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## 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 patients' individually identifiable health information has been  
3 greatly enhanced by the Health Insurance Portability and  
4 Accountability Act of 1996, hereinafter referred to as "HIPAA",  
5 and related federal laws and regulations. The federal  
6 regulatory scheme encourages the use of electronic transmission  
7 of individually identifiable health information in a more secure  
8 setting, such as through a health information exchange that  
9 allows health care information to be shared among health care  
10 providers in a more timely and secure manner, with important  
11 benefits for patients. A secured health information exchange  
12 system will give Hawaii providers prompt access to vital health  
13 care information at the point of care, resulting in better  
14 treatment decisions, improved patient outcomes, reduced health  
15 care costs, and enhanced quality and oversight over health care.

16           The legislature believes that the safety and protection of  
17 the health care consumer is paramount, particularly with respect  
18 to consumer health care information. At the same time, an ideal



1 health care system requires an efficient exchange of information  
2 about patients' health care. The Health Information Technology  
3 for Economic and Clinical Health Act promotes the development of  
4 statewide health care information architecture that allows  
5 health care providers to share health care information, improve  
6 health care consumer safety, and reduce redundant tests and  
7 procedures, thereby leading to an overall reduction of health  
8 care costs, while maintaining the privacy and confidentiality of  
9 information in accordance with federal law.

10 The legislature further finds that Hawaii's health care  
11 system is hampered from achieving the timely exchange of  
12 individually identifiable health information, in part because  
13 Hawaii has over fifty different laws and rules governing health  
14 care privacy restricting the exchange of health care information  
15 in the new settings. This complex array of state laws and  
16 rules, created prior to the enactment of HIPAA, unduly burdens  
17 health care providers who attempt to share or access critical  
18 information at the point of care and imposes unnecessary  
19 administrative costs and a regulatory burden on Hawaii's health  
20 care system. The legislature believes it is necessary to  
21 integrate the various laws and rules affecting Hawaii's health



1 care into a well-coordinated scheme of state and federal privacy  
2 protections.

3 The legislature further finds that HIPAA and its related  
4 regulations provide a comprehensive regulatory scheme to protect  
5 the privacy of patients' individually identifiable health  
6 information, while allowing reasonable access by health care  
7 providers, health plans, and health-oversight agencies.

8 The purpose of this Act is to clarify that persons and  
9 entities governed by HIPAA, who use or disclose individually  
10 identifiable health information consistent with HIPAA  
11 regulations, shall be deemed to be in compliance with Hawaii's  
12 privacy laws and rules.

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

16 **"CHAPTER**

17 **HEALTH CARE PRIVACY HARMONIZATION ACT**

18 **§ -1 Short title.** This chapter shall be known as the  
19 "Health Care Privacy Harmonization Act".

20 **§ -2 Definitions.** As used in this chapter:



1 "Business associate" means a business associate as defined  
2 by the Health Insurance Portability and Accountability Act (45  
3 C.F.R. 160.103), or as may be amended.

4 "Covered entity" means a covered entity as defined by the  
5 Health Insurance Portability and Accountability Act (45 C.F.R.  
6 160.103), or as may be amended.

7 "HIPAA" means the Health Insurance Portability and  
8 Accountability Act (42 U.S.C. 201 et seq.), or as may be  
9 amended.

10 "Individually identifiable health information" means  
11 individually identifiable health information as defined by the  
12 Health Insurance Portability and Accountability Act (45 C.F.R.  
13 160.103).

14 Other capitalized terms used in this chapter shall have the  
15 same meaning as defined in HIPAA.

16 **§ -3 Privacy of individually identifiable health**  
17 **information.** Notwithstanding any law to the contrary:

18 (1) Any use or disclosure of individually identifiable  
19 health information by any covered entity or business  
20 associate that is permitted by HIPAA regulations  
21 regarding privacy of individually identifiable health  
22 information under 45 C.F.R. Part 164, Subpart E, shall



1 be deemed to be in compliance with all state laws and  
2 rules governing the use, disclosure, or  
3 confidentiality of such information;

4 (2) An authorization for release of individually  
5 identifiable health information that follows the  
6 structure under 45 C.F.R. 164.508 shall be deemed to  
7 be in compliance with all state laws and rules  
8 governing individual authorization; and

9 (3) Any notification of breach of unsecured protected  
10 health information that is provided in a complete and  
11 consistent manner with HIPAA regulations regarding  
12 notification of breach of unsecured protected health  
13 information under 45 C.F.R. Part 164, Subpart D, shall  
14 be deemed to be in compliance with all state laws and  
15 rules governing notice of breach for protected health  
16 information.

17 **§ -4 Relationship to other laws.** (a) Nothing in this  
18 chapter shall be construed to:

19 (1) Authorize the disclosure of individually identifiable  
20 health information to the extent that disclosure is  
21 restricted by federal law or regulations, including



- 1 the confidentiality of alcohol and drug abuse patient  
2 records under 42 C.F.R. Part 2;
- 3 (2) Require the disclosure of individually identifiable  
4 health information that is not required by law to be  
5 disclosed;
- 6 (3) Require a written authorization for release of  
7 individually identifiable health information or de-  
8 identified information to the extent that HIPAA does  
9 not require such authorization;
- 10 (4) Limit or otherwise affect any state law or rules  
11 requiring a person or entity to report disease,  
12 injury, child and elder abuse, domestic violence,  
13 birth, or death;
- 14 (5) Limit or otherwise affect any state law or rules  
15 governing public health surveillance, investigation,  
16 or intervention;
- 17 (6) Limit or otherwise affect health plan reporting, such  
18 as for state-required management or financial audits;  
19 or
- 20 (7) Limit or otherwise affect any state law or rules  
21 requiring notification of other security or privacy  
22 breaches.



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1 (b) No law enacted after shall limit the  
 2 applicability of this chapter unless the law expressly  
 3 references and amends this chapter."

4 SECTION 3. The revisor of statutes shall insert the  
 5 effective date of this Act in the appropriate place in section 2  
 6 of this Act.

7 SECTION 4. This Act shall take effect upon its approval.  
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INTRODUCED BY:

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# H.B. NO. 1957

**Report Title:**

Health Care Information; Privacy

**Description:**

Clarifies that persons and entities governed by the Health Insurance Portability and Accountability Act, who use or disclose individually identifiable health information that is consistent with the Health Insurance Portability and Accountability Act regulations, shall be deemed to be in compliance with Hawaii's privacy laws and rules.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

