



NEIL ABERCROMBIE
GOVERNOR

BRIAN SCHATZ
LT. GOVERNOR

STATE OF HAWAII
OFFICE OF THE DIRECTOR
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
335 MERCHANT STREET, ROOM 310
P.O. Box 541
HONOLULU, HAWAII 96809
Phone Number: 586-2850
Fax Number: 586-2856
www.hawaii.gov/dcca

KEALI'I S. LOPEZ
INTERIM DIRECTOR

EVERETT KANESHIGE
DEPUTY DIRECTOR

TO THE HOUSE COMMITTEE ON
HEALTH

TWENTY-SIXTH LEGISLATURE
Regular Session of 2011

Friday, February 11, 2011
9:00 a.m.

TESTIMONY ON HOUSE BILL NO. 1046 – RELATING TO HEALTH INSURANCE.

TO THE HONORABLE RYAN I. YAMANE, CHAIR, AND MEMBERS OF THE
COMMITTEE:

My name is Gordon Ito, State Insurance Commissioner, testifying on behalf of the Department of Commerce and Consumer Affairs ("Department"). The Department supports this Administration bill which allows the Insurance Commissioner to enforce the federal Patient Protection and Affordable Care Act.

On July 12, 2010, Secretary Kathleen Sebelius of the federal Department of Health and Human Services wrote a letter to Governor Linda Lingle in which she stated that she sought a partnership between the federal and state government in enforcing the PPACA. The response by Governor Lingle dated July 28, 2010 indicated that the State did not have the technical authority to enforce federal law. Secretary Sebelius sent a follow-up letter dated August 24, 2010 in which she stated that "Our hope is that each state will take the lead in enforcing these Affordable Care Act provisions to ensure that its citizens receive their protections." Governor Lingle again responded that while we wanted to help enforce PPACA, we would probably need legislation to clarify the State's authority to do that.

Given that the federal government wishes the States to enforce PPACA, we recommend that this bill be passed to clarify that we have the authority to do that. If we do not obtain this clarification, attempts at enforcement could potentially be challenged.

We thank this Committee for the opportunity to present testimony on this matter and ask for your favorable consideration.

HMSA



An Independent Licensee of the Blue Cross and Blue Shield Association

February 11, 2011

The Honorable Ryan Yamane, Chair
The Honorable Dee Morikawa, Vice Chair
House Committee on Health

Re: HB 1046 – Relating to Health Insurance

Dear Chair Yamane, Vice Chair Morikawa and Members of the Committee:

The Hawaii Medical Service Association (HMSA) appreciates the opportunity to testify on HB 1046 which would authorize the Insurance Commissioner to enforce applicable federal law. HMSA supports the intent of this measure with some amendments.

The Affordable Care Act (ACA) relies on state Insurance Commissioners to assist the federal Department of Health and Human Services with implementation of many provisions of the law. We understand the desire of the Insurance Commissioner to extend the office's current jurisdiction to include provisions of the ACA. Our concerns stem from the fact that we believe the current language of HB 1046 is overly broad. In order to meet the intent of the ACA legislation and not to unnecessarily broaden the Insurance Commissioner's scope of regulatory authority, we would respectfully propose the following amendments be made:

SECTION 1. Chapter 431, Hawaii Revised Statutes, is amended by adding to article 10A a new section to be appropriately designated and to read as follows:

"§431:10A- Federal law compliance. An accident and health or sickness insurer shall comply with applicable federal law. The commissioner shall enforce the consumer protections and market reforms as set forth in the Affordable Care Act that relate to insurance".

SECTION 2. Chapter 432, Hawaii Revised Statutes, is amended by adding to article 1 to be appropriately designated and to read as follows:

"§432- Federal law compliance. A mutual benefit society shall comply with applicable federal law. The commissioner shall enforce the consumer protections and market reforms as set forth in the Affordable Care Act that relate to insurance".

SECTION 3. Chapter 432D, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§432D- Federal law compliance. A health maintenance organization shall comply with applicable federal law. The commissioner shall enforce the consumer protections and market reforms as set forth in the Affordable Care Act that relate to insurance".

SECTION 4. New statutory material is underscored.

SECTION 5. This Act shall take effect upon its approval.

We believe that these changes maintain the spirit of the original language, while still allowing the Insurance Commissioner the ability to regulate ACA provisions. We would respectfully request the Committees see fit to pass HB 1046 with our proposed amendments. Thank you for the opportunity to testify today.

Sincerely,



Mark K. Oto
Director
Government Relations