



## Hawaii Association of Health Plans

March 13, 2012

The Honorable Ryan I. Yamane, Chair  
The Honorable Dee Morikawa, Vice Chair

House Committee on Health

**Re: SB 2434 SD1 – Relating to the Hawaii Health Insurance Exchange**

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

My name is Richard Jackson and I am chair of the Public Policy Committee of the Hawaii Association of Health Plans (HAHP). HAHP is a non-profit organization consisting of eight (8) member organizations: AlohaCare, HMAA, HMSA, HWMG, Kaiser Permanente, MDX Hawai'i, UHA, and UnitedHealthcare. Our mission is to promote initiatives aimed at improving the overall health of Hawaii. HAHP is also active participants in the legislative process. Before providing any testimony, all HAHP member organizations must be in unanimous agreement of the statement or position.

We appreciate the opportunity to provide testimony in support of SB 2434 SD1, which reflects the recommendations for the Health Insurance Exchange offered by the Interim Board of Directors of the Hawaii Health Connector (HHC). HAHP believes that in order to best serve consumers, both individual and small group markets should be offered within a single Exchange and each insurer that participates in the Exchange should be required to offer qualified plans to all State residents. These guidelines will help ensure broader access to care and greater insurance coverage for all people of Hawaii.

We also feel that costly errors and missteps may be avoided by specifying that the Department of Human Services be responsible for performing eligibility determinations for individuals in the Medicaid program that are applying through the Exchange and agree to such eligibility determinations.

HAHP supports the other policy recommendations of the Interim Board and believes that these proposals will be in the best interest for both consumers and health plans in the health insurance exchange. Their recommendations also meet the requirements mandated by the Affordable Care Act.

Thank you for allowing us to testify in support of SB 2434 SD1 today.

Sincerely,

Richard Jackson  
Chair, Public Policy Committee



94-450 Mokuola Street, Suite 106, Waipahu, HI 96767  
808.675.7300 | www.ohanahealthplan.com

Tuesday, March 13, 2012

To: The Honorable Ryan I. Yamane  
Chair, House Committee on Health

From: 'Ohana Health Plan

Re: Senate Bill 2434, Senate Draft 1-Relating to the Hawaii Health Insurance Exchange

Hearing: Tuesday, March 13, 2012, 9:00 a.m.  
Hawai'i State Capitol, Room 329

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'Ohana Health Plan is managed by a local team of experienced health care professionals who embrace cultural diversity, advocate preventative care and facilitate communications between members and providers. Our philosophy is to place members and their families at the center of the health care continuum.

'Ohana Health Plan is offered by WellCare Health Insurance of Arizona, Inc. WellCare provides managed care services exclusively for government-sponsored health care programs serving approximately 2.6 million Medicaid and Medicare members nationwide. 'Ohana has been able to take WellCare's national experience and that of our local team to develop an 'Ohana care model that addresses local members' health care, long-term care and care coordination needs.

We appreciate this opportunity to submit testimony in support of Senate Bill 2434, Senate Draft 1-Relating to the Hawaii Health Insurance Exchange. The purpose of this measure is to specify that the Hawaii Health Connector establish a separate program and risk pool to serve the individual market and a separate program and risk pool to serve the small group market, establish staggered terms for board members, clarify qualifications of and restrictions on navigators, and to clarify the role of the Department of Human Services in determining Medicaid eligibility.

The separation of risk pools in the individual and small group markets serves to level the playing field, reducing the potential for excessive premium growth or instability in markets in the Exchange. We also support the staggering of the Connector Board appointees as it will ensure a line of continuity in these important discussions surrounding the increase in accessibility to health care coverage in Hawai'i.

We would also like to take this opportunity to encourage the Committee to consider amending the bill to include authorizing language for a Basic Health Plan (BHP) option so as to give the Administration and the Connector Board the statutory ability to move forward with a BHP should they choose to do so.

The inclusion of a BHP in the Health Insurance Exchange will offer a high-quality, cost-effective mechanism for providing health coverage for low-income populations. Individuals and families under 200% of poverty frequently change jobs and often experience fluctuations in income. In the past, this meant that they churned, or moved back and forth, between public coverage like Medicaid and CHIP and uninsured status. Since BHP health plans can and should be designed to coordinate seamlessly with Medicaid and CHIP - using the same providers, rate schedules and health plans - BHP enrollees will be able to obtain uninterrupted care even if their source of coverage changes.

We would also recommend that Hawaii's BHP leverage its existing robust QUEST, QxEA and CHIP health plan community in order to allow families in which parents and children are eligible for varying affordability programs to maintain coverage in the same plan, rather than having parents and children divided between various coverage sources.

'Ohana would recommend that QUEST and QxEA plans be automatically deemed as approved BHP plans. Medicaid plans have significant experience serving low-income populations and contracting with essential community providers. Medicaid managed care plans are already subject to stringent licensing and certification processes that far exceed the minimum requirements set out in the Affordable Care Act to participate as a BHP provider. Deeming of QUEST plans will reduce the administrative burden on the state and facilitate rapid implementation. To further simplify BHP implementation, we recommend that Hawaii establish a BHP by amending existing Quest, QxEA and CHIP managed care contracts. Building upon these existing infrastructures, BHP becomes a "turnkey" start-up, thus reducing administrative costs and improving seamless coordination with other programs.

Finally, as the Committee may already be well aware, yesterday, the U.S. Department of Health and Human Services (HHS) released their final rules for the establishment of Health Insurance Exchanges. Based on their final rules, further amendments not already stated in this testimony may need to be made in order to comply with the rules set forth by HHS, particularly in regards to the Exchange Board composition and functions.

Thank you for this opportunity to testify in support of Senate Bill 2434, Senate Draft 1.

# HMSA



An Independent Licensee of the Blue Cross and Blue Shield Association

March 13, 2012

The Honorable Ryan I. Yamane, Chair  
The Honorable Dee Morikawa, Vice Chair

House Committee on Health

**Re: SB 2434, SD1 – Relating to the Hawaii Health Insurance Exchange**

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

The Hawaii Medical Service Association (HMSA) appreciates the opportunity to testify in support of SB 2434, SD1.

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. SB 2434, as introduced, reflected those recommendations. The Interim Board of Directors subsequently voted on proposed amendments to SB 2434, and SB 2434, SD1 incorporates those proposed changes.

SB 2434, SD1 offers for legislative authorization certain policy recommendations on the permanent Connector Board and operations of the Connector. After due consideration, the Interim Board members agreed on the following recommendations that will provide for an efficient health insurance exchange and 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 qualified plans through the Connector shall have separate risk pools for the individual and small group markets.
- 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 continue to be fluid as the federal regulations governing the ACA are pending. Consequently, the Legislature must anticipate additional statutory changes may be needed in the future and as the federal government further clarifies the ACA.

HMSA appreciates the opportunity to serve on the Connector's Interim Board, and it has been a pleasure working with the other members and the Executive Director, Coral Andrews. And, particular recognition must be afforded the Insurance Commissioner Gordon Ito and his staff, particularly Lloyd Lim. While there certainly was not full agreement on every point of discussion, the Interim Board has been able to take tremendous strides in ensuring the Connector becomes fully operational by the federally mandated 2014 deadline.

Thank you for the opportunity to testify in support of this legislation.

Sincerely,

A handwritten signature in black ink, appearing to read 'JD', with a long horizontal flourish extending to the right.

Jennifer Diesman  
Vice President  
Government Relations

Testimony of  
Phyllis Dendle  
Director of Government Relations

Before:  
House Committee on Health  
The Honorable Ryan I. Yamane, Chair  
The Honorable Dee Morikawa, Vice Chair

March 13, 2012  
9:00am  
Conference Room 229

## **SB 2434 SD1 RELATING TO THE HAWAII HEALTH INSURANCE EXCHANGE**

Chair Yamane and committee members, thank you for this opportunity to provide testimony on SB2434 SD 1 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 this bill which will contribute to bringing the connector to fruition.

Thank you for your consideration.



**HPCA**

HAWAII PRIMARY CARE ASSOCIATION

**House Committee on Health**  
The Hon. Ryan I. Yamane, Chair  
The Hon. Dee Morikawa, Vice Chair

**Oppose: Senate Bill 2434 Senate Draft 1**  
**Relating to the Hawai'i Health Insurance Exchange**  
**Submitted by Nani Medeiros, Policy and Public Affairs Director**  
**March 13, 2012, 9:00 a.m., Room 329**

The Hawai'i Primary Care Association, which represents community health centers in Hawai'i has the following concerns with Senate Bill 2434 Senate Draft 1. Generally speaking, all of the statutory changes in this measure need thorough, unbiased analysis and discussion by the HIE board with stakeholder consultation; further, none of these changes or policy decisions need to be codified in state law.

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 (a point highlighted by Herb Schultz, Regional Director HHS Region IX.) 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 consumers and small businesses.**

Much discussion has been made around following the model first pioneered by Massachusetts with their health insurance exchange in 2006. In that model, the state went to great lengths to ensure the individual and small market options were together in the form of a single pool for the reasons outlined above. As a result of keeping the risk pools combined, rates for small business increased nominally while premiums for individuals decreased significantly.

If it is the "policy" recommendation of the HIE board that businesses be protected from increased premium rates and individual consumers rates be increased in the Exchange (due to the separation of risk pools scenario) then the Connector board should be clear about that position. When public funds are at stake, and tax subsidies are provided directly to insurance plans, the public and consumers deserve to know the reasons behind such decisions and need to understand the cost drivers of their insurance premiums.

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, in addition to preventing qualified people from providing a necessary service.
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. Specifically, it is not clear what is meant in numbers (7), (8), (9), and (10) of "health benefit plan" and we have not been able to receive clarification from the Connector board on this language despite numerous attempts for them to explain it. The ACA 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 think restating the categories in ACA and the Hawai'i Connector's compliance with them in the affirmative rather than adopting language from the NAIC model in the negative will produce a clear statute and compliance with federal law.

Thank you for the opportunity to express our concerns with the changes proposed in this measure.





To: Committee on Health  
Representative Ryan I. Yamane, Chair

Date: March 13, 2012, Conference Room 329, 9:00 a.m.

Re: **SB2434 , SD1 – RELATING TO THE HAWAII HEALTH INSURANCE EXCHANGE**

Chair Yamane and Committee Members:

AARP is a membership organization of people 50 and older with nearly 150,000 members in Hawaii. We are committed to championing access to affordable, quality health care for all generations, providing the tools needed to save for retirement, and serving as a reliable information source on issues critical to Americans age 50+.

AARP provides **comments** and amendments on SB2434, SD1 which specifies that the Hawaii health connector shall establish and administer one separate program to serve the individual market and one separate program to serve the small group market; establishes staggered terms for board members; clarifies qualifications of and restrictions on navigators; and clarifies the role of DHS in determining Medicaid eligibility.

AARP proposes to amend SB2434, SD1 by excluding insurers (health plans) from the board of directors of the Hawaii Health Insurance Exchange. Allowing insurers on the board that determines the policies and rules under which they will be competing for consumer accounts, raises conflict of interest concerns. The consumer is not served, and is contrary to good public policy to allow board membership to individuals representing organizations who stand to gain financially by board policy and decisions. This is akin to having the foxes design the henhouse. Further, this is not even fair to all insurers since the insurers who sit on the board would have a clear inside advantage over those that don't. What would best serve consumers is to have all insurers excluded from serving on the board of the Hawaii Health Insurance Exchange.

AARP believes that the function of the Hawaii Health Insurance Exchange is of such significance that transparency of board meetings and actions, and public disclosure of board reports and minutes in accordance with the Sunshine Law would provide the consumer with assurance that there is no specter of any conflict of interests, real or perceived. This would also provide a level playing field for insurers to compete.

AARP believes that insurers can provide the Hawaii Health Insurance Exchange with necessary information and input to assist in the establishment and operation of the exchange, and should be appointed to advisory or standing committees reporting to the board.

AARP proposes that SB 2434, SD1, Section 3 be amended as follows:

SECTION 3. Section 435H-4, Hawaii Revised Statutes, is amended as follows:

1. By amending subsection (a) to read:

"(a) The Hawaii health connector shall be a nonprofit entity governed by a board of directors that shall comprise fifteen members appointed by the governor and with the advice and consent of the senate pursuant to section 26-34; provided that the governor shall submit nominations to the senate for advice and consent no later than February 1, 2012<sup>[7]</sup>, and no later than February 1 in any year thereafter in which nominations are made; and provided further that the senate shall timely advise and consent to nominations for terms to begin July 1, 2012 <sup>[7]</sup>, and no later than July 1 in any year thereafter in which nominations are made. Members of the interim board shall be eligible for appointment to the board."

2. By amending subsection (c) to read:

"(c) Board members shall serve staggered terms ~~[and the interim board shall recommend an appropriate schedule for staggered terms; provided that this]~~ and shall be appointed to terms of four years; provided that of the initial appointees, five shall be appointed to a two-year term, and five shall be appointed to a three-year term. Each member shall hold office until the member's successor is appointed and qualified. This subsection shall not apply to ex-officio members, who shall serve during their entire term of office."

3. By amending subsection (b) to read:

(b) The membership of the board shall reflect geographic diversity and the diverse interests of stakeholders, representing consumer interests, including consumers who are beneficiaries, advocates for enrolling hard to reach populations, trade associations and other organizations representing the interests of small businesses, and organizations whose primary mission is to advocate for consumers. ~~including consumers, employers, insurers, and dental benefit providers.~~ A member of the board or staff of the Hawaii health connector shall not, while serving on the board or the staff of the Hawaii health connector, be employed by, a consultant to, a member of the board of directors of, affiliated with, or otherwise a representative of, an insurer, an agent or broker, a board member, or an employee of a trade association of insurers, a health care provider who has an ownership interest in a professional health care practice receiving compensation for rendering services as a health care provider, or a health care facility or health clinic. The director of commerce and consumer affairs or the director's designee, the director of health or the director's designee, the director of human services or the director's designee, and the director of labor and industrial relations or the director's designee shall be ex-officio, voting members of the board.

4. By amending subsection (f) to read:

(f) The board shall maintain transparency of board actions, including public disclosure and posting of board minutes on the connector's website according to provisions adopted by the legislature ~~based on recommendations of the interim board~~. The functions of the Hawaii health connector are of such significance to the public that all of its business shall be conducted in accordance with the Sunshine Law, §§ 92-1 to 92-13.

5. By adding subsection (g) to read:

(g) The board shall have authority to constitute a standing committee comprised of one or more representatives from each insurer, and one or more agents or brokers, to provide information to the board.

Thank you for the opportunity to testify.



## THE OFFICIAL SPONSOR OF BIRTHDAYS.™

March 12, 2012

House Committee on Health  
Representative Ryan Yamane, Chair  
Representative Dee Morikawa, Vice Chair

### Hearing:

State Capitol Room 329  
March 13, 2012, 9:00 a.m.

### **SB 2434, SD1 – Relating to the Hawaii Health Insurance Exchange**

Thank you for the opportunity to provide comments on SB 2434, SD1. Specifically, this measure:

- (1) Establishes separate individual and small group risk pools;
- (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. During the previous committee hearings regarding this bill and HB 1736, the House version, the connector board explained that this recommendation was made because it reflects Hawaii’s current market. An assessment, however, of the small group market and individual market would provide the public a greater understanding of the risks of the small group and individual markets including the decision by the board to split the two pools.

While there are many factors that may affect the exchange, our main concern is with maintaining a healthy risk pool. Thank you for allowing us the opportunity to provide testimony on this measure.

Sincerely,

A handwritten signature in black ink that reads "Cory Chun" with a horizontal line extending to the right.

Cory Chun  
Government Relations Director



AMERICANS FOR DEMOCRATIC ACTION

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			Marsha Schweitzer (Alt)

March 12, 2012

TO: Chair Ryan Yamane, Vice Chair Dee Morikawa  
Members of the House Committee on Health

FROM: Americans for Democratic Action/Hawaii  
Barbara Polk, Legislative Chair

SUBJECT: PROPOSED AMENDMENTS TO SB 2434 SD1

In reading SB 2434 SD1 Americans for Democratic Action/Hawaii felt it necessary to go back to Act 205 of the 2011 legislature. Since the current bill is the only one that is available to suggest changes in that law, we wish to address several concerns.

Act 205 established the Hawaii Health Connectors as an independent, non-profit agency to implement the Federal Affordable Care Act. Hawaii is the only state in the union to organize itself in this way, all others, to date, placing the exchange within or under the direction of an existing state agency. It is not clear in what way having an independent corporation benefits the public, but it may benefit its Board members by shielding it from public scrutiny unless the legislature acts to ensure that the interests of consumers are protected.

This approach was initiated by the members of the interim Board, which is composed overwhelmingly of those who would stand to gain from the sale of health insurance or provision of medical services. By eliminating almost all direct involvement of consumers it flies in the face of the federal law's attempt to benefit consumers through a Health Insurance Exchange.

As a result, we ask that you rethink the Board composition and change it to make it consumer oriented rather than provider oriented, while including providers as potential advisors to the Board rather than its voting members. We have adopted the wording of the California law in proposing an amendment to implement this change and note that several other states, including Nevada, Maryland and Connecticut exclude representatives of the insurance industry and providers from their governing boards.

The interim Board apparently feels that it is not bound by the state's Sunshine Laws. This being Sunshine Week, we ask that you also amend current law to make clear that the Board of the Hawaii Health Connectors is bound by these laws, to ensure that the public has access on a timely basis to the meeting notices, agendas, meetings, discussions, and minutes of this very important Board, and that the Board conducts its business in public. The interim Board's reluctance to abide by these rules calls into question the degree to which they are prepared to serve the public interest.

In further evidence of the lack of consumer orientation of the interim Board, we note that the preamble of the recently approved Conflict of Interest Policy of the interim Board states that its purpose is "to protect the interest of this nonprofit corporation," NOT to protect the interests of the general public. Indeed, the provisions of this policy do not permit a challenge with regard to conflict of interest from anyone outside the Board, and all discussions of conflict of interest within the Board are to be shielded from public scrutiny by being held in executive session.

With respect to SB2434 SD1 before you now, it too has been initiated by the interim Board to enact into law that there shall be two separate programs, one for individuals and one for small groups, though it is not clear why that has to be in the statutes. Given that this separation in the past has meant that individuals pay the very highest insurance premiums, we are uncertain that this is a requirement that would benefit consumers. We believe this is not the appropriate time to enshrine this provision in law, since it has not had consumer review or input. We ask that you delete this part of the bill.

Other proposed amendments are below. Thank you for the opportunity to testify.

Section 3. Section 435H-4, Hawaii Revised Statutes.

Amend subsection (b) to read:

(b) The membership of the board shall reflect geographic diversity and the diverse interests of stakeholders, representing consumer interests, including consumers who are beneficiaries, advocates for enrolling hard to reach populations, trade associations and other organizations representing the interests of small businesses, and organizations whose primary mission is to advocate for consumers, including consumers, employers, insurers, and dental benefit providers. A member of the board or staff of the Hawaii health connector shall not, while serving on the board or the staff of the Hawaii health connector, be employed by, a consultant to, a member of the board of directors of, affiliated with, or otherwise a representative of, an insurer, an agent or broker, a board member, or an employee of a trade association of insurers, a health care provider who has an ownership interest in a professional health care practice receiving compensation for rendering services as a health care provider, or a health care facility or health clinic. The director of commerce and consumer affairs or the director's designee, the director of health or the director's designee, the director of human services or the director's designee, and the director of labor and industrial relations or the director's designee shall be ex-officio, voting members of the board.

Amend subsection (f) to read:

(f) The board shall maintain transparency of board actions, including public disclosure and posting of board minutes on the connector's website according to provisions adopted by the legislature based on recommendations of the interim board. The functions of the Hawaii health connector are of such significance to the public that all of its business shall be conducted in accordance with the Sunshine Law, §§ 92-1 to 92-13.

Add subsection (g) to read:

(g) The board shall have authority to constitute a standing committee comprised of one or more representatives from each insurer, and one or more agents or brokers, to provide information to the board.

March 12, 2012

Representative Ryan Yamane, Chair House Health Committee  
Representative Dee Morikawa, Vice Chair, House Health Committee  
Hawaii State Capitol  
Honolulu, HI 96813

Re: SB 2434 Relating to the Hawaii Health Exchange

This testimony is submitted on behalf of Progressive Democrats of Hawaii in support of the proposed HHC Sunshine Amendment to SB 2434, SD1., in regard to establishment of a Hawaii Health Connector which will administer the Hawaii Health Exchange. Required by the health care Affordability Act. The proposed amendment is attached to this testimony.

In reviewing the initial legislation as drafted, consumer representation and advocacy for those with health care needs who cannot speak for themselves, as well as those representing the concerns of small business are conspicuous by their absence. Health care is a basic human need, and those who receive health care must be a critical part of planning and actually need to drive the planning. This was recognized by the state of California in its deliberations; through which they established an organization comprised of consumers, with insurers and health care providers serving in an advisory capacity. There has been an active health care planning group in Hawaii for a number of years. Many in Hawaii have been strong advocates for a single payer system. Establishing a consumer driven health care exchange is much more reflective of Hawaii values and will much better represent the needs of the people of Hawaii.

Sincerely,

Gail Breakey, RN, MPH  
Co-Chair Progressive Democrats of Hawaii



3. By amending subsection (b) to read:

(b) The membership of the board shall reflect geographic diversity and the diverse interests of stakeholders, representing consumer interests, including consumers who are beneficiaries, advocates for enrolling hard to reach populations, trade associations and other organizations representing the interests of small businesses, and organizations whose primary mission is to advocate for consumers. ~~including consumers, employers, insurers, and dental benefit providers.~~ A member of the board or staff of the Hawaii health connector shall not, while serving on the board or the staff of the Hawaii health connector, be employed by, a consultant to, a member of the board of directors of, affiliated with, or otherwise a representative of, an insurer, an agent or broker, a board member, or an employee of a trade association of insurers, a health care provider who has an ownership interest in a professional health care practice receiving compensation for rendering services as a health care provider, or a health care facility or health clinic. The director of commerce and consumer affairs or the director's designee, the director of health or the director's designee, the director of human services or the director's designee, and the director of labor and industrial relations or the director's designee shall be ex-officio, voting members of the board.

4. By amending subsection (f) to read:

(f) The board shall maintain transparency of board actions, including public disclosure and posting of board minutes on the connector's website according to provisions adopted by the legislature ~~based on recommendations of the interim board.~~ The functions of the Hawaii health connector are of such significance to the public that all of its business shall be conducted in accordance with the Sunshine Law, §§ 92-1 to 92-13.

5. By adding subsection (g) to read:

(g) The board shall have authority to constitute a standing committee comprised of one or more representatives from each insurer, and one or more agents or brokers, to provide information to the board.



House HLT Committee  
Chair Ryan Yamane, Vice Chair Dee Morikawa

Tuesday 3/13/12 at 9:00AM in Room 329  
SB2434 SD1 – Hawaii Health Insurance Exchange

TESTIMONY

Nikki Love, Executive Director, Common Cause Hawaii

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Chair Yamane, Vice Chair Morikawa, and Committee Members:

**Common Cause Hawaii offers comments on SB2434 SD1**, regarding the Hawaii health insurance exchange. The Hawaii Health Connector was established to implement provisions of the federal Affordable Care Act. Given the critical role of the Hawaii Health Connector board in making decisions that will impact the public, we ask the Committee to consider the following improvements to the law:

**#1 - Adjust the membership of the board to boost the voice of consumers and prevent conflicts of interest.** To ensure that the public interest is served, consumers must be strongly represented as voting members of the board, and those with obvious conflicts of interest should not.

This concern is widespread and other states are already addressing it directly. Information from the National Conference of State Legislatures shows that a number of states prohibit board members from being affiliated with entities involved in the exchange or benefitting financially. (see <http://www.ncsl.org/issues-research/health/state-actions-to-implement-the-health-benefit-exch.aspx>)

Also, according to Pacific Business News, “21 states already have crafted legislation prohibiting health plans from having a seat on the board of their respective health insurance exchanges because of the potential conflict-of-interest issues that could arise” (“*State’s first health insurance exchange starts to take shape,*” 2/24/12).

**#2 - Ensure transparency of the board’s work.**

Given the critical role of this board in implementing the Affordable Care Act, this board must be open to public input and scrutiny. We urge the Committee to require that this board be subject to the state’s Sunshine Law. Without strong transparency requirements, there is nothing to ensure that citizens, consumers, interested businesses or organizations, or even elected officials would be able to effectively monitor or participate in this important process.

Mahalo for the opportunity to submit testimony.

# Hawaii Health Connector

P.O. Box 3767  
Honolulu, HI 96812

## COMMITTEE ON HEALTH

March 13, 2012 9:00 a.m.

State Capitol, Conference Room 329

Representative Ryan Yamane, Chair

Representative Dee Morikawa, Vice-Chair

### In Support of SB 2434, SD1

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

My name is Sherry Menor McNamara, Chair of the Interim Board for the Hawaii Health Connector. Coral Andrews, Executive Director, is on the Mainland attending meetings on behalf of the organization and therefore is unable to attend this hearing. Thank you for the opportunity to testify in support of SB 2434, SD1. 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.

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. SB 2434, SD1 incorporates the modifications requested by the Connector interim Board and subsequent clarifications achieved following the hearing on HB 1736, HD2 (companion).

Below, is a list of highlighted amendments to the enabling statute that were incorporated into SB 2434, SD1. 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 programs that offer plans through the small group market of the Connector and the individual market of the Connector. Qualified health plans must offer options in both markets unless they qualify for a waiver. 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. Maintaining the risk pools is the responsibility of the insurers. Act 205 specifies that the Insurance Commissioner is responsible for qualifying the health plans that participate on the health insurance exchange.
2. **Navigator Program.** This program is defined in the Affordable Care Act (federal health reform law) and exists to support consumer awareness. Navigators 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. Insurance producers (brokers) 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. Hawaii currently has separate risk pools.
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. The language included in SD1 mirrors the proposed regulations for the corresponding section in the federal statute.

In addition to those amendments from the Legislative Report that were incorporated into the proposed SD1, the interim Board also included the following policy clarification in the proposed SD1:

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 content in SB 2434, SD1. The Connector stands in strong support of SB 2434, SD1. Thank you for the opportunity to testify.



Hawaii's Voice for a Better Future

COMMITTEE ON HEALTH  
Rep. Ryan I. Yamane, Chair  
Rep. Dee Morikawa, Vice Chair

March 12, 2012

**Re: SB2434 — Relating to the Hawaii Health Insurance Exchange**

**Proposing Amendment for Consumer Protection**

Rep. Yamane, Rep. Morikawa and members of the Committee:

Hawaii has been the national leader in health care protection due to its enactment of pioneering legislation such as the Prepaid Health Care Act and the Patients Bill of Rights and Responsibilities Act. Hawaii has been referred to as the "health state" for good reason.

I have faith that the citizens of Hawaii will continue to enjoy superior health benefits as we move, along with other states, towards implementing the coverage mandated by the federal Affordable Care Act. This will only be assured, however, if the Legislature allows the consumer protections built into the federal Act to be reflected in Hawaii law. At present, this is not the case.

The insurance exchanges to be set up in Hawaii will have the responsibility to deal with and correct the discrimination in rate-setting and coverage that currently exists against individuals and small businesses. The clear intent of the federal law is to provide fair, equitable and universal coverage to health care consumers. This will require a change from current practice in which certain dominant insurers negotiate with larger business entities for favorable rates while disproportionately raising rates for small business and individuals, as an example.

The Hawaii Health Connector is, in effect, the governing board for Hawaii's health care reform under the Affordable Care Act, and cannot be effective if comprised of representatives of only the largest insurers and the largest business interests. It cannot be effective if it continues to meet and decide its business in virtual secrecy. There is also a clear conflict of interest in having on this board members who will be affected by the rates the exchange will be setting.

Another concern is that certain insurers will be setting rates for all Hawaii insurers. In other words, the current makeup of the board is anti-competitive in a market where competition is already very limited.

Neither of these situations is in the public interest.

There is also a need to replace secrecy with transparency. Since the decisions made by this board are of such great public importance, it should operate under full public scrutiny. This requires compliance

with Hawaii's Sunshine Laws (open meetings laws and open records law). The functions of the Hawaii Health Connector are of such significance to the public that all of its business must be conducted in accordance with the Sunshine Law.

One can look at California's law, already in effect, as an example for Hawaii. It is very much the opposite of what Hawaii is doing. It clearly reflects the intent of the federal Act. Hawaii is headed in the opposite direction.

Accordingly, Kokua Council joins with other consumer organizations in recommending to the Committee the following amendments to section 3 of SB2424 SD1:

SECTION 3. Section 435H-4, Hawaii Revised Statutes, is amended as follows:

1. By amending subsection (a) to read . . .

"(a) The Hawaii health connector shall be a nonprofit entity governed by a board of directors that shall comprise fifteen members appointed by the governor and with the advice and consent of the senate pursuant to section 26-34; provided that the governor shall submit nominations to the senate for advice and consent no later than February 1, 2012<sup>[§]</sup>, and no later than February 1 in any year thereafter in which nominations are made; and provided further that the senate shall timely advise and consent to nominations for terms to begin July 1, 2012<sup>[§]</sup>, and no later than July 1 in any year thereafter in which nominations are made. Members of the interim board shall be eligible for appointment to the board."

2. By amending subsection (c) to read:

"(c) Board members shall serve staggered terms ~~[and the interim board shall recommend an appropriate schedule for staggered terms, provided that this]~~ and shall be appointed to terms of four years; provided that of the initial appointees, five shall be appointed to a two-year term, and five shall be appointed to a three-year term. Each member shall hold office until the member's successor is appointed and qualified. This subsection shall not apply to ex-officio members, who shall serve during their entire term of office."

3. By amending subsection (b) to read:

(b) The membership of the board shall reflect geographic diversity and the diverse interests of stakeholders, representing consumer interests, including consumers who are beneficiaries, advocates for enrolling hard to reach populations, trade associations and other organizations representing the interests of small businesses, and organizations whose primary mission is to advocate for consumers. [-including consumers, employers, insurers, and dental benefit providers]. A member of the board or staff of the Hawaii health connector shall not, while serving on the board or the staff of the Hawaii health connector, be employed by, a consultant to, a member of the board of directors of, affiliated with, or otherwise a representative of, an insurer, an agent or broker, a board member, or an employee of a trade association of insurers, a health care provider who has an ownership interest in a professional health care practice receiving compensation for rendering services as a health care provider, or a health care facility or health clinic. The director of commerce and consumer affairs or the director's designee, the director of health or the director's designee, the director of human services or the director's designee, and the director of labor and industrial relations or the director's designee shall be ex-officio, voting members of the board.

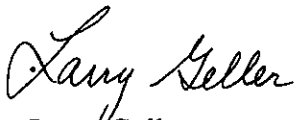
4. By amending subsection (f) to read:

(f) The board shall maintain transparency of board actions, including public disclosure and posting of board minutes on the connector's website according to provisions adopted by the legislature [~~based on recommendations of the interim board~~]. The functions of the Hawaii health connector are of such significance to the public that all of its business shall be conducted in accordance with the Sunshine Law, §§ 92-1 to 92-13.

5. By adding subsection (g) to read:

(g) The board shall have authority to constitute a standing committee comprised of one or more representatives from each insurer, and one or more agents or brokers, to provide information to the board.

Consumer protection should be the primary interest of our state representatives. The insurance companies will suffer no hardship with the enactment of the proposed Amendment since the federal Act mandates the purchase of insurance. What the Amendment will do is ensure that consumers are given the protections that the federal Act requires. Of course, the advice and guidance of Hawaii's largest insurers will be important to creating a successful insurance exchange, but that guidance should be available on request. The foxes should not be *running* the henhouse.



Larry Geller  
President, Kokua Council

The Kokua Council is one of Hawaii's oldest advocacy groups. Kokua Council seeks to empower seniors and other concerned citizens to be effective advocates in shaping the future and well-being of our community, with particular attention to those needing help in advocating for themselves. "We embrace diversity and extend a special invitation to any senior or intergenerational minded individual interested in advocating for these important issues in Hawaii."

Re: SB2434 SD1

Aloha Chair Yamane, Vice-Chair Morikawa, and members of the committee,

My name is Scott Wall and I am speaking on behalf of United Self Help. We wish to issue qualified support of SB2434 SD1.

There is one glaring flaw in the bill though and three severe problems with how the Hawai'i Health Connector is developing. The flaw is the proposed language in Section 435 H-(1). This language would limit the use of Navigators to non-profit entities and seems to be in opposition to the intent of the Affordable Care Act which strives to be inclusive of many more potential entities that might employ Navigators. i.e. section (i)(B)

## ***PATIENT PROTECTION AND AFFORDABLE CARE ACT OF 2010 NAVIGATORS***

### *(i) Navigators-*

*(1) IN GENERAL- An Exchange shall establish a program under which it awards grants to entities described in paragraph (2) to carry out the duties described in paragraph (3).*

### *(2) ELIGIBILITY-*

*(A) IN GENERAL- To be eligible to receive a grant under paragraph (1), an entity shall demonstrate to the Exchange involved that the entity has existing relationships, or could readily establish relationships, with employers and employees, consumers (including uninsured and underinsured consumers), or self-employed individuals likely to be qualified to enroll in a qualified health plan.*

*(B) TYPES- Entities described in subparagraph (A) may include trade, industry, and 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 that--*

*(i) are capable of carrying out the duties described in paragraph (3);*

*(ii) meet the standards described in paragraph (4); and*

*(iii) provide information consistent with the standards developed under paragraph (5).*

*(3) DUTIES- An entity that serves as a navigator under a grant under this subsection shall--*

*(A) conduct public education activities to raise awareness of the availability of qualified health plans;*

*(B) distribute fair and impartial information concerning enrollment in qualified health plans, and the availability of premium tax credits under section 36B of the Internal Revenue Code of 1986 and cost-sharing reductions under section 1402;*

*(C) facilitate enrollment in qualified health plans;*

*(D) provide referrals to any applicable office of health insurance consumer assistance or health insurance ombudsman established under section 2793 of the Public Health Service*



*Act, or any other appropriate State agency or agencies, for any enrollee with a grievance, complaint, or question regarding their health plan, coverage, or a determination under such plan or coverage; and  
(E) provide information in a manner that is culturally and linguistically appropriate to the needs of the population being served by the Exchange or Exchanges.*

As you can see there are many companies and institutions that could utilize Navigators and many, if not most of those are for profit entities.

The problems with how the Connector is developing are:

- A. The potential appearance of conflict of interest in having health plans voting as members of the Connector board of directors.
- B. The lack of transparency in how the development of the Connector is proceeding.
- C. The virtual complete lack of community stakeholder involvement in the development of the Connector which is in direct opposition with the intent of the Affordable Care Act..

We applaud the Affordable Care Act, the development of the Hawai'i Health Connector, and the much needed transformation of the delivery system of health care here in Hawai'i. We simply feel that everyone should take a breath and make sure that we are doing the very best job that we could be doing.

The Administrator of the Rehabilitative Services Administration told me that she thought that the Affordable Care Act was the single most important piece of legislation addressing the needs of America's disabled community since the Americans with Disabilities Act. We at United Self Help agree with her.

We also feel that this is an opportunity that will only come along once in a generation. Let's not blow it by going too fast. Let's cross all the T's, dot all the I's, and create the best transformative health care system that we can for our Ohana.

Mahalo,

Scott Wall

United Self Help

Faith Action for



Community Equity

Oahu and Maui Chapters

1352 Liliha Street, Room 2  
Honolulu, HI 96817

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The Rev. Alan Mark  
Statewide President

The Rev. Sam Domingo  
Oahu President

The Rt. Rev. Monsignor  
Terrence Watanabe  
Maui President

Mr. Rosario Baniaga  
Statewide Treasurer

Rev. Kerry Grogan  
Statewide Secretary

Mr. Drew Astolfi  
Executive Director

Mr. Patrick Zukemura  
Oahu Lead Organizer

COMMITTEE ON HEALTH  
Chair, Representative Ryan Yamane  
SB2434, SD1

RELATING TO THE HAWAII HEALTH INSURANCE EXCHANGE  
Tuesday, March 13, 2012 @ 9:00 am  
Room 329

**IN SUPPORT WITH RECOMMENDED CHANGES**

Good morning Chair Yamane and committee members:

I am Rev. Bob Nakata and I am the Vice-Chair of the FACE Health Care Committee and its past President. FACE is the largest State inter-faith and community organizing non-profit. We have 24 institutions on Maui, 27 on Oahu and one statewide. There are 38 churches, a Buddhist Temple, 2 Jewish congregations, 10 community groups and non-profit organizations and one labor union. FACE has a statewide participating membership base in excess of 40,000.

FACE has been a steadfast voice of the vulnerable healthcare consumer population. We have also been a part of the reform of the national healthcare in the development of the ACA. This reform also brings with it a system that focus on patients and their wellness. According to the Department of Health and Human Services (HHS) in the summary of the ACA it says in part...***"The Exchanges will provide competitive marketplaces for individuals and small employers to directly compare available private health insurance options on the basis of price, quality, and other factors. The Exchanges, which will become operational by January 1, 2014, will help enhance competition in the health insurance market, improve choice of affordable health insurance, and give small business the same purchasing clout as large businesses"***.

FACE would like to recommend that the language in this bill be changed or deferred in the following area:

**Separate programs for individual market and small group market:** According to the HHS ***"acknowledges that the ACA provides each State with flexibility to merge its individual market Exchange and SHOP under a single administrative or governance structure. We interpret this provision to also allow a State to operate these functions under separate governance or administrative structures. However, we believe that a single governance structure for both the individual market Exchange functions and SHOP will yield better policy coordination"***. (Emphasis added).

We oppose the provision of SB2434 SD1 that requires separate programs for individual and small business markets within the exchange. FACE recommends that the Legislature require the Connector engage an actuary to do an analysis of separate vs. combined risk pools to see the impact on premiums.

The overarching objective of the Connector should be to provide affordable health insurance coverage options to consumers. The decision to require separate programs or risk pools should be made with affordability as the priority.

First, no clear rationale has been offered to support the need for this provision. Neither Connector Board of Directors discussions nor testimony provide justification; except that it is the way Hawaii insurers currently treat these markets. This is insufficient reason to put into law a provision that is not necessary to operate the Connector.

Second, separate programs or risk pools within the Exchange would only be meaningful if insurers are required to treat these markets differently within their own health plan. What State agency would be responsible for enforcing this requirement has not been identified or discussed.

Finally, we encourage this committee to require the Hawaii Health Connector to seek professional and unbiased analysis of the impact of combined or separate markets on health insurance premiums. Again, affordability needs to be the objective. Little is known about those who make up the Connector's individual market. These are not just adults, but also children of parents who may have coverage through their employer but pay for dependent coverage themselves.

Prior to the passage of the Affordable Care Act, insurers charged individual's premiums based on their health status for individual health plan products (non-employer prepaid health care act coverage). This is known as medical underwriting. Individuals who have or have had past illnesses are considered a higher risk or cost to health insurers and are charged higher premiums. Some may have been charged premiums they could not afford, thus causing them to go uninsured. A better understanding of how these individuals will impact risk pools and the affordability of health insurance offered by the Connector is needed for informed policy making to occur.

THE NAVIGATOR: It is recommended that the language contained in this bill be less restrictive. To codify language that the Navigator only be a non-profit and to further restrict that federal funds received by the state to establish the connector shall not be used to fund grants to navigator may be contrary to HHS rules. According to the HHS, the navigator function is "**encouraged be an existing entity that has existing relationships, or could readily establish relationships with employers and employees, consumers (including uninsured and under insured consumers), or self-employed individuals likely to be eligible to enroll in an Exchange...We note that an entity need not have the ability to form relationships with all relevant groups in order to be eligible for Navigator funding; for example, an entity that can effectively conduct outreach to rural areas may not be as effective in urban areas.**" The HHS goes on to say that..."**we propose the general standard that Exchanges must award grant funds to public or private entities to serve as Navigators.**" FACE recommends that this committee defer decision on the Navigator program as contained in this bill until there is further public discussion at the Hawaii Health Connector Board level, once the permanent board is confirmed by the Senate. The need for the consumer navigation varies from Island to Island, region to region and the outreach need to each community and consumer or small business will vary.

Because of the diversity and potential need for both for-profit and non-profit Navigators, it may not be effective to codify that the Navigator only be a non-profit.

FACE would like to respectfully ask this committee to pass this measure with the suggested changes to facilitate further public discussion before final decisions on these important matters are codified. The public has been slow to engage in this discussion due to its complicated nature, but now that the public is aware of these important decisions, it is requested that we make changes that will benefit the true beneficiaries...The Consumer.

Rev. Bob Nakata  
Vice-Chair  
FACE Healthcare Committee



March 12, 2012

**TESTIMONY CONCERNING S.B. 2434 SD1**

From: HAWAII COALITION FOR HEALTH  
by Rafael del Castillo  
Submitted on the Capitol Website

To: House Committee on Health,  
Hon. Ryan I. Yamane, Chair; Hon. Dee Morikawa, Vice Chair

Hearing: March 13, 2012, 9:00 a.m. Conference Room 329

**Proposing Amendments for Consumer Protection**

Reps. Yamane and Morikawa, and honorable members of the Committee on Health

Thank you for the opportunity to submit testimony on Senate Bill 2434 SD1.

The Hawaii Coalition for Health celebrates the beginning of its sixteenth year advocating for Hawai'i's health consumers. HCFH has served on the Patient Bill of Rights and Responsibilities Task Force, the MedQUEST Advisory Committee, and has testified numerous times before the Legislature on matters of consumer interest and health insurance issues.

This Bill affects the organization and operation of Hawaii's health insurance exchange, one of the Affordable Care Act requirements. Insurance exchanges are essential to the successful implementation of universal health care coverage through the provisions of the Affordable Care Act. The exchanges correct longstanding inequities in the cost-sharing of universal coverage and quality of benefits affecting individuals and small businesses by standardizing plan benefits and cost-sharing, restraining premium growth, and reaching out to the uninsured. Consumer protection is thus a fundamental purpose of health insurance exchanges. By design, the health insurance exchanges will also have certain powers affecting competition in the insurance market. For the Hawaii health connector to have full credibility and effect, and protect the public interest, the law constituting its governing board and operations must guarantee that it fosters fair and robust competition in the exchanges, fully protects consumers and small businesses as intended by the Affordable Care Act and the implementing regulations, and that all of its business is fully transparent.

Representatives of insurers, agencies, and brokers cannot possibly be expected to serve two masters, protecting the interests of their employers or organizations, at the same time they are expected to protect consumers. Comprising the governing board of representatives of insurers will deprive it of essential credibility. Similarly, a governing board comprised of representatives of every insurer would be fewer than all insurers will be overshadowed by anticompetitive concerns because the board will be making decisions that affect whether the plans of competitors of the board members are admitted to the exchange. Lastly, the

transparency mandate in the present law is ambiguous as to scope, and thus may be difficult or impossible to enforce as intended. For these reasons, amendments to S.B. 2434 SD1 are necessary to ensure that Hawaii's health insurance exchange passes antitrust scrutiny and complies with the consumer protection mandates of the Affordable Care Act. The Hawaii health connector board should have clear authority to assemble an advisory committee from the insurers to provide information on medical loss, ratemaking, and benefits, as well as other industry-specific information and concerns. Participation by insurer representatives as voting members of the governing board is, however, not necessary and not advisable for the reasons stated above.

HCFH joins other organizations and individuals in recommending the attached amendments to section 3 of the Bill, which are integrated into the present structure. These amendments correct the constitution of the governing board, ensure transparency, and provide the board with clear authority to resort to an advisory committee comprised of non-voting representatives of insurers.

Aloha and thank you for your efforts on behalf of Hawaii's health care insurance consumers,

Hawaii Coalition for Health

A handwritten signature in black ink, appearing to read 'Rafael del Castillo', with a long horizontal flourish extending to the right.

by Rafael del Castillo

Senate Bill 2434 SD1  
Amendments to Section 3 of the Bill

SECTION 3. Section 435H-4, Hawaii Revised Statutes, is amended as follows:

1. By amending subsection (a) to read . . .

"(a) The Hawaii health connector shall be a nonprofit entity governed by a board of directors that shall comprise fifteen members appointed by the governor and with the advice and consent of the senate pursuant to section 26-34; provided that the governor shall submit nominations to the senate for advice and consent no later than February 1 , 2012<sup>[5]</sup>, and no later than February 1 in any year thereafter in which nominations are made; and provided further that the senate shall timely advise and consent to nominations for terms to begin July 1, 2012 <sup>[5]</sup>, and no later than July 1 in any year thereafter in which nominations are made. Members of the interim board shall be eligible for appointment to the board."

2. By amending subsection (c) to read:

"(c) Board members shall serve staggered terms [~~and the interim board shall recommend an appropriate schedule for staggered terms; provided that this~~] and shall be appointed to terms of four years; provided that of the initial appointees, five shall be appointed to a two-year term, and five shall be appointed to a three-year term. Each member shall hold office until the member's successor is appointed and qualified. This subsection shall not apply to ex-officio members, who shall serve during their entire term of office."

3. By amending subsection (b) to read:

(b) The membership of the board shall reflect geographic diversity and the diverse interests of stakeholders, representing consumer interests, including consumers who are beneficiaries, advocates for enrolling hard to reach populations, trade associations and other organizations representing the interests of small businesses, and organizations whose primary



mission is to advocate for consumers. [~~including consumers, employers, insurers, and dental benefit providers~~]. A member of the board or staff of the Hawaii health connector shall not, while serving on the board or the staff of the Hawaii health connector, be employed by, a consultant to, a member of the board of directors of, affiliated with, or otherwise a representative of, an insurer, an agent or broker, a board member, or an employee of a trade association of insurers, a health care provider who has an ownership interest in a professional health care practice receiving compensation for rendering services as a health care provider, or a health care facility or health clinic. The director of commerce and consumer affairs or the director's designee, the director of health or the director's designee, the director of human services or the director's designee, and the director of labor and industrial relations or the director's designee shall be ex-officio, voting members of the board.

4. By amending subsection (f) to read:

(f) The board shall maintain transparency of board actions, including public disclosure and posting of board minutes on the connector's website according to provisions adopted by the legislature [~~based on recommendations of the interim board~~]. The functions of the Hawaii health connector are of such significance to the public that all of its business shall be conducted in accordance with the Sunshine Law, §§ 92-1 to 92-13.

5. By adding subsection (g) to read:

(g) The board shall have authority to constitute a standing committee comprised of one or more representatives from each insurer, and one or more agents or brokers, to provide information to the board.

## **morikawa2 - Grant**

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Monday, March 12, 2012 11:24 AM  
**To:** HLTtestimony  
**Cc:** rmiller@aya.yale.edu  
**Subject:** Testimony for SB2434 on 3/13/2012 9:00:00 AM

Testimony for HLT 3/13/2012 9:00:00 AM SB2434

Conference room: 329  
Testifier position: Oppose  
Testifier will be present: No  
Submitted by: Richard S. Miller  
Organization: Hawaii Coalition for Health  
E-mail: [rmiller@aya.yale.edu](mailto:rmiller@aya.yale.edu)  
Submitted on: 3/12/2012

**Comments:**

I oppose the bill because (1) it permits those who have a serious conflict of interest, particularly health insurers, agencies and brokers and others who stand to benefit financially from decisions which are not in the patients' interest, to serve on the governing board and (2) it does not require the application of our Sunshine Laws to the board's actions and decisionmaking.

I strongly recommend that THIS PIECE OF SELF-SERVING HEALTH INSURER AND ANTI-PATIENT NONSENSE BE REPLACED WITH THE AMENDMENTS SUGGESTED BY THE AARP, THE AMERICANS FOR DEMOCRATIC ACTION, AND THE HAWAII COALITION FOR HEALTH!

Richard S. Miller, Prof. of Law, Emer., Consultant, Hawaii Coalition for Health, and Board Member, Kokua Council

## **morikawa2 - Grant**

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Monday, March 12, 2012 11:43 AM  
**To:** HLTtestimony  
**Cc:** babyjean@hotmail.com  
**Subject:** Testimony for SB2434 on 3/13/2012 9:00:00 AM

Testimony for HLT 3/13/2012 9:00:00 AM SB2434

Conference room: 329  
Testifier position: Support  
Testifier will be present: Yes  
Submitted by: Ronnie Perry  
Organization: Individual  
E-mail: [babyjean@hotmail.com](mailto:babyjean@hotmail.com)  
Submitted on: 3/12/2012

Comments:

## **morikawa2 - Grant**

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Monday, March 12, 2012 12:11 PM  
**To:** HLTtestimony  
**Cc:** manis@lava.net  
**Subject:** Testimony for SB2434 on 3/13/2012 9:00:00 AM

Testimony for HLT 3/13/2012 9:00:00 AM SB2434

Conference room: 329  
Testifier position: Comments Only  
Testifier will be present: No  
Submitted by: Laura Manis  
Organization: Individual  
E-mail: [manis@lava.net](mailto:manis@lava.net)  
Submitted on: 3/12/2012

**Comments:**

This bill does not include consumers only industry representatives. Please amend the bill to include the people most effected and ake it subject to the sunshine law.

**morikawa2 - Grant**

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**From:** John Bickel [jbickel15@yahoo.com]  
**Sent:** Monday, March 12, 2012 2:49 PM  
**To:** Gail Breakey; HLTtestimony  
**Cc:** alf  
**Subject:** Re: SB 2434, SD1

Thank you Gail!  
John

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**From:** Gail Breakey <gbreakey@gmail.com>  
**To:** [HLTtestimony@capitol.hawaii.gov](mailto:HLTtestimony@capitol.hawaii.gov)  
**Cc:** John Bickel <jbickel15@yahoo.com>; alf <alf@akademe.net>  
**Sent:** Monday, March 12, 2012 1:26 PM  
**Subject:** Re: SB 2434, SD1

Resubmitting testimony on SB 2434 with the referenced amendment.

Gail Breaker

On Mon, Mar 12, 2012 at 1:13 PM, Gail Breakey <gbreakey@gmail.com> wrote:

> Forwarding testimony on SB2434, SD1 relating the the Health Care  
> Exchange. This testimony is in support of a proposed amendment to  
> the bill, I will not be able to attend this hearing.

>

> Cell: 226-4817

>

> --

> Gail Breakey, Executive Director  
> Hawaii Family Support Institute  
> MBT School of Social Work, University of Hawaii  
> 1800 East West Road, Henke Hall Room 215  
> Honolulu, HI 96822  
> Phone: 808.956.3384  
> Fax: 808.956.5964

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