

STAND. COM. REP. NO.

2514

Honolulu, Hawaii

MAR 01 2012

RE: S.B. No. 2469

S.D. 1

Honorable Shan S. Tsutsui
President of the Senate
Twenty-Sixth State Legislature
Regular Session of 2012
State of Hawaii

Sir:

Your Committee on Commerce and Consumer Protection, to which was referred S.B. No. 2469 entitled:

"A BILL FOR AN ACT RELATING TO MEDICAL CLAIM CONCILIATION,"

begs leave to report as follows:

The purpose and intent of this measure is to amend medical claim conciliation laws to reflect the conciliatory role, rather than the adversarial nature, of medical claim conciliation panels.

Your Committee received testimony in support of this measure from the Hawaii Association for Justice, Hawaii Medical Association, and one individual. Your Committee received testimony in opposition to this measure from one individual. Your Committee received comments on this measure from the Office of Administrative Hearings of the Department of Commerce and Consumer Affairs.

Your Committee finds that this measure will reduce the current adversarial nature of the medical claims conciliation process and emphasize its originally intended conciliation role. The medical inquiry and conciliation process proposed by this measure will facilitate communication and encourage amicable resolution of disputes between doctors and patients.

Your Committee has heard the concerns that requiring a potential plaintiff to meaningfully participate in an inquiry prior to instituting litigation is a one-sided requirement with potentially negative consequences. Although the primary goal of

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this measure is to move away from adversarial proceedings, requiring proof of a plaintiff's meaningful participation may invite substantial future litigation.

Your Committee has also heard the concerns that the Office of Administrative Hearings needs sufficient time to obtain and train panel members who are interested in the conciliation process. Your Committee concludes that a delayed effective date of this measure is necessary.

Your Committee has amended this measure by:

- (1) Deleting the provision that would have required potential plaintiffs to meaningfully participate in the conciliation process prior to instituting litigation;
- (2) Inserting an effective date of January 2, 2014; and
- (3) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

As affirmed by the record of votes of the members of your Committee on Commerce and Consumer Protection that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2469, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2469, S.D. 1, and be placed on the calendar for Third Reading.

Respectfully submitted on
behalf of the members of the
Committee on Commerce and
Consumer Protection,




ROSALYN H. BAKER, Chair



The Senate
 Twenty-Sixth Legislature
 State of Hawai'i

Record of Votes
Committee on Commerce and Consumer Protection
CPN

| | | | | |
|---|---|---------------------------------------|----------------------------------|---------|
| Bill / Resolution No.:* | Committee Referral: | Date: | | |
| SB 2469 | CPN | 2-23-12 | | |
| <input type="checkbox"/> The committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____ | | | | |
| The Recommendation is: | | | | |
| <input type="checkbox"/> Pass, unamended 2312 | <input checked="" type="checkbox"/> Pass, with amendments 2311 | <input type="checkbox"/> Hold 2310 | | |
| <input type="checkbox"/> Recommit 2313 | | | | |
| Members | Aye | Aye (WR) | Nay | Excused |
| BAKER, Rosalyn H. (C) | ✓ | | | |
| TANIGUCHI, Brian T. (VC) | ✓ | | | |
| GALUTERIA, Brickwood | | | | ✓ |
| GREEN, M.D., Josh | ✓ | | | |
| NISHIHARA, Clarence K. | ✓ | | | |
| SOLOMON, Malama | ✓ | | | |
| SLOM, Sam | | | | ✓ |
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| TOTAL | 5 | 0 | 0 | 2 |
| Recommendation: | | | | |
| <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted | | | | |
| Chair's or Designee's Signature:  | | | | |
| Distribution: | | | | |
| Original File with Committee Report | Yellow Clerk's Office | Pink Drafting Agency | Goldenrod Committee File Copy | |

*Only one measure per Record of Votes