



**WRITTEN TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
THIRTY-FIRST LEGISLATURE, 2021**

ON THE FOLLOWING MEASURE:

H.B. NO. 1106, RELATING TO HEALTH.

BEFORE THE:

HOUSE COMMITTEE ON HEALTH, HUMAN SERVICES, AND HOMELESSNESS

DATE: Tuesday, February 9, 2021 **TIME:** 9:30 a.m.

LOCATION: State Capitol, Room 329, Via Videoconference

TESTIFIER(S): **WRITTEN TESTIMONY ONLY.**
(For more information, contact Andrea J. Armitage,
Deputy Attorney General, at (808) 587-3073)

Chair Yamane and Members of the Committee:

The Department of the Attorney General provides the following comments.

The purpose of this bill is to add a chapter to the Hawaii Revised Statutes (HRS) regarding use of a health information exchange. The chapter would (1) require health care and wellness service providers to submit health information about their patients to a state-designated health information exchange for the purposes of facilitating the use and disclosure of health information among health care and wellness organizations, (2) require wellness service providers to submit a complete and accurate record of each patient's health care and wellness related treatments to the state-designated entity for inclusion in the health information exchange, and (3) allow health care and wellness service providers to use the information provided to them from the state-designated entity to establish portals that allow patients to access their own health information.

The bill defines "state designated entity" on page 2, lines 3 through 7, as "an entity designated by the State . . .," but it is unclear what qualifies an entity to be "state-designated." There is no state department mentioned that would be responsible for the designation, and no criteria is provided for that designation. The proposed new chapter is silent on whether the health information exchange is intended to be a state system, a state contracted system, or a private system. As a result, the proposed statute appears too vague to be implemented and enforced. We recommend that the Committee set forth the qualifications for being designated the health information exchange and which

department would be responsible for the designation. For example, the Committee might consider including requirements such as insurance requirements and presence within the state. We are available to assist the Committee with any amendments in this regard.

Although the proposed chapter requires the exchange to comply with the Health Insurance Portability and Accountability Act (HIPAA), the bill appears to lack an enforcement mechanism to ensure HIPAA compliance. Furthermore, it does not provide the health care and wellness providers with legal protections or spell out the respective responsibility of the parties if data breach or other inappropriate disclosure of the health information provided to the state designated entity occurs. The Committee might consider setting forth data breach requirements such as those set forth in chapter 487N, HRS.

An individual has a significant privacy interest in "[i]nformation relating to medical, psychiatric, or psychological history, diagnosis, condition, treatment, or evaluation." See section 92F-14(b)(1), HRS. This privacy interest is protected by section 6 of article I of the Constitution of the State of Hawai'i, which provides:

The right of the people to privacy is recognized and shall not be infringed without the showing of a compelling state interest. The legislature shall take affirmative steps to implement this right.

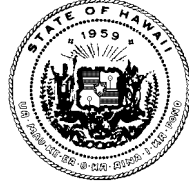
In evaluating this bill, the Committee should confirm, and articulate, that there is a compelling state interest to require all health care and wellness providers to participate in this data exchange.

Additionally, page 1, lines 6 – 8, of the bill provides the definition of “de-identified protected health information.” This term, however, is not used in the bill and should be deleted.

Thank you for the opportunity to share these comments.

LATE

DAVID Y. IGE
GOVERNOR



CATHY BETTS
DIRECTOR

JOSEPH CAMPOS II
DEPUTY DIRECTOR

STATE OF HAWAII
DEPARTMENT OF HUMAN SERVICES

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

February 8, 2021

TO: The Honorable Representative, Chair Ryan I. Yamane, Chair
House Committee on Health, Human Services, & Homelessness

FROM: Cathy Betts, Director

SUBJECT: **HB 1106 – RELATING TO HEALTH.**

Hearing: February 9, 2021, 9:30 a.m.
Conference Room 329, State Capitol

DEPARTMENT'S POSITION: The Department of Human Services (DHS) appreciates the intent and vision, provides comments, and defers to the Department of the Attorney General.

PURPOSE: Requires all health care and wellness service providers to submit health information to a health information exchange, to be operated and maintained by a state designated entity, for the purposes of facilitating the use and movement of health information among organizations.

DHS appreciates the importance of a Health Information Exchange and understands as described by the federal Office of the National Coordinator for Health Information Technology, that "Health Information Exchange allows health care professionals and patients to appropriately access and securely share a patient's medical information electronically."

However, as written, the proposal would potentially require DHS to provide personally identifiable information that is prohibited by federal and state law. DHS can provide a certain level of aggregate data on multiple programs that it administers. However, with the degree of sophistication and technology that exists, it would not be hard to match data to identify individuals. DHS contracted providers are also held to the same federal and state laws

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regarding safeguarding individual client data as the program that funds the contract. Like DHS, these organizations may likely have information being defined as "social determinants of health" and may be considered to be a "wellness service provider" as is defined in this measure.

Amongst other things, DHS respectfully requests clarification as to the intended "state designated entity" envisioned to carry out this measure, and the information being requested; in the alternative, DHS requests that it and its contracted services providers, be exempted from the provisions of this measure.

If the measure proceeds as written, DHS would require general fund appropriations for additional human and fiscal resources, to develop appropriate data sharing and other required agreements, modify contracts, and IT systems to facilitate any data exchange. DHS will likely also require additional funds for contracted providers to do the work requested.

Thank you for the opportunity to provide comments on this measure.



February 9, 2021

The Honorable Ryan I. Yamane, Chair
The Honorable Adrian K. Tam, Vice Chair
House Committee on Health, Human Services, & Homelessness

Re: HB 1106 – Relating to Health

Dear Chair Yamane, Vice Chair Tam, and Committee Members:

Hawaii Medical Service Association (HMSA) appreciates the opportunity to testify on HB 1106, which requires all health care and wellness service providers to submit health information to a health information exchange, to be operated and maintained by a state designated entity, for the purposes of facilitating the use and movement of health information among organizations.

HMSA supports the intent of this measure, as a centralized and secured repository of protected health information for use in the care of the members of the community and their subsequent healthcare delivery is a valuable asset for the State.

Additionally, the intent of this measure contributes to the ability to meet interoperability requirements as stated by the Centers for Medicare & Medicaid Services (CMS) and the 21st Century Cures Act.

Thank you for allowing us to testify in support of HB 1106. Your consideration of our comments is appreciated.

Sincerely,

Matthew W. Sasaki
Director, Government Relations



February 9, 2021 at 9:30 am

House Committee on Health, Human Services, and Homelessness

To: Chair Ryan I. Yamane
Vice Chair Adrian K. Tam

From: Paige Heckathorn Choy
Director of Government Affairs
Healthcare Association of Hawaii

Re: **Submitting Comments**
HB 1106, Relating to Health

The Healthcare Association of Hawaii (HAH), established in 1939, serves as the leading voice of healthcare on behalf of 170 member organizations who represent almost every aspect of the healthcare 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.

Thank you for the opportunity to provide **comments** on this measure, which would require all entities delivering health and wellness services to submit a complete and accurate record of each patient's healthcare and wellness-related treatments to a state-designated entity that services as a health information exchange. Further, providers must submit information related to social determinants of health.

We appreciate the intent of this measure, which is to help facilitate the sharing of patient information with providers and ensure that those same patients can access their information. Sharing of key information can be especially helpful when treating underserved populations, including the homeless and individuals whose social determinants of health may result in disparate care. We look forward to further discussion regarding the types of information that would need to be reported and at what intervals to understand this proposal further.

Thank you for the opportunity to comment on this bill.



February 6, 2021

Rep. Ryan Yamane
Chair, House Committee on Health, Human Services and Homelessness
Hawai'i State Capitol, Room 420
Honolulu, Hawai'i 96813

Strong Support for HB 1106

Aloha Chair Yamane:


The Hawai'i Health Information Exchange (HHIE), the state's designated entity for health information exchange for the past 15 years, strongly supports HB 1106, which will require healthcare and wellness service providers to submit health information to HHIE because it will take health information exchange and healthcare in Hawai'i to a new level — without the use of state general funds.

The ability to securely and efficiently exchange patient health information electronically has become vitally important to improve health outcomes for Hawai'i's patients, reduce healthcare costs, and connect Hawai'i's healthcare providers together even though they may use disparate electronic health record systems. Nationwide, health information exchanges have become critical to managing the pandemic.

HHIE plays a key role in transforming Hawaii's healthcare delivery system. HHIE's technological platform is currently used by more than 340 health systems, health plans, community clinics and provider organizations with more than 3,000 providers and users authorized to access the health records through HHIE. The ability to share patient information with each other reduces redundancy in diagnostic testing and speeds treatment procedures using accurate, real-time data. This has also facilitated greater collaboration within Hawai'i's healthcare community.

Although there has been steady progress in linking the majority of the state's healthcare providers together through HHIE, there is much more we can do as a state to accelerate change. HB 1106 is key legislation that will move Hawaii further along to keep pace with the progress other states have made health information exchange a priority.

HHIE looks forward to supporting the state's efforts, optimizing our existing assets and sharing our expertise to keep Hawai'i moving forward.

Mahalo,

Francis Chan
Chief Executive Officer

**To the House Committee on Health,
Human Services, & Homelessness**

February 8, 2021

House Conference room 329 (via Videoconference)

9:30 AM

Testimony in Support of HB 1106 Relating to Health

Chair Yamane, Vice Chair Tam, and Members of the Committee,

On behalf of the Hawaii Data Collaborative, I am writing in support of HB 1106 Relating to Health. The COVID-19 public health emergency has made clear the need for quality, timely public health data to support effective responses from key stakeholders.

Requiring health care and wellness service providers to submit health information to a health information exchange, in order to effectuate the movement of key health data, will be an important step toward more effective data-driven responses to public health needs going forward.

With regards to data sharing, we respectfully recommend that, in addition to requiring this data to be provided to the health information exchange to be shared among health-agencies, there also be sufficient consideration for making de-identified data publicly available. Public health is of broad concern, and as such, improving the quality of health data available to all concerned stakeholders should be a priority.

Respectfully submitted,

Nick Redding
Executive Director
Hawaii Data Collaborative

Tuesday, February 9, 2021 at 9:30 AM
Via Video Conference

House Committee on Health, Human Services & Homelessness

To: Representative Ryan Yamane, Chair
Representative Adrian K. Tam, Vice Chair

From: James Lin, MD
Vice President, Information Technology

Re: **Comments**
HB 1106 Relating to Health

My name is James Lin, MD, and I am the Vice President of Information Technology at Hawai'i Pacific Health. Hawai'i Pacific Health is a not-for-profit health care system comprised of its four medical centers – Kapi'olani, Pali Momi, Straub and Wilcox and over 70 locations statewide with a mission of creating a healthier Hawai'i.

I write to provide comments on HB 1106 which requires all health care and wellness service providers to submit health information to a health information exchange for the purposes of facilitating the use and movement of health information among organizations.

The goal of making health care and wellness information accessible to patients is laudable. However, the bill broadly requires every entity and provider that delivers health care and wellness services in the State to report every patient's record of health care and wellness related treatments to a state entity. For many patients, treatment and care is an ongoing process, resulting in numerous changes to the patients' records. Reporting all such records is daunting and places an onerous burden on the health care and wellness providers. The bill also does not take into consideration the fact that not all patients agree that their health care information become part of a large data base accessible by many other health care or wellness providers who may be unknown to the patient.

Thank you for the opportunity to testify.



THE QUEEN'S HEALTH SYSTEMS

To: The Honorable Ryan I. Yamane, Chair
The Honorable Adrian K. Tam, Vice Chair
Members, House Committee on Health, Human Services, & Homelessness

From: Colette Masunaga, Director, External Affairs, The Queen's Health Systems

Date: February 9, 2021

Re: Comments on HB 1106, Relating to Health

The Queen's Health Systems (Queen's) is a nonprofit corporation that provides expanded health care capabilities to the people of Hawai'i and the Pacific Basin. Since the founding of the first Queen's hospital in 1859 by Queen Emma and King Kamehameha IV, it has been our mission to provide quality health care services in perpetuity for Native Hawaiians and all of the people of Hawai'i. Over the years, the organization has grown to four hospitals, and more than 1,500 affiliated physicians and providers statewide. As the preeminent health care system in Hawai'i, Queen's strives to provide superior patient care that is constantly advancing through education and research.

Queen's appreciates the opportunity to provide comments on HB1106, which would require all health care and wellness services providers to submit health information as well as make available information related to the social determinants of health. Queen's appreciates the intent of this measure to facilitate the use and integration of health information among organizations. We look forward to further discussions on advancing health information sharing for our patients and community.

Mahalo for the opportunity to testify on this measure.

The mission of The Queen's Health Systems is to fulfill the intent of Queen Emma and King Kamehameha IV to provide in perpetuity quality health care services to improve the well-being of Native Hawaiians and all of the people of Hawai'i.



**Testimony to the House Committee on Health, Human Services, & Homelessness
Tuesday, February 9, 2021; 9:30 a.m.
State Capitol, Conference Room 329
Via Videoconference**

RE: HOUSE BILL NO. 1106, RELATING TO HEALTH.

Chair Yamane, Vice Chair Tam, and Members of the Committee:

The Hawaii Primary Care Association (HPCA) is a 501(c)(3) organization established to advocate for, expand access to, and sustain high quality care through the statewide network of Community Health Centers throughout the State of Hawaii. The HPCA **SUPPORTS** House Bill No. 1106, RELATING TO HEALTH.

The bill, as received by your Committee, would:

- (1) Require the State to develop and maintain a secure electronic gateway and health information exchange;
- (2) Require health care or wellness service providers that address social determinants of health to make information collected related to social determinants of health available to the State; and
- (3) Allow entities that provide health care and wellness services to use the information provided through the secure electronic gateway and health information exchange.

By way of background, the HPCA represents Hawaii Federally-Qualified Health Centers (FQHCs). FQHCs provide desperately needed medical services at the frontlines in rural and underserved communities. Long considered champions for creating a more sustainable, integrated, and wellness-oriented system of health, FQHCs provide a more efficient, more effective and more comprehensive system of healthcare.

HPCA fully and wholeheartedly supports efforts to promote research on the social determinants of health. This will lead to the prevention of disease in the State.

Thank you for the opportunity to testify. Should you have any questions, please do not hesitate to contact Public Affairs and Policy Director Erik K. Abe at 536-8442, or eabe@hawaiiipca.net.



Pacific Radiation Oncology, LLC

Vincent C. Brown, M.D. Thanh V. Huynh, M.D. John L. Lederer, M.D. Laeton J. Pang, M.D.
Susie A. Chen, M.D. Richard Y. Lee, M.D., Ph.D. Christina K. Speirs, M.D., Ph.D. Michael Roach, M.D.

Rep. Ryan Yamane
Chair, House Committee on Health, Human Services and Homelessness
Hawai'i State Capitol, Room 420
Honolulu, Hawai'i 96813

February 8, 2021

Strong Support for HB 1106

Aloha Chair Yamane:

The Cancer Center of Hawaii strongly supports HB 1106, which will require healthcare and wellness service providers to submit health information to the State Designated Entity to advance the goal of having complete and accurate medical records for cancer patients needing radiation.

From a state designated entity's shared medical database, real-time and efficient medical information exchange through standardized secure health messaging system provide better care of our cancer patients. Without assistance of a shared medical database (such as HHIE – Hawaii Health Information Exchange), obtaining this information could potentially take weeks, resulting in inadvertent delayed cancer patient care. The current challenges still remains, as there are medical centers which are not **fully** invested in the participation with a HIPPA compliant database center, as it is not a requirement. Having a centralized shared HIPPA compliant database will help improve the care for our radiation patients throughout the state of Hawaii.

For example, there was a patient, who had a tumor compressing the spine, causing pain and weakness (signs of potential paralysis). A medical personnel documented the neurologic symptoms and ordered a MRI to figure out the cause. Both physician document of the patient's symptoms and MRI imaging reports were present in patient's chart at an outside medical center, but this information was delayed in reaching out to me, for numerous reasons. Despite the delay, I was able to provide appropriate radiation care to address the tumor compressing the spinal cord; though, the success rate to address the symptoms may have improved if there were no delay.

Sharing medical information among medical centers, providers, free standing practices with a state designated entity will expedite and improve patient care. HB 1106 is a key legislation that will move Hawaii further along to keep pace with the progress other states that have made health information exchange a priority.

Mahalo,

Richard Y. Lee

Richard Y. Lee, MD, PhD

IT Medical Director

University of Hawaii Cancer Center

Cancer Center of Hawaii, LLC

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February 8, 2021

Rep. Ryan Yamane
Chair, House Committee on Health, Human Services and Homelessness
Hawai'i State Capitol, Room 420
Honolulu, Hawai'i 96813

Strong Support for HB 1106

Aloha Chair Yamane:

The Cancer Center of Hawaii strongly supports HB 1106, which will require healthcare and wellness service providers to submit health information to the State Designated Entity to advance the goal of having complete and accurate medical records for our community members with cancer.

Through HHIE, we are able to obtain important healthcare information regarding our patients with cancer to inform our clinical decision making. Accurate and complete information is critical to providing the very best care to our cancer patients.

At The Cancer Center of Hawaii, we treat patients throughout the state and rely on the health records from our partner organizations. When our community members require specialized care across the islands, it is critical that this information is centrally available and accessible to provide continuity of care.

HB 1106 is a key legislation that will move Hawaii further along to keep pace with the progress other states that have made health information exchange a priority.

Yours very truly,

Carolyn Voulgaridis
Carolyn Voulgaridis, RN, JD



LATE

February 9, 2021

The Honorable Ryan I. Yamane, Chair
The Honorable Adrian K. Tam, Vice Chair
House Committee on Health, Human Services, & Homelessness

Re: HB 1106 – Relating to Health

Dear Chair Yamane, Vice Chair Tam, and Committee Members:

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HMSA supports the intent of this measure, as a centralized and secured repository of protected health information for use in the care of the members of the community and their subsequent healthcare delivery is a valuable asset for the State.

Additionally, the intent of this measure contributes to the ability to meet interoperability requirements as stated by the Centers for Medicare & Medicaid Services (CMS) and the 21st Century Cures Act.

Thank you for allowing us to testify in support of HB 1106. Your consideration of our comments is appreciated.

Sincerely,

Matthew W. Sasaki
Director, Government Relations