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TO THE HOUSE COMMITTEE ON HEALTH

TWENTY-SEVENTH LEGISLATURE  
Regular Session of 2014

Wednesday, January 29, 2014  
8:45 a.m.

**TESTIMONY ON HOUSE BILL NO. 2531 – RELATING TO THE HAWAII HEALTH INSURANCE EXCHANGE.**

TO THE HONORABLE DELLA AU BELATTI, CHAIR, AND MEMBERS OF THE COMMITTEE:

My name is Gordon Ito, State Insurance Commissioner, testifying on behalf of the Department of Commerce and Consumer Affairs (“Department”). The Department supports the intent of the bill, which creates transparency requirements for the Hawaii Health Connector (the “Connector”), but opposes the proposed Section 435H-B and offer the following comments:

On page 1 of the bill at line 5, there is a reference to the commissioner of the health insurance exchange. The exchange is not run by the insurance commissioner or any other commissioner, but by a board of directors.

The proposed Section 435H-B, starting on page 3, line 19 following through to the start of page 5 creates a public meeting requirement in conjunction with the qualification of health plans for the Connector. Presently, rate and form filings are public documents once it is filed. Under the Patient Protection and Affordable Care Act, short timeframes are set to review, approve and qualify health plans to be sold on the Connector. Imposing requirements contained in the proposed 435H-B may make it

**House Bill No. 2531**  
**DCCA Testimony of Gordon Ito**  
**Page 2**

impossible to meet the deadlines which must be met in order to properly qualify health plans for offering on the Connector.

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

# OFFICE OF INFORMATION PRACTICES

STATE OF HAWAII  
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To: House Committee on Health

From: Cheryl Kakazu Park, Director

Date: January 29, 2014, at 8:45 a.m.  
State Capitol, Conference Room 329

Re: Testimony on H.B. No. 2531  
Relating to the Hawaii Health Insurance Exchange

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Thank you for the opportunity to submit testimony on this bill. The Office of Information Practices (“OIP”) takes no position on the intended effect of this bill, which is to require the Hawaii Health Insurance Exchange board to comply with open meeting and notice provisions, but OIP is testifying to point out serious technical problems with the bill.

This bill copies selected open meeting, minutes, and notice requirements from the Sunshine Law, part I of chapter 92, HRS, into a new section 435H-A, HRS, and copies the Sunshine Law’s enforcement provisions into new sections 435H-D, -E, and -F, HRS. The **effect** would be to require the board to hold public meetings, hear testimony, give notice, and keep minutes, **similar to what is required for Sunshine Law boards, but with several significant differences.**

First, **this proposal would not allow the board to hold closed meetings for specified purposes, as is permitted for Sunshine Law boards.** Every board meeting would have to be fully public, with no exceptions for discussion of, for instance, matters made confidential by another statute, matters affecting an

employee's privacy, consultation with the board's attorney, or other purposes that would allow a Sunshine Law board to hold a closed session.

Second, **this proposal does not provide for any permitted interactions between board members outside a meeting.** Since the proposal also does not include the Sunshine Law's definitions of terms, which set out the difference between a "meeting" of a board to discuss official business and a "chance meeting" at which official business is not discussed, it is unclear whether the effect of this omission would be to bar all communication of any sort between members outside a meeting, or to allow unlimited communication by members so long as they did not call it a "meeting."

Third, the **proposed requirements would not be subject to OIP's jurisdiction**, because they are not actually within the Sunshine Law. Thus, there would be no avenue for members of the public to make complaints to OIP about the board's adherence to these requirements, and no guidance from OIP regarding the requirements. Furthermore, the provision at bill page 6 lines 4-7 stating that OIP opinions would be admissible and serve as precedent in court actions makes no sense, given that OIP's Sunshine Law opinions would be, at most, persuasive with regard to this similar but separate law that OIP would not administer.

If this Committee wishes to require this board to follow the Sunshine Law's open meeting and other requirements, **OIP would suggest that it would be simpler and more effective to simply provide that "The board shall be subject to part I of chapter 92,"** as the proposed language of this bill is confusing and incomplete. By simply referencing the Sunshine Law as OIP suggests, then any future amendments to the law would apply to the Hawaii Health Insurance Exchange board and OIP could provide consistent advice, training, and interpretation of the law to the board.

Thank you for the opportunity to testify.



**LATE**

The Honorable Della Au Belatti  
Chair, Committee on Health

Re: Testimony regarding H.B. 2531, Relating to the Hawai'i Health Insurance Exchange.

Hearing scheduled for January 29, 2014, at 8:45 a.m.

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Chair Belatti and members of the Committee on Health,

My name is Tom Matsuda, Interim Executive Director of the Hawai'i Health Connector (the "Connector"), speaking on behalf of the Connector and its Board of Directors.

The first part of H.B. 2531 seeks to amend H.R.S. 435H to require the Connector to adopt specific actions or procedures related to the Board of Directors meetings and annual reports in order to provide greater transparency to the public and to the Legislature. The proposed requirements are similar to existing procedures already followed by the Connector, and the differences are relatively minor. Therefore, should these proposed changes be approved by the Legislature, the Connector will be ready and able to implement them.

Page 1, Section 1 of H.B. 2531 refers to the "*commissioner of the Hawaii health insurance exchange*" keeping minutes of the meeting. If that section is referring to minutes of the Connector Board meetings, then "*commissioner*" should be changed to "*the board*" to be consistent with Page 2, Section 2(e) of the bill. If, however, Section 1 is referring to minutes of the public meetings to be held by the Insurance Commissioner under proposed Section 435H-B on page 3 of the bill, then the language in Section 1 should be changed to "*Under this Act, the commissioner will be required to keep written minutes of the meetings convened to consider and approve all qualified health plans for the Hawaii health insurance exchange.*"

The Connector supports the underlying rationale for the proposed changes to H.R.S. 435H. As a grantee of federal funds under the Patient Protection and Affordable Care Act, and as the designated entity under H.R.S. 435H to implement the online health insurance marketplace for Hawai'i, we understand the importance of transparency, public input, and accountability for the use of public funds.

Thank you for the opportunity to provide comments on this bill.



To: Committee on Health  
Representative Della Au Belatti, Chair

Date: January 29, 2014, Conference Room 329, 8:45 a.m.

Re: **HB 2531 – RELATING TO THE HAWAII HEALTH INSURANCE EXCHANGE**

Chair Belatti and Committee Members:

AARP is a membership organization of people 50 and older with nearly 150,000 members in Hawaii. AARP fights on issues that matter to Hawaii families, including the high cost of long-term care; 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 strongly supports HB 2531 - Relating to the Hawaii Health Insurance Exchange.** This bill requires the Hawaii Health Connector to comply with open meeting and notice provisions and provide an annual report to the legislature.

AARP has the following comments on the proposed amendments to Chapter 435H, Hawaii Revised Statutes:

§435H-A Open meetings; board of directors; notices; agenda

AARP supports the proposed amendments and requests the applicability of these provisions to standing committees as well as board meetings. While the public is invited to board meetings, much of the discussions and deliberations are out of the public view in Executive Sessions which account for approximately 25%-35% of time at board meetings. The public has no knowledge of discussions and decisions made at standing committee meetings and is not invited to attend or view meeting minutes.

While public comment is allowed at board meetings, the public often cannot provide meaningful input as they are not routinely provided access to reports and documents prior to being discussed at board meetings.

Thank you for the opportunity to provide testimony.



**HPCCA**

HAWAII PRIMARY CARE ASSOCIATION

**LATE**

**House Committee on Health**

The Hon. Della Au Belatti, Chair

The Hon. Dee Morikawa, Vice Chair

**Testimony on House Bill 2531**

**Relating to Hawaii Health Insurance Exchange**

**Submitted by Robert Hirokawa, Chief Executive Officer**

**January, 29, 2014, 8:45 am, Room 329**

The Hawaii Primary Care Association (HPCA), which represents the federally qualified community health centers in Hawaii, supports House Bill 2531, which seeks to enforce added open meeting and notice provisions on the Hawaii Health Connector.

The Hawaii Health Connector was formed under the Affordable Care Act, which provided federal dollars for its construction and initial implementation. In addition, the Act taxed the Connector with providing an open and accessible marketplace for all consumers to compare and purchase health insurance.

As such, the HPCA supports sections of HB 2531 that make all Connector business open to the public. This includes open meeting notices and a system to allow concerned members of the public to submit testimony on any Connector board meeting agenda. Such measures are vital for the protection of Hawaii's Health consumers.

For these reasons the HPCA supports this measure and thanks you for the opportunity to testify.

**HB2531**

Submitted on: 1/29/2014

Testimony for HLT on Jan 29, 2014 08:45AM in Conference Room 329



Submitted By	Organization	Testifier Position	Present at Hearing
Scott Wall	Community Alliance for Mental Health	Support	No

Comments: to: House Health Aloha Chair Belatti and members of the committee, On behalf of the Community Alliance for Mental Health along with United Self Help supports the passage of HB2531. The failure of the Connector to be completely "Sunshine," compliant certainly contributed to the failure of the Hawai'i Health Connector as a non-profit entity. Scott Wall VP/Legislative Advocacy Community Alliance for Mental Health

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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