

HAWAII

# Minor Consent and Confidentiality

## A Compendium of State and Federal Laws

National Center  
for Youth Law

[teenhealthlaw.org/compendium](https://teenhealthlaw.org/compendium)

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## National Center for Youth Law

The National Center for Youth Law (NCYL) is a national, non-profit advocacy organization that has fought to protect the rights of children and youth for more than fifty years. Headquartered in Oakland, California, NCYL leads high impact campaigns that weave together litigation, research, policy development, and technical assistance.

### What this compendium is:

This is a compendium of laws that may be relevant when minors wish to access certain types of sensitive health care and/or wish to access care on their own consent. Each state compendium begins with a chart entitled “quick guide.” The topics listed in the quick guide represent the categories of laws most frequently identified across all states. A circle next to a particular category signifies that a relevant state or federal law was found. Where a law was found, those laws are described in the “summary” section. Each state’s compendium ends with a list of resources, including links to a series of Appendices that delve deeper into key topics.

### What this compendium is not:

This is not a comprehensive guide to all consent, confidentiality, and disclosure laws in any state. For example, the compendium does not include all laws that allow or require parents or persons acting *in loco parentis* to consent to care. Nor does it summarize disclosure laws that may allow or require disclosure of health information for mandated child abuse or public health reporting.

### Recommended Citation

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### Disclaimer

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# HAWAII

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## Quick Guide

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## General

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- S** Emergency Care
- S** Financial Responsibility
- Gender Affirming Care
- S** Good Faith Reliance/Immunity from Liability
- S** Minor Parent, Consent for Child's Care
- S** Shield Laws

## Key

- S** State law found<sup>5</sup>
- F** Federal/other law may apply

<sup>1</sup> The information in this chapter represents the state of the law as of May 2024 after a diligent search of statutes, regulations, case law, and guidance.

<sup>2</sup> This chapter does not address all the consent and confidentiality rules that may apply when minors are in special care situations such as living with a relative, in federal or state custody, or under court jurisdiction (including dependency, delinquency, or immigration custody).

<sup>3</sup> This category includes parental involvement laws.

<sup>4</sup> This category includes statutes or case law that ban conversion therapy or prohibit banning of conversion therapy.

<sup>5</sup> Symbol indicates law found that either allows providers to offer services without parental consent or explicitly gives minors authority to consent.

## General

**Age of Majority**

*Haw. Rev. Stat. § 577-1* provides that the age of majority is 18.

**Emancipation**

*Haw. Rev. Stat. § 577-25* provides that minors are emancipated: (1) when they marry pursuant to § 572; or (2) have received a declaration of emancipation from the family court. *Haw. Rev. Stat. § 577-25* specifies the procedures and criteria for a minor to seek and obtain a declaration of emancipation. *Haw. Rev. Stat. § 577-25(c)* specifies the rights of an emancipated minor.

**Minor Marriage**

*Haw. Rev. Stat. §§ 572-1 and 572-2* provide that minors age 16 or older are allowed to marry with consent of their parents, a guardian, or a person in whose custody the minor may be; minors age 15 are allowed to marry with parent/guardian/custodian consent and approval of the family court.

## Consent to Health Care

Consent for healthcare refers to granting permission for a healthcare service. A healthcare provider generally must obtain consent before providing care. Adults typically consent to their own healthcare, except in cases of legal incapacity. State and federal laws and court decisions help establish who has the legal authority to provide consent on behalf of minors. Typically, federal and state law require parent or guardian consent for a minor's care. However, the laws in every state include exceptions that allow or require others to consent, in addition to or instead of a parent or guardian. These exceptions include exceptions that allow minors to consent to some or all health care based on the minor's "status" (situation in life) and exceptions that allow minors to consent to certain types of care based on the services sought. Sometimes, these laws are written in a way that allows providers to offer services without parental consent; sometimes, they are written in a way that explicitly gives minors the authority to consent. Federal law also allows minors to consent to specific care in some cases. See **Appendix B** for more on consent including the important role of parents and other adults in minors' healthcare.

The following sections summarize the minor consent laws in the state:

**Minor Consent—Minor's Status****Emancipated Minor**

*Haw. Rev. Stat. § 577-25(c)* specifies the rights of an emancipated minor. *Haw. Rev. Stat. § 577-25(c)(8)* specifies that an emancipated minor may authorize the minor's own preventive health care, medical care, dental care, mental health care, and substance abuse treatment without knowledge or liability of the minor's parents or guardian. *Haw. Rev. Stat. § 577-25(c)(12)* specifies that an emancipated minor may apply for medical or other public assistance.

**Married Minor**

No provision explicitly authorizes married minors to consent for health care. However, *Haw. Rev. Stat. § 577-25* provides that a minor who has been married pursuant to *Chapter 572* is emancipated and further specifies that an emancipated minor may authorize the minor's own preventive health care, medical care, dental care, mental health care, and substance abuse treatment without knowledge or liability of the minor's parents or

guardian. *Haw. Rev. Stat. § 577-25(c)(12)* specifies that an emancipated minor may apply for medical or other public assistance.

**Minor Living Apart from Parent/Guardian**

*Haw. Rev. Stat. § 577D-2* provide that a "minor without support" may consent for primary medical care and services from a licensed health care practitioner if the practitioner reasonably believes that the minor understands the significant benefits and risks of such care, can communicate informed consent, and the medical care and services are for the minor's benefit. The statute expressly states that no consent from any other person, including a spouse, parent, custodian, or guardian, is necessary to authorize the health care.

*Haw. Rev. Stat. § 577D-1* defines a "minor without support" as a minor who is at least age 14 years, and who is not under the care, supervision, or control of a parent, custodian, or legal guardian.

*Haw. Rev. Stat. § 577D-1* defines "primary medical care and services" as health services that include screening,

counseling, immunizations, medication, and treatment of illnesses and medical conditions customarily provided by licensed health care practitioners in an outpatient setting, not including invasive surgery beyond standard injections, laceration care, or treatment of simple abscesses.

### Pregnant Minor

*Haw. Rev. Stat. § 577A-2* provides that a female minor who is or professes to be pregnant may consent for “medical care and services” by public and private hospitals or clinics or by a licensed physician or advanced practice registered nurse on the same basis as an adult. The consent of no other person is necessary.

*Haw. Rev. Stat. § 577A-1* defines a “minor” as any person age 14 through 17 inclusive and defines “medical care and services” as the “diagnosis, examination, and administration of medication in the treatment of venereal diseases, pregnancy, and family planning services.” Effective January 1, 2025, the section is amended to replace “venereal diseases” with “sexually transmitted infections.”

## Minor Consent—Services

### Abortion

Abortion is legal and protected in Hawaii. *Haw. Rev. Stat. § 453-16* provides that “the State shall not deny or interfere with a pregnant person’s right to choose to: (1) Obtain an abortion; or (2) Terminate a pregnancy if the termination is necessary to protect the life or health of the pregnant person” and defines abortion as “an intentional termination of a nonviable fetus.” The statute authorizes performance of abortion by specific providers, and defines “abortion” to mean “an intentional termination of the pregnancy of a nonviable fetus” and “nonviable fetus” as “a fetus that does not have a reasonable likelihood of sustained survival outside of the uterus.” See also *Haw. Rev. Stat. § 457-8.7*.

Minors may consent to abortion in Hawaii, and neither parental notice or consent is required.

*For up to date information on the status of abortion protections and restrictions in all 50 states and DC, see [Center for Reproductive Rights, After Roe Fell: Abortion Laws by State](#). See also Appendix C. These laws are changing rapidly, so consultation with counsel is also essential.*

### Family Planning/Contraceptives

*Haw. Rev. Stat. § 577A-2* provides that a minor who is seeking family planning services may consent for medical care and services by public and private hospitals or clinics or a licensed physician or advanced practice registered nurse on the same basis as an adult. The consent of no other person is necessary.

*Haw. Rev. Stat. § 577A-1* defines a “minor” as any person

age 14 through 17 years inclusive and defines “medical care and services” as the “diagnosis, examination, and administration of medication in the treatment of venereal diseases, pregnancy, and family planning services.” Effective January 1, 2025, the section is amended to replace “venereal diseases” with “sexually transmitted infections.” The statute further provides that “Medical care and services shall include individual counseling for each minor patient by a physician licensed to practice medicine or advanced practice registered nurse” and that “such counseling shall seek to open the lines of communication between parent and child.”

See **Appendix I** for information about the Title X Family Planning Program and minor consent for family planning, including contraception services. See **Appendix C** for discussion of contraception and the U.S. Constitution.

### Outpatient Mental Health Care

*Haw. Rev. Stat. § 577-29(a)* provides: “Notwithstanding any other law to the contrary, a minor who is fourteen years of age or older may consent to mental health treatment or counseling services provided by a licensed mental health professional or mental health professional if, in the opinion of the licensed mental health professional, the minor is mature enough to participate intelligently in the mental health treatment or counseling services without parental or legal guardian consent, knowledge, or participation; provided that the consent of the minor’s parent or legal guardian shall be required to prescribe medication to the minor or to place the minor into an out-of-home or residential treatment program.”

*Haw. Rev. Stat. § 577-29(h)* defines “licensed mental health professional,” which includes licensed mental health counselors, marriage and family therapists, clinical social workers, psychologists, physicians, and advanced practice registered nurses, and defines “mental health professional,” which includes individuals who are in training, have met certain requirements, and are working under the supervision of a licensed mental health professional.

*Haw. Rev. Stat. § 57A-29(d)* provides that a minor may not abrogate consent provided by a parent or legal guardian on the minor’s behalf and a parent or legal guardian may not abrogate consent given by the minor on the minor’s own behalf.

### Pregnancy-Related Care

*Haw. Rev. Stat. § 577A-2* provides that a female minor age 14 through 17 who is or professes to be pregnant may consent for “medical care and services” by public and private hospitals or clinics or by a licensed physician or advanced practice registered nurse on the same basis as an adult. The consent of no other person is necessary.

*Haw. Rev. Stat. § 577A-1* defines a “minor” as any person

age 14 through 17 inclusive and defines “medical care and services” as the “diagnosis, examination, and administration of medication in the treatment of venereal diseases, pregnancy, and family planning services.” Effective January 1, 2025, the section is amended to replace “venereal diseases” with “sexually transmitted infections.” The statute further provides that “Medical care and services shall include individual counseling for each minor patient by a physician licensed to practice medicine or advanced practice registered nurse” and that “such counseling shall seek to open the lines of communication between parent and child.”

See **Appendix I** for information about the Title X Family Planning Program and minor consent for family planning, including contraception services. See **Appendix C** for discussion of contraception and the U.S. Constitution.

### Sexually Transmitted Infection/Disease/HIV Care

*Haw. Rev. Stat. § 577A-2* provides that a minor who is or professes to be afflicted with a “venereal disease” may consent for medical care and services by public and private hospitals or clinics or a licensed physician or advanced practice registered nurse on the same basis as an adult. The consent of no other person is necessary.

*Haw. Rev. Stat. § 577A-1* defines a “minor” as any person age 14 through 17 inclusive and defines “medical care and services” as the “diagnosis, examination, and administration of medication in the treatment of venereal diseases, pregnancy, and family planning services.” Effective January 1, 2025, the section is amended to

replace “venereal diseases” with “sexually transmitted infections.” The statute further provides that “Medical care and services shall include individual counseling for each minor patient by a physician licensed to practice medicine or advanced practice registered nurse” and that “such counseling shall seek to open the lines of communication between parent and child.”

*Haw. Rev. Stat. § 325-16* provides that health care provider may not subject a person’s body fluids or tissue to an HIV test unless the subject first provides express oral or written consent to the testing. *Haw. Rev. Stat. § 325-16* provides that no blood bank, plasma center, or any other public or private agency, institution, or individual other than a health care provider may subject a person’s body fluids or tissue to an HIV test unless the subject first provides informed written consent to the testing. The person being tested must be afforded an opportunity to receive HIV counseling and the test results.

See **Appendix I** for information about the Title X Family Planning Program and minor consent for family planning, including STI/STD/HIV services.

### Substance Use Care

*Haw. Rev. Stat. § 577-26* provides that a minor who “is or professes to suffer from alcohol or drug abuse” may consent on the same basis as an adult for counseling services for alcohol or drug abuse provided by a counselor who is licensed, certified or authorized by law to provide counseling services.

## Confidentiality & Disclosure

Federal and state laws determine the privacy and confidentiality of medical and health information. Different laws may apply depending on the health services provided, the source of funding, the location of care, the type of provider, and the characteristics of the patient.

One law with overarching importance is the Health Insurance Portability and Accountability Act of 1996 (HIPAA) Privacy Rule, a federal regulation that protects the privacy of patient health information held by health care providers who transmit certain information electronically and other “covered entities.” As a general rule, HIPAA prohibits healthcare providers from disclosing protected health information without a signed authorization. HIPAA specifies who must sign an authorization to release information. When minors have consented for their own care, HIPAA says the minors usually must sign the release. HIPAA includes exceptions that allow or require a provider to disclose protected information without an authorization in some circumstances, such as to meet state child abuse reporting requirements. HIPAA also addresses when parents and guardians may access a minor’s health information: It explains how this HIPAA rule intersects with state law and other federal laws regarding parent access, and includes rules for what to do about parent access when state law is silent, and for authorized limitations on access in some situations.

See **Appendix H** for a detailed discussion of HIPAA. Other appendices address other important federal health privacy laws that may apply in addition to, or instead of, HIPAA. See **Appendix I** (Title X, family planning), **Appendix J** (Part 2, substance use), **Appendix K** (FERPA, education records), **Appendix L** (insurance and billing), and **Appendix M** (21st Century Cures Act Information Blocking, EHI).

**The following sections summarize selected state laws related to confidentiality, access to records, and disclosure to parents/guardians:**

## Confidentiality/Access to Records

### Disclosure of Patient Information

*Haw. Rev. Stat. § 323B-3* provides that “(a) Notwithstanding any law to the contrary, any use or disclosure of individually identifiable health information by any covered entity or business associate that is permitted by 45 Code of Federal Regulations part 164, subpart E, shall be deemed to comply with all state laws relating to the use, disclosure, or confidentiality of such information. (b) Notwithstanding any law to the contrary, an authorization for release of individually identifiable health information that complies with 45 Code of Federal Regulations section 164.508 shall be deemed to comply with all state laws relating to individual authorization. (c) Notwithstanding any law to the contrary, any notice of breach of unsecured protected health information that complies with 45 Code of Federal Regulations part 164, subpart D, shall be deemed to comply with all state laws relating to notice of breach of protected health information.”

*Haw. Rev. Stat. § 323B-4* explains the relationship between the Hawaii Health Care Privacy Harmonization Act, *Haw. Rev. Stat. §§ 323B-1 – 323B-3*, HIPAA, and Part 2 (substance use disorder confidentiality regulations).

### Health Maintenance Organization

*Haw. Rev. Stat. § 432D-21* provides that “data or information pertaining to the diagnosis, treatment, or health of any enrollee or applicant obtained from such person or from any provider by any health maintenance organization shall be held in confidence and shall not be disclosed to any person except . . . upon the express consent of the enrollee or applicant” or for other purposes specified in the section.

See **Appendix H** for information about minors’ access to and control of their medical information under HIPAA when they have consented to their own care.

### Federal laws that may apply in addition to or in lieu of HIPAA and state laws

See **Appendix K** for information about federal confidentiality protection for education records.

See **Appendix J** for information about federal confidentiality protections for certain substance use treatment records.

See **Appendix I** for information about federal confidentiality protection for information about services delivered using Title X Family Planning Program funding.

See **Appendix M** for information about disclosure of information to parents under the 21st Century Cures Act Information Blocking Rule.

## Disclosure of Health Information to Parents/Guardians

### Discretion of Provider to Disclose

*Haw. Rev. Stat. § 577A-3* provides: “Public and private hospitals, or public and private clinics or physicians licensed to practice medicine or advanced practice registered nurses as defined in section 457-2.7 may, at the discretion of the treating physician or advanced practice registered nurse, inform the spouse, parent, custodian, or guardian of any minor patient of the provision of [diagnosis, examination, and administration of medication in the treatment of venereal diseases, pregnancy, and family planning services] to the minor or disclose any information pertaining to such care and services after consulting with the minor patient to whom such medical care and services have been provided under this chapter. If the minor patient is not diagnosed as being pregnant or afflicted with [a] venereal disease, such information as well as the application for diagnosis may be disclosed, at the discretion of the treating physician or advanced practice registered nurse after consulting with the minor patient.”

Effective January 1, 2025, *Haw. Rev. Stat. § 577A-3* provides: “(a) Public or private hospitals, public or private clinics, or licensed health care providers may, at the discretion of the treating licensed health care provider, inform the spouse, parent, custodian, or guardian of any minor patient of the provision of medical care and services to the minor or disclose any information pertaining to the medical care and services after consulting with the minor patient to whom the medical care and services have been provided under this chapter.

(b) If the minor patient is not diagnosed as being pregnant or having a sexually transmitted infection, the information as well as the application for diagnosis may be disclosed, at the discretion of the treating licensed health care provider, after consulting with the minor patient.”

### Mental Health

*Haw. Rev. Stat. § 577-29(b)* provides: “The mental health treatment or counseling services provided to a minor as authorized by [§ 577A-29] shall include involvement of the minor’s parent or legal guardian, unless the licensed mental health professional or mental health professional and licensed mental health professional, after consulting with the minor, determines that the involvement would be inappropriate. The mental health professional shall ensure that the covered entity [as defined under HIPAA in 45 CFR 160.103] has been notified that minor-initiated mental health treatment or counseling services should not be disclosed.”

*Haw. Rev. Stat. § 577-29(c)* provides: “A covered entity shall have policies and procedures established to maintain nondisclosure of the minor-initiated mental health treatment or counseling services to the parent or legal



guardian in accordance with federal regulations, including 45 Code of Federal Regulations section 164, subpart E.”

### Substance Use

*Haw. Rev. Stat. § 577-26* provides that “in the provision of counseling services for alcohol or drug abuse, the counselor shall seek to open the lines of communication between the minor and the spouse, parent, custodian, or guardian; provided such action is deemed beneficial in achieving the desired counseling objectives.”

### HIPAA rules relevant to disclosure to parents/guardians

See **Appendix H** for information about minors’ access to and control of their medical information under HIPAA when they have consented to their own care, the HIPAA rule when state law is silent as to parent access, and the HIPAA rule authorizing providers to limit access to records in certain circumstances.

### Federal laws that may apply in addition to or in lieu of HIPAA and state laws

See **Appendix K** for information about federal confidentiality protection for education records.

See **Appendix J** for information about federal confidentiality protections for certain substance use treatment records. See **Appendix I** for information about federal confidentiality protection for information about services delivered using Title X Family Planning Program funding.

See **Appendix M** for information about disclosure of information to parents under the 21st Century Cures Act Information Blocking Rule.

### Insurance Claims/ Billing

*Haw. Rev. Stat. § 577D-2(i)* provides that if a minor without support consents to health care services as authorized

by § 577D-2; wishes to use a managed care plan or health insurance plan under which they are enrolled to pay for the care; and does not want the plan to disclose information regarding the claim to a spouse, parent, custodian, or guardian, the minor, or the licensed health care practitioner rendering the primary medical care and services on behalf of the minor, shall so notify the plan prior to submitting the claim. The plan may require that the request for confidential communication be made in writing and that it contain a statement that disclosure of all or part of the information to which the request pertains could endanger the minor. The plan shall have fourteen days to make any changes necessary to comply with the request for confidentiality. The plan may accommodate requests by the minor or the licensed health care practitioner to receive communications related to the primary medical care and services by alternative means or at alternative locations.

*Haw. Rev. Stat. § 577-29(c)* provides that a mental health professional who has provided mental health treatment or counseling services to a minor is entitled to submit a claim to the covered entity for the provision of minor-initiated treatment or counseling services to the minor, but shall not bill for out-of-pocket payments, copayments, coinsurance, or deductibles.

*Haw. Rev. Stat. § 577-29(g)* provides that when a mental health professional notifies a covered entity that minor-initiated mental health treatment or counseling services should not be disclosed, the covered entity “shall not disclose to the minor’s parent or legal guardian who is a policyholder or other covered person, any billing information, including payments made by the covered entity for minor-initiated mental health treatment or counseling services.”

See **Appendix L** for information about confidentiality protection in the billing and insurance claims process under the HIPAA Privacy Rule.

## Other

This section summarizes a range of laws that may not explicitly address minor consent or disclosure of information but that health care providers often have questions about when minors seek care, especially when they seek care on their own.

### Constitution

*Haw. Const. Art. 1, § 6* provides: “The right of the people to privacy is recognized and shall not be infringed without the showing of a compelling state interest. The legislature shall take affirmative steps to implement this right.”

### “Conversion Therapy,” Ban

For up to date information on the status of statutes or case

law that ban conversion therapy for minors, or prohibit state entities from banning conversion therapy for minors in all 50 states and DC, see [Movement Advancement Project’s “Equality Maps: Conversion “Therapy” Laws.”](#) These laws are changing rapidly so consultation with counsel is essential.

### Emergency Care

*Haw. Rev. Stat. § 663-1.5* provides for exceptions to liability

for civil damages for emergency medical care provided in good faith in various circumstances.

### Financial Responsibility

*Haw. Rev. Stat. § 577D-2* provides that a minor without support who consents to health care services under this section must assume financial responsibility and legal obligations of the health care services; notwithstanding any other law to the contrary, a spouse, parent, custodian, or guardian whose consent has not been obtained or who has no prior knowledge that a minor without support has consented to the provision of medical care and services is not liable for the costs. Additionally, this statute provides that an action to recover debt from a minor without support for medical services rendered cannot begin until the minor has reached the age of majority, and the claim must be filed within 2 years of when the minor reaches majority.

*Haw. Rev. Stat. § 577A-4* provides that if a minor consents for medical care and services including diagnosis, examination, and administration of medication in the treatment of venereal diseases, pregnancy, and family planning services, the spouse, parent, custodian, or guardian of the minor patient is not financially responsible. A minor who consents for the provision of such medical care and services under this section shall assume financial responsibility for the costs of the medical care and services.

*Haw. Rev. Stat. §§ 577-29(e) and (f)* provide that if a minor consents to receive mental health treatment or counseling services pursuant to § 577-29, the minor shall not be liable for payment and the minor's parent or legal guardian shall not be liable for payment unless the parent or guardian participates in the mental health treatment or counseling services, and then only for services rendered with the participation of the parent or guardian.

*Haw. Rev. Stat. § 577-26* provides that a minor who consents for counseling services for alcohol or drug abuse shall assume financial responsibility for the costs of such services, if any and that no spouse, parent, custodian, or guardian, whose consent has not been obtained or who has no prior knowledge that the minor has consented to the provision of such counseling services for alcohol or drug abuse shall be liable for the costs incurred by virtue of the minor's consent.

### Gender Affirming Care

There are no restrictions on gender affirming care in Hawaii at this time.

*For up to date information on the status of protections and restrictions on gender affirming care for minors, see [Movement Advancement Project's "Equality Maps: Bans on Best Practice Medical Care for Transgender Youth"](#) These laws are changing rapidly so consultation with counsel is essential. See also Appendix G.*

### Good Faith Reliance/Immunity from Liability

*Haw. Rev. Stat. § 577D-2* provides that any licensed health care practitioner who in good faith renders primary medical care and services to a minor without support (as described in *Haw. Rev. Stat. §§ 577D-1 and 577D-2*) has immunity from any civil or criminal liability based on the practitioner's reliance on the minor's consent, whether or not the minor misrepresented the minor's authority.

### Minor Parent, Consent for Child's Care

*Haw. Rev. Stat. § 577-25* provides that if an emancipated minor is a parent, that minor parent may make decisions and give authority in caring for their child.

### Shield Laws

Hawaii enacted [Hawaii Laws Act 2 \(S.B. 1\)](#) in 2023, codified at *Haw. Rev. Stat. §§ 323J-1 – 323J-7*, which includes protections designed to shield Hawaii health care providers from civil and criminal penalty when they legally provide reproductive health services in the state and protects sensitive information from being disclosed related to provision of reproductive health services. The statutes include definitions of key terms.

*For up to date information on the status of abortion protections including shield laws in all 50 states, see [Center for Reproductive Rights, After Roe Fell: Abortion Laws by State.](#)*

Hawaii Statutes <https://www.capitol.hawaii.gov/hrsall/>

Hawaii Administrative Rules <https://ltgov.hawaii.gov/the-office/administrative-rules/>

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