

STAND. COM. REP. NO.

1131

Honolulu, Hawaii

MAR 21 2007

RE: H.B. No. 1253
H.D. 1
S.D. 1

Honorable Colleen Hanabusa
President of the Senate
Twenty-Fourth State Legislature
Regular Session of 2007
State of Hawaii

Madam:

Your Committee on Judiciary and Labor, to which was referred
H.B. No. 1253, H.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO THE HAWAII RULES OF EVIDENCE,"

begs leave to report as follows:

The purpose of this measure is to make benevolent gestures
inadmissible as evidence of an admission of liability in medical
malpractice claims.

Your Committee received testimony in support of this measure
from the Hawaii Medical Association, the Healthcare Association of
Hawaii and Kaiser Permanente. The Attorney General opposed the
bill in its present form. The Judiciary's Standing Committee on
the Rules of Evidence and Consumer Lawyers of Hawaii provided
comments.

Your Committee finds it appropriate to allow individuals and
entities to express sympathy and condolence without the expression
being used against the individual or entity to establish civil
liability, even if the individual or entity is not a health care
provider. Your Committee notes that a separate measure dealing
with apologies by medical care providers, S.B. No. 813, S.D. 1,
Relating to Medical Liability, is moving through the legislative
process.



Accordingly, your Committee has amended this measure by:

- (1) Deleting the provisions that confine the bill to civil actions against health care providers, and benevolent gestures made to a patient or patient's family; and
- (2) Inserting text from S.B. No. 1339, S.D. 1, to render evidence of statements or gestures that express sympathy, commiseration, or condolence regarding the consequences of an event in which a declarant participated inadmissible to prove liability for a claim growing out of the event, without requiring exclusion of apologies that acknowledge or imply fault.

As affirmed by the record of votes of the members of your Committee on Judiciary and Labor that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1253, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1253, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Respectfully submitted on
behalf of the members of the
Committee on Judiciary and
Labor,



CLAYTON HEE, Chair



The Senate
Twenty-Fourth Legislature
State of Hawaii

Record of Votes
Committee on Judiciary and Labor
JDL

Bill / Resolution No.:* HB 1253 HD1	Committee Referral: JDL	Date: 3/15/07
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The committee is reconsidering its previous decision on this measure.
If so, then the previous decision was to: _____

The Recommendation is:

Pass, unamended 2312
 Pass, with amendments 2311
 Hold 2310
 Recommit 2313

Members	Aye	Aye (WR)	Nay	Excused
HEE, Clayton (C)	/			
KOKUBUN, Russell S. (VC)	/			
INOUE, Lorraine R.				/
NISHIHARA, Clarence K.	/			
GABBARD, Mike	/			
TOTAL	4			1

Recommendation: Adopted Not Adopted

Chair's or Designee's Signature:
Russell S. Kohl

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*Only one measure per Record of Votes