

'JAN 20 2023

A BILL FOR AN ACT

RELATING TO HEALTH DATA SHARING.

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

1 SECTION 1. The legislature finds that the ability to
2 securely and efficiently exchange patient health information
3 electronically has become vitally important to improve health
4 outcomes, reduce health care costs, and connect health care
5 providers together to enhance care coordination.

6 Furthermore, the legislature finds that health equity and
7 access continue to be a challenge for Hawaii, especially for
8 Native Hawaiians and Pacific Islanders, as social and economic
9 factors distinct from medical care are powerful predictors of
10 health outcomes and disease burden throughout a person's life.
11 From a population health perspective, this means that evidence-
12 based policies that affect the broader conditions in which
13 people are born, grow, and live can exert a powerful influence
14 on health and well-being. From an operational perspective,
15 data-driven efforts to better coordinate human and social
16 supports with the medical and health care sectors provide



1 opportunities to deliver services that are more client centered,
2 efficient, effective, and tailored.

3 The legislature also finds that the federal Centers for
4 Medicare and Medicaid Services (CMS) and Office of the National
5 Coordinator for Health Information Technology (ONC) continue to
6 move toward interoperability and mandated standards-based health
7 data sharing (CMS-9115-F, CMS-0057-P, ONC-2020-24376) to help
8 improve health information exchange and patient care. To be
9 truly successful in moving toward value-based care as a way to
10 improve outcomes, lower costs, and improve health equity, payers
11 and providers need access to timely, actionable data.

12 The purpose of this Act is to:

13 (1) Establish a Hawaii health data exchange framework that
14 will accelerate and expand the exchange of health
15 information among health care entities and government
16 agencies in Hawaii to create greater health equity,
17 address health care disparities, and improve health
18 outcomes in our communities; and

19 (2) Establish a stakeholder advisory group to assist the
20 department of health with developing the Hawaii health
21 data exchange framework.



1 SECTION 2. For purposes of this Act, "health information"
2 includes, for hospitals, clinics, and physician practices, all
3 electronic health information as defined under title 45 Code of
4 Federal Regulations section 171.102 and held by the entity.
5 "Health information" means, at a minimum, the data required to
6 be shared under the Centers for Medicare and Medicaid Services
7 Interoperability and Patient Access regulations for public
8 programs as contained in United States Department of Health and
9 Human Services final rule CMS-9115-F, 85 Federal Register 25510.

10 SECTION 3. (a) On or before September 1, 2024, there is
11 established within the department of health a Hawaii health data
12 exchange framework that shall:

13 (1) Include a single data sharing agreement and common set
14 of policies and procedures that shall leverage and
15 advance national standards for information exchange
16 and data content, and that shall govern and require
17 the exchange of health information among health care
18 entities and government agencies in the State in real
19 time;

20 (2) Be technology agnostic and not an information
21 technology system or single repository of data;



1 (3) Be designed to enable and require real-time access to,
2 or exchange of, health information among health care
3 providers and payers through any health information
4 exchange network, health information organization, or
5 technology that adheres to specified standards and
6 policies; and

7 (4) Align with state and federal data requirements,
8 including the federal Health Insurance Portability and
9 Accountability Act of 1996 (P.L. 104-191) and other
10 applicable state and federal privacy laws related to
11 the sharing of data among and between providers,
12 payers, and the government, while also streamlining
13 and reducing reporting burden.

14 (b) On or before September 1, 2024, the department of
15 health shall work with necessary state agencies and stakeholders
16 as needed to encourage the inclusion of public and private
17 health entities, to the extent possible, as part of the Hawaii
18 health data exchange framework to assist public and private
19 entities to connect through uniform standards and policies. It
20 is the intent of the legislature that all state and county
21 public health agencies will exchange electronic health



1 information in real time with participating health care entities
2 to protect and improve the health and well-being of the
3 community.

4 (c) On or before September 1, 2024, and in alignment with
5 existing federal standards and policies, the following health
6 care organizations shall execute the Hawaii health data exchange
7 framework data sharing agreement pursuant to subsection (a):

- 8 (1) General acute care hospitals;
- 9 (2) Physician organizations and medical groups;
- 10 (3) Nursing facilities, including skilled nursing
11 facilities;
- 12 (4) Health care service plans and accident and health or
13 sickness insurance providers, including without
14 limitation, those governed under title 24 of the
15 Hawaii Revised Statutes, as well as any entity
16 contracted with the State to provide medicaid managed
17 care services;
- 18 (5) Clinical laboratories that are regulated by the
19 department of health; and
- 20 (6) Acute psychiatric hospitals.



1 (d) Except as provided in subsection (e), on or before
2 September 1, 2026, the entities listed in subsection (b) shall
3 exchange health information, or provide access to health
4 information, to and from each other and beginning on January 31,
5 2028, to and from the entities listed in subsection (e), in real
6 time as specified by the department of health pursuant to the
7 Hawaii health data exchange framework data sharing agreement for
8 treatment, payment, or health care operations.

9 (e) On January 31, 2028, the following entities shall
10 exchange health information, or provide access to health
11 information, to and from each other and to and from the entities
12 subject to subsection (d), in real time as specified by the
13 department of health pursuant to the Hawaii health data exchange
14 framework data sharing agreement for treatment, payment, or
15 health care operations:

- 16 (1) Physician practices of fewer
17 than physicians;
- 18 (2) Rehabilitation hospitals;
- 19 (3) Critical access hospitals;
- 20 (4) Rural general acute care hospitals with fewer
21 than acute care beds;



1 (5) Acute psychiatric hospitals operated by the State; and
2 (6) Any nonprofit clinic with fewer than health
3 care providers.

4 (f) The department of health shall work with experienced
5 health entities and partners represented in the stakeholder
6 advisory group established pursuant to section 4 of this Act to
7 provide technical assistance to the entities outlined in
8 subsections (b) and (c).

9 (g) On or before September 1, 2024, the department of
10 health shall develop in consultation with the stakeholder
11 advisory group established pursuant to section 4 of this Act a
12 strategy for unique, secure digital identities capable of
13 supporting master patient indices to be implemented by private
14 and public organizations in the State.

15 SECTION 4. (a) The department of health shall convene a
16 stakeholder advisory group no later than September 1, 2023, to
17 advise on the development and implementation of the Hawaii
18 health data exchange framework.

19 (b) The stakeholder advisory group shall consist of the
20 following members, or their designee:

21 (1) The director of health;



- 1 (2) The administrator of the med-QUEST division of the
2 department of human services;
- 3 (3) The insurance commission of the department of commerce
4 and consumer affairs' insurance division;
- 5 (4) The administrator of the Hawaii employer-union health
6 benefits trust fund;
- 7 (5) A representative of the house of representatives, to
8 be appointed by the speaker of the house of
9 representatives; and
- 10 (6) A representative of the senate, to be appointed by the
11 president of the senate.
- 12 (c) The members of the advisory group listed in subsection
13 (b) shall invite a representative from each of the following
14 entities to be a member of the advisory group:
- 15 (1) Hawaii Health Information Exchange;
- 16 (2) Hawaii Medical Association; and
- 17 (3) Healthcare Association of Hawaii.
- 18 (d) The majority of advisory group members may invite any
19 other person deemed necessary to be a member of the advisory
20 group.



1 (e) The advisory group shall provide information and
2 advice to the department of health on health information issues,
3 including:

4 (1) Identifying which health information, at a minimum,
5 should be shared for specified purposes between the
6 entities represented in the advisory group and those
7 that will be required to execute the Hawaii health
8 data exchange framework data sharing agreement;

9 (2) Identifying gaps in the life cycle of health
10 information with proposed solutions, including gaps in
11 any of the following:

12 (A) Health information creation, including the use of
13 national standards in clinical documentation,
14 health plan records, and social services data;

15 (B) Translation, mapping, controlled vocabularies,
16 coding, and data classification;

17 (C) Storage, maintenance, and management of health
18 information; and

19 (D) Linking, sharing, exchanging, and providing
20 access to health information;



- 1 (3) Identifying ways to incorporate data related to social
2 determinants of health, such as housing and food
3 insecurity, into shared health information;
- 4 (4) Identifying ways to incorporate data related to
5 underserved or underrepresented populations, including
6 but not limited to data regarding sexual orientation,
7 gender identity, and racial and ethnic minorities;
- 8 (5) Identifying ways to incorporate relevant data on
9 behavioral health and substance use disorder
10 conditions;
- 11 (6) Addressing the privacy, security, and equity risks of
12 expanding care coordination, health information
13 exchange, access, and telehealth in a dynamic
14 technological and entrepreneurial environment, in
15 which data and network security are under constant
16 threat of attack;
- 17 (7) Developing policies and procedures consistent with
18 national standards and federally adopted standards in
19 the exchange of health information and ensuring that
20 health information sharing broadly implements national



- 1 frameworks and agreements consistent with federal
2 rules and programs;
- 3 (8) Developing definitions of complete clinical,
4 administrative, and claims data consistent with
5 federal policies and national standards;
- 6 (9) Identifying how all payers will be required to provide
7 enrollees with electronic access to enrollees' health
8 information, consistent with rules applicable to
9 federal payer programs;
- 10 (10) Assessing governance structures to help guide policy
11 decisions and general oversight; and
- 12 (11) Identifying federal, state, private, or philanthropic
13 sources of funding that could support data access and
14 exchange.
- 15 (f) The advisory group shall select a chairperson from
16 among its members.
- 17 (g) The advisory group shall hold public meetings with
18 stakeholders, solicit input, and set its own meeting agendas.
- 19 (h) The members of the advisory group shall serve without
20 compensation but shall be reimbursed for any actual and



1 necessary expenses, including travel expenses, incurred in
2 connection with their duties as members of the advisory group.

3 (i) The advisory group shall submit an update based on the
4 input from members on the issues identified in subsection (e),
5 including any recommendations, to the legislature no later than
6 twenty days prior to the convening of the regular session of
7 2024.

8 (j) For purposes of implementing this Act, including but
9 not limited to hiring staff and consultants, facilitating and
10 conducting meetings, conducting research and analysis, and
11 developing the required reports, the stakeholder advisory group
12 and department of health may enter into exclusive or
13 nonexclusive contracts on a bid or negotiated basis. Any
14 contract executed pursuant to this Act shall be exempt from
15 chapter 103D, Hawaii Revised Statutes; provided that the
16 stakeholder advisory group shall ensure transparency when
17 executing the contract.

18 All actions to implement the Hawaii health data exchange
19 framework, including the adoption or development of any data
20 sharing agreement, requirements, policies and procedures,
21 guidelines, subgrantee contract provisions, or reporting



1 requirements, shall be exempt from chapter 103D, Hawaii Revised
2 Statutes; provided that the stakeholder advisory group shall
3 ensure transparency. The department of health shall release
4 program notices that detail the requirements of the Hawaii
5 health data exchange framework.

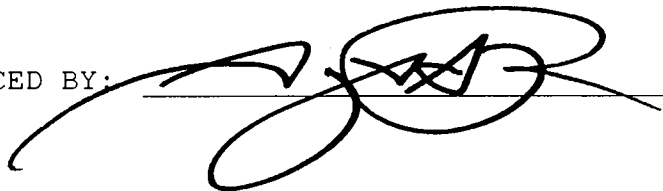
6 SECTION 5. There is appropriated out of the general
7 revenues of the State of Hawaii the sum of \$ or so
8 much thereof as may be necessary for fiscal year 2023-2024 and
9 the same sum or so much thereof as may be necessary for fiscal
10 year 2024-2025 for the purposes of this Act.

11 The sums appropriated shall be expended by the department
12 of health for the purposes of this Act.

13 SECTION 6. This Act shall take effect on July 1, 2023.

14

INTRODUCED BY:

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S.B. NO. 895

Report Title:

Health Information; Hawaii Health Data Exchange Framework;
Stakeholder Advisory Group; Appropriation

Description:

Establishes the Hawaii health data exchange framework.
Establishes the stakeholder advisory group to assist the
department of health in the development of the framework.
Requires certain health care organizations to execute a health
data sharing agreement by 9/1/2024. Establishes deadlines for
certain entities to begin sharing health information.
Appropriates funds.

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

