

ACT 140

S.B NO. 2254

A Bill for an Act Relating to Privacy of Health Care Information.

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

SECTION 1. Section 323C-1, Hawaii Revised Statutes, is amended by amending the definition of “nonidentifiable health information” to read:

““Nonidentifiable health information” means any information that meets all of the following criteria: would otherwise be protected health information except that the information in and of itself does not reveal the identity of the individual whose health or health care is the subject of the information and [there is no reasonable basis to believe that the information could be used, either alone or with other information that is, or should reasonably be, known to be available to recipients of the information, to reveal the identity of that individual.] will not be used in any way that would identify the subjects of the information or would create protected health information.”

SECTION 2. Section 323C-21, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) For the purpose of treatment or qualified health care operations, an entity may only use or disclose protected health information [within the entity] if the use or disclosure is properly noticed pursuant to sections 323C-13 and 323C-22. For all other uses and disclosures, an entity may only use or disclose protected health information, if the use or disclosure is properly consented to pursuant to section 323C-23. Disclosure to agents of an entity [described in subsection (a)] shall be considered as a disclosure within an entity.”

SECTION 3. Section 323C-37, Hawaii Revised Statutes, is amended to read as follows:

“~~[[~~§323C-37~~]]~~ **Health research.** (a) A health care provider, health plan, public health authority, employer, insurer, or educational institution may disclose protected health information to a health researcher if the following requirements are met:

- (1) The research shall have been approved by an institutional review board. In evaluating a research proposal, an institutional review board shall require that the proposal demonstrate a clear purpose, scientific integ-

rity, and a realistic plan for maintaining the confidentiality of protected health information[;]. Research not otherwise subjected by federal regulation to institutional review board review shall be subject only to the review requirements of this paragraph;

- (2) The health care provider, health plan, public health authority, employer, insurer, or educational institution shall only disclose protected health information which it has previously created or collected; and
- (3) The holder of protected health information shall keep a record of all health researchers to whom protected health information has been made available.

(b) A health researcher who receives protected health information shall remove and destroy, at the earliest opportunity consistent with the purposes of the project involved, any information that would enable an individual to be identified.

(c) A health researcher who receives protected health information shall not disclose or use the protected health information or unique patient identifiers for any purposes not reviewed by an institutional review board under this part or for any purposes other than the health research project for which the information was obtained, except that the health researcher may disclose the information pursuant to section 323C-35(a).''

SECTION 4. (a) There is established the medical privacy task force within the office of information practices for administrative purposes. The task force shall advise and assist the office of information practices in analyzing health care information issues for the purpose of drafting rules to implement the requirements of chapter 323C, Hawaii Revised Statutes.

(b) Members of the task force shall be chosen by the director of the office of information practices and the task force shall consist of at least one representative from each of the following groups: health care consumer organizations, provider organizations, hospitals, individual and group medical practitioners, health insurance plans, health care data organizations, medical researchers, employers, pharmaceutical companies, department of health, and department of commerce and consumer affairs.

(c) The medical privacy task force shall submit a report of findings and recommendations, including recommended legislation, concerning health care issues that need statutory revision to chapter 323C, Hawaii Revised Statutes, to the legislature no later than twenty days prior to the convening of the regular session of 2001. The task force shall continue until terminated by the director of the office of information practices.

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

SECTION 6. This Act, upon its approval, shall take effect on June 30, 2000.

(Approved May 30, 2000.)