H.B. NO. 3159

A BILL FOR AN ACT

RELATING TO THE HAWAII PUBLIC HEALTH EMERGENCY SURVEILLANCE SYSTEM.

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

SECTION 1. According to the Centers for Disease Control, "syndromic surveillance" applies to surveillance using health-related data that precede diagnosis and signal a sufficient probability of a case or an outbreak to warrant further public health response. Traditional disease surveillance protocols wait for a physician or laboratory diagnosis before alerting public health officials to a potential outbreak. Waiting for a diagnosis can delay the onset of an investigation by several days--days during which a potential disease host can infect individuals in the public or within a healthcare facility. The goal of a syndromic surveillance system is to detect an outbreak and stop the spread of illness without having to wait for a clinical diagnosis.

In 2007, the director of health conducted a feasibility assessment to determine the value of implementing a syndromic surveillance system in the State of Hawaii. The director determined the following:

1. Syndromic surveillance saves lives. The current influenza plan for the State of Hawaii estimates that, at a twenty per cent infection rate, a pandemic would result in nearly one thousand in-hospital deaths. This increase in mortality would occur during a surge of admissions that would correspond with a likely loss of up to twenty-five per cent of healthcare workers due to illness and other factors.

A recent Centers for Disease Control strategy document suggests that early intervention will greatly reduce the impacts of a surge so existing health care facilities can deal with the volume of cases while decreasing morbidity and mortality.

2. Syndromic surveillance protects the economy. The World Bank estimated that a pandemic could cost the world economy between $800,000,000,000 and $2,000,000,000,000. Hawaii could suffer losses of over six per cent in gross domestic product due to the consequences of quarantine and social distancing as well as a commensurate decrease in tourism.

3. Syndromic surveillance can detect outbreaks that other surveillance methods may miss. An article published in Advances in Disease Surveillance, a peer reviewed journal, (Operational Considerations and Early Successes with a Statewide Public Health Surveillance System, Wade et al, 2007;2:123; see

www.isdsjournal.org/article/view/879/760) provides specific cases where a syndromic surveillance system in Indiana picked up events that were not otherwise reported. These included a case of carbon monoxide exposure and an outbreak of food-borne illness.

4. Syndromic surveillance can detect outbreaks earlier than laboratory and diagnostic surveillance. An article published in Advances in Disease Surveillance, (Syndromic Surveillance and Influenza-like Illness in Georgia, Murray et al, 2007;4:179; see www.isdsjournal.org/article/view/2082/1650) declared that "[emergency department]-based [syndromic surveillance] is able to better and more quickly characterize the influenza season in Georgia than other existing [influenza like illness] surveillance systems." This conclusion was based on a system that includes "laboratory surveillance for influenza viruses, sentinel providers that report [influenza like illness], pneumonia and influenza mortality, influenza-associated hospitalizations, and influenza-associated pediatric deaths."

The purpose of this Act is to require hospitals to participate in a department of health electronic health

surveillance system to protect the public health and the safety of the people of Hawaii.

SECTION 2. Chapter 321, Hawaii Revised Statutes, is amended by adding a new part to be appropriately designated and to read as follows:

"**PART . HAWAII PUBLIC HEALTH EMERGENCY SURVEILLANCE SYSTEM**

§321- Emergency department data reporting. (a) To help ensure the protection of public health, the director of health shall develop a syndromic surveillance program with hospital emergency departments in order to detect and investigate public health threats that may result from (1) an epidemic or infectious, communicable, or other disease or (2) a terrorist incident using nuclear, biological, or chemical agents. The director shall specify the data to be reported by hospitals pursuant to this program, consistent with the requirements of this section.

(b) Each hospital shall submit electronically available emergency department data as specified by rule adopted by the department. The department, in consultation with hospitals, shall establish by rule a schedule for the implementation of full electronic reporting capability of all data elements by all hospitals. The schedule shall take into consideration the number

of data elements already reported by the hospital, the hospital's capacity to maintain electronically the remaining elements, available funding, and other relevant factors.

(c) For the purposes of this part, none of the following data for patients or their relatives, employers, or household members may be collected by the director: social security numbers; health plan beneficiary numbers; account numbers; certificate or license numbers; vehicle identifiers and serial numbers, including license plate numbers; device identifiers and serial numbers; web universal resource locators; internet protocol address numbers; biometric identifiers, including finger and voice prints; and full face photographic images and any comparable images.

(d) The director shall collect protected health information not prohibited above in subsection (b). This information includes, but is not limited to, name, postal address, and zip code.

(e) The director shall collect additional data elements including those related to patient demographics, chief complaint, clinical procedure information, and diagnosis and treatment information.

§321- Data confidentiality. (a) The following are protected from disclosure under chapter 92F and are privileged and confidential:

(1) Data reported to the director pursuant to this part.

(2) Data collected or maintained by any entity with whom the director contracts for the reporting, collection, or analysis of data pursuant to this part.

(b) Emergency department visit data reported to the department is confidential whether held by the department or the department's agents. The department shall maintain the confidentiality of the data reported pursuant to this part and shall ensure that adequate measures are taken to provide system security for all data and information.

(c) The department shall not allow information that it receives pursuant to this part to be used for commercial purposes and shall not release data except as authorized by other provisions of law.

§321- Liability for submitting data. (a) A person is immune from liability for actions arising from the required submission of data under this part.

(b) As used in this section, "person" shall include those entities required to submit data under this part.

§321- Hospital definition and requirements. (a) For purposes of this part, "hospital" means a facility licensed as a hospital by the department that operates an emergency department on a twenty-four-hour basis. Hospitals with emergency departments shall report all of the emergency department visits at that hospital to the department or the department's designated agent as follows:

(1) Reporting shall be by electronic transfer. The electronic transfer method shall ensure that the confidentiality and security of emergency department visit data is maintained throughout the data transfer process.

(2) Electronic transfer shall occur immediately at the time of the emergency department visit if feasible, but not later than twenty-four hours after the time of the visit.

(b) Any hospital unable to comply with the electronic transfer requirements of subsection (a) shall comply following a reasonable technical implementation window when the data becomes electronically available.

§321- Data use. (a) Emergency department data submitted to the department may be used for epidemiological investigation, response monitoring, and other disease intervention activities by the department of health. Findings of an investigation shall be used to institute control measures to minimize or reduce the risk of disease spread or to reduce exposures in an emergency event. These control measures include the following:

(1) Syndromic surveillance which classifies data into syndromic categories and trends the number of cases over time to facilitate early identification of outbreaks; and

(2) Response monitoring, which performs encounter-specific analysis to identify the most effective treatments during an outbreak. Data used for response monitoring shall not include hospital identifiers.

§321- Rules. The department shall adopt rules in accordance with chapter 91 to establish procedures for the secure electronic transfer of emergency room data, to identify required data elements, and to outline operation of the public health emergency surveillance program."

SECTION 3. This Act shall take effect upon its approval.

INTRODUCED BY: Calvin K Y Say

BY REQUEST

JAN 22 2008

H.B. NO. 3159

Report Title:
Hawaii Public Health Emergency Surveillance System

Description:
Requires hospital participation with the department of health in an electronic health surveillance system to benefit the public health and safety of the people of Hawaii.

HB 3159

JUSTIFICATION SHEET

DEPARTMENT: HEALTH

TITLE: A BILL FOR AN ACT RELATING TO THE HAWAII PUBLIC HEALTH EMERGENCY SURVEILLANCE SYSTEM.

PURPOSE: To require hospital participation with the department of health in an electronic public health emergency surveillance system through automated reporting of emergency room data.

MEANS: Add a new part to chapter 321, Hawaii Revised Statutes.

JUSTIFICATION: As part of its mission to protect and improve the health of all people in Hawaii, the Department of Health (DOH) seeks to enhance its health information systems and health surveillance processes by creating the Hawaii Public Health Emergency Surveillance System to:

(1) Provide early detection and warning of community health related issues such as an influenza pandemic, communicable diseases, bioterrorism, or environmental health issues;
(2) Provide DOH staff with an early warning of syndromic health disorders to enable appropriate actions to isolate the health issue and safeguard the health of unaffected members of the community; and
(3) Enable earlier public health response to health alerts and outbreaks.

A very important aspect of syndromic surveillance is its use of real-time, or near real-time data. Often, as outbreaks occur, those affected may not receive a definitive diagnosis from a healthcare provider or may try to self-medicate

symptoms associated with an outbreak of illness. In addition, the early symptoms of exposure to agents most likely to be used for bioterrorism are similar to those of the common cold and influenza. The sooner an outbreak or other public health emergency is detected, the more rapidly a response can be initiated, ultimately reducing disease spread, long-term health effects, and death.

The term "syndromic surveillance" is used because cases are determined based on reported symptoms that correspond to a particular syndrome, in contrast to traditional surveillance which determines cases through confirmed laboratory tests.

Syndromic surveillance is using health-related data that precede diagnosis and signal a sufficient probability of a case prior to an outbreak to warrant further public health response.

Syndromic surveillance can detect outbreaks that other surveillance methods may miss. It provides for detection of outbreaks days earlier than laboratory and diagnostic surveillance. Syndromic and traditional surveillance capabilities are more useful when combined as they provide validation of events (or non-events) and enable surveillance of health indicators otherwise difficult, if not impossible, to monitor.

This legislative proposal requires hospitals throughout the State to report electronically to the DOH emergency room data on a real-time basis, enabling syndromic surveillance to protect the health and safety of the people of Hawaii.

Federal Health Insurance Portability and Accountability Act 45 C.F.R. §164.512(b)(1)(i) regulations permit covered entities to disclose protected health information, without authorization, to public health authorities who are legally authorized to receive such reports for the purpose of preventing or controlling disease, injury, or disability. This would include, for example, the reporting of a disease or injury; reporting vital events, such as births or deaths; and conducting public health surveillance, investigations, or interventions.

Impact on the public: Enhances the protection of public health and safety of the people of Hawaii through near real-time reporting of health indicators, providing early warning of a possible health emergency and enabling early public health response.

Impact on the department and other agencies: Adds a key capability to the department's public health surveillance mission.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM DESIGNATION: None.

OTHER AFFECTED AGENCIES: None.

EFFECTIVE DATE: Upon approval.