

STAND. COM. REP. NO.

2573

Honolulu, Hawaii

MAR 02 2012

RE: S.B. No. 2098
S.D. 1

Honorable Shan S. Tsutsui
President of the Senate
Twenty-Sixth State Legislature
Regular Session of 2012
State of Hawaii

Sir:

Your Committee on Judiciary and Labor, to which was referred
S.B. No. 2098 entitled:

"A BILL FOR AN ACT RELATING TO PRIVACY OF HEALTH CARE
INFORMATION,"

begs leave to report as follows:

The purpose and intent of this measure is to clarify that persons and entities subject to the Health Insurance Portability and Accountability Act of 1996 (HIPAA), who use or disclose information in a manner permitted by and consistent with HIPAA and related federal regulations, shall be deemed to be acting in compliance with state privacy laws and rules.

Your Committee received testimony in support of this measure from the Office of the Governor; the Department of Health; the Hawaii Health Information Exchange; AlohaCare; Hawaii Chapter, American Physical Therapy Association; the Healthcare Association of Hawaii; the Hawaii Association of Health Plans; Kaiser Permanente Hawaii; the Hawaii Disability Rights Center; the Hawaii Medical Service Association; and the Hawaii Health Information Corporation. Testimony in opposition to this measure was submitted by the Hawaii Association for Justice. The Department of Commerce and Consumer Affairs submitted comments.

Your Committee finds that this measure facilitates the exchange of health information and simplifies the complex analysis of applicable state privacy laws by harmonizing various state laws and rules governing the disclosure of medical information with



federal HIPAA requirements. By simplifying the health information exchange between providers, this measure will aid in improving patient care, reducing health care costs, and enhancing the quality of health care operations without compromising privacy protections.

Your Committee recognizes the work of the representatives from the Office of the Governor, the Department of Health, the Department of Commerce and Consumer Affairs, the Department of the Attorney General, and other health care stakeholders who developed and streamlined the language in this measure for consideration.

Accordingly, your Committee has amended this measure by:

- (1) Revising the purpose section to state that the purpose is to assure that covered entities and their business associates subject to and in compliance with HIPAA shall be in compliance with state privacy laws and rules and specifying the laws subject to this measure, including the use and disclosure laws for Human Immunodeficiency Virus (HIV), Acquired Immune Deficiency Syndrome (AIDS), or AIDS Related Complex (ARC); developmental disabilities; and mental health records;
- (2) Deleting references to laws enacted prior to HIPAA to clarify that this measure applies to laws that pre-date and post date the enactment of HIPAA;
- (3) Deleting language that protects any state law or rule that requires notification of other security or privacy breaches from this measure and adding language that protects any evidentiary privilege, discovery limitation, or confidentiality protection provided by law, rule, order, or decision in relation to individually identifiable health information sought, used, or produced in any judicial or administrative proceeding from this measure; and
- (4) 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 Judiciary and Labor that is attached to this report, your Committee is in accord with the intent and purpose of S.B.



No. 2098, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2098, S.D. 1.

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

A handwritten signature in black ink, appearing to read 'Clayton Hee', written over a horizontal line.

CLAYTON HEE, Chair



The Senate
Twenty-Sixth Legislature
State of Hawai'i

Record of Votes
Committee on Judiciary and Labor
JDL

Bill / Resolution No.:* SB 2098	Committee Referral: HJH, JDL	Date: 2/24/12		
<input type="checkbox"/> The committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is: <div style="display: flex; justify-content: space-between; align-items: flex-start;"> <div style="text-align: center;"> <input type="checkbox"/> Pass, unamended 2312 </div> <div style="text-align: center;"> <input checked="" type="checkbox"/> Pass, with amendments 2311 </div> <div style="text-align: center;"> <input type="checkbox"/> Hold 2310 </div> <div style="text-align: center;"> <input type="checkbox"/> Recommit 2313 </div> </div>				
Members	Aye	Aye (WR)	Nay	Excused
HEE, Clayton (C)	✓			
SHIMABUKURO, Maile (VC)	✓			
GABBARD, Mike				✓
IHARA, Jr., Les	✓			
SLOM, Sam	✓			
TOTAL	4			1
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature:				
Distribution: <div style="display: flex; justify-content: space-between; font-size: small;"> Original File with Committee Report Yellow Clerk's Office Pink Drafting Agency Goldenrod Committee File Copy </div>				

***Only one measure per Record of Votes**