



# LATE TESTIMONY

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March 21, 2011

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

Committee on Labor & Public Employment  
Representative Karl Rhoads, Chair  
Representative Kyle Yamashita, Vice Chair

**Hearing:**

March 22, 2011, 11:00 a.m.  
Hawaii State Capitol, Conference Rm. 329

**RE: SB41, SD1 – Relating to Hawaii Prepaid Health Care Act**

**Testimony in Support**

Chair Yamane, Chair Rhoads and members of the committees. On behalf of the American Cancer Society Hawaii Pacific Inc., thank you for the opportunity to offer this testimony in support of SB 41, SD1, which would repeal the sunset provision of the Hawaii's Prepaid Health Care Act (PHCA).

For over 60 years, the American Cancer Society in Hawaii has led the fight against cancer in Hawaii, which takes the lives of almost 6,700 of our family members, friends, and co-workers each year. Nationally, approximately 1.5 million people will die of cancer this year. For this and other reasons, the American Cancer Society supported legislation that would offer meaningful improvements to the health care system for cancer patients, survivors, and their caregivers. Now that the Affordable Care Act is law, the Society is diligently working to ensure that it is implemented as strongly as possible for people with cancer and their families. Making the health care system work effectively for cancer patients will not only save lives, it will benefit the population as a whole.

When passed in 1974, Hawaii became the first state to enact laws creating a near universal health care coverage system. This system became the gold standard for the nation, and many of its provisions served as a blueprint for the healthcare reform and passage of the Patient Protection and Affordable Care Act (ACA).

**In passing the ACA, Congress granted Hawaii a waiver keeping our Prepaid Health Care Act intact:**

“(b) Rule of Construction Regarding Hawai’i’s Prepaid Health Care Act.- - Nothing in this title (or an amendment made by this title ) shall be construed to modify or limit the application of the exemption for Hawai’i Prepaid Health Care Act (Haw. Rev. Stat. 393-1 et seq.) as provided for under section 514(b)(5) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. § 1144(b)(5)).”

Also in 1974, Congress passed The Employee Retirement Income Security Act (ERISA). In doing so, Congress preempted the states from passing any law or making any rule to change any provision of ERISA, meaning that only Congress can act to make changes.

**Hawaii’s Prepaid Health Care Act – Termination Clause:**

**[§393-51 Termination of chapter.]** This chapter shall terminate upon the effective date of federal legislation that provides for voluntary prepaid health care for the people of Hawaii in a manner at least as favorable as the health care provided by this chapter, or upon the effective date of federal legislation that provides for mandatory prepaid health care for the people of Hawaii. [L 1974, c 210, pt of §2].

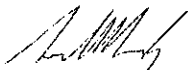
Since passage of the Affordable Care Act, there has been much discussion as to, if and when our prepaid health care would sunset - upon passage last year or in 2014, when various health insurance mandates kick in? Also, will removing the sunset provisions void the law in its entirety? Is it considered a substantive change? If so, what are the implications for Hawaii’s people and the business community? Does the waiver language in the ACA constitute Congress’ intent to allow the State of Hawaii to make changes to ERISA provisions in Hawaii? This concern still persists and resulted in a floor amendment being offered in the House and rejected.

During committee hearings in the Senate we offered comments regarding the questions noted above. We have investigated those issues further, and now fully support the repeal of the sunset provision.

In Hawaii, we have the advantage of our Prepaid Health Care Act, which, because of the exemption granted to it, should allow us to mix and match benefits and provisions, incorporating the best of both, as we address the myriad of implementation issues. By utilizing the best of both, we believe that Hawaii can maintain its predominance of having the best health insurance coverage and health delivery system in the United States.

Thank you for the opportunity to offer our testimony here today.

Respectfully,



George S. Massengale, JD  
Director of Government Relations

# AARP<sup>®</sup> LATE TESTIMONY

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

House Committee on Labor & Public Employment  
Representative Karl Rhoads, Chair

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

Re: **SB 41, SD1 – RELATING TO THE HAWAII PREPAID HEALTH CARE ACT**

Chair Yamane, Chair Rhoads, and Committee Members:

My name is Barbara Kim Stanton, State Director of AARP Hawaii. 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 **supports SB 41, SD1** which would repeal the sunset provision of the Hawaii Prepaid Health Care Act (PHCA) and Act 99, Session Laws of Hawaii 1994.

The Hawaii PHCA includes a provision repealing the law:

§ 393-51 Termination of Chapter. This Chapter shall terminate upon the effective date of federal legislation that provides for voluntary prepaid health care for the people of Hawaii in a manner at least as favorable as the health care provided by this chapter, or upon the effective date of federal legislation that provides for mandatory prepaid health care for the people of Hawaii.

The Legislature also enacted Act 99, Session Laws of Hawaii 1994, which repeals the Hawaii PHCA's termination clause upon the effective date of any federal act permitting an amendment of the Hawaii PHCA.

The federal government enacted the Patient Protection and Affordable Care Act in 2010 which may cause the termination of the Hawaii PHCA due to the sunset provision in the law. However, it is vital that Hawaii's PHCA should remain in place while the federal laws are fully enacted. The Hawaii PHCA contains many provisions which were groundbreaking and should be used as the minimum "floor" for any federal legislation. Furthermore, as the federal Patient Protection and Affordable Care Act is implemented and potentially revised, the Hawaii PHCA provides the state with assurance that baseline provisions will continue, and not be prematurely terminated.

AARP strongly supports the implementation of the Patient Protection and Affordable Care. However, until it is fully implemented we feel that it is in Hawaii's best interest to continue and take advantage of the provisions in Hawaii's PHCA that has resulted in a near universal health care coverage system in Hawaii. AARP therefore strongly supports SB 41, SD1.

Thank you for the opportunity to testify.