
HOUSE CONCURRENT RESOLUTION

REQUESTING THE HAWAII HEALTH SYSTEMS CORPORATION TO DISCLOSE OWNERSHIP INTERESTS IN ANY OF THE VENDORS WITH WHOM THE CORPORATION DOES BUSINESS.

1 WHEREAS, recently, there has been discussion of exempting
2 the Hawaii Health Systems Corporation from the state procurement
3 code, which may prove anti-competitive; and
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5 WHEREAS, questions have also arisen that the Hawaii Health
6 Systems Corporation may have an undisclosed ownership interest
7 in one of the vendors with whom the Corporation does business;
8 and
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10 WHEREAS, in turn, this has raised the question of whether
11 the Hawaii Health Systems Corporation is in compliance with the
12 federal Health Care Anti-Kickback Act and the "safe harbor"
13 regulations under the Medicare/Medicaid Anti-Kickback Law; and
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15 WHEREAS, while activities outside of these safe harbors are
16 not necessarily illegal, it is often unclear at what point
17 conduct crosses the line between a legitimate practice and a
18 violation of the Anti-Kickback Act; and
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20 WHEREAS, the federal Health Care Anti-Kickback Act
21 prohibits giving or receiving any remuneration to purchase,
22 lease, order, arrange for, or recommend any drug that is
23 reimbursable under a federal health care program; and
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25 WHEREAS, however, there was concern that the broad sweep of
26 the federal statute may prohibit vendors from paying fees to
27 group purchasing organizations, which resulted in amendments to
28 the statute specifically exempting vendor payments to group
29 purchasing organizations; and
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31 WHEREAS, in 1991, the Office of the Inspector General also
32 issued a safe harbor rule protecting vendor payments to group
33 purchasing organizations; and



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WHEREAS, the amendments enacting the exemptions for vendor payments were made because these arrangements are considered beneficial and warrant protection under the Anti-Kickback Act; and

WHEREAS, a shareback refers to quarterly cash returned to health care group purchasing organizations as a reward for participation based upon a percentage of the actual gross dollars collected in connection with purchasing volumes and payment of administrative fees; and

WHEREAS, in order to clarify and determine whether the Hawaii Health Systems Corporation is in compliance with federal law, the Corporation should make certain disclosures; now, therefore,

BE IT RESOLVED by the House of Representatives of the Twenty-third Legislature of the State of Hawaii, Regular Session of 2006, the Senate concurring, that the Hawaii Health Systems Corporation is requested to disclose its ownership interests in any of the vendors with whom the Corporation does business; and

BE IT FURTHER RESOLVED that the Hawaii Health Systems Corporation is requested to include the following in its disclosure:

- (1) Name of vendor;
- (2) Description of ownership; and
- (3) Amount of any rebates, revenue sharing, shareback, or similar type of revenue return program involved with each vendor; and

BE IT FURTHER RESOLVED that the Hawaii Health Systems Corporation is requested to provide this disclosure to the Legislature and the Governor no later than twenty days prior to the convening of the Regular Session of 2007; and



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1 BE IT FURTHER RESOLVED that certified copies of this
2 Concurrent Resolution be transmitted to the President of the
3 Hawaii Health Systems Corporation, the Governor, and the
4 Director of Health.
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OFFERED BY: *Bob Nakasone*
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