

Hawaii Health Connector
P.O. Box 3767
Honolulu, HI 96812

LATE TESTIMONY

COMMITTEE ON FINANCE
April 2, 2012 5:00 p.m.
State Capitol, Conference Room 308
Representative Marcus Oshiro, Chair
Representative Marilyn Lee, Vice-Chair

Comments on SB 2434 SD1, HD2

Chair Oshiro and Vice-Chair Lee, Members of the Committee:

My name is Coral Andrews, Executive Director of the Hawaii Health Connector, Hawaii's Health Insurance Exchange. Thank you for the opportunity to offer comments on SB 2434, SD1, HD2 following the recent publication of the final federal insurance exchange regulations. SB 2434 has been modified significantly since its original form. As such, the Board has not taken a position on SB 2434, SD1, HD2.

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.

I am here to offer comments based on clarifications included in the publication of the final regulations on health insurance exchanges which I hope will be helpful to you in trying to address concerns that have been raised to your attention:

1. Section 1, Pg 1, Line 4: The requirement tasked to the Connector cannot be funded by the Connector. Establishment grant funds (\$14.4M rec'd in November 2011) cannot be used for the purpose of the Basic Health Plan or the actuary studies that you are recommending. Planning grant funds should be used for that purpose. Act 205, Section 5 acknowledges the planning grant funds that were received by the State Department of Commerce and Consumer Affairs.
2. Section 1, Pg. 1, Line 14. Navigator program. The final regulations from HHS may also permit licensed brokers and agents to enroll employers, employees or individuals in any Qualifying Health Plan (QHP) in the individual or small group market. Through the Interim Final Rule, HHS also permits licensed agents and brokers to assist individuals applying for program assistance. As such, the language in this HD2 is not consistent with the provisions included in the final rule.
3. Section 3: Act 205 specified the organizational representatives that would comprise the Interim Board. Any subsequent statutory language needs to make a clear distinction between the Interim Board requirements and the permanent Board requirements. At this time, the language of the bill does not make that

distinction. Therefore, we recommend that the word Permanent be inserted where the distinction is requested between the Interim Board and the Permanent Board or that a definition be added to insure the distinction in statute. This will facilitate clarity for federal and state compliance oversight.

4. Governing Board: the federal final insurance exchange rule sets forth requirements for an Exchange Governing Board and the conduct of its meetings which addresses much of what HD2 tries to address. My recommendation to this Committee is that they adopt the federal guidelines and allow the Connector, through the Board and public input process set forth in the conduct of our meetings to discuss and deliberate our policies and procedures. The Board has not had an opportunity with Counsel to proceed in responding to the federal requirements that were published 2 weeks ago. We are scheduled to meet this coming Thursday and our agenda reflects the intent to discuss this final rule.
5. The composition of the Connector Board complies with the final regulations published by HHS. In the Preamble to the Rule, the U.S. Department of Health and Human Services responded to questions about consumer representation and suggested that there be more than a simple majority of those who do not have a "conflict of interest." Their response to this question is included in the final rule: "*We accept the suggestion that at least one voting member be a consumer advocate.* We do not believe this change will conflict with any current Exchange boards. We have also maintained the minimum standard that a simple majority of board members not have a conflict of interest, but a State can choose to establish an Exchange with a higher threshold of non-conflicted Board members." *However, this Rule does recognize the value of having Board members who have experience in the business of providing care and of insuring care.* I recommend that you adopt the federal regulatory guidelines. The provisions included in the Rule are generally effective May 29, 2012.
6. Transparency and conflict of interest: The federal regulatory guidance specifies that the exchange include an operating charter or by-laws, holds regular public governing board meetings that are announced in advance. The Connector has conducted meetings in the public since they began following the passage of Act 205. Meetings are filed 6 days in advance with the Lieutenant Governor's Office and posted on the DCCA calendar. The rule continues in the Governance section to define the requirements for transparency, adopting conflict-of-interest policies, and to regularly consult with stakeholders. For the Exchange Governing Board, the Exchange must have in place and make publicly available a set of guiding governance principles that include ethics, conflict of interest standards, accountability and transparency standards, and disclosure of financial interest. These are issues that the Board looks forward to discussing in earnest now that the final regulations have been published.

Thank you for the opportunity to offer comments on SB 2434, SD1, HD2.