

Honolulu, Hawaii

FEB 29 , 2024

RE: H.B. No. 1566
H.D. 1

Honorable Scott K. Saiki
Speaker, House of Representatives
Thirty-Second State Legislature
Regular Session of 2024
State of Hawaii

Sir:

Your Committees on Judiciary & Hawaiian Affairs and Health & Homelessness, to which was referred H.B. No. 1566 entitled:

"A BILL FOR AN ACT RELATING TO CONSUMER HEALTH DATA,"

beg leave to report as follows:

The purpose of this measure is to provide privacy protections for Hawaii residents and their consumer health data by:

- (1) Requiring additional disclosures and consumer consent regarding the collection, sharing, and use of consumer health data information;
- (2) Establishing rights for consumers regarding their health data, including the right to have their health data deleted;
- (3) Prohibiting the sale of consumer health data without valid authorization signed by the consumer; and
- (4) Prohibiting the utilization of a geofence around a facility that provides health care services.

Your Committees received testimony in support of this measure from the Department of Commerce and Consumer Affairs; State Health Planning and Development Agency; Planned Parenthood Alliance

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Advocates; Stonewall Caucus of the Democratic Party of Hawai'i; Consumer Reports; Save Medicaid Hawaii; American Association of University Women of Hawaii; Hawai'i Section of the American College of Obstetricians and Gynecologists; and numerous individuals. Your Committees received testimony in opposition to this measure from the Retail Merchants of Hawaii; ATA Action; and TechNet. Your Committees received comments on this measure from Kaiser Permanente Hawai'i; Hawaii Insurers Council; State Privacy & Security Coalition; and American Council of Life Insurers.

Your Committees find that this measure is necessary to close the gap between data protected by the federal Health Insurance Portability and Accountability Act (HIPAA) and other consumer health data. HIPAA requires all individually identifiable health information held or transmitted by covered entities, such as hospitals, pharmacies, and health care providers, to be protected. Consumer health data collected by connected devices and health apps, however, are not currently covered by HIPAA. This measure, which is modeled after legislation from Washington, would ensure that Hawaii consumer's health data is protected.

Your Committees have amended this measure by:

- (1) Clarifying that the prohibition on geofencing does not apply to a covered entity as defined by the Health Insurance Portability and Accountability Act of 1996, to the extent the covered entity maintains patient information in the same manner as medical information or protected health information as described in this measure;
- (2) Exempting information and documents created specifically for, and collected and maintained by, licensed insurers, producers, or any other persons licensed or required to be licensed, authorized or required to be authorized, or registered or required to be registered, under the Insurance Code;
- (3) Exempting the collection of the privacy-protected and de-identified data by the State Health Planning And Development Agency for the State's All-Payer Claims Database that is used for population health status monitoring and public health purposes;



- (4) Changing the effective date to July 1, 3000, to encourage further discussion; and
- (5) Making technical, nonsubstantive amendments for the purposes of clarity, consistency, and style.

Your Committees note the Department of Commerce and Consumer Affairs has concerns regarding enforcement. More information is needed from the Department of Commerce and Consumer Affairs to determine whether those concerns should be addressed.

As affirmed by the records of votes of the members of your Committees on Judiciary & Hawaiian Affairs and Health & Homelessness that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 1566, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 1566, H.D. 1, and be placed on the calendar for Third Reading.

Respectfully submitted on
behalf of the members of the
Committees on Judiciary &
Hawaiian Affairs and Health &
Homelessness,

Della Au Belatti

DELLA AU BELATTI, Chair

David A. Tarnas

DAVID A. TARNAS, Chair



