

ACT 290

S.B. NO. 2871

A Bill for an Act Relating to Health Information.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 325, Hawaii Revised Statutes, is amended by amending the title of part VI to read as follows:

**“[[PART VI.] SEXUALLY TRANSMITTED DISEASES]
HIV INFECTION, ARC, AND AIDS”**

SECTION 2. Section 325-101, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) [All information and records containing any information which identifies any person who has or may have any condition related to a sexually transmitted disease or who has been tested for any condition related to a sexually transmitted disease which is required to be reported under this chapter or by administrative rule and] The records of any person which indicate that a person has a human immunodeficiency virus (HIV) infection, AIDS related complex (ARC), or acquired immune deficiency syndrome (AIDS), which are held or maintained by any state agency, health care provider or facility, physician, laboratory, clinic, blood bank, third party payor, or any other agency, individual, or [other] organization in the State shall be strictly confidential. For the purposes of this part, the term “records” shall be broadly construed to include all communication which identifies any individual who has HIV infection, ARC, or AIDS. Such information shall not be released or made public upon subpoena or any other method of discovery [except]. Notwithstanding any other provision to the contrary, release of the information protected under this part shall be permitted under the following circumstances:

- (1) Release is made of specific medical or epidemiological information to the department of health for statistical purposes in such a way that no person can be identified;
- (2) Release is made of specific medical or epidemiological information with the prior written consent to the specific information to be released of the person or persons identified therein;
- (3) Release is made of medical or epidemiological information to medical personnel in a medical emergency only to the extent necessary to protect the health, life, or well-being of the named party;

- (4) Release by the department of health is necessary to protect the health and well-being of the general public; provided that release is made in such a way that no person can be identified, except as specified in paragraph (5);
- (5) Release is made by the department of health of medical or epidemiological information to medical personnel, appropriate county and state agencies, blood banks, plasma centers, organ and tissue banks, schools, preschools, day care centers, or county or district courts to enforce the provisions of this part and to enforce rules adopted by the department of health concerning the control and treatment of [sexually communicable diseases;] HIV infection, ARC, and AIDS; provided that release of information under this paragraph shall only be made by confidential communication to a designated individual charged with compliance of the provisions of this part; [or]
- (6) Release is made for the purpose of enforcing the provisions of chapter 350[.];
- (7) Release is made to the patient's health care insurer to obtain reimbursement for services rendered to the patient; provided that release shall not be made if, after being informed that a claim will be made to an insurer, the patient is afforded the opportunity to make the reimbursement directly and actually makes the reimbursement;
- (8) Release is made by the patient's health care provider to another health care provider for the purpose of continued care of treatment of the patient; or
- (9) Release is made pursuant to court order, after an in camera review of the information, upon a showing of good cause by the party seeking the release of the records.

For the purpose of this part, the term "medical emergency" means any disease-related situation which threatens life or limb, and the term "medical personnel" means any health care provider, as provided in section 323D-2, in the State, who deals directly or indirectly with the identified patient or the patient's contacts, and includes hospital emergency room personnel, the staff of the communicable disease division of the department of health, and any other department personnel as designated by the director."

SECTION 3. Section 325-101, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

"(c) No person shall be compelled to consent to the release of information protected under this part or to disclose whether the person has been tested for the presence of HIV infection in order to obtain or maintain housing, employment, or education."

SECTION 4. Section 325-104, Hawaii Revised Statutes, is amended to read as follows:

"**[§325-104] Responsibility to report.** Notwithstanding any other law to the contrary, no provision in this part shall be construed so as to diminish, limit, or eliminate the responsibility of any person to report [sexually transmitted diseases] HIV infection, ARC, or AIDS to the proper authorities[.] pursuant to section 325-2."

SECTION 5. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 6. This Act shall take effect upon its approval.

ACT 290

(Approved June 13, 1988.)