



GOV. MSG. NO. 1432

EXECUTIVE CHAMBERS
HONOLULU

NEIL ABERCROMBIE
GOVERNOR

July 10, 2012

The Honorable Shan Tsutsui, President
and Members of the Senate
Twenty-Sixth State Legislature
State Capitol, Room 409
Honolulu, Hawaii 96813

The Honorable Calvin Say, Speaker
and Members of the House
Twenty-Sixth State Legislature
State Capitol, Room 431
Honolulu, Hawaii 96813

Dear President Tsutsui, Speaker Say and Members of the Legislature:

This is to inform you that on July 10, 2012, the following bill was signed into law:

HB1957 HD2 SD2 CD1

RELATING TO HEALTH CARE INFORMATION.
Act 315 (12)

Sincerely,

NEIL ABERCROMBIE
Governor, State of Hawaii

Approved by the Governor
JUL 10 2012
on _____

ORIGINAL

ACT 315

HOUSE OF REPRESENTATIVES
TWENTY-SIXTH LEGISLATURE, 2012
STATE OF HAWAII

H.B. NO. 1957
H.D. 2
S.D. 2
C.D. 1

A BILL FOR AN ACT

RELATING TO HEALTH CARE INFORMATION.

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

1 SECTION 1. The legislature finds that the privacy of
2 health information has been greatly enhanced by the federal
3 Health Insurance Portability and Accountability Act of 1996
4 ("HIPAA") and related federal laws and regulations. HIPAA
5 encourages the timely, secure, electronic transmission of
6 individually identifiable health information, with important
7 benefits for patients. The legislature also finds that HIPAA
8 and related federal regulations provide a comprehensive
9 regulatory scheme that protects the privacy of patients' health
10 information while allowing reasonable access by health care
11 providers, health plans, and health-oversight agencies.

12 The legislature further finds that the safety and
13 protection of the health care consumer are paramount. The
14 federal Health Information Technology for Economic and Clinical
15 Health Act promotes the development of statewide health care
16 information architecture that allows health care providers to
17 share health care information, improve health care consumer
18 safety, and reduce instances of redundant tests and procedures,

HB1957 CD1 HMS 2012-3626



1 leading to an overall reduction of health care costs while
2 maintaining privacy and confidentiality in accordance with
3 HIPAA.

4 Hawaii has over fifty different laws and rules, however,
5 that govern health care privacy. This complex array of state
6 laws and rules unduly burdens health care providers who attempt
7 to share or access critical information at the point of care and
8 imposes unnecessary administrative costs and daunting regulatory
9 burdens without countervailing benefits.

10 The purpose of this Act is to ensure that covered entities
11 and their business associates subject to HIPAA, who use or
12 disclose health information in a manner permitted by and
13 consistent with HIPAA's Privacy Rules (45 C.F.R. Part 164,
14 subpart E) shall be deemed to be acting in compliance with state
15 privacy laws and regulations, including section 334-5, Hawaii
16 Revised Statutes, regarding the use and disclosure of mental
17 health records; section 333E-6, Hawaii Revised Statutes,
18 regarding the use and disclosure of developmental disabilities
19 records; and section 325-101, Hawaii Revised Statutes, regarding
20 the use and disclosure of records related to the human
21 immunodeficiency virus, acquired immune deficiency syndrome
22 (AIDS), and AIDS-related complex.



1 SECTION 2. The Hawaii Revised Statutes is amended by
2 adding a new chapter to be appropriately designated and to read
3 as follows:

4 "CHAPTER

5 HEALTH CARE PRIVACY HARMONIZATION ACT

6 § -1 **Applicability.** This chapter shall apply, unless
7 amended by specific reference to this chapter or any section
8 thereof.

9 § -2 **Definitions.** As used in this chapter:

10 "Breach" has the same meaning as in 45 Code of Federal
11 Regulations section 164.402, as may be amended.

12 "Business associate" has the same meaning as in 45 Code of
13 Federal Regulations section 160.103, as may be amended.

14 "Covered entity" has the same meaning as in 45 Code of
15 Federal Regulations section 160.103, as may be amended.

16 "Disclosure" has the same meaning as in 45 Code of Federal
17 Regulations section 160.103, as may be amended.

18 "Health information" has the same meaning as in 45 Code of
19 Federal Regulations section 160.103, as may be amended.

20 "Individually identifiable health information" has the same
21 meaning as in 45 Code of Federal Regulations section 160.103, as
22 may be amended.



1 "Unsecured protected health information" has the same
2 meaning as in 45 Code of Federal Regulations section 164.402, as
3 may be amended.

4 "Use" has the same meaning as in 45 Code of Federal
5 Regulations section 160.103, as may be amended.

6 **§ -3 Privacy of individually identifiable health**

7 **information.** (a) Notwithstanding any law to the contrary, any
8 use or disclosure of individually identifiable health
9 information by any covered entity or business associate that is
10 permitted by 45 Code of Federal Regulations Part 164, Subpart E,
11 shall be deemed to comply with all state laws relating to the
12 use, disclosure, or confidentiality of such information.

13 (b) Notwithstanding any law to the contrary, an
14 authorization for release of individually identifiable health
15 information that complies with 45 Code of Federal Regulations
16 section 164.508 shall be deemed to comply with all state laws
17 relating to individual authorization.

18 (c) Notwithstanding any law to the contrary, any notice of
19 breach of unsecured protected health information that complies
20 with 45 Code of Federal Regulations Part 164, Subpart D, shall
21 be deemed to comply with all state laws relating to notice of
22 breach of protected health information.



1 **§ -4 Relationship to other laws.** Nothing in this
2 chapter shall be construed to:

3 (1) Authorize the disclosure of individually identifiable
4 health information to the extent that disclosure is
5 restricted by federal law or regulations, including
6 federal regulations about the confidentiality of
7 information about drugs and alcohol, as set forth in
8 42 Code of Federal Regulations Part 2;

9 (2) Compel the disclosure of individually identifiable
10 health information that is not required by law to be
11 disclosed;

12 (3) Require a written authorization for release of
13 individually identifiable health information or
14 de-identified information to the extent that the
15 Health Insurance Portability and Accountability Act of
16 1996, Public Law 104-191, and its related regulations,
17 as may be amended, does not require such
18 authorization;

19 (4) Limit or otherwise affect any state law that:

20 (A) Requires persons or entities to report disease,
21 injury, child abuse, elder abuse, domestic
22 violence, birth, or death; or



1 (B) Governs public health surveillance,
2 investigation, or intervention;
3 (5) Limit or otherwise affect health plan reporting,
4 including reporting required for purposes of state
5 management or financial audits; or
6 (6) Limit or otherwise affect any evidentiary privilege,
7 limitation on discovery, or confidentiality protection
8 provided by any state law, decision, or order in
9 relation to individually identifiable health
10 information sought, used, or produced in any judicial
11 or administrative proceeding."
12 SECTION 3. This Act shall take effect upon its approval.

APPROVED this 10 day of JUL, 2012

Neil Abernethy

GOVERNOR OF THE STATE OF HAWAII

