
A BILL FOR AN ACT

RELATING TO THE HAWAII HEALTH INSURANCE EXCHANGE.

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

1 SECTION 1. This Act shall be known and may be cited as the
2 "Hawaii Health Insurance Exchange Act".

3 SECTION 2. The federal Patient Protection and Affordable
4 Care Act of 2010 provides for the establishment by January 1,
5 2014, of health insurance exchanges in every state to connect
6 buyers and sellers of health and dental insurance and to
7 facilitate the purchase and sale of federally qualified health
8 insurance plans and qualified dental plans. The intent of the
9 health insurance exchange is to reduce the number of uninsured
10 individuals, provide a transparent marketplace, conduct consumer
11 education, and assist individuals in gaining access to
12 assistance programs, premium assistance tax credits, and cost-
13 share reductions.

14 The legislature finds that, largely because of Hawaii's
15 current prepaid health care act, chapter 393, Hawaii Revised
16 Statutes, the State already enjoys an overall healthier
17 population, lower uninsured rates, and lower premium costs than
18 mainland states. The prepaid health care act has been and



1 continues to be successful; it is imperative that Hawaii's
2 health insurance exchange work in tandem with the prepaid health
3 care act to preserve its existing benefits for the people of the
4 State.

5 The legislature further finds that the people of Hawaii
6 will be best served by a health insurance exchange that is
7 operated locally in Hawaii. Therefore, this Act provides the
8 framework for a private, nonprofit health exchange that conforms
9 to the requirements of the federal law and is responsive to the
10 unique needs and circumstances of the State.

11 The legislature notes that the State is already in receipt
12 of a federal grant to plan for the design and implementation of
13 a Hawaii-based health insurance exchange and, pursuant to
14 federal domestic assistance grant number 93:525, a task force
15 has been convened for this purpose. This Act establishes an
16 interim board of directors to be appointed by the governor upon
17 recommendation of the insurance commissioner. The interim board
18 shall work within the policy framework of this Act to propose
19 legislation to the 2012 legislature implementing a Hawaii health
20 insurance exchange, to be known as the Hawaii health connector,
21 to ensure the State's compliance with the Federal Act. Pursuant
22 to recommendations of the task force, the legislature is



1 committed to providing policy direction and operational
2 guidelines as the State works toward implementing a fully
3 functional health insurance exchange to meet the federally
4 mandated 2014 implementation deadline.

5 Recently the United States Department of Health and Human
6 Services issued a request for proposals from states for
7 assistance in establishing state health insurance exchanges.
8 The legislature finds that moving forward now with an enabling
9 statute is the prudent course of action to maximize
10 opportunities to take advantage of forthcoming federal moneys.
11 The framework established by this Act will allow future
12 legislatures to follow the most appropriate course in
13 implementing the health insurance exchange.

14 SECTION 3. The Hawaii Revised Statutes, is amended by
15 adding a new chapter to be appropriately designated and to read
16 as follows:

17 **"CHAPTER**

18 **HAWAII HEALTH INSURANCE EXCHANGE**

19 **§ -1 Definitions.** As used in this article:

20 "Board" means the board of directors of the Hawaii health
21 connector.



1 "Commissioner" means the insurance commissioner of the
2 department of commerce and consumer affairs.

3 "Connector" means the Hawaii health insurance exchange,
4 known as the Hawaii health connector, established by section
5 -2.

6 "Federal Act" means the federal Patient Protection and
7 Affordable Care Act, Public Law 111-148, as amended by the
8 federal Health Care and Education Reconciliation Act of 2010,
9 Public Law 111-152, and any amendments to, or regulations or
10 guidance issued under, those Acts.

11 "Insurer" means any person or entity that issues a policy
12 of accident and health or sickness insurance subject to article
13 10A of chapter 431, or chapters 432 or 432D.

14 "Interim board" means the interim board of directors of the
15 Hawaii health connector.

16 "Qualified dental plan" means a dental benefit plan as
17 described in Section 1311(d)(2)(b)(ii) of the Federal Act.

18 "Qualified plan" means a health benefit plan offered by an
19 insurer that meets the criteria for certification described in
20 Section 1311(c) of the Federal Act.

21 "Secretary" means the Secretary of the United States
22 Department of Health and Human Services.



1 **§ -2 Establishment of the Hawaii health insurance**

2 **exchange; purpose.** (a) There is established the Hawaii health
3 insurance exchange, a Hawaii nonprofit organization, to be known
4 as the Hawaii health connector. The connector shall not be an
5 agency of the State and shall not be subject to laws or rules
6 regulating rulemaking, public employment, or public procurement.
7 The connector shall be a Hawaii nonprofit corporation organized
8 and governed pursuant to chapter 414D, the Hawaii nonprofit
9 corporations act.

10 (b) The purposes of the connector shall include:

11 (1) Facilitating the purchase and sale of qualified plans
12 and qualified dental plans in compliance with the
13 Federal Act;

14 (2) Connecting consumers to the information necessary to
15 make informed health care choices; and

16 (3) Enabling consumers to purchase coverage and manage
17 health and dental plans electronically.

18 (c) The connector shall serve as a clearinghouse for
19 information on all qualified plans and qualified dental plans
20 listed or included in the connector.

21 (d) The connector shall be audited annually by the state
22 auditor and shall submit the results of each annual audit to the



1 commissioner no later than thirty days after the connector
2 receives the results. The connector shall retain all annual
3 audits on file, along with any documents, papers, books,
4 records, and other evidence that is pertinent to its budget and
5 operations for a period of ten years and shall permit the state
6 auditor, the commissioner, the state legislature, or their
7 authorized representatives to have access to, inspect, and make
8 copies of any documents retained pursuant to this subsection.

9 (e) The board of directors of the connector shall submit
10 an annual report to the legislature that shall include the most
11 recent audit report received pursuant to subsection (d) no later
12 than twenty days prior to the convening of each regular session
13 of the legislature.

14 (f) The connector shall offer consumer assistance in a
15 culturally and linguistically appropriate manner.

16 (g) The connector shall make qualified plans available to
17 qualified individuals and qualified employers beginning with
18 effective dates on or before January 1, 2014.

19 **§ -3 Funding.** The connector may receive contributions,
20 grants, endowments, fees, or gifts in cash or otherwise from
21 public and private sources including corporations, businesses,
22 foundations, governments, individuals, and other sources subject



1 to rules adopted by the board. The State may appropriate moneys
2 to the connector. As required by Section 1311(d)(5)(A) of the
3 Federal Act, the connector shall be self-sustaining by January
4 1, 2015, and may charge assessments or user fees to
5 participating health and dental carriers, or may otherwise
6 generate funding to support its operations. Moneys received by
7 or under the supervision of the connector shall not be placed
8 into the state treasury and the State shall not administer any
9 moneys of the connector nor be responsible for the financial
10 operations or solvency of the connector.

11 **§ -4 Board of directors; composition; operation. (a)**

12 The Hawaii health connector shall be a nonprofit entity governed
13 by a board of directors that shall comprise fifteen members
14 appointed by the governor and with the advice and consent of the
15 senate pursuant to section 26-34; provided that the governor
16 shall submit nominations to the senate for advice and consent no
17 later than February 1, 2012; and provided further that the
18 senate shall timely advise and consent to nominations for terms
19 to begin July 1, 2012. Members of the interim board shall be
20 eligible for appointment to the board.

21 (b) The membership of the board shall reflect geographic
22 diversity and the diverse interests of stakeholders including



1 consumers, employers, insurers, and dental benefit providers;
2 the director of commerce and consumer affairs or the director's
3 designee, the director of health or the director's designee, the
4 director of human services or the director's designee, and the
5 director of labor and industrial relations or the director's
6 designee shall be ex-officio, voting members of the board.

7 (c) Board members shall serve staggered terms and the
8 interim board shall recommend an appropriate schedule for
9 staggered terms; provided that this subsection shall not apply
10 to ex-officio members, who shall serve during their entire term
11 of office.

12 (d) The board shall adopt policies prohibiting conflicts
13 of interest and procedures for recusal of a member in the case
14 of an actual or potential conflict of interest, including
15 policies prohibiting a member from taking part in official
16 action on any matter in which the member had any financial
17 involvement or interest prior to the commencement of service on
18 the board. Members of the board may retain private counsel for
19 matters relating to service on the board according to rules
20 recommended by the board.

21 (e) The board shall manage the budget of the connector
22 according to generally accepted accounting principles and a plan



1 for financial organization adopted by the legislature based on
2 recommendations of the interim board.

3 (f) The board shall maintain transparency of board
4 actions, including public disclosure and posting of board
5 minutes on the connector's website according to provisions
6 adopted by the legislature based on recommendations of the
7 interim board

8 **§ -5 Officers and employees of the Hawaii health**
9 **connector.** (a) The board shall appoint officers and employ
10 staff, including an executive director who shall be responsible
11 for the day-to-day operations and management of the exchange,
12 according to a staffing plan that shall be submitted to the
13 legislature. Officers and employees of the board shall not be
14 employees of the State and shall serve at the pleasure of the
15 board.

16 (b) The board may hire consultants, outside experts, and
17 professional specialists as needed for its efficient operations.

18 **§ -6 Eligibility of health insurers and plans.** (a) The
19 commissioner shall determine eligibility for the inclusion of
20 health insurers and plans; provided that all qualified plans
21 that apply for inclusion shall be included in the connector.



1 **§ -7 Eligibility determination for applicants in**
2 **Medicaid adult and children's health insurance program.** The
3 department of human services shall be the agency to determine
4 qualifications and eligibility of individuals to participate in
5 Medicaid adult or children's health insurance programs. The
6 agency's determination of eligibility shall enable qualified
7 individuals and authorized adults on behalf of qualified
8 children to purchase qualified plans from the connector. The
9 department of human services shall verify for the connector
10 individuals and children able to participate in subsidized plans
11 purchased through the connector.

12 **§ -8 Oversight; rate regulation.** (a) The commissioner
13 shall retain full regulatory jurisdiction pursuant to the
14 authority granted to the commissioner by part II of article 2 of
15 chapter 431 over all insurers and qualified plans included in
16 the connector.

17 (b) Rate regulation for qualified plans included in the
18 Hawaii health connector shall be pursuant to applicable state
19 and federal law.

20 **§ -9 Effect on the prepaid health care act.** Nothing in
21 this chapter shall in any manner diminish or limit the consumer
22 protections contained in or alter the provisions of chapter 393.



1 **§ -10 Rules.** The board shall adopt rules to implement
2 the provisions of this chapter. Rules adopted pursuant to this
3 section shall not conflict with or prevent the application of
4 regulations promulgated by the Secretary under the Federal Act."

5 SECTION 4. (a) There shall be an interim board of the
6 Hawaii health connector in the department of commerce and
7 consumer affairs for administrative purposes only that shall
8 recommend to the legislature policies and procedures to further
9 define and operate the Hawaii health connector. The interim
10 board shall consist of fifteen members who are representative of
11 the stakeholders in the Hawaii health connector and shall
12 include members with expertise in the financial, health care,
13 information technology, organizational management, and nonprofit
14 industries. Members of the interim board shall be designated by
15 the governor based upon recommendations by the commissioner and
16 to the extent possible shall come from the members of the task
17 force established in the department of commerce and consumer
18 affairs pursuant to federal domestic grant number 93:525 and
19 shall include:

20 (1) Three members representing health or dental insurance
21 plans that provide insurance throughout the State;



- 1 (2) One member representing a health care provider group
2 that is located on a neighbor island and that employs
3 a wide range of licensed health care providers
4 including physicians, nurse practitioners, nurses, and
5 physician assistants;
- 6 (3) One representative of a hospital trade association;
- 7 (4) One representative of an organization that represents
8 health care consumers;
- 9 (5) One representative from a labor-management committee
10 organization;
- 11 (6) One representative of a native Hawaiian health care
12 organization;
- 13 (7) One representative of an organization representing
14 federally qualified health care centers;
- 15 (8) One representative of an organization representing
16 businesses or employers;
- 17 (9) One representative of the Hawaii health information
18 exchange;
- 19 (10) The director of health or the director's designee;
- 20 (11) The director of human services or the director's
21 designee;



1 (12) The director of labor and industrial relations or the
2 director's designee; and

3 (13) The director of commerce and consumer affairs or the
4 director's designee.

5 The interim board may form working groups that include members
6 of the interim board and other persons as necessary to assist
7 with the implementation of the Hawaii health connector.

8 (b) The interim board shall make recommendations to the
9 legislature for:

10 (1) A sustainable, fee-based financing mechanism that may
11 incorporate private and public funding for initial
12 start-up costs, but that shall achieve financial
13 self-sustainability by January 1, 2015, as required by
14 federal law;

15 (2) Measures to ensure transparency of the Hawaii health
16 connector's finances and for public disclosure of
17 funding sources and expenditures;

18 (3) Procedures for the application for inclusion by
19 insurers in the Hawaii health connector; provided that
20 all applicant qualified plans and qualified dental
21 plans that are qualified according to the requirements



1 of federal law and regulations and national quality
2 measures shall be included;

3 (4) A phased process of including qualified plans, which
4 may include initially prioritizing qualified plans
5 that target individuals and small businesses over
6 large group plans;

7 (5) Policies and procedures to ensure continuity of care
8 for consumers transitioning between carriers,
9 including between publicly funded coverage and private
10 qualified plans and qualified dental plans; provided
11 that the interim board shall form a subgroup to make
12 recommendations for the integration of state
13 subsidized plans with the Hawaii health connector to
14 ensure that consumers who move between publicly funded
15 coverage and unsubsidized private coverage are able to
16 maintain continuity of coverage and continuity of
17 care;

18 (6) Measures to increase transparency and opportunities
19 for public participation in determinations of insurer
20 eligibility for inclusion in the Hawaii health
21 connector and the regulation of insurers and qualified
22 plans;



- 1 (7) Criteria for determining whether a conflict of
2 interest exists for a board member and policies and
3 procedures for avoiding or mitigating conflicts of
4 interest, including when recusal of the board member
5 is appropriate and when a board member shall be
6 entitled to private counsel for a matter relating to
7 the board;
- 8 (8) A schedule of the terms of board members including
9 provisions for staggering terms to ensure continuity;
- 10 (9) A staffing plan including organization, duties, wages,
11 and responsibilities of employees of the board of
12 directors of the Hawaii health connector and criteria
13 for hiring contractors, consultants, and outside
14 experts;
- 15 (10) A plan of financial organization of the board of the
16 Hawaii health connector and requirements for financial
17 management by its board; and
- 18 (11) Policies for the use of electronic media to publicly
19 disseminate information, increase transparency, and
20 allow members of the public to manage their health and
21 dental plans, including by the online purchase of a
22 qualified plan and qualified health plan.



1 (c) The interim board shall submit a report of its
 2 findings and recommendations, including any proposed
 3 legislation, to the legislature, no later than twenty days prior
 4 to the convening of the 2012 regular session, and shall
 5 participate in joint informational sessions upon the request of
 6 the legislature.

7 (d) At the request of the interim board, the department of
 8 commerce and consumer affairs may employ temporary staff not
 9 subject to chapter 76, Hawaii Revised Statutes, to assist in
 10 carrying out the requirements of this section including:

- 11 (1) A project manager or interim executive director;
- 12 (2) Information technology professionals to begin
 13 construction of the Internet-based Hawaii health
 14 connector system;
- 15 (3) A grant writer to pursue additional sources of federal
 16 or private funding to assist the operations of the
 17 task force; and
- 18 (4) Any other staff that the interim board or the
 19 commissioner deems necessary to carry out the duties
 20 of the interim board.

21 (e) The legislative reference bureau shall assist the
 22 interim board in preparing its findings, recommendations, and



1 proposed legislation; provided that the chairperson of the
2 interim board shall submit the interim board's proposals to the
3 legislative reference bureau for drafting no later than November
4 1, 2011, for the report to the 2012 regular session of the
5 legislature.

6 (f) The interim board shall cease to exist on June 30,
7 2012.

8 SECTION 5. There is appropriated out of federal funds
9 received pursuant to federal domestic assistance grant number
10 93:525 the sum of \$ or so much thereof as may be
11 necessary for fiscal year 2011-2012 to support the operations of
12 the interim board of the Hawaii health connector.

13 The sum appropriated shall be expended by the department of
14 commerce and consumer affairs for the purposes of this Act. The
15 disbursement made pursuant to this Act shall not be subject to
16 chapter 103D.

17 SECTION 6. This Act shall take effect upon its approval.



Report Title:

Hawaii Health Insurance Exchange

Description:

Establishes the Hawaii health connector to create a health insurance exchange pursuant to the federal Patient Protection and Affordable Care Act of 2010; creates Hawaii Health Insurance Exchange under a board of directors; creates board of directors; creates interim board to recommend policies and procedures to implement the governance of the health insurance exchange.

(SB1348 HD2)

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