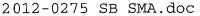
JAN 1 9 2012

A BILL FOR AN ACT

RELATING TO PRIVACY OF HEALTH CARE INFORMATION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

- 1 SECTION 1. The legislature finds that the privacy of
- 2 health information has been greatly enhanced by the federal
- 3 Health Insurance Portability and Accountability Act ("HIPAA")
- 4 and related federal laws and regulations. HIPAA encourages the
- 5 timely, secure, electronic transmission of individually
- 6 identifiable health information, with important benefits for
- 7 patients. The legislature also finds that HIPAA and related
- 8 federal regulations provide a comprehensive regulatory scheme
- 9 that protects the privacy of patients' health information, while
- 10 allowing reasonable access by health care providers, health
- 11 plans, and health oversight agencies.
- 12 The legislature further finds that the safety and
- 13 protection of the health care consumer are paramount. The
- 14 federal Health Information Technology for Economic and Clinical
- 15 Health Act promotes the development of statewide health care
- 16 information architecture that allows health care providers to
- 17 share health care information, improve health care consumer
- 18 safety, and reduce instances of redundant tests and procedures,





- 1 and leads to an overall reduction of health care costs, while
- 2 maintaining privacy and confidentiality in accordance with
- 3 HIPAA.
- 4 Hawaii has over fifty different laws and rules, however,
- 5 that govern health care privacy. This complex array of state
- 6 laws and rules unduly burdens health care providers who attempt
- 7 to share or access critical information at the point of care,
- 8 and imposes unnecessary administrative costs and daunting
- 9 regulatory burdens without countervailing benefits. This
- 10 confusing patchwork of privacy restrictions arose prior to the
- 11 enactment of HIPAA.
- 12 The purpose of this measure is to clarify that persons and
- 13 entities subject to HIPAA, who use or disclose health
- 14 information in a manner permitted by and consistent with HIPAA
- 15 and related federal regulations, shall be deemed to be acting in
- 16 compliance with state privacy laws and regulations.
- 17 SECTION 2. The Hawaii Revised Statutes is amended by
- 18 adding a new chapter to be appropriately designated and to read
- 19 as follows:
- 20 "CHAPTER
- 21 HEALTH CARE PRIVACY HARMONIZATION ACT



- 1 § -1 Applicability. This chapter shall apply unless
- 2 amended by amending this chapter directly or by specific
- 3 reference to this chapter or any section thereof.
- 4 § -2 Definitions. As used in this chapter:
- 5 "Breach" has the same meaning as in 45 Code of Federal
- 6 Regulations section 164.02, as may be amended.
- 7 "Business associate" has the same meaning as in 45 Code of
- 8 Federal Regulations section 160.103, as may be amended.
- 9 "Covered entity" has the same meaning as in 45 Code of
- 10 Federal Regulations section 160.103, as may be amended.
- 11 "Disclosure" has the same meaning as in 45 Code of Federal
- 12 Regulations section 160.03, as may be amended.
- "Health information" has the same meaning as in 45 Code of
- 14 Federal Regulations section 160.103, as may be amended.
- "Individually identifiable health information" has the same
- 16 meaning as in 45 Code of Federal Regulations section 160.103, as
- 17 may be amended.
- 18 "Unsecured protected health information" has the same
- 19 meaning as in 45 Code of Federal Regulations section 164.402, as
- 20 may be amended.
- 21 "Use" has the same meaning as in 45 Code of Federal
- 22 Regulations section 160.03, as may be amended.

2012-0275 SB SMA.doc



1 § -3 Privacy of individually identifiable health

- 2 information. (a) Notwithstanding any law to the contrary, any
- 3 use or disclosure of individually identifiable health
- 4 information by any covered entity or business associate that
- 5 complies with 45 Code of Federal Regulations Part 164, Subpart
- 6 E, shall be deemed to comply with all state laws and rules
- 7 relating to the use, disclosure, or confidentiality of health
- 8 information.
- 9 (b) Notwithstanding any law to the contrary, an
- 10 authorization for release of individually identifiable health
- 11 information that complies with 45 Code of Federal Regulations
- 12 section 164.508 shall be deemed to comply with all state laws
- 13 and rules relating to individual authorization.
- 14 (c) Notwithstanding any law to the contrary, any notice of
- 15 breach of unsecured protected health information that complies
- 16 with 45 Code of Federal Regulations Part 164, Subpart D, shall
- 17 be deemed to comply with all state laws and rules relating to
- 18 notice of breach of protected health information.
- 19 § -4 Relationship to other laws. Nothing in this
- 20 chapter shall be construed to:
- 21 (1) Authorize the disclosure of individually identifiable
- health information to the extent disclosure is

2012-0275 SB SMA.doc



1		restricted by federal law or regulations, including
2		federal drug and alcohol confidentiality regulations,
3		as set forth in 42 Code of Federal Regulations Part 2
4	(2)	Compel the disclosure of individually identifiable
5		health information that is not required by law to be
6		disclosed;
7	(3)	Require a written authorization for release of
8		individually identifiable health information or de-
9		identified information to the extent that the Health
10		Insurance Portability and Accountability Act of 1996,
11		Public Law 104-191, as amended, and related federal
12		rules do not require the authorization;
13	(4)	Limit or otherwise affect any state statute or
14		regulation that:
15		(A) Requires persons or entities to report disease,
16		injury, child abuse, elder abuse, domestic
17		violence, birth, or death; or
18		(B) Governs public health surveillance,
19		investigation, or intervention;
20	(5)	Limit or otherwise affect health plan reporting,
21		including reporting required for purposes of state
22		management or financial audits; or

2012-0275 SB SMA.doc

l	(6) Limit or otherwise affect any state statute or rule
2	that requires notification of other security or
3	privacy breaches."
1	SECTION 3. This Act shall take effect upon its approval.
5	INTRODUCED BY: Thomas of Baland Will Grow Yelland

Report Title:

Privacy of Health Care Information; HIPAA

Description:

Provides that use, disclosure, or authorization for release of individually identifiable health information that complies with federal law shall be deemed to comply with state law. Provides that notice of breach of unsecured protected health information that complies with federal law shall be deemed to comply with state law.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.