

**MINUTES OF THE
HOUSE JUDICIARY STANDING COMMITTEE MEETING
Room W020 - House Building, State Capitol Complex
February 24, 2011**

MEMBERS PRESENT: Rep. Kay McIff, Chair
Rep. Francis Gibson, Vice Chair
Rep. Jackie Biskupski
Rep. Derek Brown
Rep. LaVar Christensen
Rep. Fred Cox
Rep. Chris Herrod
Rep. Eric Hutchings
Rep. Ken Ivory
Rep. Brian King
Rep. Paul Ray
Rep. Mark A. Wheatley
Rep. Brad Wilson

STAFF PRESENT: Jerry D. Howe, Policy Analyst
Linda Black, Committee Secretary

NOTE: A list of visitors and a copy of handouts are filed with the committee minutes.

Rep. McIff called the meeting to order at 8:10 p.m.

MOTION: Rep. Cox moved to approve the minutes of February 22. The motion passed unanimously, with Rep. Biskupski, Rep. Herrod, Rep. Hutchings, Rep. Ray, Rep. Wheatley, and Rep. Wilson absent for the vote.

H.J.R. 38 **Joint Resolution to Amend Rule of Evidence** (*Rep. J. Dunnigan*)

MOTION: Rep Herrod moved to amend the resolution as follows:

1. *Page 2, Lines 28 through 30:*

28 (b) Evidence of unsworn statements, affirmations, gestures, or conduct **made to a**
patient or a person associated with the patient by a defendant that expresses
29 the following is not admissible in a malpractice action against a health care provider or an
30 employee of a health care provider to prove liability for an injury:

2. *Page 2, Lines 43 through 47:*

43 The intent and purpose of amending the rule with paragraph (b) is to encourage
44 expressions of apology, empathy, and condolence and the disclosure of facts and
circumstances
45 related to unanticipated outcomes in the provision of health care in an effort to facilitate
the
46 timely and satisfactory resolution of patient concerns arising from unanticipated outcomes

in
47 the provision of health care. **Patient records are not statements made to patients, and therefore are not inadmissible under this rule.** "

Rep. Dunnigan presented the resolution to the committee.

MOTION: Rep. Cox moved to amend the bill as follows:

1. *Page 2, Line 47:*

47 the provision of health care. **Patient records of statements made to patients are not admissible under this rule.** "

Rep. Cox withdrew the motion.

Spoke to the bill: Michelle McComber, CEO, Utah Medical Association
Mark Brinton, General Counsel, Utah Medical Association
Charlie Thronson, attorney, UAJ

MOTION: Rep. Gibson moved to pass H.J.R. 38, as amended, with a favorable recommendation. The motion passed unanimously.

MOTION: Rep. Biskupski moved to place H.J.R. 38 on the Consent Calendar. The motion passed unanimously.

H.B. 406 Access to Adoption Records (*Rep. J. Biskupski*)

At the request of the sponsor, the bill was not heard.

H.B. 425 Offender DNA Fees (*Rep. B. Wilson*)

At the request of the sponsor, the bill was not heard.

H.B. 376 Small Claims Court Jurisdiction (*Rep. R. Edwards*)

At the request of the sponsor, the bill was not heard.

MOTION: Rep. Brown moved to adjourn the meeting. The motion passed unanimously.

Rep. McIff adjourned the meeting at 9:30 a.m.