
A BILL FOR AN ACT

RELATING TO MEDICAL TORTS.

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

1 SECTION 1. The legislature finds that doctors are critical
2 components of our society, providing a very important service to
3 everyone in the State, and addressing the needs and concerns of
4 healthcare providers is a key step toward keeping Hawaii
5 healthy. The legislature further finds that the increasing cost
6 of medical malpractice insurance and escalating monetary awards
7 in medical malpractice lawsuits are major factors in the current
8 physician shortage experienced by the State of Hawaii and the
9 neighbor islands in particular. Medical malpractice insurance
10 premiums have skyrocketed for Hawaii physicians, with physicians
11 in high-risk specialties, such as surgery and obstetrics,
12 experiencing the highest increase. Monetary awards in medical
13 malpractice lawsuits are escalating, especially with respect to
14 awards for non-economic damages.

15 As a result of increasing medical malpractice insurance
16 costs and litigation awards, many physicians are choosing to
17 retire early, limit their practice, or refrain from practicing
18 in Hawaii. Hawaii has been unable to replace these doctors in a



1 manner that provides Hawaii residents timely access to adequate
2 healthcare. In addition, medical students are avoiding medical
3 specialties that have a high risk of medical malpractice
4 exposure. Defensive medicine may also be practiced, where a
5 physician orders tests and procedures to protect themselves from
6 malpractice liability. Diminishing access to health care is of
7 particular concern in rural areas, such as the neighbor islands,
8 where relatively few doctors and fewer specialists and sub-
9 specialists continue to practice.

10 The purpose of this Act is to address the high cost of
11 medical malpractice insurance and doctor shortages by creating a
12 seven-year medical malpractice reform pilot program.

13 SECTION 2. Chapter 671, Hawaii Revised Statutes, is
14 amended by adding a new section to be appropriately designated
15 and to read as follows:

16 "§671- Limitation on noneconomic damages.

17 Notwithstanding section 663-8.7, in an action on a medical tort
18 claim where final judgment is rendered against a physician or
19 health care provider, the civil liability for noneconomic
20 damages, as defined in section 663-8.5, including punitive
21 damages, of the physician or health care provider, inclusive of
22 all persons and entities for which vicarious liability theories



1 may apply, shall be limited to an amount not to exceed \$250,000
2 for each claimant, regardless of the number of defendant
3 physicians or health care providers. The limitations on
4 noneconomic damages established by this section shall not apply
5 where injuries or damages are found by the trier-of-fact to have
6 been caused by gross negligence, wanton act or omission, or
7 intentional misconduct."

8 SECTION 3. (a) The department of health, in consultation
9 with the Hawaii medical board, administrative director of the
10 courts, and insurance commissioner, shall conduct an ongoing
11 study to evaluate the effectiveness of the amendments to Chapter
12 671, Hawaii Revised Statutes, made by section 2 of this Act, in:

- 13 (1) Alleviating the physician and specialist shortage in
14 Hawaii;
- 15 (2) Increasing access to care;
- 16 (3) Improving quality of care;
- 17 (4) Reducing medical malpractice insurance rates; and
- 18 (5) Reducing the number of medical tort claims.

19 (b) The department of health shall submit an interim
20 report of its findings and recommendations, including any
21 proposed legislation, to the legislature no later than twenty
22 days prior to the convening of the regular sessions of 2013,



H.B. NO. 930

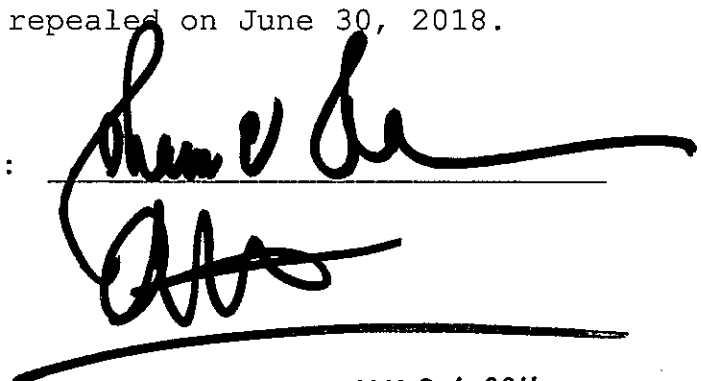
1 2014, 2015, 2016, and 2017. The department of health shall
2 submit a final report of its findings and recommendations,
3 including any proposed legislation, to the legislature no later
4 than twenty days prior to the convening of the regular session
5 of 2018.

6 SECTION 4. New statutory material is underscored.

7 SECTION 5. This Act shall take effect on July 1, 2011;
8 provided that section 2 shall be repealed on June 30, 2018.

9

INTRODUCED BY:



JAN 24 2011



Report Title:

Medical Torts; Noneconomic Damages; Limits; Pilot Project

Description:

Limits noneconomic damages in medical torts to \$250,000, except upon a finding of gross negligence. Requires DOH to evaluate the effectiveness of noneconomic damages limits and report to the legislature. Sunsets on 06/30/18.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

