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## FORMAL OPINION NO. 40 (E-Mail Security)

An attorney may transmit information relating to the representation of a client by encrypted or unencrypted e-mail sent over the Internet without violating HRPC 1.6(a). This mode of transmission affords a reasonable expectation of privacy from a technological and legal standpoint. The same privacy accorded U.S. and commercial mail, land-line telephonic transmissions, and facsimiles applies to Internet e-mail. If information is sensitive, an attorney should consult with the client and follow the client's instructions as to the mode of transmission. HRPC 1.2(a) (an attorney shall consult with the client as to the means by which the objectives of the representation are to be pursued). ABA Formal Opinion 99-413 (1999).

DATED: Honolulu, Hawai'i, April 26, 2001.

CARROLL S. TAYLOR

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