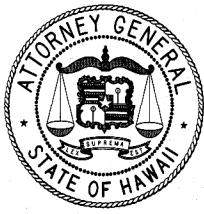


SB2389

| | |
|-------------------|---|
| Measure Title: | RELATING TO HEALTH. |
| Report Title: | State Health Planning and Development Agency (SHPDA); Health and Health Care Information and Data |
| Description: | Broadens the scope of health and health care data and other information submitted to SHPDA. |
| Companion: | HB2481 |
| Package: | None |
| Current Referral: | CPH |
| Introducer(s): | BAKER |



**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
TWENTY-EIGHTH LEGISLATURE, 2016**

ON THE FOLLOWING MEASURE:
S.B. NO. 2389, RELATING TO HEALTH.

BEFORE THE
SENATE COMMITTEE ON COMMERCE, CONSUMER PROTECTION, AND HEALTH

DATE: Thursday, February 18, 2016 **TIME:** 9:30 a.m.

LOCATION: State Capitol, Room 229

TESTIFIER(S): Douglas S. Chin, Attorney General, or
Angela A. Tokuda, Deputy Attorney General

Chair Baker and Members of the Committee:

The Department of Attorney General offers the following comments and takes no position on this measure.

This measure would amend section 323D-18, Hawaii Revised Statutes (HRS), to require all payers of claims for payment for health care services delivered to any person, including providers of public and private health insurance doing business in this State, to submit “[h]ealth care services claims and payment data” to the state health planning and development agency, which in turn is required to submit the data to a University of Hawaii data center (page 3, lines 9 to 17).

Health care services claims and payment data contain a variety of sensitive and confidential information including, but not limited to, protected health information, personal information, and information regarding recipients of medical assistance. This measure in its current form does not address safeguards and protections for that information. Yet all relevant federal and state privacy, security, and confidentiality laws such as the Health Insurance Portability and Accountability Act of 1996, federal Medicaid regulations, State confidentiality statutes such as section 346-10, HRS, and other applicable laws, must be complied with if this measure is implemented. For clarity, we recommend that the phrase "consistent with all federal and state privacy, security, and confidentiality laws" be added on page 2, line 11, after the word "submit."

In addition, the citations to federal law on page 3, lines 18-21, are incorrect. The “section 2794” referred to in this measure is actually a new section of part C of title XXVII of the Public Health Service Act that was added by section 1003 of the Patient Protection and Affordable Care

Act. The Public Health Service Act is found in title 42 of the U.S. Code. Thus the first citation, line 18, should read “42 USC §300gg-94(d)(2)” and the second citation, line 20, should read “42 USC §300gg-94(c)(1)(C).”

We recommend that, if the Committee moves this measure forward, it include the proposed reference to federal and state privacy, security, and confidentiality laws, and that it correct the citations to the federal law.



STATE OF HAWAII
DEPARTMENT OF HUMAN SERVICES

P. O. Box 339
Honolulu, Hawaii 96809-0339

February 16, 2016

TO: The Honorable Rosalyn H. Baker, Chair
Senate Committee on Commerce, Consumer Protection, and Health

FROM: Rachael Wong, DrPH, Director

SUBJECT: **SB 2389 Relating to Health**

Hearing: Thursday, February 18, 2016, 9:30 a.m.
Conference Room 229, State Capitol

DEPARTMENT'S POSITION: The Department of Human Services (DHS) appreciates the intent of the bill and provides comments.

PURPOSE: The purpose of the bill is to facilitate greater transparency in the health care sector by broadening the scope of data, including health care claims data, reported to the State Health Planning and Development Agency (SHPDA).

The Department of Human Services (DHS) supports the intent of the bill to increase transparency through data and analysis of health care claims and payment data. We respectfully suggest some clarifications for the Committee's consideration. First, in order to share Medicaid claims' data, a Medicaid purpose to the use of the data must be stated in order to comply with federal Medicaid regulations (42 CFR Part 431, Subpart F). Also, Medicaid, like all other payers, must be able to satisfy all applicable privacy and security requirements before release of the data.

Finally, the collection, compiling and analysis of the data will require not only informational systems to support the stated purpose, but complex health analytics. We defer to SHPDA regarding implementation of the proposal as it will be essential for SHPDA to have adequate resources to be able to use the data for the intents and purposes of the bill.

Thank you for the opportunity to testify on this bill.



STATE HEALTH PLANNING AND DEVELOPMENT AGENCY

DAVID Y. IGE
GOVERNOR OF HAWAII
VIRGINIA PRESSLER, M.D.
DIRECTOR OF HEALTH
ROMALA SUE RADCLIFFE, B.A., M.A.
ADMINISTRATOR

1177 Alakea St. #402, Honolulu HI 96813 Phone: 587-0788 Fax: 587-0783 www.shpda.org

February 17, 2016

To: The Senate Committee on Consumer Protection Health

S.B. 2389 - Relating to Health

Senator, Rosalynn Baker, Chair
Senator, Michelle Kidani, Vice Chair
Committee on Consumer Protection Health

Thursday, February 18, 2016, 9:30 a.m., State Capitol, Conference Room 229

From: Sue Radcliffe, Administrator
State Health Planning & Development Agency

Agency's Position: Support

Chair Baker, Vice Chair Kidani and Committee Members:

Thank you for this opportunity to provide testimony in support of S.B. 2389 Relating to Health.

My name is Sue Radcliffe, Administrator of the State Health Planning & Development Agency (SHPDA).

Since 1975, SHPDA has been the State's principal agency charged with the duty of promoting accessibility for all the people of the State of Hawai'i to quality health care services at reasonable cost. To accomplish our objectives we:

- Conduct studies and investigations regarding the causes of health care costs
- Promote the sharing of facilities or services by health care providers to achieve economies of scale and restrict unusual costly services
- Conduct coordinated health planning activities and determine health needs of the State.
- Administer the State's Certificate of Need (CON) program
- Serve as staff in the preparation, revision, and implementation of the State's Health Services and Facilities Plan

The passage of S.B. 2389 will reinvigorate the Agency and strengthen our potential to succeed in our mission. The bill will promote transparency in the health care sector and support public policy decision making.

Importantly, S.B. 2389 clarifies existing language making it clear that the State needs the original *data* not merely summaries and statistical reports. The bill designates SHPDA as the point of centralized authority tasked with directing health care data to unbiased technical analytical resources within the State.

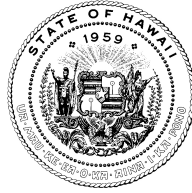
Furthermore, S.B. 2389 confirms the intent and desire by this legislature, on behalf of the people of Hawai'i, for SHPDA to orchestrate and direct the analysis of health care claims payment data to promote quality health care services at reasonable cost in the most transparent public way possible.

We fully support the amendments offered by the Office of the Attorney General, in companion bill H.B. 2481 HD 1, as they restate and bolster our commitment to uphold the highest standards of data security and privacy, making it "consistent with all federal and state privacy, security, and confidentiality laws".

State Health Planning & Development Agency looks forward to this opportunity of modernizing our capacity to serve Hawai'i's people. Leveraging the new capabilities now available to us, we will help the people, you, our legislature, our sister state agencies, and further empower the people and their accessibility to the greatest quality of health care at the most reasonable cost.

Thank you, again, for this opportunity to testify in support of S.B. 2389.

DAVID Y. IGE
GOVERNOR



TODD NACAPUY
CHIEF INFORMATION
OFFICER

OFFICE OF ENTERPRISE TECHNOLOGY SERVICES

P.O. BOX 119, HONOLULU, HI 96810-0119
Ph: (808) 586-6000 | Fax: (808) 586-1922
ETS.HAWAII.GOV

INFORMATION AND COMMUNICATION
SERVICES DIVISION

OFFICE OF INFORMATION MANAGEMENT
AND TECHNOLOGY

Testimony of
TODD NACAPUY
Chief Information Officer, State of Hawai'i

Before the

SENATE COMMITTEE ON COMMERCE, CONSUMER PROTECTION, AND HEALTH
Thursday, February 18, 2016; 9:30 a.m.
State Capitol, Conference Room 229

SENATE BILL NO. 2389
RELATING TO HEALTH

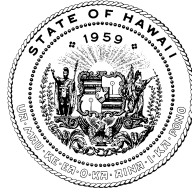
Chair Baker, Vice Chair Kidani, and Committee Members:

Thank you for this opportunity to provide testimony on Senate Bill No. 2389, Relating to Health. My name is Todd Nacapuy, Chief Information Officer (CIO) of the State of Hawai'i.

The CIO-led Office of Enterprise Technology Services (ETS) supports the intent of this bill as it would facilitate the State's ability to take full advantage of the current availability of federal funding for the Hawai'i Health Data Center (HHDC).

HHDC is a federally funded special collaborative project between ETS, which manages the funds, and the University of Hawai'i's Telecommunications and Social Informatics Research program, which is the project's technical partner. By leveraging modern health data technologies, the project has the potential to break down silos and other barriers to the integration and analyzing of data that would prove useful in improving health outcomes for Hawai'i residents.

In view of this, ETS supports the intent of this measure.



OFFICE OF ENTERPRISE TECHNOLOGY SERVICES

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INFORMATION AND COMMUNICATION
SERVICES DIVISION

OFFICE OF INFORMATION MANAGEMENT
AND TECHNOLOGY

Testimony of
BRYAN FITZGERALD
Project Director, Hawai'i Health Data Center Project

Before the

SENATE COMMITTEE ON COMMERCE, CONSUMER PROTECTION, AND HEALTH
Thursday, February 18, 2016; 9:30 a.m.
State Capitol, Conference Room 229

SENATE BILL NO. 2389
RELATING TO HEALTH

Chair Baker, Vice Chair Kidani, and Committee Members:

Thank you for this opportunity to provide testimony in support of Senate Bill No. 2389, Relating to Health.

My name is Bryan FitzGerald, Project Director of the Hawai'i Health Data Center (HHDC), a federally funded special collaborative project between the Office of Enterprise Technology Services (ETS) and the University of Hawai'i's Telecommunications and Social Informatics Research (TASI) program. The objective of the HHDC is to establish a *public* Health Data Center for the State of Hawai'i. We intend to compile health insurer claims data and analyze and integrate the information with clinical quality and outcome data streams. The resulting unbiased reports will empower the people of Hawai'i, their representatives, and the State with long-needed information to make the best choices to improve personal and population health outcomes. That means living longer, better lives, and spending less money to do so.

The first phase in standing up this data center is to establish a "*State's All Payers Claims Database*," pursuing data the State already has from Med Quest, Medicare, and the Employer-Union Health Benefits Trust Fund (EUTF). Once we have established a proof of concept, we aspire to expand our analysis to integrate diverse data sets.

Even though we are just beginning on this project, we would like to share some facts about the status of health data in Hawai'i that may help you in evaluating S.B. 2389. We have discovered a general State-wide dearth of data centralization, manifesting in:

1. Disparate, isolated and deeply siloed databases with very useful information.

2. Departments within the State were reluctant or unwilling to share data without an all-embracing data authority giving them comfort in doing so.
3. Analysis that, although being well done, is program-specific and also siloed.
4. There has not, in the State, evolved an entity with a comprehensive, enterprise wide view. What's needed is to intelligently assemble and direct data. It should be collected and centrally analyzed. This will make for more meaningful decisions regarding the cost and effectiveness of our health programs and interventions.
5. The State should have the ability to see all of the data sources and direct them to be aggregated and analyzed to maximum effect.
6. The State Health Planning and Development Agency (SHPDA):
 - a. has a long standing mission to promote accessibility for all people of the State to quality healthcare services at reasonable cost.
 - b. should be responsible for coordinating and directing all across-department and statewide health data requests and analysis.
 - c. is the natural home to establish the HHDC's governance board within the Executive Branch.
 - d. has some existing authorities that require updating to fully meet its potential and actualize its mission.
7. To provide the highest level of integrity and transparency for the people of Hawai'i, SHPDA must have a reliable State technology partner, free from conflicts, to warehouse the data and provide unimpeded, impartial data analysis, free from corporate interests.
8. The TASI Program at the University of Hawai'i is a data center as defined in this bill, as it:
 - a. is an existing, internationally respected health data asset within the State;
 - b. is experienced, trusted, free from conflicts, and steadfastly committed to impartiality.
 - c. is an excellent choice to partner with SHPDA to provide data warehouse and analytics services, and to help it fulfill its mission.

By passing S.B. 2389:

1. This bill reinvigorates our health planning agency SHPDA with the authority needed to satisfy their original mandate of promoting accessibility for all the people of the State to quality health care services at reasonable cost. SHPDA will be updated and better positioned to take advantage of the available 21st Century health data technologies. It will be able to provide more comprehensive plans and reports to help the people of Hawai'i, and will itself be a more valuable asset for the State.
2. The silos and barriers to sharing and analyzing the data will be eliminated.
3. The State can take full advantage of the current availability of federal funding to support the establishment of an unbiased publicly owned and operated All Payers Claims Database.

Failing to pass S.B. 2389:

1. Will result in a substantial delay in the State's analysis of health care data for its citizens.
2. State policy makers examining healthcare costs and outcomes will remain in the dark about the effectiveness of their interventions. They will have to continue to make educated guesses about which programs have been working and how well.
3. Such a delay in data analysis will likely manifest in unnecessary increases in care costs and potential diminution of care quality.

Technical data reporting minutia is best left to the administrative rules process:

It is important to note that this bill reasserts and modernizes existing authority the State has invested in SHPDA since 1975. Questions regarding technical reporting minutia, such as which form's data fields will be required for submission, and in what software formats, are more appropriately left to the administrative rules process (HRS Chapter 91), as technology rapidly changes and evolves over time. For instance, medical billing codes system are currently changing from International Statistical Classification of Diseases and Related Health Problems (ICD 9) to ICD10. Specifying such matters in statute could impede future efficiency.

Regarding context specific federal health data center conflict of interest definition:

Maintaining the federal health data center specific conflict of interest definition in the bill is essential. This language will ensure that any data centers SHPDA directs to perform this analysis will not be influenced by the healthcare providers and/or payers who are the subject of their inquiry; nor will even the appearance of impropriety be possible.

Thank you, again, for this opportunity to provide testimony in support of S.B. 2389.



UNIVERSITY OF HAWAII SYSTEM

Legislative Testimony

Testimony Presented Before the
Senate Committee on Commerce, Consumer Protection, and Health
Thursday, February 18, 2016 at 9:30 a.m.

By
Robert Bley-Vroman, Chancellor
And
Denise Eby Konan, Dean
College of Social Sciences
University of Hawai'i at Mānoa

SB 2389 – RELATING TO HEALTH

Chair Baker, Vice Chair Kidani, and members of the committee:

Thank you for the opportunity to provide testimony on SB 2389. We appreciate the opportunity to testify in strong support of SB 2389 intended to promote accessibility to quality health care to the people of Hawai'i at a reasonable cost.

We request that the bill be amended to specifically name the CSS Social Sciences Research Institute (SSRI) Pacific Health Informatics Center as the host of the "University of Hawai'i data center" described in SECTION 2.b.

As the Dean of the College of Social Sciences and an economist, I have also been personally aware of the APCD from many conversations over the past two years with Dr. Kameoka, who has been a Principal Investigator on many health related grants from the National Institutes of Health and other federal agencies; and, Dr. Okamura and Christina Higa who are the Principal Investigators on the agreement between the State of Hawai'i and the University of Hawai'i and funded through the Center for Consumer Information and Insurance Oversight (CCIO) of the Centers for Medicare and Medicaid Services (CMS).

The CSS-SSRI has significant capacity, expertise, and track record to serve as the State of Hawai'i health data repository. CSS-SSRI will develop the Pacific Health Informatics Center (PHIC) for this purpose. CSS-SSRI currently serves as the data repository for the Commonwealth of the Northern Mariana Islands (CNMI) through their Telecommunications and Social Informatics (TASI) research program, under the direction of Dr. Norman Okamura, Director. CSS-SSRI also runs the Telehealth Resource Center. CSS-SSRI has analytical expertise in data analytics and economic analyses through the University of Hawai'i Economic Research Organization (UHERO), of which Dr. Konan is a founding member, as well as a network of scholars with relevant expertise. We would be honored to undertake the responsibilities set forth in SB 2389.

We understand the importance of claims data to the State of Hawai'i. We are aware that the Health Committees of both the Senate and the House of Representatives value an All Payer Claims Database (APCD) to health care and have held joint informational meetings on the subject over the years. We respect that the Health Committees are fully aware of importance of an APCD to understanding the cost of care, quality of care, population health, health disparities, health care service utilization and gaps, and oversight of health insurance premiums and Medical Loss Ratios in Hawai'i. We too believe in the importance of data to improving care, population health, identifying issues with access to care, and to lessen the cost of care through actionable information and insight into health care.

We believe that the information is important to the State of Hawai'i not only because health matters, but also because the State is a major funder of health care programs and services; and because the costs of health care continue to rise for state and county governments and employees, the State Medicaid program, the Hawai'i Health Systems Corporation, and the Department of Health. Data on the conditions and costs of care is critically important to understanding how the state expends resources for health care.

There are several reasons why the UH College of Social Sciences within the University of Hawai'i is positioned to support both the data management and research.

First, the UH TASI works with payer/provider claims data. UH TASI has developed this experience by assisting health care providers in Commonwealth of the Northern Mariana Islands and Guam to implement the RPMS Electronic Health Record Systems (EHR) and electronically billing with payers such as CMS and Aetna. UH TASI is intimately familiar with electronic transactions and data structures of the Administrative Simplification provisions of the Health Insurance Portability and Accountability Act (HIPAA) Designated Standards Management Organizations (DSMOs) for claims data.

UH TASI is collaborating with the State Enterprise Technology Services (ETS) on the Hawai'i All-Payer Claims database. Within the UH TASI research program, an organized unit of the Social Science Research Institute, a program we call the Health Care Cost, Value, and Quality Project has been established to analyze retrospective claims data.

UH TASI is also assisting the CNMI Medicaid Agency to establish a claims data repository and to analyze Medicaid claims data for the CNMI Medicaid program for the same purposes. UH TASI in the CNMI is also working on a clinical data repository from the EHR system that includes a hospital, HRSA Section 330 Community Health Center, remote island clinics, and the Division of Public Health. The integration of clinical data will not only enable the understanding of interventions and costs, but also the outcomes of services. Please see the endorsements of the CNMI and Guam Departments of

Public Health and Healthcare Services in having the UH TASI receive Research Identifiable Files (RIF) data for Medicare populations in these territories.

Second, the UHM College of Social Sciences firmly supports and is committed to the objective of providing information to the many stakeholders, including consumers, policymakers, government agencies, and businesses. The UH plan is not only to provide information in the form of data briefs and reports, but also through a web portal that will enable access to information.

Third, the Health Care Cost and Value Project of the UH TASI Research Program within the Social Science Research Institute (SSRI) is also well-positioned to undertake such work with integrity and independence. The statutory requirements for a “Data Center” is clear in its directive that there be no conflicts of interest in the analysis and reporting of data. Specifically, the statute states that:

SEC. 1003. ENSURING THAT CONSUMERS GET VALUE FOR THEIR DOLLARS.

To ensure that there are no conflicts of interest in the analysis or reporting of the data, Section 2794 of the U.S. Public Health Service Act requires that the data center have no conflicts of interest.

“(2) Conflicts of interest.

A center established under subsection (c)(1)(C) shall adopt by-laws that ensures that the center (and all members of the governing board of the center) is independent and free from all conflicts of interest. Such by-laws shall ensure that the center is not controlled or influenced by, and does not have any corporate relation to, any individual or entity that may make or receive payments for health care services based on the center’s analysis of health care costs.”

CMS Guidance

“To clarify, there are statutory requirements that apply to Data Centers established or enhanced through the Rate Review Grant Program. Specifically, section 2794 of the Public Health Service (PHS) Act requires that Data Centers must be located at academic or other non-profit institutions.

...

In addition, Data Centers must adopt by-laws that comply with the conflict of interest requirements established by section 2794 of the PHS Act. Appendix F of the Funding Opportunity Announcement contains new guidance in order to assist states seeking to comply with the requirements established by section 2794.”

The UH completely supports the need for independence in the data analysis as provided for in Section 2794. The UH believes that it is best positioned to provide such

independent analysis to *both involve and to inform* the many stakeholders. The UH has explicit conflict of interest requirements that apply to all faculty and staff. Finally, all faculty and staff are required to annually certify that there are no conflicts of interest.

Fourth, with respect to the types of healthcare analytics that will be conducted, there are two program components: Standard Analytics and Special Studies.

Standard Analytics: The UH TASI will undertake a standard set of healthcare analytics that replicate useful studies and methodologies from the Centers for Medicare and Medicaid Services, the Agency for Healthcare Research and Quality (AHRQ), the Centers for Disease Control and Prevention, and the APCDs and academic institutions that share their methodologies and algorithms. The standard analytics will be in the form of reports that are generated on an ongoing basis by UH TASI.

Special Studies: To encourage and ensure that the data is capable of being used by the many stakeholders, the UH plan is to establish Working Groups (WGs) that are open to participation by all stakeholders.

The members of the WGs will be asked to collaboratively:

- Identify and define health matters that can be informed through APCD data;
- Develop and review the analytic methodology from the other federal agencies and APCDs (e.g. indicators, measurements) for cost, health conditions, quality, services, and the like;
- Develop and test the statistical and/or other software algorithms with test data;
- Review the integrity of the algorithm; and,
- Once the algorithms have been tested and evaluated, UH TASI will execute the algorithms against the encrypted full database.

The approach will help to ensure that there is integrity and openness in the process. It will also ensure the security of the data.

The reports and website will be valuable to the stakeholders; and, credit will be given to individuals who invest effort and time in the healthcare analytics.

To further specific studies of interest to stakeholders, the State ETS and UH TASI has developed a process for the WGs to work with the data. The ETS and UH TASI plan to establish Working Groups that will collaborate to:

Finally, it is important to note the UH is both committed and legally bound by the HIPAA to protect the privacy and to safeguard ePHI data. UH is a Business Associate of the State of Hawai'i ETS; the Commonwealth Healthcare Corporation and State Medicaid Agency of the CNMI; the Guam Department of Public Health and Social Services and the Guam Northern and Southern Region Community Health Centers. UH TASI

complies with the Health Insurance Portability and Accountability Act and will protect the confidentiality of the PHI. UH TASI systems and networks complies with HIPAA; and, as appropriate, the recommendations of the National Institute for Standards and Technology (NIST).

In the past year, the physical and technical security safeguards of UH TASI were enhanced by moving the primary Data Center servers for ePHI systems to the UH Information Technology Services (ITS) Data Center. UH TASI has prepared a System Security and Data Management Plan to meet the requirements of the agreement with the State ETS. UH TASI has also submitted a Data Management Plan for the CMS as well.

The University of Hawai'i stands ready to support SB 2389 Related to Health and firmly believes in its importance to transform healthcare in State of Hawai'i.



February 18, 2016 at 9:30 AM
Conference Room 229

Senate Committee on Commerce, Consumer Protection, and Health

To: Chair Rosalyn H. Baker
Vice Chair Michelle N. Kidani

From: George Greene
President and CEO
Healthcare Association of Hawaii

Re: **Submitting Comments**
SB 2389, Relating to Health

The Healthcare Association of Hawaii (HAH), established in 1939, serves as the leading voice of healthcare on behalf of 180 member organizations who represent almost every aspect of the health care continuum in Hawaii. Members include acute care hospitals, skilled nursing facilities, home health agencies, hospices, assisted living facilities and durable medical equipment suppliers. In addition to providing access to appropriate, affordable, high quality care to all of Hawaii's residents, our members contribute significantly to Hawaii's economy by employing over 20,000 people statewide.

We would like to thank the committee for the opportunity to **submit comments** on SB 2389. We support efforts to help policy-makers and other stakeholders gain access to data needed to make informed decisions. However, we would respectfully request that your committee establish a working group to help better inform all stakeholders about the particulars of this project, discuss the details of an all-payers claims database in Hawaii, and make recommendations as necessary on enabling legislation.

According to the All-Payers Claims Database (APCD) Council—a national collaborative focused on developing APCDs across the country—“stakeholder engagement...is essential to the success of a state APCD initiative.” While this project has been considered for many years, a detailed plan for Hawaii's version of an APCD has not been widely developed and shared. There are a number of issues to work through, including how data will be stored, analyzed and disseminated. Creating a working group to discuss these issues would enable stakeholders from across the health care continuum to fully engage with one another to discuss and make recommendations on the various barriers and opportunities an APCD provides and also to determine the sustainability of any project.

While we appreciate the intent of this legislation, we would ask that your committee defer this measure and consider establishing a working group on the development of Hawaii's APCD. Thank you for your time and consideration of this matter.