

Summary for Clinics
State of Hawaii Medical Records Privacy Laws

I. Summary

Hawaii has over 50 laws and regulations related to health care, medical providers, and patient records. However, in 2012, Hawaii adopted the “Hawaii Health Care Privacy Harmonization Act”, which was intended to harmonize all of Hawaii’s healthcare privacy laws with federal HIPAA regulations.¹ Compliance with the federal HIPAA standards is deemed to be compliance with any of Hawaii’s laws regarding the privacy and treatment of medical records. While in general, both PRC’s and PMC’s are considered exempt from HIPAA requirements on the federal level, Hawaii’s PMC’s should be strongly advised to apply HIPAA standards to the security, care and transmittal of all medical records in their possession, as doing so would ensure they are compliant with the requirements of the host of other laws that would be applicable. Furthermore, both PRCs and PMCs have an obligation to provide notice of any unauthorized access to stored personal information of clients.

II. Do the requirements of the law apply to Hawaii’s PRCs? To PMCs?

The requirements for the treatment of healthcare records do not apply to Hawaii PRCs; however, the Hawaii statutes relating to “Medical Records” and “Medical Facilities” and the definition for those terms are broad enough to include PMCs.² Application of the HIPAA standards is deemed to be compliant with all of Hawaii’s laws regarding retention, disclosure, inspection, copying and availability of health care records, so PMC’s are strongly cautioned to follow HIPAA standards.

III. Does Hawaii law define “Protected Information” differently than HIPAA?

Hawaii’s “Health Care Privacy Harmonization Act” adopts the same definition for “protected information” as the federal HIPAA law (individually identifiable health information that is (i) transmitted by electronic media; (ii) maintained in electronic media; or (iii) transmitted or maintained in any other form or medium”).³

IV. Are there any specific compliance requirements for PMCs under Hawaii law not identified in the NIFLA HIPAA VOLUNTARY COMPLIANCE MANUAL FOR PMCs?

Hawaii PMCs should adopt the standards for treatment and handling of protected health information found in the NIFLA HIPAA Voluntary Compliance Manual for PMCs. Compliance with HIPAA standards is deemed compliance with all other health privacy laws of Hawaii.

V. Are there any specific Hawaii law provisions applicable to PRCs?

Hawaii requires any person conducting business in Hawaii who electronically collects personal information (first name or first initial and last name in connection with a social security number, driver’s license number, credit card number or other account numbers) to notify the owner of the information if there is an unauthorized access or breach of unencrypted data immediately upon discovery of the breach.⁴ PRCs and PMCs are strongly encouraged to install encryption software on their computer systems to minimize the risk of a breach.

¹ Hawaii State Act 315/HRS 323B

² Haw. Rev. Stat. § 622-51

³ 45 CFR 160.103

⁴ Haw. Rev. Stat. § 487N-1, et seq.