
A BILL FOR AN ACT

RELATING TO PRIVACY OF 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,



1 and leads 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,
8 and imposes unnecessary administrative costs and daunting
9 regulatory burdens without countervailing benefits.

10 The purpose of this Act is to assure 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 under the federal
14 regulations (45 C.F.R. part 164, subpart E) shall be deemed to
15 be acting in compliance with state privacy laws and regulations,
16 including but not limited to section 325-101, Hawaii Revised
17 Statutes, relating to the use and disclosure of human
18 immunodeficiency virus (HIV), acquired immune deficiency
19 syndrome (AIDS), or AIDS related complex (ARC); section 333E-6,
20 Hawaii Revised Statutes, relating to the use and disclosure of
21 developmental disabilities records; and section 334-5, Hawaii



1 Revised Statutes, relating to the use and disclosure of mental
2 health records.

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

6 "CHAPTER

7 HEALTH CARE PRIVACY HARMONIZATION ACT

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

11 § -2 **Definitions.** As used in this chapter:

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

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

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

18 "Disclosure" has the same meaning as in 45 Code of Federal
19 Regulations section 160.03, as may be amended.

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



1 "Individually identifiable health information" has the same
2 meaning as in 45 Code of Federal Regulations section 160.103, as
3 may be amended.

4 "Unsecured protected health information" has the same
5 meaning as in 45 Code of Federal Regulations section 164.402, as
6 may be amended.

7 "Use" has the same meaning as in 45 Code of Federal
8 Regulations section 160.03, as may be amended.

9 § -3 **Privacy of individually identifiable health**
10 **information.** (a) Notwithstanding any law or rule to the
11 contrary, any use or disclosure of individually identifiable
12 health information by any covered entity or business associate
13 that is permitted under 45 Code of Federal Regulations part 164,
14 subpart E, shall be deemed to comply with all state laws and
15 rules relating to the use, disclosure, or confidentiality of
16 such information.

17 (b) Notwithstanding any law or rule to the contrary, an
18 authorization for release of individually identifiable health
19 information that complies with 45 Code of Federal Regulations
20 section 164.508 shall be deemed to comply with all state laws
21 and rules relating to individual authorization.



1 (c) Notwithstanding any law or rule to the contrary, any
2 notice of breach of unsecured protected health information that
3 complies with 45 Code of Federal Regulations Part 164, Subpart
4 D, shall be deemed to comply with all state laws and rules
5 relating to notice of breach of protected health information.

6 § -4 **Relationship to other laws.** Nothing in this
7 chapter shall be construed to:

- 8 (1) Authorize the disclosure of individually identifiable
9 health information to the extent disclosure is
10 restricted by federal law or regulations, including
11 federal drug and alcohol confidentiality regulations,
12 as set forth in 42 Code of Federal Regulations part 2;
- 13 (2) Compel the disclosure of individually identifiable
14 health information that is not required by law to be
15 disclosed;
- 16 (3) Require a written authorization for release of
17 individually identifiable health information or de-
18 identified information to the extent that the Health
19 Insurance Portability and Accountability Act of 1996,
20 Public Law 104-191, as amended, and related federal
21 rules do not require the authorization;



- 1 (4) Limit or otherwise affect any state statute or rule
2 that:
3 (A) Requires persons or entities to report disease,
4 injury, child abuse, elder abuse, domestic
5 violence, birth, or death; or
6 (B) Governs public health surveillance,
7 investigation, or intervention;
8 (5) Limit or otherwise affect health plan reporting,
9 including reporting required for purposes of state
10 management or financial audits; or
11 (6) Limit or otherwise affect any evidentiary privilege,
12 discovery limitation, or confidentiality protection
13 provided by law, rule, order, or decision in relation
14 to individually identifiable health information
15 sought, used, or produced in any judicial or
16 administrative proceeding."

17 SECTION 3. This Act shall take effect upon its approval.



Report Title:

Privacy of Health Care Information; HIPAA

Description:

Provides that use, disclosure, or authorization for release of individually identifiable health information that complies with federal law shall be deemed to comply with state law. Provides that notice of breach of unsecured protected health information that complies with federal law shall be deemed to comply with state law. (SD1)

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