

# **TESTIMONY**

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# **HB1957, HD2**

**HTH  
Committee Hearing  
03-16-2012**



EXECUTIVE CHAMBERS

HONOLULU

NEIL ABERCROMBIE  
GOVERNOR

**SENATE COMMITTEE ON HEALTH**  
**Senator Josh Green, MD, Chair**  
**Senator Clarence K. Nishihara, Vice Chair**

**March 16, 2012**  
**1:30 p.m. Room 229**

**Support for HB 1957, HD 2**  
**Relating to Health Care Information**  
**Presented by Beth Giesting**  
**Healthcare Transformation Coordinator**

Chair Green, Vice Chair Nishihara, members of the Committee on Health, the Office of the Governor is in support of House Bill 1957, HD2, Relating to the Health Care Information.

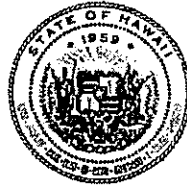
We find that transforming the quality and sustainability of our health care system hinges on our effective use of Health Information Technology tools that include electronic health records and health information exchange. The appropriate exchange of health information is a critical factor for reducing system fragmentation; costly, dangerous duplication of services and decision-making and treatment delays. Its effective use will result in higher quality, increased patient and provider satisfaction, and lower costs.

The welter of conflicting rules and regulations related to exchange paralyze providers with concerns about unintentional breaches of the law. Accordingly, we will greatly increase provider participation in exchange activities if we simply rely on federal law as the sole arbiter for privacy, exchange, and notification.

Thank you for the opportunity to offer our support for this essential regulatory change

**Written Only**

NEIL ABERCROMBIE  
GOVERNOR OF HAWAII



LORETTA J. FUDDY, A.C.S.W., M.P.H.  
DIRECTOR OF HEALTH

**STATE OF HAWAII**  
**DEPARTMENT OF HEALTH**  
P.O. Box 3378  
HONOLULU, HAWAII 96801-3378

In reply, please refer to  
File:

**Senate Committee on Health**

**H.B. No. 1957 H.D. 2, RELATING TO HEALTH CARE INFORMATION**

**Testimony of Loretta J. Fuddy, A.C.S.W., M.P.H.**  
**Director of Health**

**March 16, 2012**

1 **Department's Position:** Support.

2 **Fiscal Implications:** None.

3 **Purpose and Justification:** The Department supports this bill because it will serve to facilitate the  
4 exchange of health information and simplify an often complex analysis of applicable state privacy laws.  
5 The result will be improved patient care, reduced health care costs and enhanced quality of health care  
6 operations without compromising privacy protections.

7 The Department believes that this bill is in accord with the Health Insurance Portability and  
8 Accountability Act of 1996 (HIPAA) and the Health Information Technology for Economic and Clinical  
9 Health (HITECH) Act. These federal regulations promote a system to enhance the quality of patient  
10 care while reducing instances of duplicative services and protecting patient privacy. This bill moves in  
11 the direction set by both HIPAA and the HITECH Act.

12 This bill promotes sharing health information in a timely and safe manner while improving  
13 patient care and outcomes, reducing health cost, and enhancing oversight of healthcare operations. It  
14 also helps pave the way for the electronic maintenance and exchange of health information.

1           This bill also will serve to simplify what has become a complicated array of state laws and  
2 regulations regarding health care privacy. Often, an involved preemption analysis must be conducted to  
3 determine which privacy law is appropriate. While our staff is highly trained and capable, this  
4 unnecessary complexity can lead to delays or the application of an incorrect law. This bill will eliminate  
5 a significant layer of that complexity.

6           This bill only applies to entities that are already required to comply with HIPAA regulations.  
7 HIPAA is the recognized standard in this area; therefore, appropriate protections will still be in place.  
8 Furthermore, this bill specifically states that it does not apply to disclosures of health information  
9 restricted by federal law or regulations. This means that federal regulations, such as those regarding  
10 substance abuse treatment information, must still be followed.

11           The Department supports H.B. 1957 H.D. 2. Thank you for the opportunity to provide testimony  
12 on this measure.



March 16, 2012  
1:30 pm  
Conference Room 229

To: The Honorable, Senator Josh Green, M.D., Chair  
The Honorable, Senator Clarence K. Nishihara, Vice Chair  
Senate Committee on Health

From: Paula Arcena, Director of Public Policy  
Robert Toyofuku, Government Affairs

Re: HB1957 Relating to Health Care Information

Thank you for the opportunity to testify on this measure.

AlohaCare **supports** HB1957 which will clarify that persons and entities governed by HIPAA (Health Insurance Portability and Accountability Act of 1996), who use or disclose individually identifiable health information consistent with HIPAA regulations, shall be deemed to be in compliance with Hawaii's privacy laws and rules.

Passage of this measure will provide for integration of various laws and rules affecting Hawaii's health care into a well-coordinated scheme of state and federal privacy protections. This measure will maintain protection of private health information while allowing reasonable access by health care providers, health plans and health regulatory agencies.

AlohaCare is a non-profit, Hawaii based health plan founded in 1994 by Hawaii's community health centers to serve low-income families and medically vulnerable members of our community through government sponsored health insurance programs. We serve beneficiaries of Medicaid and Medicare on all islands.

Thank you for this opportunity to testify.



SENATE COMMITTEE ON HEALTH  
Senator Josh Green, M.D., Chair

Conference Room 229  
March 16, 2012 at 1:30 p.m.

**Supporting HB 1957 HD 2: Relating to Health Care Information**

The Healthcare Association of Hawaii advocates for its member organizations that span the entire spectrum of health care, including all acute care hospitals, as well as long term care facilities, home care agencies, and hospices. In their efforts to provide quality care to all of Hawaii's residents, our members employ over 40,000 people. Thank you for this opportunity to testify in support of HB 1957 HD 2, which creates an effective regulatory structure for managing health care information.

The health care system is very complex, and much information is transmitted among the various organizations within the system. Patient confidentiality is of paramount importance, but information needs to flow through the system efficiently to ensure that care is provided on a timely basis, that payment is made for care, and that government entities responsible for monitoring health care receive the necessary information.

The federal Health Insurance Portability and Accountability Act (HIPAA) governs the transmission of individually identifiable health information between health care providers, insurers, and other organizations that depend on such information. The State also has regulations that govern the transmission of such information.

Unfortunately, State and federal regulations are not always aligned, and as such there can be confusion about the interpretation of the regulations. This confusion can result in medical information not being optimally shared among organizations. This bill harmonizes state regulations governing the disclosure of medical information with federal legislation.

Thank you for the opportunity to testify in support of HB 1957 HD 2.

TESTIFIER:

GEORGE GREENE  
President / CEO



**HAWAII MEDICAL ASSOCIATION**

1360 S. Beretania Street, Suite 200, Honolulu, Hawaii 96814  
Phone (808) 536-7702 Fax (808) 528-2376 www.hmaonline.net

**DATE: Friday, March 16, 2012**

**TIME: 1:30 p.m.**

**PLACE: Conference Room 229**

To: COMMITTEE ON HEALTH  
Senator Josh Green, M.D., Chair  
Senator Clarence K. Nishihara, Vice Chair

From: Hawaii Medical Association  
Dr. Roger Kimura, MD, President  
Dr. Linda Rasmussen, MD, Legislative Co-Chair  
Dr. Joseph Zobian, MD, Legislative Co-Chair  
Dr. Christopher Flanders, DO, Executive Director  
Lauren Zirbel, Community and Government Relations

Re: HB1957HD2 RELATING TO HEALTH CARE INFORMATION

**In Support**

Chairs & Committee Members:

The Hawaii Medical Association supports this measure.

The HMA agrees with the legislature that the privacy of health information has been greatly enhanced by the federal Health Insurance Portability and Accountability Act ("HIPAA") and related federal laws and regulations. HIPAA encourages the timely, secure, electronic transmission of individually identifiable health information, with important benefits for patients. HIPAA and related federal regulations provide a comprehensive regulatory scheme that protects the privacy of patients' health information, while allowing reasonable access by health care providers, health plans, and health oversight agencies.

HMA also agrees that the safety and protection of the health care consumer are paramount. The federal Health Information Technology for Economic and Clinical Health Act promotes the development of statewide health care information architecture that allows health care providers to share health care information, improve health care consumer safety, and reduce instances of redundant tests and procedures, and leads to an overall reduction of health care costs, while

maintaining privacy and confidentiality in accordance with HIPAA.

Hawaii has over fifty different laws and rules that govern health care privacy. This complex array of state laws and rules unduly burdens health care providers who attempt to share or access critical information at the point of care, and imposes unnecessary administrative costs and daunting regulatory burdens without countervailing benefits. This confusing patchwork of privacy restrictions arose prior to the enactment of HIPAA.

This measure helps to clarify that persons and entities subject to HIPAA, who use or disclose health information in a manner permitted by and consistent with HIPAA and related federal regulations, shall be deemed to be acting in compliance with state privacy laws and regulations.

Thank you for the opportunity to provide this testimony.



March 16, 2012

The Honorable Senator Josh Green, M.D., Chair  
The Honorable Senator Clarence K. Nishihara, Vice Chair  
Senate Committee on Health

**Re: HB1957, HD2 – Relating to Health Care Information.**

Honorable Chair Green, Vice Chair Nishihara, and Members of the Committee:

My name is Christine Sakuda and I am the Executive Director for Hawai'i Health Information Exchange (Hawai'i HIE), a 501(c)(3) non-profit established in 2006 by leading health care stakeholders in Hawai'i for the purpose of improving health care delivery throughout the state through seamless, effective, and secure health information exchange.

We appreciate the time and attention that the Senate Committee on Health, including Chair Green and Vice Chair Nishihara, has given to the Health Care Privacy Harmonization Act. **Hawai'i HIE submits this testimony in strong support of HB1957, HD2 – Relating to Health Care Information.**

Hawai'i HIE has had the privilege to work closely with representatives from the Office of the Governor, the Department of Health, the Department of Commerce and Consumer Affairs, the Attorney General's office, HMSA, the Hawai'i Association for Justice, and other health care stakeholders to ensure that HB1957 achieve the goal of enabling the safe and secure exchange of personal health information. We have addressed concerns about consistency and clarity, and these discussions have resulted in amendments now incorporated into HB1957, HD2.

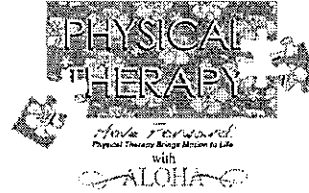
Health care providers and their business associates face a bewildering patchwork of state privacy laws that are extremely difficult to understand and adhere to. This inhibits the health care industry from exchanging appropriate health data and effectively providing quality care to the patient. The intention of HB1957, HD2 is to harmonize the laws that govern the exchange of personal health data.

Hawai'i HIE understands the needs of the health care community to be able to safely and securely share personal health information in order to provide the finest and most efficient care to Hawai'i's patients. **For the aforementioned reasons, Hawai'i HIE strongly supports HB1957, HD2 and respectfully requests that Section 3 be amended to state: "This Act shall take effect upon its approval."**

Christine Mai'i Sakuda



Executive Director  
Hawai'i Health Information Exchange



Senate Committee on Health  
Friday, March 16, 2012  
1:30 p.m.  
Room 229

**RE: HB 1957, HD2, RELATING TO HEALTH CARE INFORMATION**

Good morning, Chair Green, Vice-Chair Nishihara and members of the Committee. On behalf of the Hawaii Chapter, American Physical Therapy Association ("HAPTA"), we are in **support** of HB 1957, HD2, relating to health care information.

This measure 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.

We believe that this measure is an important step toward ensuring that health care professionals are not liable for potential inconsistencies between federal law and Hawaii laws, which have not yet been harmonized.

HAPTA is a non-profit professional organization serving more than 250 member Physical Therapists and Physical Therapist Assistants. Our mission is to be the principal membership organization that represents and promotes the profession of Physical Therapy in the State of Hawaii.

Mahalo,

Ann Frost, P.T.  
Legislative Committee Chair

# HMSA



Blue Cross  
Blue Shield  
of Hawaii

An Independent Licensee of the Blue Cross and Blue Shield Association

March 16, 2012

The Honorable Josh Green, M.D., Chair  
The Honorable Clarence K. Nishihara, Vice Chair

Senate Committee on Health

**Re: HB 1957, HD2 – Relating to Health Care Information**

Dear Chair Green, Vice Chair Nishihara and Members of the Committee:

The Hawaii Medical Service Association (HMSA) appreciates the opportunity to testify in support of HB 1957, HD2, which clarifies that the use and or disclosure of certain health information consistent with federal Health Insurance Portability and Accountability Act (HIPAA) regulations, is deemed to be in compliance with Hawaii's privacy laws and rules. We do, however, suggest one amendment.

Critical to Hawaii's success in creating an efficient health care system is the need for each individual's health care information to be efficiently shared amongst those persons and entities involved with the individual's health care. However, that efficiency must be balanced against the imperative to protect the individual's privacy. While HIPAA secured those privacy needs for each patient's personal health information with absolute, stringent requirements, the State has on its books a series of laws and rules governing that same set of information. That overlap creates an unnecessary burden for those involved with an individual's health care who need to share that information in an efficient manner. That has frustrated efforts to streamline the health care information system and, ultimately, delays efforts to make the health care system more cost effective and efficient. HB 1957, HD2 simply acknowledges that use of a patient's health care information in compliance with HIPAA's rigorous regulations also meets the requirements of our State's privacy laws and rules.

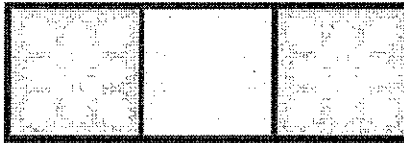
The Hawaii Health Information Exchange (HHIE) has made tremendous strides over the last two years to create that efficient, yet secure, system for the exchange of patients' health care information. HB 1957, HD2 will do much to reduce potential hurdles to achieving that goal. That said, the HHIE's efforts have been financed under a federal grant, and it is imperative that they report progress in a timely manner. Consequently, we suggest that this Bill be amended to become effective upon approval.

Thank for allowing us to testify in support of this measure. Thank you.

Sincerely,

A handwritten signature in black ink, appearing to read 'JD', with a long horizontal line extending to the right.

Jennifer Diesman  
Vice President, Government Relations



## Hawaii Association of Health Plans

March 16, 2012

The Honorable Josh Green, M.D., Chair  
The Honorable Clarence K. Nishihara, Vice Chair

Senate Committee on Health

**Re: HB 1957 HD2 – Relating to Health Care Information**

Dear Chair Green, Vice Chair Nishihara, and Members of the Committee:

My name is Richard Jackson and I am chair of the Public Policy Committee of the Hawaii Association of Health Plans (HAHP). HAHP is a non-profit organization consisting of eight (8) member organizations: AlohaCare, HMAA, HMSA, HWMG, Kaiser Permanente, MDX Hawai'i, UHA, and UnitedHealthcare. Our mission is to promote initiatives aimed at improving the overall health of Hawaii. HAHP is also active participants in the legislative process. Before providing any testimony, all HAHP member organizations must be in unanimous agreement of the statement or position.

We appreciate the opportunity to provide testimony in support of HB 1957 HD2 which clarifies that the use or disclosure of health information in a way consistent with the regulations of the federal Health Insurance Portability and Accountability Act (HIPAA) is also in compliance with Hawaii's own privacy regulations.

HIPAA stringently regulates the use and disclosure of personal health information. Currently, the State also has its own set of regulations governing health care information privacy. Such protected information occasionally needs to be shared with other individuals and entities in order to facilitate appropriate health care. While it is imperative that this information is shared efficiently, it is also of utmost important to protect this personal health information. The combination of the federal and state regulations can create unnecessary difficulties and confusion when requesting important protected health information.

HB 1957 HD2 states that if private health information is disclosed in a way that is sufficient to HIPAA's regulations, it will also comply with the State's regulations. We believe that by streamlining these regulations, the health care system will become more efficient for the people of Hawaii.

We appreciate the opportunity to testify in support of HB 1957 HD2 today. Thank you.

Sincerely,

Richard Jackson  
Chair, Public Policy Committee

**LATE**



www.fhic.org  
phone: 808.534.0288  
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March 16, 2012

Senator Joshua Green, Chair  
Senator Clarence K. Nishihara, Vice Chair  
Senate Health Committee  
Hawaii State Legislature  
State Capitol  
Honolulu, HI 96813

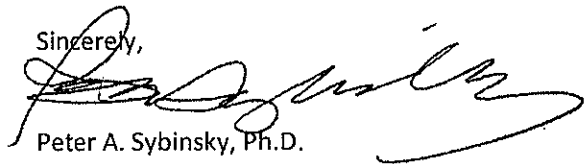
Chairman Green and Vice-chairman Nishihara,

The Hawaii Health Information Corporation supports HB 1957, HD 2– RELATING TO PRIVACY OF HEALTH CARE INFORMATION. HB 1957, HD 2 harmonizes existing Hawaii statutes relating to the privacy and sharing of health care records into conformance with federal HIPAA requirements, as amended by the American Recovery and Reinvestment Act. This is very important for two reasons.

First, the plethora of approximately fifty statutory references to privacy is difficult for providers to understand and use. Bringing all into conformance with HIPAA will provide providers with the ability to more easily comply with one set of standards. Second, a single set of HIPAA compliant statutes will facilitate the exchange of clinical information by providers through the Hawaii Health Information Exchange (HHIE). By allowing for clinical information to be exchanged easily, more information will be available to providers of care, improving the quality of care to the patient.

Various parties with concerns about aspects of the original bill have been engaged in developing the amendments to this measure. HB 1957 HD 2 is the result of this work. We therefore support HB 1957, HD 2.

Sincerely,



Peter A. Sybinsky, Ph.D.  
President & CEO