
A BILL FOR AN ACT

RELATING TO THE HAWAII HEALTH INSURANCE EXCHANGE.

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

1 SECTION 1. This Act shall be known and may be cited as the
2 "Hawaii Health Insurance Exchange Act".

3 SECTION 2. The federal Patient Protection and Affordable
4 Care Act of 2010 provides for the establishment by January 1,
5 2014, of health insurance exchanges in every state to connect
6 buyers and sellers of health insurance and to facilitate the
7 purchase and sale of federally qualified health insurance plans.
8 The intent of the health insurance exchange is to reduce the
9 number of uninsured individuals, provide a transparent
10 marketplace, conduct consumer education, and assist individuals
11 in gaining access to assistance programs, premium assistance tax
12 credits, and cost-share reductions.

13 The legislature finds that, largely because of Hawaii's
14 current prepaid health care act, chapter 393, Hawaii Revised
15 Statutes, the State already enjoys an overall healthier
16 population, lower uninsured rates, and lower premium costs than
17 mainland states. The prepaid health care act has been and
18 continues to be successful; it is imperative that Hawaii's



1 health insurance exchange work in tandem with the prepaid health
2 care act to preserve its existing benefits for the people of the
3 State.

4 The legislature further finds that the people of Hawaii
5 will be best served by a health insurance exchange that is
6 operated locally in Hawaii. Therefore, this Act provides the
7 framework for a private, nonprofit health exchange that conforms
8 to the requirements of the federal law and is responsive to the
9 unique needs and circumstances of the State.

10 The legislature notes that the State is already in receipt
11 of a federal grant to plan for the design and implementation of
12 a Hawaii-based health insurance exchange and, pursuant to
13 federal domestic assistance grant number 93:525, a task force
14 has been convened for this purpose. This Act formally
15 authorizes the task force to work collaboratively with
16 stakeholders and within the policy framework of this Act to
17 propose legislation to the 2012 legislature implementing a
18 Hawaii health insurance exchange, to be known as the Hawaii
19 health connector, to ensure the State's compliance with the
20 federal act. Pursuant to recommendations of the task force, the
21 legislature is committed to providing policy direction and
22 operational guidelines as the State works toward implementing a



1 fully functional health insurance exchange to meet the
2 federally-mandated 2014 implementation deadline.

3 Recently the United States Department of Health and Human
4 Services issued a request for proposals from states for
5 assistance in establishing state health insurance exchanges.
6 The legislature finds that moving forward now with an enabling
7 statute is the prudent course of action to maximize
8 opportunities to take advantage of forthcoming federal moneys.
9 The framework established by this Act will allow future
10 legislatures to follow the most appropriate course in
11 implementing the health insurance exchange.

12 SECTION 3. Chapter 431, Hawaii Revised Statutes, is
13 amended by adding a new article to be appropriately designated
14 and to read as follows:

15 **"ARTICLE . HAWAII HEALTH INSURANCE EXCHANGE**

16 **§431: -A Definitions.** As used in this article:

17 "Board" means the board of directors of the Hawaii health
18 connector.

19 "Commissioner" means the insurance commissioner of the
20 department of commerce and consumer affairs.



1 "Connector" means the Hawaii health insurance exchange,
2 known as the Hawaii health connector, established by section
3 431: -B.

4 "Federal Act" means the federal Patient Protection and
5 Affordable Care Act, Public Law 111-148, as amended by the
6 federal Health Care and Education Reconciliation Act of 2010,
7 Public Law 111-152, and any amendments to, or regulations or
8 guidance issued under, those Acts.

9 "Insurer" means any person or entity that issues a policy
10 of accident and health or sickness insurance subject to article
11 10A of chapter 431, or chapters 432 or 432D.

12 "Qualified health plan" means a health benefit plan offered
13 by an insurer that meets the criteria for certification
14 described in section 1311(c) of the Federal Act.

15 "Secretary" means the Secretary of the United States
16 Department of Health and Human Services.

17 "Task force" means the state health insurance exchange task
18 force established within the department of commerce and consumer
19 affairs in compliance with federal domestic assistance grant
20 number 93:525.

21 **§431: -B Establishment of the Hawaii health insurance**
22 **exchange; purpose.** (a) There is established the Hawaii health



1 insurance exchange, a Hawaii nonprofit organization, to be known
2 as the Hawaii health connector. The connector is not an entity
3 of the State and shall not be subject to laws or rules
4 regulating rulemaking, public employment, or public procurement.

5 (b) The purposes of the connector shall include:

- 6 (1) Facilitating the purchase and sale of qualified health
7 plans in compliance with the Federal Act;
- 8 (2) Connecting consumers to the information necessary to
9 make informed health care choices; and
- 10 (3) Enabling consumers to purchase coverage and manage
11 health plans electronically.

12 (c) The connector shall serve as a clearinghouse for
13 information on all qualified health plans listed or included in
14 the connector. The connector shall determine eligibility for
15 the inclusion of health plans according to the recommendation of
16 the insurance commissioner; provided that all qualified health
17 plans that apply for inclusion shall be included in the
18 connector.

19 (d) The connector shall be audited annually by the state
20 auditor and shall submit the results of each annual audit to the
21 insurance commissioner no later than thirty days after the
22 connector receives the results. The connector shall retain all



1 annual audits on file, along with any documents, papers, books,
2 records, and other evidence that is pertinent to its budget and
3 operations for a period of three years and shall permit the
4 state auditor, the insurance commissioner, the state
5 legislature, or their authorized representatives to have access
6 to, inspect, and make copies of any documents retained pursuant
7 to this subsection.

8 (e) The board of directors of the connector shall submit
9 an annual report to the legislature which shall include the most
10 recent audit report received pursuant to subsection (d) no later
11 than twenty days prior to the convening of each regular session
12 of the legislature.

13 §431: -C Funding. The connector may receive
14 contributions, grants, endowments, fees, or gifts in cash or
15 otherwise from public and private sources including
16 corporations, businesses, foundations, governments, individuals,
17 and other sources subject to rules adopted by the board. The
18 State may appropriate moneys to the connector. As required by
19 Section 1311(d)(5)(A) of the Federal Act, the exchange shall be
20 self-sustaining by January 1, 2015, and may charge assessments
21 or user fees to participating health carriers, or may otherwise
22 generate funding to support its operations. Moneys received by



1 or under the supervision of the connector shall not be placed
2 into the state treasury and the State shall not administer any
3 moneys of the connector nor be responsible for the financial
4 operations or solvency of the connector.

5 §431: -D Board of directors; composition; operation.

6 (a) The Hawaii health connector shall be a nonprofit entity
7 governed by a board of directors that shall be comprised of
8 fifteen members appointed subject to section 26-34. The Hawaii
9 health connector task force shall recommend qualifications and
10 requirements for board members, which shall include high ethical
11 standards and knowledge or experience in the fields of health
12 care, health insurance, business, or finance.

13 (b) The membership of the board shall reflect geographic
14 diversity and the diverse interests of stakeholders including
15 consumers, employers, insurers, and government entities;
16 provided that if representatives of government or public bodies
17 are appointed to the board in other than an ex officio capacity,
18 the majority of board members shall represent the interests of
19 the private sector.

20 (c) Board members shall serve staggered terms and the task
21 force shall recommend an appropriate schedule for staggered
22 terms.



1 (d) The task force shall recommend policies prohibiting
2 conflicts of interest and procedures for recusal of a member in
3 the case of an actual or potential conflict of interest,
4 including policies prohibiting a member from taking part in
5 official action on any matter in which the member had any
6 financial involvement or interest prior to the commencement of
7 service on the board. Members of the board may retain private
8 counsel for matters relating to service on the board according
9 to rules recommended by the task force.

10 (e) The board shall manage the budget of the connector
11 according to generally accepted accounting principles and a plan
12 for financial organization adopted by the legislature based on
13 recommendations of the task force.

14 (f) The board shall maintain transparency of board
15 actions, including public disclosure and posting of board
16 minutes on the connector's website according to provisions
17 adopted by the legislature based on recommendations of the task
18 force.

19 **§431: -E Officers and employees of the Hawaii health**
20 **connector.** (a) The board shall appoint and employ officers and
21 employees, including an executive director who shall be
22 responsible for the day-to-day operations and management of the



1 exchange, according to a staffing plan recommended by the task
2 force and adopted by the legislature. Officers and employees of
3 the board shall not be employees of the State and shall serve at
4 the pleasure of the board.

5 (b) Subject to the staffing plan adopted by the 2012
6 legislature based on recommendations of the task force, the
7 board may hire consultants, outside experts, and professional
8 specialists as needed for its efficient operations.

9 **§431: -F Oversight; rate regulation.** (a) The insurance
10 commissioner shall retain full regulatory jurisdiction pursuant
11 to the authority granted to the commissioner by part II of
12 article 2 of chapter 431 over all insurers and qualified health
13 plans included in the Hawaii health connector.

14 (b) Rate regulation for qualified health plans included in
15 the Hawaii health connector shall be pursuant to applicable
16 state and federal law.

17 **§431: -G Effect on the prepaid health care act.** Nothing
18 in this article shall in any manner diminish or limit the
19 consumer protections contained in or alter the provisions of
20 chapter 393.

21 **§431: -H Rules.** The board shall adopt rules to
22 implement the provisions of this article. Rules adopted



1 pursuant to this section shall not conflict with or prevent the
2 application of regulations promulgated by the secretary under
3 the Federal Act."

4 SECTION 4. (a) The state health insurance exchange task
5 force established pursuant to federal domestic assistance grant
6 number 93:525 in the department of commerce and consumer affairs
7 for administrative purposes shall recommend to the legislature
8 policies and procedures to further define and operate the Hawaii
9 health connector.

10 (b) The task force shall make recommendations to the
11 legislature for:

12 (1) Qualifications of the members of the board of
13 directors of the Hawaii health connector which shall
14 include requirements for equitable representation
15 across the stakeholder community including consumers,
16 employers, insurers, and government entities as well
17 as requirements for knowledge and experience in the
18 fields of health care, insurance, or finance;

19 (2) A sustainable, fee-based financing mechanism that may
20 incorporate private and public funding for initial
21 start-up costs, but that shall achieve financial



1 self-sustainability by January 1, 2015, as required by
2 federal law;

3 (3) Measures to ensure transparency of the Hawaii health
4 connector's finances and for public disclosure of
5 funding sources and expenditures;

6 (4) Procedures for the application for inclusion by
7 insurers in the Hawaii health connector; provided that
8 all applicant health plans that are qualified
9 according to the requirements of federal law and
10 regulations and national quality measures shall be
11 included;

12 (5) A phased process of including qualified plans which
13 may include initially prioritizing qualified plans
14 that target individuals and small businesses over
15 large group plans;

16 (6) Policies and procedures to ensure continuity of care
17 for consumers transitioning between carriers,
18 including between publicly funded coverage and private
19 qualified health plans; provided that the task force
20 shall form a subgroup to make recommendations for the
21 integration of state subsidized plans with the Hawaii
22 health connector to ensure that consumers who move



1 between publicly funded coverage and unsubsidized
2 private coverage are able to maintain continuity of
3 coverage and continuity of care;

4 (7) Measures to increase transparency and opportunities
5 for public participation in determinations of insurer
6 eligibility for inclusion in the Hawaii health
7 connector and the regulation of insurers and qualified
8 health plans;

9 (8) Criteria for determining whether a conflict of
10 interest exists for a board member and policies and
11 procedures for avoiding or mitigating conflicts of
12 interest, including when recusal of the board member
13 is appropriate and when a board member shall be
14 entitled to private counsel for a matter relating to
15 the board;

16 (9) A schedule of the terms of board members including
17 provisions for staggering terms to insure continuity;

18 (10) A staffing plan including organization, duties, wages,
19 and responsibilities of employees of the board of
20 directors of the Hawaii health connector and criteria
21 for hiring contractors, consultants, and outside
22 experts;



1 (11) A plan of financial organization of the board of the
2 Hawaii health connector and requirements for financial
3 management by its board; and

4 (12) Policies for the use of electronic media to publicly
5 disseminate information, increase transparency, and
6 allow members of the public to manage their health
7 plans, including by the online purchase of a qualified
8 health plan.

9 (c) The task force shall submit a report of its findings
10 and recommendations, including any proposed legislation, to the
11 legislature no later than twenty days prior to the convening of
12 the 2012 regular session, and shall participate in joint
13 informational sessions upon the request of the legislature.

14 (d) At the request of the task force, the department of
15 commerce and consumer affairs may employ temporary staff not
16 subject to chapter 76 to assist in carrying out the requirements
17 of this section including:

18 (1) A facilitator for task force meetings;

19 (2) Information technology professionals to begin
20 construction of the internet-based Hawaii health
21 connector system;



1 (3) A grant writer to pursue additional sources of federal
2 or private funding to assist the operations of the
3 task force; and

4 (4) Any other staff that the task force or the insurance
5 commissioner deems necessary to carry out the duties
6 of the task force.

7 (e) The legislative reference bureau shall assist the task
8 force in preparing its findings, recommendations, and proposed
9 legislation; provided that the chairperson of the task force
10 shall submit the task force's proposals to the legislative
11 reference bureau for drafting no later than November 1, 2011,
12 for the report to the 2012 regular session of the legislature.

13 (f) The task force shall cease to exist on December 31,
14 2012.

15 SECTION 5. There is appropriated out of federal funds
16 received pursuant to federal domestic assistance grant number
17 93:525 the sum of \$ or so much thereof as may be
18 necessary for fiscal year 2011-2012 to support the operations of
19 the state health insurance exchange task force.

20 The sum appropriated shall be expended by the department of
21 commerce and consumer affairs for the purposes of this Act.



1 SECTION 6. In codifying the new sections added by
2 section 3 of this Act, the revisor of statutes shall substitute
3 appropriate section numbers for the letters used in designating
4 the new sections in this Act.

5 SECTION 7. This Act shall take effect upon its approval.
6



Report Title:

Hawaii Health Insurance Exchange

Description:

Establishes the Hawaii health connector to create a health insurance exchange pursuant to the federal Patient Protection and Affordable Care Act of 2010; creates Hawaii health insurance exchange council under a board of directors; creates board of directors; creates task force to recommend policies and procedures to implement the governance of the health insurance exchange. (SD1)

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