

# HB1967 HD2 SD1

Measure Title: RELATING TO MEDICAL CLAIM CONCILIATION.  
 Report Title: Medical Claims Conciliation; Panels  
 Description: Amends the medical tort chapter of the Hawaii Revised Statutes, to make the medical claim conciliation process less adversarial and to emphasize inquiry, conciliation, and settlement. Renames the panels to medical inquiry and conciliation panels. Effective 1/1/50. (SD1)  
 Companion: SB2469  
 Package: None  
 Current Referral: HTH, CPN  
 Introducer(s): YAMANE, MANAHAN, MORIKAWA, SAY

<u>Sort by Date</u>		<b>Status Text</b>
1/17/2012	H	Prefiled
1/18/2012	H	Introduced and Pass First Reading.
1/19/2012	H	Referred to HLT, JUD, FIN, referral sheet 2
1/20/2012	H	Bill scheduled to be heard by HLT on Tuesday, 01-24-12 10:00AM in House conference room 329.
1/24/2012	H	The committees on HLT recommend that the measure be PASSED, WITH AMENDMENTS. The votes were as follows: 8 Ayes: Representative(s) Yamane, Morikawa, Belatti, Hanohano, C. Lee, Mizuno, Ching, Pine; Ayes with reservations: none; Noes: none; and 2 Excused: Representative(s) Jordan, Wooley.
2/2/2012	H	Reported from HLT (Stand. Com. Rep. No. 50-12) as amended in HD 1, recommending passage on Second Reading and referral to JUD.
2/2/2012	H	Passed Second Reading as amended in HD 1 and referred to the committee(s) on JUD with none voting aye with reservations; none voting no (0) and Representative(s) Okamura excused (1).
2/3/2012	H	Bill scheduled to be heard by JUD on Tuesday, 02-07-12 2:00PM in House conference room 325.
2/7/2012	H	The committees on JUD recommend that the measure be PASSED,

		WITH AMENDMENTS. The votes were as follows: 13 Ayes: Keith-Agaran, Rhoads, Brower, Carroll, Herkes, Ito, Luke, McKelvey, Souki, Tsuji, Fontaine, Marumoto, Thielen; Ayes with reservations: none; 0 Noes: none; and 2 Excused: Cabanilla, Coffman.
2/17/2012	H	Reported from JUD (Stand. Com. Rep. No. 579-12) as amended in HD 2, recommending referral to FIN.
2/17/2012	H	Report adopted. referred to the committee(s) on FIN as amended in HD 2 with none voting aye with reservations; none voting no (0) and Herkes, M. Lee excused (2).
2/24/2012	H	Bill scheduled to be heard by FIN on Tuesday, 02-28-12 1:00PM in House conference room 308.
2/27/2012	H	Broadcast of hearing/briefing available. See: <a href="http://www.capitoltv.org">www.capitoltv.org</a>
2/28/2012	H	The committees on FIN recommend that the measure be PASSED, UNAMENDED. The votes were as follows: 17 Ayes: Representative(s) Oshiro, M. Lee, Choy, Cullen, Giugni, Har, Hashem, Ichiyama, Jordan, Kawakami, C. Lee, Morikawa, Tokioka, Yamashita, Marumoto, Riviere, Ward; Ayes with reservations: none; Noes: none; and Excused: none.
3/2/2012	H	Reported from FIN (Stand. Com. Rep. No. 820-12), recommending passage on Third Reading.
3/6/2012	H	Passed Third Reading with none voting aye with reservations; none voting no (0) and Representative(s) Manahan excused (1). Transmitted to Senate.
3/8/2012	S	Received from House (Hse. Com. No. 106).
3/8/2012	S	Passed First Reading.
3/8/2012	S	Referred to HTH, CPN.
3/13/2012	S	The committee(s) on HTH has scheduled a public hearing on 03-16-12 1:30PM in conference room 229.
3/16/2012	S	The committee(s) on HTH recommend(s) that the measure be PASSED, WITH AMENDMENTS. The votes in HTH were as follows: 5 Aye(s): Senator(s) Green, Nishihara, Baker, Chun Oakland, Shimabukuro; Aye(s) with reservations: none ; 0 No(es): none; and 2 Excused: Senator(s) Wakai, Slom.
3/22/2012	S	Reported from HTH (Stand. Com. Rep. No. 2899) with recommendation of passage on Second Reading, as amended (SD 1) and referral to CPN.

3/22/2012	S	Report adopted; Passed Second Reading, as amended (SD 1) and referred to CPN.
3/27/2012	S	The committee(s) on CPN will hold a public decision making on 03-30-12 9:30AM in conference room 229.



NEIL ABERCROMBIE  
GOVERNOR

BRIAN SCHATZ  
LT. GOVERNOR

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PRESENTATION OF  
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS  
OFFICE OF ADMINISTRATIVE HEARINGS

TO THE SENATE COMMITTEE ON  
COMMERCE AND CONSUMER PROTECTION  
TWENTY-SIXTH STATE LEGISLATURE  
REGULAR SESSION, 2012

Date: Friday, March 30, 2012

Time: 9:30 a.m.

Conference Room: 229

**COMMENTS FOR DECISION MAKING ON HB 1967, HD2, SD 1,  
RELATING TO MEDICAL CLAIM CONCILIATION**

TO THE HONORABLE ROSALYN H. BAKER., CHAIR, & THE HONORABLE  
BRIAN T. TANIGUCHI, VICE CHAIR, AND MEMBERS OF THE COMMITTEE:

The Office of Administrative Hearings ("OAH") of the Department of Commerce and Consumer Affairs ("DCCA") appreciates the opportunity to offer comments for the Committee's Decision Making on HB 1967, HD 2, SD1, relating to Medical Claim Conciliation. My name is David Karlen, and I am the Senior Hearings Officer of the OAH.

The OAH has administered the Medical Claims Conciliation Panel (MCCP) since it was initiated by the Legislature in 1976 as part of Chapter 671 of the Hawaii Revised Statutes. Its perspective on this proposed major revamping of the MCCP Program is important to the success of the anticipated "new look" of the Program.

The OAH is supportive of the primary goal of the proposed legislation to move MCCP proceedings away from the connotations of an adversarial process and towards an emphasis on communication and conciliation. OAH supports HB 1967, HD 2, SD 1.

In a previous hearing before this Committee on February 23, 2012, on companion bill, SB 2469, the OAH proposed an amendment to that bill to make its provisions more even handed between potential plaintiffs and potential defendants. This modification was adopted by that Committee and incorporated into SB 2469, SD 1, which is essentially the same as the bill presently before this Committee. The OAH respectfully refers this Committee to its Stand. Com. Rep. No. 2514 which explains the basis for the present format of the bills in the House and Senate..

The proponents of this legislation agree with SD 1 in this regard and stated so in hearing before the Senate Committee on Health on March 16, 2012, as well as in a hearing on companion bill SB 2469 before the Senate Committee on Commerce and Consumer Protection on February 23, 2012.

HB 1967, HD 2, SD 1, leaves the effective date of the legislation open for discussion. OAH respectfully requests, for the reasons stated below, that the effective date be January 2, 2013. The proponents of the legislation have endorsed this proposal in prior hearings before the House Committee on Judiciary as well as this Committee, this Committee's Standing Report No. 2514 also endorses this idea.

Previous written testimony in support of HB 1967 recognized that the major shift into conciliation functions will place "a heavy burden" to "educate doctors, patients and legal representatives of the new role of the MCCP." As the legislation's proponents

recognize, mediation and conciliation skills are not the same as those involved with evaluating claims in an adversarial setting.

However, the proposed legislation does not make any provision for training present MCCP panel participants or obtaining new MCCP panel members who are attuned to conciliation. In addition, the proposed legislation proposes no funding for this training. Instead, the proponents appear to rely on a mere hope that volunteerism will somehow materialize to take care of this crucial factor. The OAH believes that the recruitment and training activities cannot be left to an unorganized hope that somehow it will all work out.

The OAH has recently been in the forefront of developing the mechanics of a dispute resolution process for the Mortgage Foreclosure Dispute Resolution Program (MFDRP) established by Act 48 of the 2011 Legislature. Our experience has shown that it takes time, and money, to organize the training of the dispute resolution neutrals for that program even though all participants were already attorneys and/or real estate professionals familiar with the basics of mortgages and foreclosures. The OAH was able to organize such training on both Oahu and the island of Hawaii, but it took time and money to do so. The new MCCP will need a similar program to prepare its panels for the conciliation process.

Accordingly, the OAH proposes that the present legislation be amended to delay the effective date of the legislation to January 1, 2013 to allow the OAH to ascertain the renewed or new panel members interested in the conciliation process. During that time, OAH will work with the bill's sponsors to administer and fund a training program in conciliation.



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**TO: COMMITTEE ON COMMERCE AND CONSUMER PROTECTION**  
**Senator Rosalyn H. Baker, Chair**  
**Senator Brian T. Taniguchi, Vice Chair**

**DATE: Friday, March 30, 2012**  
**TIME: 9:30 AM**  
**PLACE: Conference Room 229**

From: Hawaii Medical Association  
Dr. Roger Kimura, MD, President  
Linda Rasmussen, MD, Legislative Co-Chair  
Dr. Joseph Zobian, MD, Legislative Co-Chair  
Dr. Christopher Flanders, DO, Executive Director  
Lauren Zirbel, Community and Government Relations

Re: HB 1967 HD 1 RELATING TO MEDICAL CLAIM CONCILIATION

In Support

Chairs & Committee Members:

For over a decade HMA has been attempting to legislatively address the fact that our doctor shortage in Hawaii is caused in part by high malpractice insurance costs and an unfriendly liability system. This bill represents a compromise that all parties can agree to. HMA supports this measure and is hopeful that it will reduce Hawaii's medical liability costs and thus help aid the effort to provide greater access to care to Hawaii's residents.

Thank you for the opportunity to testify.

**OFFICERS**

**PRESIDENT - ROGER KIMURA, MD, PRESIDENT ELECT - STEVE KEMBLE, MD**  
**IMMEDIATE PAST PRESIDENT – MORRIS MITSUNAGA, MD, SECRETARY - THOMAS KOSASA, MD, TREASURER –**  
**WALTON SHIM, MD, EXECUTIVE DIRECTOR – CHRISTOPHER FLANDERS, DO**