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TO THE SENATE COMMITTEES ON JUDICIARY AND LABOR
AND WAYS AND MEANS

TWENTY-EIGHTH LEGISLATURE
Regular Session of 2015

Wednesday, April 8, 2015
9:55 a.m.

WRITTEN TESTIMONY ONLY

**TESTIMONY ON HOUSE BILL NO. 1467, H.D. 2, S.D. 1 – RELATING TO THE
HAWAII HEALTH CONNECTOR.**

TO THE HONORABLE GILBERT KEITH-AGARAN AND JILL TOKUDA, 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
takes no position on the bill, and submits the following comments on this bill.

The purposes of this bill are to: enable the Hawaii Health Connector
("Connector") to offer large group coverage to insurers beginning on January 1, 2017;
end transitional renewal health insurance policies beginning January 1, 2016; require
health insurers to provide notice to group health plans offering continuation coverage
about options to secure coverage through the Connector; and amend the current
definition of "small employer" under section 431:2-201.5, Hawaii Revised Statutes. This
bill is similar although not identical to Senate Bill No. 1338, S.D. 2, H.D. 1.

The Department notes that amending the definition of small employer to increase
the number of employees, and ceasing transitional renewal health policies will subject

House Bill No. 1467, H.D. 2, S.D. 1
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certain businesses to rate increases due to the elimination of the use of loss experience in rating. These increases could be significant.

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



**Testimony to the Senate Committee on Judiciary and Labor and Committee
on Ways and Means
Wednesday, April 8, 2015 at 9:55 A.M.
Conference Room 211, State Capitol**

**RE: HOUSE BILL 1467 HD2 SD1 RELATING TO THE HAWAII HEALTH
CONNECTOR**

Chairs Keith-Agaran and Tokuda, Vice Chairs Shimabukuro and Kouchi, and Members of the Committees:

The Chamber of Commerce of Hawaii ("The Chamber") **opposes** HB 1467 HD2 SD1, which enables the Hawaii health connector to offer large group coverage to insurers, beginning January 1, 2017. Beginning January 1, 2016, ends transitional renewal policies in Hawaii and requires health insurers to provide notice to group health plans offering continuation coverage about options to secure affordable coverage under the connector. Also expands the potential small business market in the connector by amending the current definition of "small employer" under section 431:2-201.5, Hawaii Revised Statutes.

The Chamber is Hawaii's leading statewide business advocacy organization, representing about 1,000 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 members and the entire business community to improve the state's economic climate and to foster positive action on issues of common concern.

The Chamber believes that private companies should have a choice of whether or not to participate in the health connector, rather than being required to participate due to their control of shares. Furthermore, we are concerned that the requirement of health insurers with greater than 20 percent share of the State's small group health insurance market is written to target one specific company within the industry. We believe that no company should be forced to participate in a government program. Additionally, we do not believe that Hawaii's health insurers should be forced to end their transitional renewal policies.

This bill would also change the definition of a "small employer" from a company with 50 employees to 100 employees as well as mandate large group coverage through the Connector. We believe that this will adversely affect many small businesses as they will not be forced away from their existing plan.

Thank you for the opportunity to testify.



HPCCA

HAWAII PRIMARY CARE ASSOCIATION

Senate Committee on Judiciary and Labor

The Hon. Gilbert S.C. Keith-Agaran, Chair
The Hon. Maile S.L. Shimabukuro, Vice Chair

Senate Committee on Ways and Means

The Hon. Jill N. Tokuda, Chair
The Hon. Ronald D. Kouchi, Vice Chair

Testimony on House Bill 1467 HD 2 SD 1
Relating to the Hawaii Health Insurance Exchange
Submitted by Nani Medeiros, Public Affairs and Policy Director
April 8, 2015, 9:55 am, Room 211

The Hawaii Primary Care Association (HPCA), which represents the federally qualified community health centers (FQHC) in Hawaii, supports House Bill 1467, which calls for a number of measures to strengthen the Hawaii Health Connector.

The HPCA supports changing the definition of “small employers” in Hawaii from 50 to the nationally accepted threshold of 100 employees. Such measures will encompass a greater number of businesses in the state, providing a stronger Connector and a better marketplace for consumers.

In addition, the HPCA strongly supports section 4 of the HD 2 version of this bill, which called for an amendment to HRS §435H-6(b) to state:

(b) The commissioner shall require that each qualified plan, as a condition of certification, shall:

- (1) Offer to any willing federally-qualified health center providing services in geographic areas served by the qualified plan, the opportunity to contract with the qualified plan to provide to the qualified plan’s enrollees all ambulatory services that are covered by the qualified plan that the federally-qualified health center offers to provide; and
- (2) Reimburse each federally-qualified health center for services as provides in 42 USC §1396a(bb).

This language serves to codify several key factors for community health centers. First, it affirms payment methodology for health centers providing services to qualified health plan enrollees. Second, it protects continuity of care for enrollees, including the 7,500 legal COFA migrants recently removed from the Medicaid program. Finally, it helps to ensure financial sustainability for an essential community provider moving forward.

The section mentioned above was stripped out of the bill based on information provided in previous testimony. The HPCA would like to respond to that testimony by pointing out that the first issue raised by the ATG regards the certification of qualified health plans (QHP) by exchanges as outlined in ACA Section 1311(d)(4), 1311(c), and the subsequent federal regulations. The Attorney General’s Office

raises concerns with the language in HB 1467 HD 2, stating, "...it appears that the bill establishes criteria for certification of a QHP that do not allow the flexibility for a health plan issuer to choose which FQHC it would offer to contract with, or to negotiate and mutually agree upon rates other than the Medicaid reimbursement rate, inconsistent with federal law."

We strongly disagree with this analysis because the payment methodology for FQHCs is clearly articulated in the ACA at Section 1302(g):

"Section 1302(g) Payments to Federally Qualified Health Centers. If any item or service covered by a qualified health plan is provided by a Federally-qualified health center to an enrollee of the plan, the offeror of the plan shall pay to the center for the item or service an amount that is not less than the amount of payment that would have been paid to the center under section 1902(bb)."

Congress recognized the value of FQHCs and that is why Section 1302(g) was adopted to ensure appropriate payment for the services provided. It is also of note that the payment level specified in Section 1302(g) of Affordable Care Act is not contingent upon an existing contract between a QHP and an FQHC.

The second issue raised by the ATG is that the Connector is the only entity permitted to certify a plan as being a QHP. Taken alone, without other ACA provisions and regulations, this would be true. However, the intent of the ACA was for states to be given as much latitude as possible in implementation of their state exchanges so as to best design systems for their given needs. The mechanism for doing so was to allow states to enact their own laws and regulations which further define particular aspects.

The HPCA recommends that the offering of contracts to willing FQHCs could be a condition of qualification or a condition of meeting network adequacy. HRS Chapter 432F establishes general criteria for health care provider network adequacy and could be strengthened by including language that specifies providing access to "essential community providers" as defined by 45 C.F.R. Section 156.235(a), (b), and (c). (We note that the concerns expressed by Kaiser are addressed in 156.235(b).) Under the exchange final rules (45 C.F.R. Parts 155, 156, and 157) additional network adequacy standards may be established by the state. In other words, each state based exchange will (and should) have its own set of standards with respect to network adequacy for QHPs in their state. As with network adequacy, the exchange final rule allows additional standards related to essential community provider participation to be set by the states; enforcement of these standards are also left to the states.

Not only is this an important issue of support for, and access to, FQHCs, but in light of the new state premium assistance program funding (state Medicaid dollars) and tax credits for this program that both health insurers/QHPs and the Connector are benefiting from, the State should establish greater accountability and strengthen provisions around network adequacy and access to care. Should the committee prefer to address this concern as a condition of health plan qualification versus network adequacy, HRS Chapter 435H Sections 6, 8, and 11 provide the authority to qualify to the insurance commissioner.

For these reasons we strongly support this bill and thank you for the opportunity to testify.



An Independent Licensee of the Blue Cross and Blue Shield Association

April 8, 2015

The Honorable Gilbert S. C. Keith-Agaran, Chair
Senate Committee on Judiciary and Labor
The Honorable Jill N. Tokuda, Chair
Senate Committee on Ways and Means

Re: HB 1467, HD2, SD1 – Relating to Hawaii Health Connector

Dear Chair Keith-Agaran, Chair Tokuda and Members of the Committees:

The Hawaii Medical Service Association (HMSA) appreciates the opportunity to testify on HB 1467, HD2, SD1. HMSA has comments on this Bill.

“Small Employer” Definition and Large Employers

The Bill changes the definition of a “small employer” to include a company with an unspecified number of employees. And, the Bill mandates large group coverage thru the Connector beginning January 1, 2017. We believe that these provisions should not be mandated in statute. Rather, to the extent allowed under the Affordable Care Act, the Insurance Commissioner should be afforded the flexibility in determining the markets that the Connector serves. Contemporaneous consideration must be given to overall market conditions in 2017 to determine (1) whether a change would disrupt and undermine an already successful large employer market; and (2) whether the required investment in time and money needed to accommodate any changes is appropriate.

Termination of Transitional Plans

We are concerned with the provision in this Bill that calls for the termination of the transitional “grand-mothered” plans on January 1, 2016. The President’s decision to authorize grand-mothered plans was to honor his commitment to allow people to continue to have the health insurance plans they had prior to the implementation of the ACA. It gave people the option to continue the plans they already enjoyed or to purchase an ACA plan. This Bill would preclude that option and is not consumer friendly, particularly to small businesses

Thank you for the opportunity to testify on HB 1467, HD2, SD1. Your consideration of our concerns is appreciated.

Sincerely,

Jennifer Diesman,
Vice President, Government Relations

From: mailinglist@capitol.hawaii.gov
To: [JDLTestimony](#)
Cc:
Subject: Submitted testimony for HB1467 on Apr 8, 2015 09:55AM
Date: Friday, April 03, 2015 4:06:49 PM

HB1467

Submitted on: 4/3/2015

Testimony for JDL/WAM on Apr 8, 2015 09:55AM in Conference Room 211

Submitted By	Organization	Testifier Position	Present at Hearing
Michael Zehner	Individual	Oppose	No

Comments: The ACA will likely get repealed in early 2017. This bill lacks dealing with that reality.

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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