross negligence.

The Administration, the Department of Health, the Department  
of Commerce and Consumer Affairs (DCCA), the Hawaii Medical  
Association, the Hawaii Association of Health Plans, the National  
Federation of Independent Business, the League of Women Voters

HB1784 HD1 HSCR HLT HMS 2009-2333



Hawaii, and numerous concerned individuals supported this bill. The Hawaii Association for Justice and a concerned individual opposed this measure. Several concerned individuals submitted comments.

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

- (1) Making the cap on economic damages applicable only for physician specialists board certified in emergency medicine, neurological surgery, obstetrics and gynecology, orthopedic surgery, or surgery (Physician Specialists).
- (2) Requiring a 25 percent rollback on medical malpractice insurance premiums for the Physician Specialists;
- (3) Requiring DCCA to submit a report to the Legislature prior to the 2013 Regular Session on the effects of the noneconomic damages cap and the insurance rollback for the Physician Specialists;
- (4) Repealing the noneconomic damages cap and the insurance rollback for Physician Specialists on July 1, 2014;
- (5) Requiring a health care provider to disclose to patients adverse events relating to their medical treatment;
- (6) Requiring the Hawaii Medical Board to collect and publish information about physicians licensed in the state to allow consumers to make informed decisions in selecting physicians; and
- (7) Making technical, nonsubstantive 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. 1784, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1784, H.D. 1, and be referred to the Committee on Judiciary.



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

  
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RYAN I. YAMANE, Chair



