



GOV. MSG. NO. 740

EXECUTIVE CHAMBERS  
HONOLULU

LINDA LINGLE  
GOVERNOR

May 23, 2008

The Honorable Colleen Hanabusa, President  
and Members of the Senate  
Twenty-Fourth State Legislature  
State Capitol, Room 409  
Honolulu, Hawaii 96813

Dear Madam President and Members of the Senate:

This is to inform you that on May 23, 2008, the following bill was signed into law:

SB1802 HD1 CD1

A BILL FOR AN ACT RELATING TO MENTAL  
HEALTH.  
(ACT 98)

Sincerely,

A handwritten signature in black ink, appearing to read "Linda Lingle".

LINDA LINGLE

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# A BILL FOR AN ACT

RELATING TO MENTAL HEALTH.

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

1           SECTION 1. Section 334-1, Hawaii Revised Statutes, is  
2 amended by adding three new definitions to be appropriately  
3 inserted and to read as follows:

4           "Health care operations" means the services and activities  
5 conducted by an institution, facility, or agency licensed,  
6 certified, or otherwise authorized or permitted by law to  
7 provide medical or health services in the ordinary course of  
8 business, including case management and care coordination,  
9 quality assessment and improvement activities, medical reviews,  
10 and administrative activities.

11           "Health care provider" means an individual or entity  
12 licensed, certified, or otherwise authorized or permitted by law  
13 to provide medical or health services in the ordinary course of  
14 business or practice of a profession.

15           "Treatment summary" means a record of information including  
16 present history and physical examination, mental status  
17 examination, emergency department record, intake evaluation,



1 eligibility determination, current medication list and  
2 prescription history, treatment plan, consultant reports,  
3 diagnosis and problem lists, recent laboratory and diagnostic  
4 testing, clinical or discharge summaries, and discharge  
5 instructions, or any combination of such information."

6 SECTION 2. Section 334-5, Hawaii Revised Statutes, is  
7 amended to read as follows:

8 "§334-5 Confidentiality of records. All certificates,  
9 applications, records, and reports made for the purposes of this  
10 chapter and directly or indirectly identifying a person subject  
11 hereto shall be kept confidential and shall not be disclosed by  
12 any person except so far as:

13 (1) [~~as the~~] The person identified, or the person's legal  
14 guardian, consents [~~to~~];

15 (2) [~~as disclosure~~] Disclosure may be deemed necessary by  
16 the director of health or by the administrator of a  
17 private psychiatric or special treatment facility to  
18 carry out this chapter [~~to~~];

19 (3) [~~as a~~] A court may direct upon its determination that  
20 disclosure is necessary for the conduct of proceedings  
21 before it and that failure to make the disclosure  
22 would be contrary to the public interest [~~to~~];



- 1           (4) ~~[as disclosure]~~ Disclosure may be deemed necessary  
2           under the federal Protection and Advocacy for Mentally  
3           Ill Individuals Act of 1986, Public Law 99-319, to  
4           protect and advocate the rights of persons with mental  
5           illness who reside in facilities providing treatment  
6           or care~~[, or]~~;
- 7           (5) Disclosure of a person's treatment summary from a  
8           previous five-year period from one health care  
9           provider to another may be deemed necessary for the  
10           purpose of continued care and treatment of the person,  
11           or for health care operations; provided that the  
12           health care provider seeking disclosure makes  
13           reasonable efforts to obtain advance consent from the  
14           person; or
- 15           (6) ~~[as disclosure is]~~ Disclosures are made ~~[to]~~ between  
16           the person's health care ~~[insurer]~~ provider and payor  
17           to obtain reimbursement for services rendered to the  
18           person~~[, except for records subject to Title 42 Code~~  
19           ~~of Federal Regulations Part 2, confidentiality of~~  
20           ~~alcohol and drug abuse patient records]~~; provided that  
21           disclosure shall be made only if the provider informs  
22           the person that a reimbursement claim will be made to



1 the person's [~~insurer,~~] payor, the person is afforded  
2 an opportunity to pay the reimbursement directly, and  
3 the person does not pay.

4 Nothing in this section shall preclude the application of more  
5 restrictive rules of confidentiality set forth for records  
6 covered by Title 42, Part 2, Code of Federal Regulations,  
7 relating to the confidentiality of alcohol and drug abuse  
8 patient records. For the purposes of this section, "facilities"  
9 shall include[~~7~~] but not be limited to[~~7~~] hospitals, nursing  
10 homes, community facilities for mentally ill individuals,  
11 boarding homes, and care homes.

12 Nothing in this section shall preclude disclosure, upon  
13 proper inquiry, of any information relating to a particular  
14 patient and not clearly adverse to the interests of the patient,  
15 to the patient, the patient's family, legal guardian, or  
16 relatives, nor, except as provided above, affect the application  
17 of any other rule or statute of confidentiality. The use of the  
18 information disclosed shall be limited to the purpose for which  
19 the information was furnished."

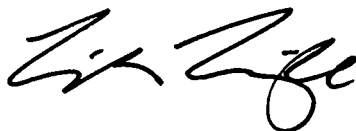
20 SECTION 3. Statutory material to be repealed is bracketed  
21 and stricken. New statutory material is underscored.

22 SECTION 4. This Act shall take effect upon approval.



S.B. NO. 1802  
H.D. 1  
C.D. 1

APPROVED this **23** day of **MAY**, 2008

A handwritten signature in black ink, appearing to read "Liza Loo". The signature is written in a cursive style with a large loop at the end.

GOVERNOR OF THE STATE OF HAWAII