

Honolulu, Hawaii

FEB 07 , 2020

RE: H.B. No. 2105
H.D. 1

Honorable Scott K. Saiki
Speaker, House of Representatives
Thirtieth State Legislature
Regular Session of 2020
State of Hawaii

Sir:

Your Committee on Health, to which was referred H.B. No. 2105
entitled:

"A BILL FOR AN ACT RELATING TO COLLECTIVE MEDIATION BY
PHYSICIANS,"

begs leave to report as follows:

The purpose of this measure is to authorize physicians to
engage in collective mediation with health benefit plans.

Your Committee received testimony in support of this measure
from the Office of the Mayor of the County of Hawaii, Hawaii
Medical Association, Hawaii College of Emergency Physicians,
Hawaii Physician Shortage Crisis Task Force, and twelve
individuals. Your Committee received testimony in opposition to
this measure from the Hawaii Medical Service Association and
Hawaii Association of Health Plans. Your Committee received
comments on this measure from the Department of the Attorney
General, Hawaii Medical Board, Civil Beat Law Center for the
Public Interest, and Kaiser Permanente Hawaii.

Your Committee finds that this measure is modeled after an
Alaska law enacted in 2002, which allows physicians and insurers
to collectively convene for discussion, with the goal of improving
contractual relations and improving access to care. However, your
Committee notes the concerns raised by the Department of the



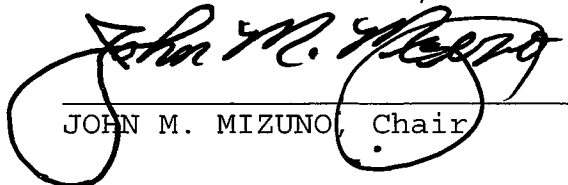
Attorney General in testimony that this measure may be subject to federal preemption by the federal Employee Retirement Income Security Act, since it exempts self-insured health benefit plans. Concerns were also raised that this measure may conflict with federal antitrust laws. In light of these concerns, your committee believes that a study on this issue is prudent.

Accordingly, your Committee has amended this measure by:

- (1) Deleting language authorizing physicians to engage in collective mediation with health benefit plans;
- (2) Requiring the Department of the Attorney General to conduct a feasibility study on whether the Legislature may authorize competing physicians to engage in collective mediation with health benefit plans, including federal preemption and other legal concerns associated with this type of collective action;
- (3) Changing the effective date to July 1, 2050, to encourage further discussion; and
- (4) Making technical, nonsubstantive amendments for the purposes of 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. 2105, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2105, H.D. 1, and be referred to your Committee on Consumer Protection & Commerce.

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



JOHN M. MIZUNO, Chair



State of Hawaii
House of Representatives
The THIRTIETH Legislature **HSCR 196-20**

Record of Votes of the Committee on Health

Bill/Resolution No.: HB 2105	Committee Referral: HLT, CPC, FIN	Date: 2-4-20		
<input type="checkbox"/> The committee is reconsidering its previous decision on the measure.				
The recommendation is to: <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. MIZUNO, John M. (C)	✓			
2. KOBAYASHI, Bertrand (VC)	✓			
3. BELATTI, Della Au	✓			
4. NAKAMURA, Nadine K.	✓			
5. SAN BUENAVENTURA, Joy A.	✓			
6. SAY, Calvin K.Y.				✓
7. TOKIOKA, James Kunane	✓			
8. WARD, Gene	✓			
TOTAL (8)	7	0	0	1
The recommendation is: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted If joint referral, _____ did not support recommendation.				
Vice Chair's or designee's signature: _____ <div style="text-align: center;"></div>				
Distribution: Original (White) – Committee Duplicate (Yellow) – Chief Clerk's Office Duplicate (Pink) – HMSO				