

STAND. COM. REP. NO.

1081

Honolulu, Hawaii

MAR 23 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 Hawai'i; 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



