STAND. COM. REP. NO. 1081

Honolulu, Hawaii

MAR 2 3 2021

RE: S.C.R. No. 146 S.D. 1

Honorable Ronald D. Kouchi President of the Senate Thirty-First State Legislature Regular Session of 2021 State of Hawaii

Sir:

Your Committee on Government Operations, to which was referred S.C.R. No. 146 entitled:

"SENATE CONCURRENT RESOLUTION REQUESTING THE LEGISLATIVE REFERENCE BUREAU TO CONDUCT A STUDY RELATING TO THE STATE'S AUTHORITY TO ALLOW COLLECTIVE NEGOTIATION BETWEEN PHYSICIANS AND HEALTH CARE INSURERS IN HAWAII TO RESTRAIN OR BALANCE THE MONOPSONISTIC MARKET POWER OF HEALTH CARE INSURERS OVER INDEPENDENT PHYSICIANS,"

begs leave to report as follows:

The purpose and intent of this measure is to request that the Legislative Reference Bureau conduct a study relating to the State's authority to allow collective negotiation between physicians and health care insurers in Hawaii to restrain or balance the monopsonistic market power of health care insurers over independent physicians.

Your Committee received testimony in support of this measure from the Hawaii Medical Association; Hawaii Independent Physicians Association; Health Committee of the Democratic Party of Hawaii; Joyful Living, LLC; Hawaii Physician Shortage Crisis Task Force; and six individuals. Your Committee received testimony in opposition to this measure from the Hawaii Medical Service Association. Your Committee received comments on this measure from the Legislative Research Bureau.

Your Committee finds that the intent of this measure is to request a study for the purpose of restraining or balancing the monopsonistic market power of health care insurers over independent physicians. According to testimony received by your Committee from the Legislative Reference Bureau, the Bureau has no expertise regarding antitrust law, the federal Prepared Health Care Act, or how enacting state action immunity legislation could impact the State's exemption from the federal Employee Retirement Income Security Act of 1974 (ERISA), for its Prepaid Health Care Act, codified as chapter 393, Hawaii Revised Statutes, nor does its current budget allow for the Bureau to contract for an entity that specializes in the analysis of whether and how enacting a law similar to Alaska's law on collective negotiation by physicians would impact the State's ERISA exemption.

Accordingly, your Committee has amended this measure by:

- (1) Narrowing the scope of the requested study to examine the Alaska law authorizing collective negotiation by physicians, the Parker immunity doctrine and its current legal status, and the extent of any statutory or policy implementation by other states relating to collective negotiation by physicians;
- (2) Amending its title in accordance with its amended purpose; 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 Government Operations that is attached to this report, your Committee concurs with the intent and purpose of S.C.R. No. 146, as amended herein, and recommends that it be referred to your Committee on Commerce and Consumer Protection, in the form attached hereto as S.C.R. No. 146, S.D. 1.

Respectfully submitted on behalf of the members of the Committee on Government Operations,

SHARON MORIWAKI Chair

## The Senate Thirty-First Legislature State of Hawaiʻi

## Record of Votes Committee on Government Operations GVO

Bill / Resolution No.:*  SCR 146	Committee Referral: Date: 3/23/2021			021	
The Committee is reconsidering its previous decision on this measure.					
If so, then the previous decision was to:					
The Recommendation is:					
Pass, unamended Pass, with amendments Hold Recommit 2312 2311 2310 2313					
Members		Aye	Aye (WR)	Nay	Excused
MORIWAKI, Sharon Y. (C)					
DELA CRUZ, Donovan M. (VC)					
CHANG, Stanley				<del> </del>	
GABBARD, Mike					
FEVELLA, Kurt					
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TOTAL					
Recommendation:  Adopted  Not Adopted					
Chair's or-Designee's Signature:					
Distribution: Original Yellow Pink Goldenrod File with Committee Report Clerk's Office Drafting Agency Committee File Copy					

\*Only one measure per Record of Votes