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STATE OF HAWAII
OFFICE OF THE DIRECTOR
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS

KEALI'I S. LOPEZ
DIRECTOR

335 MERCHANT STREET, ROOM 310
P.O. Box 541
HONOLULU, HAWAII 96809
Phone Number: 586-2850
Fax Number: 586-2856
www.hawaii.gov/dcca

TO THE HOUSE COMMITTEE
ON CONSUMER PROTECTION AND COMMERCE

TWENTY-SIXTH LEGISLATURE
Regular Session of 2012

Wednesday, February 8, 2012
2 p.m.

**TESTIMONY ON HOUSE BILL NO. 1736, H.D. 1 – RELATING TO THE HAWAII
HEALTH INSURANCE EXCHANGE.**

TO THE HONORABLE ROBERT N. HERKES, 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 the intent of this bill which clarifies that there shall be a separate market for individual and small group health insurance, establishes a navigator program and inserts needed definitions, with respect to the Hawaii Health Connector ("Connector").

While the Department supports these changes because clarification to the Connector enabling statute is beneficial to the Connector, we wish to point out that the discussion on lines 7 to 10 of page 1 of the bill of two separate "risk pool[s]" may not be sufficient to achieve the intent of the bill. Risk pooling is an action that will be taken by the health insurers, not the Connector. Therefore, the mandate to have separate risk pools for the individual and small group health insurance markets should also be directed at the health insurers that seek to participate in the Connector.

We thank the Committee for the opportunity to present testimony on this matter.



EXECUTIVE CHAMBERS

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HOUSE COMMITTEE ON CONSUMER PROTECTION & COMMERCE

Representative Robert N. Herkes, Chair

Representative Ryan I. Yamane, Vice Chair

February 8, 2012

2:00 p.m. Room 325

Support for HB 1736, HD 1

Relating to the Hawaii Health Insurance Exchange

Presented by Beth Giesting, Healthcare Transformation Coordinator

Chair Herkes, Vice-Chair Yamane, members of the Health Committee, the Office of the Governor supports House Bill 1736 as amended in HD 1.

Thank you for the opportunity to support this legislation.

Hawaii Health Connector

P.O. Box 3767
Honolulu, HI 96812

COMMITTEE ON CONSUMER PROTECTION & COMMERCE

February 8, 2012 2:00 p.m.
State Capitol, Conference Room 325
Representative Robert Herkes, Chair
Representative Ryan Yamane, Vice-Chair

In Support of HB 1736, HD1

Chair Herkes, Vice-Chair Yamane and Members of the Committee,

My name is Coral Andrews, Executive Director of the Hawaii Health Connector. Thank you for the opportunity to testify in support of HB 1736, HD1. The Hawaii Health Connector, as you are aware, was established during the 2011 State Legislative Session as SB 1348 SD2 HD3 CD1 and subsequently signed into law on July 8, 2011 with the signing of Act 205. The "Connector" is governed by an interim Board that was established by Act 205 and I have been serving as the Executive Director since December 5, 2011.

In Act 205, pg. 16, line 3, it was requested that the interim Board submit a report of its findings and recommendations, including any proposed legislation prior to the convening of the Legislative Session. HB 1736, HD1 reflects the modifications requested by the Connector interim Board.

Below, I have highlighted the amendments to the enabling statute that were incorporated into the HD1 following the hearing by the House Committee on Health. These incorporated amendments can also be referenced more fully on pages 28-33 of the Legislative report:

1. **Separate programs for individual market and small group market; participation by insurers.** The Connector elects to establish and administer risk pools for the individual market and the small group market. Insurers that offer plans through the small group market of the Connector must also participate in the individual market of the Connector. Insurers may apply to the Insurance Commissioner for a waiver if participation in both parts of the Connector will result in insolvency. Insurers that participate in the Connector shall offer qualified plans in all geographic areas of the State.
2. **Navigator Program.** They shall conduct public education activities to raise consumer awareness of the availability of qualified health plans through the Connector; distribute fair and impartial information about enrollment in qualified health plans; and facilitate enrollment in qualified health plans. The interim Board further recommends that Navigators should be limited to non-profit organizations to insure impartiality as they facilitate enrollment in qualified health plans through the Connector. Insurance producers are prohibited from serving as Navigators in the State.

3. **Health Benefit Plan definition.** The definition proposed in the statute was modeled after the definition found in the National Association of Insurance Commissioners model act for states' health insurance exchanges.
4. **Individual Market/Qualified Employer/Small Group market.** These definitions were added to support the creation of the individual market and small group market risk pools within the Connector.
5. **Small Employer.** The definition was added to support the creation of the individual market and small group market risk pools within the Connector and to allow for the phase in through 2016 (initially beginning with a small employer being defined as not more than 50 employees).
6. **Board Member Terms.** In order to facilitate continuity in the work of the Connector, the interim Board recommends staggered terms of office for Board members.
7. **Role of DHS in the Medicaid Eligibility Determination.** This amendment seeks to clarify the role of the Department of Human Services in the eligibility determination function associated with the Connector.

In addition to those amendments from the Legislative Report that were incorporated into HD1, the interim Board also included the following policy clarification in the HD1:

1. **Board Appointment.** Language that clarifies the schedule of and appointing authority of the Governor in the selection of the Connector Board of Directors.

This testimony seeks to provide background information to the Committee for the purpose of highlighting the amendments that were included in HB 1736, HD1. The Connector stands in strong support of HB 1736, HD1. Thank you for the opportunity to testify.



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February 7, 2012

House Committee on Consumer Protection and Commerce
Representative Robert Herkes, Chair
Representative Ryan Yamane, Vice Chair

Hearing:

State Capitol Room 325
February 8, 2012, 2:00 p.m.

HB 1736, HD1 – Relating to the Hawaii Health Insurance Exchange

Thank you for the opportunity to provide comments on HB 1736, HD 1. Specifically, HB 1736, HD 1:

- (1) Establishes separate individual and small group risk pools for the Hawaii Health Insurance Exchange;
- (2) Establishes a navigator program;
- (3) Provides definitions for “health benefit plan,” “individual market,” “qualified employer,” “small employer,” and “small group market”;
- (4) Requires staggered terms for connector board members; and
- (5) Clarifies the role of the Department of Human Services in Medicaid determinations.

The American Cancer Society is the nationwide, community-based, voluntary health organization dedicated to eliminating cancer as a major health problem by preventing cancer, saving lives, and diminishing suffering from cancer, through research, education, advocacy, and service. Providing access to health care is a major concern of the Society.

The American Cancer Society is tracking the implementation of health exchanges in every state. There are many critical decisions that need to be made regarding implementation, and the Society supports every effort to create a viable exchange for the benefit of consumers.

The Society has concerns over the creation of a separate individual and small group risk pools. While there are many factors that may affect the exchange, our main concern is with maintaining a healthy risk pool. The size of the exchange allows for costs to be spread over more participants in the exchange. By splitting the exchange into two separate risk pools, there

is concern over whether the two risk pools can sustain the growing costs of health care going forward.

We also want to comment on the DHS Medicaid eligibility determination provision. We have concerns that giving an applicant the chance to decline an automatic eligibility determination could lead to confusion. It also has the potential to have eligible applicants decline an eligibility determination by mistake.

Thank you for allowing us the opportunity to provide this testimony on this measure.

Sincerely,

A handwritten signature in black ink, appearing to read "Cory Chun", with a horizontal line extending to the right.

Cory Chun
Government Relations Director



HPCA

HAWAII PRIMARY CARE ASSOCIATION

House Committee on Consumer Protection and Commerce

The Hon. Robert N. Herkes, Chair

The Hon. Ryan I. Yamane, Vice Chair

Comments on House Bill 1736 HD1

Relating to the Hawai'i Health Insurance Exchange

Submitted by Nani Medeiros, Policy and Public Affairs Director

Wednesday, February 8, 2012, 2:00 p.m. Room 325

The Hawai'i Primary Care Association, which represents community health centers in Hawai'i has the following concerns with House Bill 1736 House Draft 1.

1. An insurance exchange relies on a large number of consumers to minimize the associated risk for all purchasers. Already the State of Hawaii is at a disadvantage in this regard because the Prepaid Healthcare Act covers such a large percentage of working individuals. If the exchange were to be further parsed into individual and small market options, the smaller pools would be much more susceptible to associated risk. This susceptibility simultaneously **reduces the consumer's purchasing leverage and enhances the bargaining power of insurers**. Such a situation would stand in stark contradiction to the legislative intent of ACA in creating insurance exchanges: **to support consumer and small businesses**.

The federal Affordable Care Act (ACA) allows states to establish one exchange that provides both individual and small market (Small Business Health Options Program) services, but **only** if the exchange has adequate resources to assist such individuals and employers. We recommend an evaluation of the resources available to the exchange to verify that it can provide services to both markets as proposed in this bill, taking into consideration the higher costs associated with separating the risk pools (making them smaller) for individual and small group markets.

2. Requiring that navigators be nonprofit entities under Chapter 414D, Hawai'i Revised Statutes, is a far more narrow definition than allowed under the federal Act. The ACA allows eligible entities to include trade, industry, professional associations, commercial fishing industry organizations, ranching and farming organizations, community and consumer-focused nonprofit groups, chambers of commerce, unions, resource partners of the Small Business Administration, other licensed insurance agents and brokers, and other entities capable of carrying out the required duties and can meet required standards and provide required information. Limiting navigators to nonprofits may significantly reduce the number of effective navigators in Hawai'i.

3. The proposed definition of a "health benefit plan" may be inconsistent with services in the ten required categories of the essential health benefits package in the federal Act. The required categories are:
 - a. Ambulatory patient services.
 - b. Emergency services.
 - c. Hospitalization.
 - d. Maternity and newborn care.
 - e. Mental health and substance use disorder services, including behavioral health treatment.
 - f. Prescription drugs.
 - g. Rehabilitative and habilitative services and devices.
 - h. Laboratory services.
 - i. Preventive and wellness services and chronic disease management.
 - j. Pediatric services, including oral and vision care.

We understand that the LRB report which put forth these recommendations was recently completed on December 29, 2011. We are hopeful that these questions and concerns can be clarified, or addressed, as this and other measures relating to the Hawai'i Health Connector move through the public hearing process at the legislature.

Thank you for the opportunity to offer public comments.

Testimony of
Phyllis Dendle
Director of Government Relations

Before:
House Committee on Consumer Protection and Commerce
The Honorable Robert N. Herkes, Chair
The Honorable Ryan I. Yamane, Vice Chair

February 8, 2012
2:00 pm
Conference Room 325

HB 1736 HD1 RELATING TO THE HAWAII HEALTH INSURANCE EXCHANGE

Chair Herkes and committee members, thank you for this opportunity to provide testimony on HB 1736 HD1 which amends the law concerning the Hawaii Health Connector.

Kaiser Permanente Hawaii supports this bill.

We had the opportunity to work on the Hawaii Health Connector established by the legislature in 2011. The bill before you is in answer to the request of the legislature for proposed amendments to make necessary clarifications to the law.

The HHC will make it easy for individuals and small businesses to learn about, compare and purchase health insurance. It will enable participants to receive subsidies from the federal government to assist them in affording health care. It provides a real opportunity to expand insurance coverage to include those currently uninsured. We urge this committee to support these amendments that will contribute to bringing the connector to fruition.

Thank you for your consideration.

HMSA



An Independent Licensee of the Blue Cross and Blue Shield Association

February 8, 2012

The Honorable Robert N. Herkes, Chair
The Honorable Ryan I. Yamane, Vice Chair

House Committee on Consumer Protection and Commerce

Re: HB 1736, HD1 – Relating to the Hawaii Health Insurance Exchange

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

The Hawaii Medical Service Association (HMSA) appreciates the opportunity to testify in support of HB 1736, HD1. Pursuant to Act 205, SLH 2011, the Interim Board of Directors of the Hawaii Health Connector (Connector) submitted a report of its findings and recommendations, including proposed legislation, to the Legislature on December 29, 2011. HB 1736, HD1 reflects the Connector Board's recommendations.

HB 1736, HD1 offers for legislative authorization certain policy recommendations on the Connector Board and operations of the Connector. The Interim Board members agreed on the following recommendations that will provide for an efficient health insurance exchange that meet the requirements of the Affordable Care Act:

- There will be separate programs for the individual and small group markets within a single Exchange.
- Insurers offering a qualified plan or qualified dental plan in the small group market must also offer a qualified plan in the individual market.
- Each insurer that participates in the Connector must offer qualified plans to all State residents.
- The Connector Board will select nonprofit navigators who are not insurance producers nor are insurance brokers.
- The terms for the Connector Board members will be staggered.
- Clarification of the Medicaid process by specifying that the Department of Human Services will perform eligibility determination for individuals applying through the Connector.

The Interim Board has been meeting tirelessly, but much more work remains. The development of the Connector's policies remain fluid as the federal regulations governing the ACA are pending. Consequently, the Legislature should anticipate additional statutory changes may be needed as the federal government further clarifies the ACA.

We hope the Legislature supports the recommendations delineated in HB 1736, HD1. Thank you for the opportunity to testify in support of this legislation.

Sincerely,

A handwritten signature in black ink, appearing to read "JDiesman".

Jennifer Diesman
Vice President, Government Relations



**Testimony to the House Committee on Consumer Protection and Commerce
Wednesday, February 8, 2012
2:00 p.m.
State Capitol - Conference Room 329**

**RE: HOUSE BILL NO. 1736 HD1 RELATING TO THE HAWAII HEALTH INSURANCE
EXCHANGE**

Chair Herkes, Vice Chair Yamane, and members of the committee:

The Chamber of Commerce of Hawaii ("The Chamber") supports HB 1736 HD1 relating to the Hawaii Health Insurance Exchange.

The Chamber is the largest business organization in Hawaii, representing more than 1,000 businesses. Approximately 80% of our members are small businesses with less than 20 employees. As the "Voice of Business" in Hawaii, the organization works on behalf of its members, which employ more than 200,000 individuals, to improve the state's economic climate and to foster positive action on issues of common concern.

Quality healthcare is vital to the welfare of Hawaii's citizens and its economy. It provides essential and critical care for our families and serves to attract and retain Hawaii's professional workforce, new companies, and even tourists to our state. As such, the health care industry also plays a crucial role in the economic development and sustainability of our state and all of Hawaii's businesses. Therefore, it is critical that we continue to support improvements to the healthcare system and ensure access to medical care.

As such, the Chamber fully supports HB 1736 HD1 and the proposed changes. Thank you for the opportunity to submit testimony.