

**HB2086**

**HD2 SD1**

# HMSA



An Independent Licensee of the Blue Cross and Blue Shield Association

March 31, 2010

The Honorable Brian Taniguchi, Chair  
The Honorable Dwight Takamine, Vice Chair

Senate Committee on Judiciary and Government Operations

**Re: HB 2086 HD2 SD1 – Relating to Health Care Data**

Dear Chair Taniguchi, Vice Chair Takamine and Members of the Committee:

The Hawaii Medical Service Association (HMSA) appreciates the opportunity to testify in strong support of HB 2086 HD2 SD1 which would allow clinical laboratories to provide access to lab data to HIPAA entities and business associates.

On the state level, Hawaii Revised Statutes do not directly oversee clinical laboratories and instead the Hawaii Department of Health regulates these entities under the Hawaii Administrative Rules (HAR). Current HAR only permit clinical laboratories to disclose lab results to “authorized persons” and their “designees.” Under the HAR definition, “authorized person” only includes medical providers licensed in the state.

As you are aware, HMSA launched its Online Care program which allows individuals to gain access to physicians and specialists 24 hours a day, 7 days a week via the internet or telephone. An important component of Online Care is the ability for participating Online Care providers to access an individual’s medical history to ensure that they have all the information they need to provide an appropriate diagnosis. One of the problems which our system has run into is the inability to populate our member’s records with the results of any laboratory testing they have received. The language contained in HB 2086 HD2 SD1 is meant to allow for these results to be made available to physicians assisting members via Online Care by extending the definition of entities which may receive this information to those covered under HIPAA.

There are other projects in the works locally which stand to gain from its passage as well. The UH College of Pharmacy at Hilo, along with a broad coalition of organizations, is working toward implementing a regional health information exchange which would serve as a prototype for larger future projects. This goes hand-in-hand with the broader effort of the Hawaii Health Information Exchange (HHIE) to draw down American Recovery and Reinvestment Act (ARRA) funding to create a statewide information exchange. Unless HIPAA covered entities, such as health plans, are able to share this laboratory data, it will be virtually impossible to utilize technology to promote a more efficient and higher quality health care system. We believe that passage of HB 2086 HD2 SD1 will assist in the many efforts to improve Hawaii’s health care system and as such would request the Committee pass this measure as currently drafted. Thank you for the opportunity to testify today.

Sincerely,

A handwritten signature in black ink, appearing to read "JD".

Jennifer Diesman  
Vice President  
Government Relations



March 31, 2010

The Honorable Brian Taniguchi, Chair  
The Honorable Dwight Takamine, Vice Chair  
Senate Committee on Judiciary and Government Operations

**Re: HB 2086 HD2 SD1 – Relating to Health Care Data**

Dear Chair Taniguchi, Vice Chair Takamine and Members of the Committee:

My name is Howard Lee and I am President of the Hawaii Association of Health Plans (“HAHP”). HAHP is a non-profit organization consisting of seven (7) member organizations:

AlohaCare  
Hawaii Medical Assurance Association  
HMSA  
Hawaii-Western Management Group, Inc.

MDX Hawai‘i  
University Health Alliance  
UnitedHealthcare

Our mission is to promote initiatives aimed at improving the overall health of Hawaii. We are also active participants in the legislative process. Before providing any testimony at a Legislative hearing, all HAHP member organizations must be in unanimous agreement of the statement or position.

HAHP appreciates the opportunity to testify on HB 2086 HD2 SD1 which would amend the state’s regulatory framework regarding the sharing of clinical laboratory data to more closely comply with the federal Health Insurance Portability and Accountability Act (HIPAA.)

Health information technology is rapidly expanding and the state is expecting an influx of federal funding through the American Recovery and Reinvestment Act (ARRA). These monies will be used to create a statewide health information exchange which will ultimately connect the entire state and provide a framework to allow all types of health care providers to access clinical data.

One of the initial goals of ARRA is for states to examine local statutes in relation to data sharing to determine if changes need to be made in order to meet aggressive federal implementation timeframes. An examination of Hawaii regulations reveals that there is opportunity for change.

Clinical laboratories are overseen through federal regulation know as the Clinical Laboratories Improvement Amendments (CLIA). CLIA gives states leeway to define who may receive clinical laboratory results. In Hawaii, per Hawaii Administrative Rules (HAR), the only person who may receive laboratory results is the ordering physician or their "designee."

Since the HAR does not include other HIPAA covered entities, laboratories would be unable to provide clinical data to a health information exchange or for a physician to populate a field in an electronic medical record with this data. HAHP believes that making the statutory change included in HB 2086 HD2 SD1 to include HIPAA covered entities within the scope of those permitted to share laboratory data would be an easy step as we forge ahead to incorporate health care technology in a more comprehensive way.

Thank you for the opportunity to offer comments today.

Sincerely,

A handwritten signature in black ink that reads "Howard Lee". The signature is written in a cursive, flowing style.

Howard Lee  
President



**HAWAII MEDICAL ASSOCIATION**

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**Wednesday, March 31, 2010, 11:15 a.m., Conference Room 016**

To: COMMITTEE ON JUDICIARY AND GOVERNMENT OPERATIONS  
Senator Brian T. Taniguchi, Chair  
Senator Dwight Y. Takamine, Vice Chair

From: Hawaii Medical Association  
Gary A. Okamoto, MD, Legislative Co-Chair  
Linda Rasmussen, MD, Legislative Co-Chair  
April Donahue, Executive Director  
Lauren Zirbel, Government Affairs  
Dick Botti, Government Affairs

Re: HB2086 RELATING TO HEALTH CARE DATA

Chairs & Committee Members:

Hawaii Medical Association would like to comment on HB2086, which allows exchange of lab data under HIPAA privacy laws. Efficient provider access to a patient's lab data would facilitate the appropriate evaluation and treatment of patients. This legislation will help set the foundation for health information exchange throughout Hawaii.

Please note that it is critical to keep the amendments from the HD2 version stating that lab data may be provided (not shall).

We do have concerns that the measure may be too broad. Modifications to the language that would narrow the definition of "authorized persons", indicate that data should be exchanged for treatment purposes, and clarify that patient and physician permission must be given if data is exchanged beyond treating providers are options that should be seriously considered.

Thank you for the opportunity to provide testimony.

**OFFICERS**

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Immediate Past President - Gary Okamoto, MD Treasurer - Stephen Kemble, MD Executive Director - April Donahue