

STAND. COM. REP. NO. _____

Honolulu, Hawaii

, 2000

RE: S.B. No. 2

Honorable Norman Mizuguchi
President of the Senate
Twentieth State Legislature
Second Special Session of 2000
State of Hawaii

Sir:

Your Committee on Judiciary, to which was referred S.B. No. 2 entitled:

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

begs leave to report as follows:

The purpose of this measure is to retroactively delay the effective date of chapter 323C, Hawaii Revised Statutes (HRS), from July 1, 2000, to July 1, 2001.

Your Committee received testimony in support of this bill from the Lieutenant Governor, Attorney General, Honolulu County Department of Human Resources, Hawaii Nurses' Association, Hawaii Insurers Council, Hawaii Transportation Association, Small-Business Economic Revival Force, Hawaii Medical Association, Hawaii Medical Service Association, Queen's Health Systems, Healthcare Association of Hawaii, Hawaii State Association of Insurance and Financial Advisors, Hawaii Employers' Mutual Insurance Company, Inc., Hawaii Independent Insurance Agents Association, Hidano Construction, Inc., First Insurance Company of Hawaii, Ltd., National Council on Compensation Insurance, HGEA-AFSCME, Hawaii Civil Rights Commission, John Mullen & Co., Inc., National Association of Independent Insurers, Hawaii Association for Home Care, and a private individual. Testimony in opposition was received from the Office of Information Practices, Kaiser Permanente, Hawaii Coalition for Health, and four private individuals. Informational testimony was presented by two private individuals.

Act 87, Session Laws of Hawaii 1999, enacted chapter 323C, HRS, relating to the privacy of health care information, to provide for the comprehensive regulation of the handling and disclosure of medical records. Act 87 was intended to protect the individual's right to privacy with respect to personal health information and records, including information about health care and health status. The effective date of Act 87 was July 1, 2000, to provide affected stakeholders ample time to propose amendments thereto.

In the 2000 Regular Session, Chapter 323C was further amended and, pursuant to Act 140, Session Laws of Hawaii 2000, a medical privacy task force was statutorily established to advise and assist the Office of Information Practices.

It has come to the attention of the Legislature that Act 87 has created confusion among medical providers, hospitals, and workers' compensation insurers regarding the requirements of the new law and the liability of entities who are not in compliance. The Office of Information Practices has received numerous inquiries from doctors and others on the application of the new law. This uncertainty has created a chilling effect on the flow of necessary information. The task force of health care providers that helped to draft Act 87 has indicated that it is good law that needs time to be refined and clarified.

The Legislature finds that the current confusion warrants a delay in implementation (but not repeal) of Chapter 323C, HRS, and the recent 2000 Regular Session amendments. The Legislature believes that this would allow time for the task force and interested stakeholders to develop appropriate statutory amendments that clarify specific provisions for consideration at the 2001 Regular Session. While delaying the implementation of Chapter 323C, HRS, as amended, your Committee believes that the medical privacy task force established by Act 140 should be established and allowed to advise and assist the Office of Information Practices during this delayed implementation period of Chapter 323C, HRS. All stakeholders are strongly urged to participate in the task force.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2

and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

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

AVERY B. CHUMBLEY, Co-Chair

MATTHEW M. MATSUNAGA, Co-Chair