

We support the intent of SB 2100 SD 1 Relating to Health Care Data which expands access of laboratory test results beyond ordering physicians and their designees, but recommend that the bill be amended.

Under current Department of Health administrative rules, clinical laboratories may disclose lab results only to the person who ordered the lab test, or their designee. This language prohibits the release of the lab results to other physicians and HIPAA health entities involved in the individual's care as they did not order that particular lab. SB2100 SD1 seeks to widen access to laboratory information to covered entities under the Privacy Rule as well as their business associates for purposes of populating an electronic health record, personal health record and any other purpose permitted under the Federal Privacy Rule (HIPAA).

We agree that the sharing of electronic medical data is a necessity in order for health information exchange to deliver on the promise of improving healthcare coordination in our community. Public trust in the confidentiality of their health information is an imperative in order for the health information exchange to be fully embraced by our patients. We therefore need to ensure the public's confidence that the information shared in this exchange will be held and shared in accordance with HIPAA.

As currently written we believe the language is too broad and the mandated disclosure requirement is onerous. This bill, if enacted, could **require** clinical laboratories to provide labs to populate the electronic health record (EHR) or personal health record (PHR) of any covered entity or its business associates. So, for example, if a covered entity, such as a pharmacy contracted with a technology company to provide their customers with a PHR, the clinical laboratories in the State could be mandated to submit labs to the technology company to populate the PHR. Every physician who implements an EHR could demand that the clinical laboratories submit labs to their EHR. For these reasons, we offer the following amendments:

To address these concerns, we suggest the following amendments:

"Â§321- Clinical laboratory test results. (a) Clinical laboratory test results ~~[shall]~~ may be provided to [authorized persons] any covered entity for [the] any purpose [of populating a personal health record or an electronic medical record and for any other] ~~[also]~~ permitted under the Health Insurance Portability and Accountability Act of 1996, et. seq. and federal regulations promulgated thereunder.

(b) For purposes of this section and any state administrative rules governing clinical laboratories in the state of Hawai`i, definition of "authorized persons" [means] shall include:

- (1) The provider ordering the test or the provider's designee; and
- (2) Any covered entity as defined under 45 Code of Federal Regulations Parts 160-164, regulations promulgated under the Health Insurance Portability and Accountability Act of 1996, et. seq. ~~covered entity as defined in 45 Code of Federal Regulations Parts 160-164."~~

This language would broaden the scope of the current administrative rule to allow release of laboratory results for health information exchanges and PHRs/EHRs but only in accordance with the requirements of HIPAA.

I ask that the Committee consider our suggested changes. Thank you for the opportunity to testify.