
A BILL FOR AN ACT

RELATING TO THE HAWAII HEALTH CONNECTOR.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Health insurance exchanges are a central
2 component of the federal Patient Protection and Affordable Care
3 Act, and the federal act gives states broad discretion in
4 establishing the structure and governance of their own
5 exchanges. The legislature finds that the Hawaii health
6 connector was established by Act 205, Session Laws of Hawaii
7 2011, as Hawaii's health insurance exchange and was charged with
8 the responsibility of implementing applicable parts of the
9 federal act.

10 The successful and efficient operation of the Hawaii health
11 connector is essential for the State, health insurers, and
12 insured persons in Hawaii to comply with the new requirements of
13 the federal act. The legislature also finds that the Hawaii
14 health connector was established as a private nonprofit entity,
15 rather than a state agency, to provide the connector with a
16 certain degree of freedom and autonomy in establishing and
17 operating the State's health insurance exchange.



1 However, the legislature believes that evolving federal
2 health care regulations and the need for greater transparency
3 and oversight over Hawaii's health insurance exchange
4 necessitate that the State revise the structure of the Hawaii
5 health connector's board of directors. The legislature also
6 believes that it should take a proactive oversight role to
7 monitor the connector and review its financial and operational
8 plans.

9 The legislature finds that the Hawaii health connector is
10 the health insurance exchange for the State. The legislature
11 also finds and declares that financial support of the Hawaii
12 health connector as a state exchange to preserve the Hawaii
13 Prepaid Health Care Act of 1974 is a compelling interest for the
14 public health, safety, and general welfare of the State. It is,
15 therefore, the desire of the legislature that the Hawaii health
16 connector be officially designated as the State of Hawaii health
17 insurance exchange.

18 The designation shall not impinge on the autonomy of the
19 Hawaii health connector, nor imply state control over its
20 programs or policies, except as specifically provided.

21 The purpose of this Act is to:



- 1 (1) Provide for greater transparency, stakeholder
- 2 engagement, and legislative involvement in the
- 3 activities of the Hawaii health connector; and
- 4 (2) Appropriate general funds to provide for the
- 5 sustainability of the Hawaii health connector.

6 SECTION 2. Chapter 435H, Hawaii Revised Statutes, is
 7 amended by adding five new sections to be appropriately
 8 designated and to read as follows:

9 **§435H-A Hawaii health connector.** The official
 10 designation of the Hawaii health connector shall be the State of
 11 Hawaii health insurance exchange. The qualifying standards and
 12 conditions relating to the receipt of funds contained in chapter
 13 42F shall apply to the funds received by the State of Hawaii
 14 health insurance exchange.

15 **§435H-B Connector legislative oversight committee.** (a)
 16 There is established the connector legislative oversight
 17 committee.

18 (b) The oversight committee shall consist of eight members
 19 who shall include:

20 (1) The chair of the house standing committee on consumer
 21 protection and commerce;

22 (2) The chair of the house standing committee on health;



- 1 (3) The chair of the house standing committee on finance;
- 2 (4) The chair of the senate standing committee on commerce
- 3 and consumer protection;
- 4 (5) The chair of the senate standing committee on health;
- 5 (6) The chair of the senate standing committee on ways and
- 6 means;
- 7 (7) One member of the minority party of the house, to be
- 8 selected by the minority party leader; and
- 9 (8) One member of the minority party of the senate, to be
- 10 selected by the minority party leader.
- 11 (c) The chairs of the house committee on consumer
- 12 protection and commerce and the senate committee on commerce and
- 13 consumer protection shall serve as the co-chairs of the
- 14 committee.
- 15 (d) The committee shall meet at least annually as agreed
- 16 upon by the co-chairs; provided that the committee shall meet no
- 17 later than December 1 of each year.
- 18 (e) The committee shall annually review the report
- 19 pursuant to section 435H-C and the sustainability plan pursuant
- 20 to section 435H-D that are submitted by the board and shall make
- 21 recommendations as needed to the house committee on finance and
- 22 the senate committee on ways and means.



1 §435H-C Reports; submission to the connector legislative
2 oversight committee. (a) No later than twenty days prior to
3 the convening of the regular session of 2015, the board shall
4 prepare and submit a report to the connector legislative
5 oversight committee with updates on the sustainability plan of
6 the connector, including specific efforts to reduce costs
7 related to contracted services and other actions.

8 (b) No later than twenty days prior to the convening of
9 the regular session of 2016 and the convening of each regular
10 session thereafter, the board shall prepare and submit a report
11 to the connector legislative oversight committee updating the
12 committee on the connector's sustainability plan and the results
13 of efforts to reduce costs related to contracted services and
14 other actions.

15 (c) No later than twenty days prior to the start of each
16 fiscal year of the connector, the board shall submit a copy of
17 any federal audit reports to the connector legislative oversight
18 committee; provided that if a federal audit report cannot be
19 provided by this date, the board shall submit a copy of the
20 federal audit report as soon as the federal audit report is
21 complete.



1 (d) No later than twenty days prior to the start of each
2 fiscal year of the connector, the board shall submit a copy of
3 the annual financial statements of the connector to the
4 connector legislative oversight committee.

5 **§435H-D Hawaii health connector annual sustainability**

6 **plan.** (a) Until June 30, 2018, the board shall submit a
7 sustainability plan to the connector legislative oversight
8 committee no later than ninety days prior to the start of each
9 fiscal year of the connector. The sustainability plan shall
10 specify the amount of funding required to finance the operations
11 and cash reserve of the connector for each ensuing fiscal year
12 beginning on July 1; provided that the balance of the cash
13 reserves shall not exceed the value of the cost of six months of
14 administering and operating the connector.

15 (b) The sustainability plan submitted pursuant to
16 subsection (a) shall include:

- 17 (1) A detailed itemized budget based upon zero-based
18 budgeting principles for the upcoming fiscal year; and
19 (2) A detailed sustainability plan that includes a three-
20 year budget projection for the upcoming three fiscal
21 years.



1 For the purposes of formulating the budget, "zero-based
2 budgeting principles" means that the Hawaii health connector
3 shall justify all projected allocations and expenditures,
4 starting with an initial balance of zero dollars to spend.

5 (c) After June 30, 2018, the board shall not be required
6 to file a sustainability plan pursuant to subsection (a).

7 **§435H-E Agents and brokers.** (a) Connector-certified
8 insurance agents and brokers may enroll individuals and
9 employers in qualified plans through the connector and assist
10 individuals and employers in applying for applicable premium tax
11 credits and cost-sharing reductions for which they may be
12 eligible.

13 (b) If a health insurance plan utilizes and compensates an
14 insurance agent or broker, the Hawaii health connector shall not
15 be responsible for any compensation to that agent or broker that
16 sells a qualified health plan through the connector. The issuer
17 of the qualified health plan shall bear all compensation to an
18 agent or broker that sells a qualified health plan through the
19 connector."

20 SECTION 3. Section 435H-2, Hawaii Revised Statutes, is
21 amended as follows:

22 1. By amending subsections (a) and (b) to read:



1 "(a) There is established the Hawaii health insurance
 2 exchange to be known as the Hawaii health connector. The
 3 connector shall not be an agency of the State and shall not be
 4 subject to laws or rules regulating rulemaking, public
 5 employment, or public procurement. The connector shall be a
 6 Hawaii nonprofit corporation organized and governed pursuant to
 7 chapter 414D, the Hawaii nonprofit corporations act. The debts
 8 and liabilities of the connector shall not constitute the debts
 9 and liabilities of the State.

10 (b) The purposes of the connector shall include:
 11 (1) Facilitating the purchase and sale of qualified plans
 12 and qualified dental plans;
 13 (2) Connecting consumers to the information necessary to
 14 make informed health care choices; [~~and~~]
 15 (3) Enabling consumers to purchase coverage and manage
 16 health and dental plans electronically[~~-~~]; and
 17 (4) Performing any and all other duties required of a
 18 health insurance exchange pursuant to the Federal
 19 Act."

20 2. By amending subsection (d) to read:

21 "(d) The connector shall be audited annually by the state
 22 auditor who shall submit the results of each annual audit to the



1 commissioner and the legislature no later than thirty days after
2 the connector receives the results. The audit shall comply with
3 standard accounting practices for reviewing nonprofit
4 corporations. The connector shall provide the state auditor
5 with the opportunity to inspect and make copies of documents for
6 the purposes of providing a financial audit for the legislature.
7 The connector shall retain all annual audits on file, along with
8 any documents, papers, books, records, and other evidence that
9 is pertinent to its budget and operations for a period of ten
10 years and shall permit the state auditor, the commissioner, the
11 state legislature, or their authorized representatives to have
12 access to, inspect, and make copies of any documents retained
13 pursuant to this subsection."

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

16 "~~[+]§435H-3[+]~~ **Funding.** (a) The connector may receive
17 contributions, grants, endowments, fees, or gifts in cash or
18 otherwise from public and private sources including
19 corporations, businesses, foundations, governments, individuals,
20 and other sources subject to rules adopted by the board. The
21 State may appropriate moneys to the connector. As required by
22 section 1311(d)(5)(A) of the Federal Act, the connector shall be



1 self-sustaining by January 1, 2015, and may charge assessments
2 or user fees to participating health and dental carriers, or may
3 otherwise generate non-insurer based funding to support its
4 operations. Moneys received by or under the supervision of the
5 connector shall not be placed into the state treasury and the
6 State shall not administer any moneys of the connector nor be
7 responsible for the financial operations or solvency of the
8 connector.

9 (b) In addition to any other means of generating revenue
10 pursuant to subsections (a) and (c), the connector may sell or
11 lease its information technology infrastructure and services to
12 other separate non-connector programs; provided that the sale or
13 lease is in compliance with federal regulations.

14 (c) In addition to any other means of generating revenue
15 pursuant to subsections (a) and (b), the connector may also
16 charge fees for displaying advertisements for ancillary services
17 on the connector's website.

18 (d) All plans to generate revenue for the connector shall
19 be in compliance with federal law."

20 SECTION 5. Section 435H-4, Hawaii Revised Statutes, is
21 amended to read as follows:



1 **"§435H-4 Board of directors; composition; operation. (a)**

2 The Hawaii health connector shall be a nonprofit entity governed
3 by a board of directors that shall [~~comprise fifteen members~~
4 ~~appointed by the governor and with the advice and consent of the~~
5 ~~senate pursuant to section 26-34; provided that the governor~~
6 ~~shall submit nominations to the senate for advice and consent no~~
7 ~~later than February 1, 2012; and provided further that the~~
8 ~~senate shall timely advise and consent to nominations for terms~~
9 ~~to begin July 1, 2012. Members of the interim board shall be~~
10 ~~eligible for appointment to the board.~~] be composed of nine
11 voting members and five ex officio members. There shall be no
12 board members representing insurers or dental benefit providers;
13 provided that the board may establish a subcommittee of
14 representatives from all providers of health care insurance and
15 dental benefits to provide technical assistance and other
16 information to the connector on relevant insurance matters. The
17 board may establish other subcommittees to assist the connector
18 with implementation of the Federal Act, as appropriate.

19 (b) For each vacant position on the board, the board,
20 speaker of the house of representatives, and the president of
21 the senate shall each submit to the governor the names of two
22 qualified nominees. The governor shall appoint members of the



1 board, subject to the advice and consent of the senate and
2 pursuant to section 26-34, from this list of qualified nominees.
3 Board members whose terms are expiring may be reappointed for an
4 additional term to assist with continuity of the board.

5 ~~[(b)]~~ (c) The membership of the board shall reflect
6 geographic diversity and the diverse interests of stakeholders
7 ~~[including consumers, employers, insurers, and dental benefit~~
8 ~~providers].~~ Each person appointed to the board shall have
9 education, training, or professional experience in at least one
10 of the following areas:

- 11 (1) Health care policy;
- 12 (2) Health benefits plan administration, including
13 medicaid administration;
- 14 (3) Health insurance; provided that no employee of an
15 insurer shall be appointed to the board;
- 16 (4) Health care financing and purchasing;
- 17 (5) Labor-management committee organization;
- 18 (6) Information technology;
- 19 (7) Native Hawaiian health care organizations;
- 20 (8) Public health; or
- 21 (9) Health care policy issues related to the small group
22 and individual markets and the uninsured.



1 In making appointments, the appointing authorities shall
2 consider the background and expertise of all members of the
3 board and the geographic, socioeconomic, and other
4 characteristics of the State, so that the board's composition
5 reflects a diversity of expertise, skills, and backgrounds
6 relevant to the State; provided that the representative
7 designated by the governor pursuant to subsection (d) shall be
8 the only state employee to serve as a voting member of the
9 board.

10 (d) The governor shall designate one representative to
11 serve as the State's official representative on the board from
12 among the following: the director of commerce and consumer
13 affairs [~~or the director's designee~~], the director of health [~~or~~
14 ~~the director's designee~~], the director of human services [~~or the~~
15 ~~director's designee~~], [~~and~~] the director of labor and industrial
16 relations [~~or the director's designee~~], a representative from
17 the office of healthcare transformation, or a representative
18 from the office of information management and technology.

19 The governor's designated representative shall be an ex
20 officio voting member of the board. The remaining state
21 officials shall be ex officio[~~, voting~~] nonvoting members of the
22 board. The governor shall notify the chair of the connector



1 regarding the selection of the designated voting and nonvoting
2 state members of the board.

3 The director of commerce and consumer affairs, the director
4 of health, the director of human services, and the director of
5 labor and industrial relations may select a designee for a
6 specified meeting or meetings. Such selection of the designee
7 shall be submitted in writing to the board of directors prior to
8 or at the meeting in which the designee will serve.

9 [~~e~~] (e) Board members shall serve staggered terms and
10 the interim board shall recommend an appropriate schedule for
11 staggered terms; provided that this subsection shall not apply
12 to ex officio members, who shall serve during their entire term
13 of office~~[-]~~ or until the governor names a replacement.

14 (f) Any changes to the board structure and governance
15 shall be in compliance with federal law.

16 [~~d~~] (g) The board shall adopt policies prohibiting
17 conflicts of interest and procedures for recusal of a member in
18 the case of an actual or potential conflict of interest,
19 including policies prohibiting a member from taking part in
20 official action on any matter in which the member had any
21 financial involvement or interest prior to the commencement of
22 service on the board. Members of the board may retain private



1 counsel for matters relating to service on the board according
2 to rules recommended by the board.

3 ~~[(e)]~~ (h) The board shall manage the budget of the
4 connector according to generally accepted accounting principles
5 and a plan for financial organization adopted by the legislature
6 based on recommendations of the interim board.

7 ~~[(f)]~~ (i) The board shall maintain transparency of board
8 actions, including public disclosure and posting of board
9 minutes on the connector's website according to provisions
10 adopted by the legislature based on recommendations of the
11 interim board."

12 SECTION 6. Section 435H-7, Hawaii Revised Statutes, is
13 repealed.

14 ~~["[§435H-7] Eligibility determination for applicants in
15 medicaid adult and children's health insurance program. The
16 department of human services shall be the agency to determine
17 qualifications and eligibility of individuals to participate in
18 medicaid adult or children's health insurance programs. The
19 agency's determination of eligibility shall enable qualified
20 individuals and authorized adults on behalf of qualified
21 children to purchase qualified plans and qualified dental plans
22 from the connector. The department of human services shall~~



1 ~~verify for the connector individuals and children able to~~
2 ~~participate in subsidized plans purchased through the~~
3 ~~connector."]~~

4 SECTION 7. There is appropriated out of the general
5 revenues of the State of Hawaii the sum of \$1,500,000 or so much
6 thereof as may be necessary for fiscal year 2014-2015 for the
7 operations of the Hawaii health connector.

8 The sum appropriated shall be expended by the department of
9 commerce and consumer affairs for the purposes of this Act;
10 provided that the department of commerce and consumer affairs
11 shall only expend the appropriated sum subsequent to the
12 department of commerce and consumer affairs' receipt and
13 approval of all of the Hawaii health connector's amended
14 articles of incorporation or amended bylaws and necessary
15 corporate resolutions and resignations, each of which shall
16 bring the Hawaii health connector into full compliance with
17 section 435H-4, Hawaii Revised Statutes.

18 SECTION 8. In codifying the new sections added by section
19 2 of this Act, the revisor of statutes shall substitute
20 appropriate section numbers for the letters used in designating
21 the new sections in this Act.



1 SECTION 9. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

3 SECTION 10. This Act shall take effect on July 1, 2014;
4 provided that section 5 shall take effect on October 1, 2014.



Report Title:

Hawaii Health Connector; Connector Legislative Oversight Committee; Annual Report; Sustainability Plan; Agents and Brokers; Hawaii Health Connector Board of Directors; Appropriation

Description:

Establishes the connector legislative oversight committee and requires the committee to annually review a report and annual sustainability plan prepared and submitted by the board of directors of the Hawaii health connector. Permits connector-certified insurance agents and brokers to enroll individuals and employers in qualified plans through the connector. Clarifies that the connector must submit the results of the connector's annual audit to the legislature and requires the annual audit to comply with standard accounting practices for reviewing nonprofit corporations. Provides the connector with the means to generate non-insurer based revenue. Amends the composition and procedures of the board of directors of the connector beginning on 10/1/2014. Repeals requirement for the Department of Human Services to determine medicaid eligibility for purposes of purchasing plans from the connector. Appropriates funds for the operations of the connector. (CD1)

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