



GOV. MSG. NO. 1241

EXECUTIVE CHAMBERS
HONOLULU

DAVID Y. IGE
GOVERNOR

June 29, 2016

The Honorable Ronald D. Kouchi,
President
and Members of the Senate
Twenty-Eighth State Legislature
State Capitol, Room 409
Honolulu, Hawai'i 96813

The Honorable Joseph M. Souki,
Speaker and Members of the
House of Representatives
Twenty-Eighth State Legislature
State Capitol, Room 431
Honolulu, Hawai'i 96813

Dear President Kouchi, Speaker Souki, and Members of the Legislature:

This is to inform you that on June 29, 2016, the following bill was signed into law:

HB2482 HD2 SD1 CD1

RELATING TO INSURANCE
ACT 139 (16)

Sincerely,

DAVID Y. IGE
Governor, State of Hawai'i

A BILL FOR AN ACT

RELATING TO INSURANCE.

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

1 SECTION 1. The department of health and the state health
2 planning and development agency is tasked with promoting
3 accessibility to quality health care services for all people of
4 the State at a reasonable cost.

5 The legislature finds that health care payers collect and
6 analyze health care services claims and payment information for
7 federal regulatory compliance and business accounting purposes.
8 Reporting health care services claims and payment information to
9 the state health planning and development agency would support
10 collection, analysis, and dissemination of medical treatment
11 claims and payment information, lend transparency to the health
12 care sector, and support public policy decision making. The
13 legislature believes that consumers of health care and state
14 decision makers who regulate health care and insurance should
15 have access to health care claims payment data and analytics.
16 Access to such data will benefit members and retirants under the
17 Hawaii employee-union health benefits trust fund, as well as



1 medicaid and medicare recipients, and will serve other public
2 purposes.

3 The purpose of this Act is to facilitate greater
4 transparency in the health care sector by broadening the scope
5 of health and health care data and other information, including
6 certain health care services claims and payment information,
7 submitted to the state health planning and development agency.

8 SECTION 2. Section 323D-18.5, Hawaii Revised Statutes, is
9 amended to read as follows:

10 "[+]§323D-18.5[+] ~~Information from providers of health~~
11 ~~insurance.]~~ Access to health and dental insurance data;
12 mandatory reporting for certain insurers; uses; confidentiality.

13 [~~The state agency may request providers]~~ (a) Providers of
14 health insurance doing business in the State [to] and who are
15 not subject to subsection (b) may submit to the state agency
16 [available statistical, financial, and other reports of
17 information] or its designee, upon request of the state agency,
18 administrative data that the state agency [finds] deems
19 necessary to perform its functions.

20 (b) Beginning November 1, 2016, providers of health
21 insurance that provide health benefit plans funded by the Hawaii



1 employer-union health benefits trust fund, the state medicaid
2 agency, or both, shall provide to the state agency, or its
3 designee, administrative data required by the state agency to
4 determine health benefits costs, including health care services
5 claims and payment data regarding beneficiaries of health
6 benefits plans funded by the Hawaii employer-union health
7 benefits trust fund, the state medicaid agency, or both.

8 (c) The state agency shall submit data collected pursuant
9 to this section to the college of social sciences, social
10 sciences research institute, pacific health informatics and data
11 center at the University of Hawaii for processing, assignment of
12 encrypted identifiers, and any other task deemed necessary by
13 the state agency. After July 1, 2018, the state agency may
14 designate another data center to which to submit the data
15 obtained pursuant to this section; provided that the data center
16 is established under and meets the conflict of interest
17 requirements of 42 United States Code section 300gg-94. The
18 state agency may contract with entities for the analysis of data
19 collected under this section and processed by a data center
20 pursuant to this subsection to benefit medicaid and medicare



1 recipients, public employees, and public sector retirees and for
2 other public purposes.

3 (d) The state agency shall develop and update an annual
4 plan for the analysis, maintenance, and publication of data
5 collected pursuant to this section. The state agency shall seek
6 approval for the annual plan from the director of health,
7 administrator of the MedQuest division of the department of
8 human services, and the chief information officer of the State.

9 (e) The state agency shall adopt rules, pursuant to
10 chapter 91, for the schedule and frequency with which providers
11 of health insurance shall provide administrative data to the
12 state agency. Administrative rules shall also include
13 provisions relating to data governance, data submission, use and
14 sharing, information security, privacy protection, reporting,
15 and any other matter necessary for the state agency to perform
16 its functions under this section. In adopting administrative
17 rules, the state agency shall consider the measures necessary to
18 implement data submission requirements by providers of health
19 insurance subject to this section, using methods that are
20 reasonable and cost-effective for data submitters.



1 (f) The state agency or its designee shall not disclose
2 any individual patient's personal health information in
3 violation of state or federal law.

4 (g) To minimize any risk of data breaches and re-
5 identification of data, the data and information submitted to
6 the state agency shall include only the minimum protected health
7 information identifiers necessary to link public and private
8 data sources and the geographic and services data to undertake
9 studies.

10 (h) The state agency or its designee, and any recipient of
11 data collected pursuant to this section, shall maintain the
12 original protected health information identifier in a separate
13 database that is not linked with any other data and shall use a
14 proxy or encrypted record identifier for data analysis.

15 (i) Under no circumstances shall a person attempt to re-
16 identify subjects of protected health information from the data
17 submitted to the state agency or its designee. No person may
18 disclose data that contains direct personal identifiers,
19 including but not limited to name, mailing address, email,
20 telephone number, date of birth, or social security number.



1 (j) The state agency or its designee may acquire federal
2 Medicare data sets specific to Hawaii and made available to
3 states. Any public agency that possesses Medicare data sets
4 specific to Hawaii shall share the data with the state agency or
5 its designee at no additional cost to the state agency or its
6 designee.

7 (k) No later than twenty days prior to the convening of
8 each regular session, the state agency shall submit an annual
9 report to the legislature on the submission, maintenance, and
10 use of data submitted to the state agency pursuant to this
11 section.

12 (l) For the purposes of this section:

13 "Administrative data" means:

- 14 (1) Statistical and financial reports of information;
15 (2) Patient invoices or similar patient encounter data;
16 (3) Records of services used for or resulting from
17 administering delivery of health care, pharmacy
18 benefits, or dental care, including records of
19 services provided under health benefits plans as
20 defined in section 87A-1; and



1 (4) Any other records as established pursuant to
2 administrative rules adopted pursuant to chapter 91.
3 "Provider of health insurance" means a group health
4 insurance contract or service agreement that may include
5 medical, hospital, surgical, prescription drug, vision, or
6 dental services, in which a carrier agrees to provide, pay for,
7 arrange for, or reimburse the cost of the services, including
8 third party administrators."

9 SECTION 3. The state health planning and development
10 agency, without regard to the notice and public hearing
11 requirements of chapter 91, Hawaii Revised Statutes, shall adopt
12 interim rules for the schedule and frequency with which
13 providers of health insurance, dental insurance, and health
14 benefits plans shall provide administrative data to the state
15 health planning and development agency. Interim administrative
16 rules shall also include provisions relating to data governance,
17 data submission, use and sharing, information security, privacy
18 protection, reporting, and any other matter necessary for the
19 state health planning and development agency to perform its
20 functions pursuant to this Act. Interim rules adopted pursuant
21 to this Act shall remain in effect until June 30, 2017, or until



1 rules are adopted pursuant to section 323D-18.5(e), Hawaii
2 Revised Statutes, to replace the interim rule or rules.

3 SECTION 4. No later than twenty days prior to the
4 convening of the regular sessions of 2017 and 2018, the state
5 health planning and development agency shall submit a report to
6 the legislature that includes:

7 (1) Information on the progress of establishing procedures
8 for submitting data pursuant to this Act;

9 (2) The means of financing, use, and status of any state
10 or federal moneys received for the purposes of
11 establishing or contracting the services of a data
12 center to collect and process data submitted pursuant
13 to this Act; and

14 (3) The means of financing, use, and status of any state
15 or federal moneys received for the purposes of
16 contracting the services of private entities to
17 analyze data submitted pursuant to this Act.

18 SECTION 5. If any provision of this Act, or the
19 application thereof to any person or circumstance, is held
20 invalid, the invalidity does not affect other provisions or
21 applications of the Act that can be given effect without the



1 invalid provision or application, and to this end the provisions
2 of this Act are severable.

3 SECTION 6. Statutory material to be repealed is bracketed
4 and stricken. New statutory material is underscored.

5 SECTION 7. This Act shall take effect on July 1, 2016.

APPROVED this 29 day of JUN , 2016



GOVERNOR OF THE STATE OF HAWAII

