

STAND. COM. REP. NO.

462

Honolulu, Hawaii

Feb 19, 2009

RE: H.B. No. 310
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. 310
entitled:

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

begs leave to report as follows:

The purpose of this bill is to deter excessive litigation in
medical tort claims that are filed following the rejection of an
award granted by the Medical Claims Conciliation Panel (Panel) by
authorizing the court to impose sanctions on:

- (1) A plaintiff, if the judgment exclusive of any punitive
damages fails to improve upon the Panel's award by 30
percent or more; or
- (2) A defendant, if the judgment exclusive of any punitive
damages increases the Panel's award by 30 percent or
more.

The Hawaii Medical Association and Hawaii Association of
Health Plans supported this bill. The Department of Commerce and
Consumer Affairs (DCCA), Hawaii Association for Justice, and a
concerned individual submitted comments.

Your Committee recognizes the concerns of DCCA's Office of
Administrative Hearings regarding this bill, including the
possibility of encouraging delays in the Panel's hearings, or
claimants seeking artificially low damage awards from the Panel.

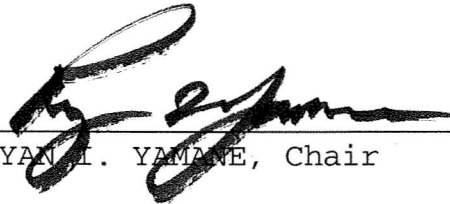
HB310 HD1 HSCR HLT HMS 2009-2026



Concerns also regarded the financial impact on operations and the members of the Panel. These issues should be given further consideration as this bill moves through the legislative process. Therefore, your Committee has amended this bill by changing its effective date to July 1, 2020, to encourage further discussion. Technical, nonsubstantive changes were also made 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. 310, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 310, H.D. 1, and be referred to the Committee on Judiciary.

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




RYAN I. YAMANE, Chair



State of Hawaii
House of Representatives
The Twenty-fifth Legislature

Record of Votes of the Committee on Health

Bill/Resolution No.: HB 310	Committee Referral: HLT, JUD	Date: 2-10-09		
<input type="checkbox"/> The committee is reconsidering its previous decision on the measure.				
The recommendation is to: <input type="checkbox"/> Pass, unamended (as is) <input checked="" type="checkbox"/> Pass, with amendments (HD) <input type="checkbox"/> Hold <input type="checkbox"/> Pass short form bill with HD to recommit for future public hearing (recommit)				
HLT Members	Ayes	Ayes (WR)	Nays	Excused
1. YAMANE, Ryan I. (C)	/			
2. NISHIMOTO, Scott Y. (VC)	/			
3. BELATTI, Della Au	/			
4. BERTRAM, Joe, III	/			
5. BROWER, Tom	/			
6. CARROLL, Mele				/
7. MIZUNO, John M.	/			
8. SHIMABUKURO, Maile S.L.	/			
9. FINNEGAN, Lynn		/		
TOTAL (9)	7	1		1
The recommendation is: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted If joint referral, _____ did not support recommendation. committee acronym(s)				
Vice Chair's or designee's signature: 				
Distribution: Original (White) – Committee Duplicate (Yellow) – Chief Clerk's Office Duplicate (Pink) – HMSO				