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# A BILL FOR AN ACT

RELATING TO HEALTH INFORMATION EXCHANGE.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1       SECTION 1. In recent years, the establishment and  
2 development of health information exchanges within the United  
3 States has become increasingly significant, reflecting the  
4 changing role that technology plays in the way we operate  
5 government and business.

6       Public health experts and federal and state governments  
7 recognize the potential economic and health benefits of health  
8 information exchanges and similar e-health initiatives and are  
9 searching for ways to further their growth. Health information  
10 technology has been set as a key component of the federal 2009  
11 economic stimulus plan and the President has previously pledged  
12 \$10,000,000,000 toward the development and implementation of  
13 health information technology.

14       As a way to encourage states to adopt health information  
15 exchanges, the Centers for Medicare and Medicaid Services and  
16 the United States Department of Health and Human Services,  
17 Office of the Inspector General, have provided new exceptions to  
18 the Stark Law -- an "anti-kickback" statute relating to health



1 information technology and a physician referring a patient to a  
2 medical facility in which the physician has a financial  
3 interest. Even the National Conference of State Legislatures  
4 has reported that "states are moving at an unprecedented rate to  
5 get their health care systems wired and connected."

6 Creating an office of state coordinator of health  
7 information exchange within the department of accounting and  
8 general services, in collaboration with the department of  
9 health, department of human services, health care providers, and  
10 health care facilities is the first of many steps that need to  
11 be taken to help Hawaii realize its potential savings in health  
12 care, while increasing quality of care and access, increasing  
13 medical services to underserved and rural areas of the state,  
14 and accessing new sources of federal funding.

15 The purpose of this Act is to establish an office of state  
16 coordinator of health information exchange within the department  
17 of accounting and general services to coordinate local efforts,  
18 identify funding sources, integrate state health programs, and  
19 eventually participate in the national health information  
20 technology network.



1 SECTION 2. Chapter 321, Hawaii Revised Statutes, is  
2 amended by adding a new part to be appropriately designated and  
3 to read as follows:

4 "PART . HEALTH INFORMATION EXCHANGE

5 §321- Definitions. Whenever used in this part, unless the  
6 context otherwise requires:

7 "Comptroller" means the comptroller of the department of  
8 accounting and general services.

9 "Department" means the department of accounting and general  
10 services.

11 "E-prescribing" means a prescriber's ability to  
12 electronically send an accurate, error-free, and understandable  
13 prescription directly to a pharmacy from the point-of-care.

14 "Fund" means the health information exchange special fund  
15 as established under this part.

16 "Health care facility" has the meaning as defined in  
17 section 323D-2.

18 "Health care provider":

19 (1) Means a physician or surgeon or osteopathic physician  
20 or surgeon licensed under chapter 453, a dentist  
21 licensed under chapter 448, a podiatrist licensed



1 under chapter 463E, a health care facility as defined  
2 under section 323D-2, and any of their employees; and  
3 (2) Shall not include any nursing institution or nursing  
4 service conducted by and for those who rely upon  
5 treatment by spiritual means through prayer alone, or  
6 employees of these institutions or services.

7 "Network" means the health information exchange network as  
8 established under this part.

9 "Office" means the office of state coordinator of health  
10 information exchange as established under this part.

11 "Qualified state-designated entity" means an entity  
12 selected by the state through a competitive procurement process  
13 that:

- 14 (1) Is designated by the state as eligible to receive  
15 awards under this part;
- 16 (2) Is a not-for-profit entity with broad stakeholder  
17 representation on its governing board;
- 18 (3) Demonstrates that one of its principal goals is to use  
19 information technology to improve health care quality  
20 and efficiency through the authorized and secure  
21 stakeholders;



1 (4) Adopts nondiscrimination and conflict of interest  
2 policies that demonstrate a commitment to open, fair,  
3 and nondiscriminatory participation by stakeholders;  
4 and

5 (5) Conforms to such other requirements as established by  
6 the federal government.

7 "Rural or underserved areas" means any community or island  
8 having a population under five hundred thousand and that lacks  
9 adequate access to basic health care.

10 "State" shall mean the State of Hawaii.

11 **§321- Office of state coordinator of health information**  
12 **exchange; establishment.** (a) There is established within the  
13 department of accounting and general services the office of  
14 state coordinator of health information exchange. The office  
15 shall:

16 (1) Implement an integrated electronic health information  
17 infrastructure for the sharing of electronic health  
18 information among health care facilities, health care  
19 professionals, public and private payers, and patients;

20 (2) Enhance broad and varied participation in the  
21 authorized and secured nationwide electronic use and  
22 exchange of health information;



- 1           (3) Coordinate local efforts to increase the adoption and  
2           use of certification commission for health information  
3           technology electronic health records and e-prescribing;  
4           identify funding sources; integrate with state and  
5           federal health programs, including but not limited to  
6           medicaid, workers' compensation, temporary assistance  
7           to needy families, and the state children's health  
8           insurance program; and integrate with federal health  
9           programs including but not limited to the national  
10          health information technology network for the promotion  
11          of health information technology;
- 12          (4) Provide governance and guidance for health information  
13          exchange, including technical assistance for the  
14          development and dissemination of solutions to barriers  
15          to the exchange of electronic health information;
- 16          (5) Collaborate with the department of health, department  
17          of human services, health care providers, and health  
18          care facilities to ensure that all applicable federal  
19          patient privacy laws are identified and ensured  
20          through administrative rules and procedures, including  
21          the development of risk management policies and  
22          procedures and liability limits for physicians and



- 1 hospitals that contribute data to the health  
2 information exchange;
- 3 (6) Promote effective strategies to adopt and use health  
4 information technology across the state, particularly  
5 in rural or underserved areas;
- 6 (7) Assist patients in using health information  
7 technology;
- 8 (8) By no later than January 1, 2010, begin implementation  
9 of a statewide strategic plan for health information  
10 exchange that is consistent with the strategic plan  
11 developed by the United States Department of Health  
12 and Human Services, Office of National Coordinator of  
13 Health Information Technology, as available, and which  
14 shall include a description of the ways the state or  
15 qualified state-designated entity will execute the  
16 state strategic plan; and
- 17 (9) Administer the network.
- 18 (b) The department shall administer the office but may  
19 contract some or all of its duties with a third party or parties  
20 in accordance with chapter 103D to administer any single  
21 component or combination of components of the office, including  
22 administrating the health information exchange network,



1 execution of state strategic plan, and pursuit of any public and  
2 private funds available for these purposes.

3 (c) Any contract with third parties to administer any  
4 component of the office shall be established at a fair, market  
5 value cost, as negotiated by the department.

6 (d) Any third party contracted to administer one or more  
7 component of the office shall work in collaboration with all  
8 involved state agencies in order to meet all deadlines as set by  
9 the department. Failure to comply with this requirement may  
10 result in an immediate termination of any awarded contract for  
11 health information technology services, disqualification from  
12 future contracts, or financial penalties in an amount not less  
13 than the amount received by the contractor under the contract  
14 for health information technology services, or all or any  
15 combination of the aforesaid actions.

16 (e) Any contract with third parties to administer any  
17 component of the office shall prohibit the contractor from  
18 receiving any compensation or other benefits from any for-profit  
19 health information technology companies participating in the  
20 network program.

21 (f) Any contract between a covered entity and a vendor to  
22 provide data transmission of protected health information and





1 that requires the vendor's access to such information on a  
2 routine basis shall include the assurances required to be  
3 documented under Title 45 Code of Federal Regulations Sections  
4 164.502(e)(2) and 164.308(b)(4). The vendor shall be treated as  
5 a business associate of the covered entity for purposes of this  
6 subsection and Title 45 Code of Federal Regulations Part 164,  
7 subparts C and E.

8 For purposes of this subsection:

9 "Covered entity" means a covered entity under Title 45 Code  
10 of Federal Regulations Part 164.

11 "Vendor" means a health information exchange organization,  
12 regional health information organization, e-prescribing gateway,  
13 or any such entity that contracts with a covered entity for  
14 services allowing the covered entity to offer a personal health  
15 record to patients as part of its electronic health record.

16 **§321- Health information exchange network; establishment.**

17 (a) The office of state coordinator of health information  
18 exchange shall develop and implement a health information  
19 exchange network for all residents of the state. The network  
20 shall:

21 (1) Implement and maintain an electronic system that  
22 allows physicians and other health care providers



1 statewide to access electronic health records and  
2 other patient information that will improve patient  
3 care, including but not limited to pharmacy  
4 information, laboratory results, medical histories,  
5 and other clinical information such as physical  
6 examinations and medical decision-making;

7 (2) Develop measureable standards that can be used to  
8 evaluate, promote, and improve the quality of health  
9 and health care delivered to state residents through  
10 the use of quality performance measures, evidence-  
11 based standards of care, and other measurements that  
12 facilitate quality improvement;

13 (b) The department shall make use of any public or private  
14 funding available for the purpose described under subsection  
15 (a), including but not limited to federal funding from the  
16 centers for medicare and medicaid services, the agency for  
17 health care research and quality, and the office of national  
18 coordinator for health information technology.

19 (c) All network participants shall be required to adopt a  
20 certification commission for health information technology  
21 certified interoperable electronic system to allow  
22 interoperability. Reimbursements for expenses incurred in



1 adopting or acquiring new electronic systems, or both, may be  
2 allowed to participants serving rural or underserved areas.

3 **§321- Health information technology task force;**

4 **establishment.** (a) There is established, within the department  
5 of accounting and general services, for administrative purposes  
6 only, a health information technology task force which shall be  
7 comprised of:

- 8 (1) A representative from every participating health plans  
9 within the state, to be appointed by the governor from  
10 a list of candidates submitted by the president of the  
11 senate and speaker of the house of representatives;
- 12 (2) A representative from health care purchasers and  
13 employers, to be appointed by the governor from a list  
14 of candidates submitted by the president of the senate  
15 and speaker of the house of representatives;
- 16 (3) The president of the Hawaii state bar association, or  
17 the president's designee;
- 18 (4) A representative from the insurance industry, to be  
19 appointed by the governor from a list of candidates  
20 submitted by the president of the senate and speaker  
21 of the house of representatives;



- 1 (5) A representative from patient or consumer  
2 organizations, to be appointed by the governor from a  
3 list of candidates submitted by the president of the  
4 senate and speaker of the house of representatives;
- 5 (6) A representative from the technology industry, to be  
6 appointed by the governor from a list of candidates  
7 submitted by the president of the senate and speaker  
8 of the house of representatives;
- 9 (7) A representative from the health information vendor  
10 industry, to be appointed by the governor from a list  
11 of candidates submitted by the president of the senate  
12 and speaker of the house of representatives;
- 13 (8) A clinical researcher, to be appointed by the governor  
14 from a list of candidates submitted by the president  
15 of the university of Hawaii and dean of the John A.  
16 Burns school of medicine;
- 17 (9) One majority member of the house of representatives,  
18 or the representative's designee, appointed by the  
19 speaker of the house of representatives;
- 20 (10) One minority member of the house of representatives,  
21 or the representative's designee, appointed by the  
22 speaker of the house of representatives;



- 1 (11) One majority member of the senate, or the senator's  
2 designee, appointed by the president of the senate;
- 3 (12) One minority member of senate, or the senator's  
4 designee, appointed by the president of the senate;
- 5 (13) The comptroller of accounting and general services, or  
6 the comptroller's designee;
- 7 (14) The director of health, or the director's designee;
- 8 (15) The director of human services, or the director's  
9 designee;
- 10 (16) The director of commerce and consumer affairs, or the  
11 director's designee;
- 12 (17) The director of business, economic development, and  
13 tourism, or the director's designee;
- 14 (18) The director of budget and finance, or the director's  
15 designee;
- 16 (19) The president of the university of Hawaii, or the  
17 president's designee; and
- 18 (20) Any other stakeholders who wish to participate,  
19 including other users of health information technology  
20 such as support and clerical staff of providers and  
21 others involved in the care and care coordinators of  
22 patients; provided that the president of the Hawaii



1           medical association, or the president's designee,  
2           shall be requested to participate as a member of the  
3           task force.

4           The task force chairperson shall be selected by the members  
5 of the council. Task force members shall serve without  
6 compensation but shall be reimbursed for expenses, including  
7 travel expenses, necessary for the performance of their duties.

8           (b) The task force shall develop a ten-year strategic plan  
9 for the office and network that shall include but not be limited  
10 to:

11           (1) Consistency with the strategic plan as developed by the  
12 United States Department of Health and Human Services,  
13 Office of National Coordinator of Health Information  
14 Technology;

15           (2) A detailed plan for the state to execute the state  
16 strategic plan;

17           (3) Its impact on the public health care structure in  
18 Hawaii including but not limited to quality and access  
19 to health care within the state, especially in rural  
20 and medically underserved areas, and the cost of health  
21 care within the state;

22           (4) An education and awareness campaign; and



1           (5) Identification of additional structural or financial  
2           resources that can be utilized to enhance the health  
3           information exchange network.

4           (c) The health information technology task force shall  
5           submit their report of findings, goals, and finalized ten-year  
6           strategic plan by no later than twenty days prior to the  
7           convening of the regular session of 2010, and every year  
8           thereafter until the task force shall cease to exist.

9           (d) The health information technology task force shall  
10          cease to exist on June 30, 2014.

11          **§321- Health information exchange special fund;**

12          **establishment.** (a) There is established within the state  
13          treasury, to be administered by the department of accounting and  
14          general services, the health information exchange special fund  
15          into which shall be deposited:

16               (1) Legislative appropriations;

17               (2) Federal funds designated for a health information  
18               exchange;

19               (3) Grant moneys secured for a health information  
20               exchange; and

21               (4) Any other revenues designated for the fund.



1 (b) Moneys in the health information exchange special fund  
2 shall be expended for the following purposes:

3 (1) The cost of administering the office, including salary  
4 and benefits of employees, computer costs, including  
5 software and infrastructure, and any contracted  
6 services related to administering the office;

7 (2) The cost of administering annual health information  
8 technology task force meetings;

9 (3) Reimbursement for expenses incurred by network  
10 participants for adopting or acquiring new electronic  
11 systems, or both; and

12 (4) Any other purpose deemed necessary by the department  
13 for the purpose of operating and administering this  
14 part.

15 All interest on fund balances shall accrue to the fund. Upon  
16 dissolution of the fund, any unencumbered moneys in the fund  
17 shall lapse into the general fund."

18 SECTION 3. (a) The department of accounting and general  
19 services shall assess:

20 (1) The effectiveness of the office of state coordinator  
21 of health information exchange, the health information  
22 exchange network, and the health information



1 technology task force as established under part of  
2 chapter 321, Hawaii Revised Statutes, in:

3 (A) Providing physicians and health care providers  
4 with secure electronic access to patient  
5 information;

6 (B) The implementation of an integrated electronic  
7 health information infrastructure for the sharing  
8 of electronic health information among health  
9 care facilities, health care professionals,  
10 public and private payers, and patients;

11 (C) The enhanced broad and varied participation in  
12 the authorized and secured nationwide electronic  
13 use and exchange of health information; and

14 (D) The coordinated statewide efforts, increased  
15 adoption and use of certification commission for  
16 health information technology electronic health  
17 records and e-prescribing.

18 (b) The department of health shall assess:

19 (1) The effectiveness of the office of state coordinator  
20 of health information exchange, the health information  
21 exchange network, and the health information



1 technology task force as established under part of  
2 chapter 321, Hawaii Revised Statutes, in:

3 (A) The impact of the health information exchange  
4 program on increasing access and quality of  
5 health care in the state and on decreasing health  
6 care costs; and

7 (B) The impact of the health information exchange on  
8 reducing medical errors and the cost of medical  
9 malpractice insurance rates in the state.

10 (c) The department of accounting and general services and  
11 the department of health shall submit a joint report with their  
12 assessments to the legislature no later than twenty days prior  
13 to the convening of the regular session of 2010, and each year  
14 for nine years thereafter until the regular session of 2019;  
15 provided that the departments shall submit biennial assessments  
16 to the legislature beginning with the regular session of 2020,  
17 and every other year thereafter.

18 (d) The department of budget and finance shall submit a  
19 financial report regarding the state's health information  
20 technology efforts including but not limited to the amount of  
21 state funds expended on health information technology, including  
22 in-kind services, what efforts were made to secure outside



1 public and private funding for health information technology and  
2 successful those efforts were, including the dollar amounts  
3 awarded, the amount of money granted to the state under the  
4 federal economic stimulus plan of 2009, and the state's  
5 financial plan for health information technology for the  
6 upcoming fiscal year. The department shall submit its report to  
7 the legislature no later than twenty days prior to the convening  
8 of the regular session of 2010, and each year for nine years  
9 thereafter until the regular session of 2019; provided that the  
10 department shall submit biennial assessments to the legislature  
11 beginning with the regular session of 2020, and every other year  
12 thereafter.

13 SECTION 4. There is appropriated out of the general  
14 revenues of the State of Hawaii the sum of \$ or so much  
15 thereof as may be necessary for fiscal year 2011-2012 and the  
16 same sum or so much thereof as may be necessary for fiscal year  
17 2012-2013 for deposit into the health information exchange  
18 special fund.

19 SECTION 5. There is appropriated out of the health  
20 information exchange special fund the sum of \$ or so much  
21 thereof as may be necessary for fiscal year 2011-2012 for the  
22 purposes of the fund.



1           The sums appropriated shall be expended by the department  
2 of accounting and general services.

3           SECTION 6. This Act shall take effect on July 1, 2046.



**Report Title:**

Health Information Exchange

**Description:**

Creates an office of state coordinator of health information exchange to assist in developing a health information exchange program. (HB1782 HD2)

