

Honolulu, Hawaii

Feb. 16, 2006

RE: S.B. No. 3279
S.D. 1

Honorable Robert Bunda
President of the Senate
Twenty-Third State Legislature
Regular Session of 2006
State of Hawaii

Sir:

Your Committee on Health, to which was referred S.B. No. 3279 entitled:

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

begs leave to report as follows:

The purpose of this measure is to ensure that an apology or an expression of sympathy expressed by a health care provider relating to the pain, suffering, or death of a patient will not be admissible as an admission of liability in a civil proceeding.

Your Committee received testimony in support of this measure from the Attorney General, Hawaii Health Systems Corporation, The Queen's Medical Center, Healthcare Association of Hawaii, Hawaii Medical Association, Healthy Mothers Healthy Babies, Kaiser Permanente, Hawaii Pacific Health, and two individuals. Your Committee received testimony in opposition to the measure from the Consumer Lawyers of Hawaii and one individual.

Your Committee finds that it is important to have open lines of communication between a doctor and patient. A doctor or other medical care worker needs to be able to show expressions of benevolence towards a patient without fear of civil liability. This leads to better doctor-patient relationships and reduces the number of medical malpractice law suits.

Your Committee further finds that taking benevolent action towards others is consistent with the way of life in Hawaii and should be encouraged, not hindered.



Your Committee adopted the recommendations of the Consumer Lawyers of Hawaii and amended the measure to allow for benevolent gestures or expressions of sympathy, which are indicative of good faith, as opposed to an apology, which is indicative of fault.

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 S.B. No. 3279, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3279, S.D. 1, and be referred to the Committee on Judiciary and Hawaiian Affairs.

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




ROSALYN H. BAKER, Chair



The Senate
Twenty-Third Legislature
State of Hawaii

Record of Votes of the
Committee on Health
(Bills and Resolutions)

Measure:* SB 3279	Committee Referral: HTA, JHW	Date: 2/13/06		
<input type="checkbox"/> The committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is to: <input type="checkbox"/> Pass, unamended (2312) <input checked="" type="checkbox"/> Pass, with amendments (2311) <input type="checkbox"/> Hold (2310) <input type="checkbox"/> Recommit (2313)				
Members	Ayes	Ayes(WR)	Nays	Excused
BAKER, Rosalyn H. (C)	✓			
CHUN OAKLAND, Suzanne (VC)	✓			
HANABUSA, Colleen				✓
TSUTSUI, Shan S.	✓			
WHALEN, Paul				✓
TOTAL	3	0	0	2
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> 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				

*Do not list more than one measure per Record of Votes.