



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

In reply, please refer to:
File:

HOUSE COMMITTEE ON LABOR & PUBLIC EMPLOYMENT

February 11, 2014

Testimony of Keith Yamamoto
Deputy Director of Health

**HB2299 HD1, RELATING COMPLIANCE WITH THE HEALTH INSURANCE
PORTABILITY AND ACCOUNTABILITY ACT**

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

2 **Fiscal Implications:** None, the measure is budget neutral.

3 **Purpose and Justification:** The Department of Health (DOH) strongly supports this Administration Bill
4 which establishes two permanent positions in accordance with the Health Insurance Portability and
5 Accountability Act (HIPAA).

6

7 The current Privacy Officer and Security Officer positions are embedded in a special project that will
8 not be renewed. DOH request permanent establishment of these two positions, and temporary
9 exemption from chapter 76 during which the position descriptions and minimum qualifications,
10 untouched since 2004, will be updated. DOH respectfully submits the attached proposed amendments.

11

12 WHY THIS IS IMPORTANT

13 DOH has investigated about 100 privacy or security incidents since 2006. No financial penalties have
14 been levied by the federal government yet but enforcement has been light in general. In 2009, HIPAA

1 enforcement provisions were strengthened, including increasing the civil and criminal penalties for
2 violations to up to \$1.5M and/or imprisonment for up to five to ten years. The US Officer for Civil
3 Rights, which enforces HIPAA, has doubled the number of investigations it conducts and have fined
4 various entities over \$200,000,000 in the last five years alone. The proliferation of networks, electronic
5 medical records, health information exchanges, health care and health insurance reform, and increasing
6 interest in cybercrime are the primary drivers for increased enforcement and penalties.

7
8 Privacy Officers are typically legally trained and have practical experience in risk management and
9 corporate compliance programs. Security Officers should have very specific certification in IT security
10 as well as health information technology, in addition to practical experience in a large healthcare entity
11 with over 3,000 employees.

12 13 LEGAL REFERENCES

14 HIPAA privacy rule requiring a Privacy Officer: 45 Code of Federal Regulations Part 164.530(a).

15 HIPAA security rule requiring a Security Officer: 45 Code of Federal Regulations Part 164.308(a).

16
17 Thank you for the opportunity to testify.

18 19 PROPOSED AMENDMENT TO HB2299 HD1

20 SECTION 2. Chapter 321, Hawaii Revised Statutes, is amended by
21 adding a new section to be appropriately designated and to read as
22 follows:

23 "§321- Information privacy and security. The department of
24 health shall establish the following two permanent positions for the

1 purpose of department compliance with federal and state information
2 privacy and security rules:

3 (1) Privacy officer; and

4 (2) Security officer."

5 SECTION 3. The authority of the director to appoint the privacy
6 officer and security officer without regard to chapter 76 shall
7 expire three years after this Act takes effect unless affirmatively
8 extended by an act of the legislature; thereafter the director shall
9 appoint the privacy officer and security officer pursuant to chapter
10 76.

11 SECTION 4. New statutory material is underscored.

12 SECTION 5. This Act shall take effect on July 1, 2050.



HAWAII GOVERNMENT EMPLOYEES ASSOCIATION

AFSCME Local 152, AFL-CIO

RANDY PERREIRA, Executive Director • Tel: 808.543.0011 • Fax: 808.528.0922

The Twenty-Seventh Legislature, State of Hawaii
Hawaii State House of Representatives
Committee on Labor and Public Employment

Testimony by
Hawaii Government Employees Association
February 11, 2014

H.B. 2299, H.D. 1 – RELATING TO COMPLIANCE WITH
THE HEALTH INSURANCE PORTABILITY
AND ACCOUNTABILITY ACT

The Hawaii Government Employees Association supports the amendment made to H.B. 2299 by the House Committee on Health. It removed the provision making the privacy officer and security officer exempt from Chapter 76, HRS.

This particular type of exemption from civil service has become all too prevalent and is inconsistent and in direct conflict with purpose and intent of Article XIII, Section 2 of the Hawaii State Constitution and Section 76-1 HRS. There are over 1,000 exempt employees under the specific exemption previously used in this bill – Section 76-16 (b) (17), HRS. There was simply no legitimate reason for these two positions to be exempted from Chapter 76, HRS.

The problems and challenges created by exempt positions are that while most are included in HGEA bargaining units, and the union collects dues from them, they are not protected under the discipline and reduction-in-force article for bargaining units 3, 4 and 13. They are also ineligible for step movements. Exempt employees in Unit 13 are also precluded from earning overtime. Many of these exempt employees have been employed by the State of Hawaii for years and provide valuable service to their respective departments, yet they are not treated fairly by the employer.

We appreciate the opportunity to testify in support of H.B. 2299, H.D. 1. However, we recommend amending the bill by changing the effective date from July 1, 2050 to July 1, 2014.

Respectfully submitted,

Randy Perreira
Executive Director