

STAND. COM. REP. NO.

490

Honolulu, Hawaii

FEB 16 2007

RE: S.B. No. 813

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

Madam:

Your Committee on Health, to which was referred S.B. No. 813
entitled:

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

begs leave to report as follows:

The purpose of this measure is to encourage open
communication between physicians and patients to improve patient
safety and protect health care providers in medical malpractice
actions.

The measure attempts to accomplish this goal by adding a new
rule to the Hawaii Rules of Evidence that makes expressions of
sympathy or benevolence by a health care provider inadmissible as
evidence of an admission of liability in a civil court proceeding.

Your Committee received testimony in support of this measure
from the Department of the Attorney General, Healthcare
Association of Hawaii, The Queen's Medical Center, Kaiser
Permanente, Hawaii Association of Health Plans, Consumer Lawyers
of Hawaii, the Medical Insurance Exchange of California, Hawaii
Medical Association, and seven individuals. The Department of
Commerce and Consumer Affairs submitted testimony supporting the
intent of this measure. The Judiciary of the State of Hawaii
submitted comments on this measure.

Your Committee finds that it is imperative that the health
care system in Hawaii be built on trust. Physicians and patients
need to be able to communicate openly with each other without the
fear of legal proceedings. Your Committee finds that this measure

2007-1800 SSCR SMA.doc



would encourage health care providers to express sympathy and engage in humane conduct at a time when the patient or the patient's family most need emotional support, without fear that such benevolent conduct will be used against them as an admission of liability.

Your Committee notes that the Judiciary raised concerns that a general apology bill that governed apologies and benevolent gestures by "individuals, corporations, or government entities" would be more inclusive and would cover "health care providers" as stated in this measure. In addition the Judiciary's testimony suggested that the common expressions of condolence: "I apologize" and "I am sorry" need to be classified in the law.

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. 813 and recommends that it pass Second Reading and be referred to the Committee on Judiciary and Labor.

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




DAVID Y. ICE, Chair



The Senate
Twenty-Fourth Legislature
State of Hawaii

Record of Votes
Committee on Health
HTH

Bill / Resolution No.:* SB 813	Committee Referral: HTH, JDL	Date: <i>2/14/07</i>		
<input type="checkbox"/> The committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is: <input checked="" type="checkbox"/> Pass, unamended 2312 <input type="checkbox"/> Pass, with amendments 2311 <input type="checkbox"/> Hold 2310 <input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
IGE, David Y. (C)	✓			
FUKUNAGA, Carol (VC)	✓			
BAKER, Rosalyn H.	✓			
MENOR, Ron	✓			
WHALEN, Paul	✓			
TOTAL	5			
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: 				
Distribution: Original Yellow Pink File with Committee Report Clerk's Office Drafting Agency				

*Only one measure per Record of Votes