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# 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.

13           "Health information" has the same meaning as in 45 Code of  
14 Federal Regulations section 160.103, as may be amended.

15           "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.



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  
22 health information to the extent disclosure is



- 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



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1 (6) Limit or otherwise affect any state statute or rule  
2 that requires notification of other security or  
3 privacy breaches."

4 SECTION 3. This Act shall take effect upon its approval.  
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# S.B. NO. 2098

**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.

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