

Honolulu, Hawaii

January 31, 2008

RE: H.B. No. 1992  
H.D. 1

Honorable Calvin K.Y. Say  
Speaker, House of Representatives  
Twenty-Fourth State Legislature  
Regular Session of 2008  
State of Hawaii

Sir:

Your Committee on Health, to which was referred H.B. No. 1992  
entitled:

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

begs leave to report as follows:

The purpose of this bill is to attract more physicians to  
serve in Hawaii's rural and medically underserved areas by  
limiting the amount of noneconomic damages that may be collected  
in a medical malpractice lawsuit in an attempt to stabilize and  
lower the rates of professional liability insurance.

The Hawaii Health Systems Corporation, Department of the  
Attorney General, Healthcare Association of Hawaii, Hawaii Medical  
Association, Hawaii Association of Health Plans, Hawaii  
Psychiatric Medical Association, National Federation of  
Independent Businesses, American College of Obstetricians and  
Gynecologists - Hawaii Section, American Academy of Pediatrics -  
Hawaii Chapter, and numerous concerned individuals supported this  
bill. The Department of Commerce and Consumer Affairs supported  
the intent of this measure. The Consumer Lawyers of Hawaii  
opposed this bill. The Office of the Governor submitted comments.

Your Committee has amended this bill by, among other things:

- (1) Limiting noneconomic damages to \$250,000;



- (2) Increasing the cap on noneconomic damages to \$3,000,000, upon the court's determination of catastrophic damages;
- (3) Deleting limitations on contingent attorney's fees in medical tort actions;
- (4) Authorizing the jury or judge to consider, in assessing any percentage of negligence or other fault, the negligence or other fault of all indicated parties;
- (5) Allowing a jury to render a verdict for the plaintiff in a medical tort action that includes economic damages;
- (6) Providing that the amount of economic damages allocated to a healthcare provider in a medical tort action shall be based upon the healthcare provider's proportionate percentage of negligence or other fault;
- (7) Limiting the definition of "health care provider" to encompass fewer professions in the health care field;
- (8) Repealing the Act on June 30, 2013; and
- (9) Making technical, nonsubstantive changes 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. 1992, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1992, H.D. 1, and be referred to the Committee on Consumer Protection & Commerce.

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

  
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JOSHUA B. GREEN, M.D., Chair



State of Hawaii  
House of Representatives  
The Twenty-fourth Legislature

**HSCA 29-08**

**Record of Votes of the Committee on Health**

<b>Bill/Resolution No.:</b> <i>HB 1992</i>	<b>Committee Referral:</b> <i>HLT, CPC, JWD</i>	<b>Date:</b> <i>1-25-08</i>		
<input type="checkbox"/> The committee is reconsidering its previous decision on the measure.				
<b>The recommendation is to:</b> <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. GREEN, Josh, M.D. (C)	✓			
2. MIZUNO, John (VC)	✓			
3. AWANA, Karen Leinani	✓			
4. BELATTI, Della Au		✓		
5. BERTRAM, Joe, III	✓			
6. CABANILLA, Rida T.R.	✓			
7. RHOADS, Karl			✓	
8. SHIMABUKURO, Maile S. L.				✓
9. TOKIOKA, James Kunane	✓			
10. WARD, Gene, Ph.D.	✓			
<b>TOTAL (10)</b>	7	1	1	1
<b>The recommendation is:</b> <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted If joint referral, _____ did not support recommendation. <div style="text-align: center; margin-left: 100px;">committee acronym(s)</div>				
<b>Vice Chair's or designee's signature:</b> <i>John M. Leino</i>				
<b>Distribution:</b> Original (White) – Committee    Duplicate (Yellow) – Chief Clerk's Office				