



**STATE OF HAWAII
DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS**

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March 22, 2011

To: The Honorable Ryan I. Yamane, Chair
and Members of the Committee on Health

The Honorable Karl Rhoads, Chair
And Members of the Committee on Labor and Public Employment

Date: Tuesday, March 22, 2011
Time: 11:00 a.m.
Place: Conference Room 329, State Capitol

From: Dwight Y. Takamine, Director
Department of Labor and Industrial Relations

Testimony in Support of

Re: S.B. No. 41 S.D. 1 Relating to the Hawaii Prepaid Health Care Act

I. OVERVIEW OF PROPOSED LEGISLATION

Current federal legislation mandating national health care coverage for all legal residents by January 1, 2014 is still undergoing Congressional review with possible further amendment. Although this national discussion may result in better health care, the program has yet to prove itself, whereas Hawaii's Prepaid Health Care law has been in effect for almost four decades and the better health enjoyed by its citizenry ably validates it as a successful social welfare program. To ensure the program continues to thrive regardless of the probable changes in the federal legislation, the proposed bill seeks to delete from the statute Section 393-51 that allows for the termination of the Prepaid Health Care Act upon the effective date of federal legislation for health care. The bill also seeks to repeal the 1994 Act 99, which also provided for the repeal of Section 393-51 but bore conflictive language.

II. CURRENT LAW

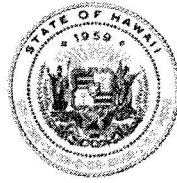
The 1974 legislation of Act 210 effective January 1, 1975, provided the working uninsured with quality mandated health care benefits and maintained the prevailing

standards for those employees already fortunate to have medical coverage. The law requires employers to insure their workers upon attainment of eligibility. As a result of the reform, Hawaii's workers and their families constitute one of the healthiest populations in the nation today. In anticipation of national health care reform that would presumably provide greater federal protections, Act 210 included a sunset provision to be implemented upon the effective date of the federal legislation. Subsequently, discussions on the implementation and costs of a national health program raised the question as to whether the high quality of medical benefits enjoyed by Hawaii's workers were in jeopardy. In 1994, the Prepaid Health Care Act was amended with Act 99 repealing the statute's termination provision. However, the repeal was made subject to a requisite amendment of the federal Employee Retirement Income Security Act of 1974 (ERISA) that would allow for the "substantive" change to the Hawaii law. There has been no federal legislation to amend ERISA.

III. SENATE BILL

The Department supports the intent to maintain the integrity of the Prepaid Health Care Act. Congressional review of the federal legislation appears imminent with further amendment very possible, and such amendment may not preserve the level of high quality health care currently enjoyed by Hawaii's citizens.

The Department notes, however, that substantive changes to the Hawaii Prepaid Health Care Act are subject to preemption by the federal Employee Retirement Income Security Act (ERISA).



NEIL ABERCROMBIE
GOVERNOR

BRIAN SCHATZ
LT. GOVERNOR

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KEALI'I S. LOPEZ
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EVERETT KANESHIGE
DEPUTY DIRECTOR

**TO THE HOUSE COMMITTEE ON HEALTH AND
LABOR & PUBLIC EMPLOYMENT**

TWENTY-SIXTH LEGISLATURE
Regular Session of 2011

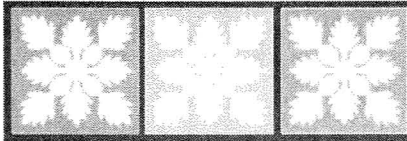
Tuesday, March 22, 2011
11 a.m.

**TESTIMONY ON SENATE BILL NO. 41, S.D. 1 – RELATING TO THE HAWAII
PREPAID HEALTH CARE ACT.**

**TO THE HONORABLE RYAN I. YAMANE AND KARL RHOADS, CHAIRS, AND
MEMBERS OF THE COMMITTEES:**

My name is Gordon Ito, State Insurance Commissioner, testifying on behalf of the Department of Commerce and Consumer Affairs ("Department"). The Department defers to the Department of Labor and Industrial Relations on this bill, which repeals the sunset provision in the Hawaii Prepaid Health Care Act.

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



Hawaii Association of Health Plans

March 22, 2011

The Honorable Ryan Yamane, Chair
The Honorable Karl Rhoads, Chair

House Committees on Health and Labor and Public Employment

Re: SB 41 SD1 – Relating to the Hawaii Prepaid Health Care Act

Dear Chair Yamane, Chair Rhoads and Members of the Committees:

My name is Howard Lee and I am President of the Hawaii Association of Health Plans (“HAHP”). HAHP is a non-profit organization consisting of eight (8) member organizations:

AlohaCare	Kaiser Permanente
Hawaii Medical Assurance Association	MDX Hawai‘i
HMSA	University Health Alliance
Hawaii-Western Management Group, Inc.	UnitedHealthcare

Our mission is to promote initiatives aimed at improving the overall health of Hawaii. We are also active participants in the legislative process. Before providing any testimony at a Legislative hearing, all HAHP member organizations must be in unanimous agreement of the statement or position.

HAHP appreciates the opportunity to provide testimony in support of SB 41 SD1 which would repeal the sunset clause from Hawaii’s Prepaid Health Care Act (PHCA).

Hawaii is unique in the nation when it comes to the provision of health care. Under the PHCA, the state enjoys a lower uninsured rate than most of the country, experiences lower premiums on average and provides for comprehensive benefits for those receiving employer-based coverage. Despite passage of federal health care reform know as the Affordable Care Act (ACA), there are many in the community who believe that the PHCA should remain intact, as its provisions, in many regards are stronger than those required by the ACA.

We believe that removing the sunset provision from the PHCA will assist in its preservation and therefore we respectfully urge the Committee to support this measure.

Sincerely,

Howard Lee
President

• AlohaCare • HMAA • HMSA • HWMG • Kaiser Permanente • MDX Hawaii • UHA • UnitedHealthcare •
HAHP c/o Howard Lee, UHA, 700 Bishop Street, Suite 300 Honolulu 96813
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HMSA



An Independent Licensee of the Blue Cross and Blue Shield Association

March 22, 2011

The Honorable Ryan Yamane, Chair
The Honorable Karl Rhoads, Chair
House Committees on Health and Labor & Public Employment

Re: SB 41 SD1 – Relating to the Hawaii Prepaid Health Care Act

Dear Chair Yamane, Chair Rhoads, and Members of the Committees:

The Hawaii Medical Service Association (HMSA) supports SB 41 SD1 which would repeal Section 393-51, Hawaii Revised Statutes, the termination provision in the State's Prepaid Health Care Act (PHCA). This Bill also repeals Act 99, Session Laws of Hawaii 1994, which would repeal that statutory termination upon specific federal action.

Through a federal exemption from the Employee Retirement Income Security Act (ERISA), residents in Hawaii have benefitted from expanded health care coverage under a unique and successful employer health care mandate that has been in place for more than 30 years – the PHCA. The overall impact of the law since 1974 has been the maintenance of relatively robust private benefit plans, low rates of uninsured, and some of the lowest premiums in the country. While Hawaii suffers from some of the same issues relative to access, quality and cost as states across the country, the PHCA has been the backbone over the years ensuring system stability and moderation of problems in health care delivery and finance.

Although the current ERISA exemption has been preserved in the Affordable Care Act (ACA), it may unintentionally be jeopardized without further federal- and state-level legislative fixes prior to the implementation of the mandated health insurance exchange. As in other states, the Legislature is considering measures to create Hawaii's health exchange, the entity through which individuals may shop for an appropriate health plan. But, while the states scramble to address the ACA, the shift in the balance of power in Washington confounds those efforts and confuses what health care reform eventually will cover.

Hawaii's prepaid system is established and proven to be effective. There must be coordination of PHCA and the ACA, specifically with respect to how PHCA will work in tandem with the exchange. Resolution of this uncertainty would ensure that Hawaii's businesses, insurers, and residents understand the way in which they should invest their limited resources. The provisions of SB 41 SD 1 offer a simple, single step to maintain the premium health care that the majority of people in Hawaii already enjoy.

We are informed that there are concerns about the impact of the provisions of this Bill on Hawaii's ERISA exemption. We are advised that, even if the provisions of this Bill were to be preempted by ERISA, the remainder of PHCA would remain intact, and the immunity given to PHCA from ERISA would continue to apply. We are continuing to dialogue with the State Attorney General and his staff on this legislation and certainly appreciate their willingness to consider the importance of this issue.

Thank you for the opportunity to testify on SB 41 SD1, and we ask for your favorable consideration.

Sincerely,

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

Jennifer Diesman
Vice President
Government Relations

Hawaii Medical Service Association

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HOUSE COMMITTEE ON HEALTH
Rep. Ryan Yamane

HOUSE COMMITTEE ON LABOR & PUBLIC EMPLOYMENT
Rep. Karl Rhoads., Chair

Conference Room 329
March 22, 2011 at 11:00 a.m.

Commenting on SB 41 SD 1.

The Healthcare Association of Hawaii advocates for its member organizations that span the entire spectrum of health care, including all acute care hospitals, as well as long term care facilities, home care agencies, and hospices. Our members employ more than 40,000 people statewide, delivering quality care to the people of Hawaii. The Healthcare Association takes no position on SB 41 SD 1, which repeals the sunset clause of the Prepaid Health Care Act (PHCA), and appreciates this opportunity to comment on it.

The Healthcare Association does not sit before this committee to speak in opposition to the PHCA. In Hawaii, the PHCA has been responsible for reducing the uninsured rate and maintaining one of the lowest uninsured rates in the nation for nearly 30 years. It is understandable that there is an interest in preserving it.

Last year the Affordable Care Act (ACA) was signed into law. Its stated goal is to cover 95% to 97% of our residents. Although the law has been enacted, many of the rules have not yet been written. The ACA will become operational in stages, taking several years before it becomes fully effective.

Since there are so many specifics yet to be defined as the ACA becomes implemented, we believe that passage of SB 41 SD 1 in its current form would be premature, although we support continued dialog and are simply providing comments on the bill.



**Testimony to the House Committees on Health and
Labor & Public Employment
Tuesday, March 22, 2011 at 11:00 a.m.
Conference Room 329, State Capitol**

**RE: SENATE BILL NO. 41 SD1 RELATING TO HAWAII PREPAID HEALTH
CARE ACT**

Chairs Yamane and Rhoads, Vice Chairs Morikawa and Yamashita, and Members of the Committees:

My name is Jim Tollefson and I am the President and CEO of The Chamber of Commerce of Hawaii ("The Chamber"). The Chamber has comments on SB 41 SD1 relating to Hawaii Prepaid Health Care Act.

The Chamber is the largest business organization in Hawaii, representing more than 1,100 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.

This measure repeals the sunset provision of the Hawaii Prepaid Health Care Act. Repeals Act 99, Session Laws of Hawaii 1994, which repealed the sunset provision of the Hawaii Prepaid Health Care Act effective upon the enactment of certain federal law. Effective 7/1/2050. (SD1)

The Hawaii Legislature recognized in 1994 that it does not have the authority to substantively amend the Prepaid Health Care Act. This bill is a well meaning attempt to undo what was done, but like its predecessor cannot have any legal effect based on the narrow exception to the Employee Retirement Income Security Act (ERISA) granted Hawaii's law.

The Chamber believes the people of Hawaii need time to understand the benefits of the Affordable Care Act (ACA) passed last year before determining which model will hold down costs. When the Prepaid Health Care Act was passed, employees were expected to share equally in the cost of premiums capped at 1.5% of their income. We all recognize that health care costs exceed that percentage across the country and in Hawaii the differential is borne by businesses small and large. The extra costs could be alleviated partially under the ACA. However, as a community we need to have an open debate on whether the Prepaid Health Care Act or ACA is preferred.

The Chamber of Commerce is in favor of any measures that will foster that debate and serious discussion. Thank you for the opportunity to submit comments.

morikawa2 - Grant

From: Hardy Spoehr [HSpoehr@papaolalokahi.org]
Sent: Monday, March 21, 2011 7:15 AM
To: HLTtestimony
Subject: Testimony: SB 41, SD1

TESTIMONY: SB 41, SD1 Relating to the Hawaii Prepaid Health Care Act

Tuesday, March 22, 2011
11:00am
Conference Room 329
State Capitol

Papa Ola Lokahi, the Native Hawaiian Health Board, strongly supports this legislation.

Thank you

Hardy Spoehr, Executive Director
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