

JAN 18 2013

A BILL FOR AN ACT

RELATING TO HAWAII HEALTH INSURANCE EXCHANGE.

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

1 SECTION 1. The purpose of this Act is to require the
2 Hawaii health insurance exchange created by Act 205, Session
3 Laws of Hawaii 2011, to comply with certain open meeting and
4 notice provisions in order to provide all interested persons an
5 opportunity to present testimony. The commissioner of the
6 Hawaii health insurance exchange shall keep written minutes of
7 these meetings. Furthermore, the connector shall provide an
8 annual report to the legislature with the status of the
9 exchange, upcoming federal deadline requirements, and its
10 fulfillment of federal deadline requirements.

11 SECTION 2. Chapter 435H, Hawaii Revised Statutes, is
12 amended by adding six new sections to be appropriately
13 designated and to read as follows:

14 "§435H-A Open meetings; board of directors; notices;
15 agenda. (a) Every meeting of the board shall be open to the
16 public and all persons shall be permitted to attend any meeting,
17 unless the meeting is closed or as otherwise provided by law;
18 provided that any person or persons who wilfully disrupt a



1 meeting to prevent and impede the conduct of the meeting may be
2 removed.

3 (b) The board shall afford all interested persons an
4 opportunity to submit data, views, or arguments as testimony via
5 the board's website on any item listed on the agenda. The board
6 shall also afford all interested persons an opportunity to
7 present oral testimony on any agenda item; provided that the
8 board may adopt rules to allow for the reasonable administration
9 of oral testimony.

10 (c) At least six calendar days before a meeting, the board
11 shall file a physical and electronic copy of the notice for
12 public inspection in the office of the lieutenant governor and
13 in the board's office. The notice shall include an agenda that
14 lists all of the items to be considered at the meeting and the
15 date, time, and location of the meeting. Whenever feasible,
16 notice of the meeting shall also be posted at the site of the
17 meeting.

18 (d) The board shall maintain a list of names and addresses
19 of persons who request notification of meetings and shall mail
20 or transmit an electronic copy of the notice to such persons no
21 later than the time the notice is filed under this section.



1 (e) The board shall keep written minutes of all meetings.
2 Unless otherwise required by law, neither a full transcript nor
3 a recording of the meeting shall be required, but the written
4 minutes shall give a true reflection of the matters discussed at
5 the meeting and the views of the participants. The minutes
6 shall include, at a minimum:

7 (1) The date, time, and location of the meeting;

8 (2) The members of the board recorded as either present or
9 absent;

10 (3) The substance of all matters proposed, discussed, or
11 decided;

12 (4) A record, by individual member, of any votes taken;
13 and

14 (5) Any other information that any member of the board
15 requests to be included or reflected in the minutes.

16 The minutes shall be public records and shall be made available
17 online within thirty days after the meeting, or six days prior
18 to the next meeting, whichever comes first.

19 §435H-B Hawaii health insurance exchange plans;

20 commissioner; approval authority. (a) The commissioner shall
21 approve all qualified health plans in compliance with the
22 following transparency provisions:



- 1 (1) All meetings regarding the planning and decision
2 making of the Hawaii health insurance exchange health
3 plans shall be open to the public; and
- 4 (2) At least six calendar days before the meeting, the
5 commissioner shall file a physical and electronic copy
6 of the meeting's notice for public inspection in the
7 office of the lieutenant governor. The notice shall
8 include an agenda that lists all of the items to be
9 considered at the meeting and the date, time, and
10 location of the meeting.
- 11 (b) The commissioner shall keep written minutes of all
12 meetings. Unless otherwise required by law, neither a full
13 transcript nor a recording of the meeting shall be required, but
14 the written minutes shall give a true reflection of the matters
15 discussed at the meeting and the views of the participants. The
16 minutes shall include, at a minimum:
- 17 (1) The date, time, and location of the meeting;
18 (2) The substance of all matters proposed, discussed, or
19 decided; and
- 20 (3) A record of decision making.



1 The minutes shall be public records and shall be made available
2 online within thirty days after the meeting, or six days prior
3 to the next meeting, whichever comes first.

4 §435H-C Annual report. The connector shall report the
5 status of the exchange, upcoming federal deadline requirements,
6 and its fulfillment of federal deadline requirements, to the
7 legislature no later than twenty days prior to the convening of
8 each regular session.

9 §435H-D Voidability. Any final action taken in violation
10 of section 435H-A may be voidable upon proof of violation. A
11 suit to void any final action shall be commenced within ninety
12 days of the action.

13 §435H-E Enforcement. (a) The attorney general and the
14 prosecuting attorney shall enforce this part.

15 (b) The circuit courts of the State shall have
16 jurisdiction to enforce the provisions of this part by
17 injunction or other appropriate remedy.

18 (c) Any person may commence a suit in the circuit court of
19 the circuit in which a prohibited act occurs for the purpose of
20 requiring compliance with or preventing violations of this part
21 or to determine the applicability of this part to discussions or
22 decisions of the public body. The court may order payment of



1 reasonable attorney's fees and costs to the prevailing party in
2 a suit brought under this section.

3 (d) Opinions and rulings of the office of information
4 practices may be admissible in an action brought under this part
5 and may be considered as precedent unless found to be palpably
6 erroneous.

7 (e) The proceedings for review shall not stay the
8 enforcement of any agency decisions; but the reviewing court may
9 order a stay if the following criteria have been met:

10 (1) There is likelihood that the party bringing the action
11 will prevail on the merits;

12 (2) Irreparable damage will result if a stay is not
13 ordered;

14 (3) No irreparable damage to the public will result from
15 the stay order; and

16 (4) Public interest will be served by the stay order.

17 §435H-F Penalties. Any person who wilfully violates any
18 provisions of this part shall be guilty of a misdemeanor, and
19 upon conviction, may be summarily removed from the board unless
20 otherwise provided by law."

21 SECTION 3. In codifying the new sections added by section
22 1 of this Act, the revisor of statutes shall substitute



1 appropriate section numbers for the letters used in designating
2 the new sections in this Act.

3 SECTION 4. New statutory material is underscored.

4 SECTION 5. This Act shall take effect on July 1, 2013.

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INTRODUCED BY:

[Handwritten Signature]

Therese Chun Cleland



Report Title:

Hawaii Health Insurance Exchange; Hawaii Health Connector;
Nonprofit Corporations

Description:

Requires the Hawaii health insurance exchange to comply with open meeting and notice provisions and provide an annual report to the legislature. Clarifies the conduct of board meetings. Implements enforcement provisions and penalties for violations of open meeting and notice requirements.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

