
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. Chapter 435H, Hawaii Revised Statutes, is
2 amended by adding three new sections to be appropriately
3 designated and to read as follows:

4 "§435H-A Risk pools; assessment. (a) Before establishing
5 a program to serve the individual and the small group markets,
6 the connector shall conduct an assessment to determine the
7 quality of basic health plans offered and the financial impact
8 upon consumers if the risk pools for the individual and the
9 small group markets are separated or combined; provided further
10 that a report on the findings of the assessment shall be made
11 publicly available pursuant to section 435H-C. For the purpose
12 of effectuating this section, the connector may hire an actuary
13 in good standing with the American Academy of Actuaries.

14 §435H-B Navigator program. (a) The board shall establish
15 a navigator program that is consistent with section 1311(i) of
16 the Federal Act.



1 (b) The connector may award grants to entities that are
2 selected by the board to serve as navigators; provided that
3 recipients of navigator grants shall:

4 (1) Meet the requirements for navigators specified in
5 section 1311(i) of the Federal Act; and

6 (2) Meet any additional requirements established by the
7 board; or

8 (3) Notwithstanding paragraph (1) or (2) to the contrary,
9 comply with all provisions that are otherwise required
10 by federal law;

11 provided further that an insurance producer or insurance broker
12 shall not serve as a navigator.

13 (c) Federal funds received by the State to establish the
14 connector shall not be used to fund grants to navigators."

15 §435H-C Open meetings; board of directors; notices;
16 agenda. (a) Every meeting of the board shall be open to the
17 public and all persons shall be permitted to attend any meeting,
18 unless the meeting is closed pursuant to subsection (b) or as
19 otherwise provided by law; provided that the removal of any
20 person or persons who willfully disrupts a meeting to prevent
21 and impede the conduct of the meeting shall be permitted.



1 The board shall afford all interested persons an
2 opportunity to submit data, views, or arguments in writing on
3 any item listed on the agenda. The board shall also afford all
4 interested persons an opportunity to present oral testimony on
5 any agenda item; provided that the board may adopt rules to
6 allow for the reasonable administration of oral testimony.

7 (b) The board may hold an executive meeting closed to the
8 public, after providing notice of such a meeting pursuant to
9 subsection (c) and after at least two-thirds of board members
10 present vote affirmatively to enter into an executive meeting,
11 for one or more of the following purposes only, which shall also
12 be publicly announced prior to the meeting:

13 (1) To consider the hire, evaluation, dismissal, or
14 discipline of an officer or employee or of charges
15 brought against the officer or employee of the
16 connector, where consideration of matters affecting
17 privacy will be involved; provided that if the
18 individual concerned requests an open meeting, a
19 meeting open to the public shall be held;

20 (2) To consider and evaluate personal information relating
21 to individuals' application for professional or
22 vocational licenses, as described in section 26-9;



- 1 (3) To consult with the board's attorney on questions and
2 issues pertaining to the board's powers, duties,
3 privileges, immunities, and liabilities;
- 4 (4) To investigate proceedings regarding criminal
5 misconduct;
- 6 (5) To consider sensitive matters related to public safety
7 or security;
- 8 (6) To consider matters relating to the solicitation and
9 acceptance of private donations;
- 10 (7) To deliberate or make a decision upon a matter that
11 requires the consideration of information that must be
12 kept confidential pursuant to a state or federal law,
13 or a court order;
- 14 (8) To address proprietary information; and
- 15 (9) To protect patient information.

16 In no instance shall the board make a decision or deliberate
17 toward a decision in an executive meeting on matters not
18 directly related to the purposes specified in this subsection.

19 No chance meeting or electronic communication between two or
20 more members shall be used to circumvent the spirit or
21 requirements of this section to make a decision or to deliberate



1 toward a decision upon a matter over which the board has
2 supervision, control, jurisdiction, or advisory power.

3 The vote of the board at the executive meeting shall be
4 recorded in the minutes pursuant to subsection (d).

5 (c) The board shall give written public notice, which may
6 be in electronic form, of any meeting, including any executive
7 meeting, in advance. The notice shall include an agenda that
8 lists all of the items to be considered at the meeting; the
9 date, time, and location of the meeting; and in the case of an
10 executive meeting, the purpose of the executive meeting shall be
11 stated.

12 At least six calendar days before the meeting, the board
13 shall file a physical copy of the notice for public inspection
14 in the office of the lieutenant governor and in the board's
15 office. The board shall maintain a list of names and addresses
16 of persons who request notification of meetings and shall mail
17 or transmit an electronic copy of the notice to such persons no
18 later than the time the agenda is filed under this subsection.

19 Whenever feasible, notice of the meeting shall also be
20 posted at the site of the meeting.

21 (d) The board shall keep written minutes of all meetings.
22 Unless otherwise required by law, neither a full transcript nor



1 a recording of the meeting shall be required, but the written
2 minutes shall give a true reflection of the matters discussed at
3 the meeting and the views of the participants. The minutes
4 shall include, at a minimum:

- 5 (1) The date, time, and location of the meeting;
6 (2) The members of the board recorded as either present or
7 absent;
8 (3) The substance of all matters proposed, discussed, or
9 decided;
10 (4) A record, by individual member, of any votes taken;
11 and
12 (5) Any other information that any member of the board
13 requests to be included or reflected in the minutes.

14 The minutes shall be public records and shall be made available
15 within thirty days after the meeting, except where such
16 disclosure would be inconsistent with subsection (b); provided
17 that minutes of executive meetings may be withheld only so long
18 as their publication would defeat the lawful purpose of the
19 executive meeting, but for no longer.

20 (e) Notwithstanding subsection (c), the board may add
21 items to the agenda; provided that:



- 1 (1) At least two-thirds of the members of the board vote
2 to add the items to the agenda; and
- 3 (2) No item shall be added to the agenda if it is of
4 reasonable importance and action thereon by the board
5 will affect a significant number of persons.
- 6 (f) Notwithstanding subsection (c), the board may hold an
7 emergency meeting without providing at least six calendar days'
8 notice if the board determines that an imminent harm to public
9 health, safety, or welfare necessitates the waiver of the
10 requirement; provided that:
- 11 (1) The board shall explain in writing, including making
12 findings, why the waiver is necessary;
- 13 (2) At least two-thirds of the members of the board shall
14 vote affirmatively:
- 15 (A) In agreement with the findings made in paragraph
16 (1); and
- 17 (B) That an emergency exists;
- 18 (3) A physical copy of the emergency agenda and the
19 findings made in paragraph (1) shall be:
- 20 (A) Filed in the office of the lieutenant governor
21 and in the board's office; and



1 (B) If feasible, posted at the site of the meeting;
2 and
3 (4) Minutes shall be kept and made available pursuant to
4 subsection (d)."

5 SECTION 2. Section 435H-1, Hawaii Revised Statutes, is
6 amended by adding six new definitions to be appropriately
7 inserted and to read:

8 "Health benefit plan" means a policy, contract,
9 certificate, or agreement offered, delivered, issued for
10 delivery, renewed, amended, or continued in the State by an
11 insurer to provide, deliver, arrange, pay for, or reimburse any
12 of the costs of health care services. "Health benefit plan"
13 shall not include:

- 14 (1) Coverage for only accident or disability income
15 insurance, or any combination thereof;
- 16 (2) Coverage issued as a supplement to liability
17 insurance;
- 18 (3) Liability insurance, including general liability
19 insurance and motor vehicle liability insurance;
- 20 (4) Workers' compensation or similar insurance;
- 21 (5) Motor vehicle personal injury protection insurance;
- 22 (6) Credit-only insurance;



- 1 (7) Coverage for on-site medical clinics;
- 2 (8) Other insurance coverage under which benefits for
- 3 health care services are secondary or incidental to
- 4 other insurance benefits;
- 5 (9) The following benefits if the benefits are provided
- 6 under a separate policy, certificate, or contract of
- 7 insurance or are otherwise not an integral part of the
- 8 plan:
- 9 (A) Limited scope dental or vision benefits; and
- 10 (B) Benefits for long-term care, nursing home care,
- 11 home health care, community-based care, or any
- 12 combination thereof;
- 13 (10) The following benefits, if the benefits are provided
- 14 under a separate policy, certificate, or contract of
- 15 insurance; there is no coordination between the
- 16 provision of the benefits and any exclusion of
- 17 benefits under any group health plan maintained by the
- 18 same plan sponsor; and the benefits are paid with
- 19 respect to an event without regard to whether benefits
- 20 are provided with respect to the event under any group
- 21 health plan maintained by the same insurer:

1 (A) Coverage only for a specified disease or illness;
2 and

3 (B) Hospital indemnity or other fixed indemnity
4 insurance; and

5 (11) The following, if offered as a separate policy,
6 certificate, or contract of insurance:

7 (A) Medicare supplemental health insurance, as
8 defined under section 1882(g)(1) of the Social
9 Security Act;

10 (B) Coverage supplemental to the coverage provided
11 under chapter 55 of title 10, United States Code,
12 as amended; and

13 (C) Similar coverage provided to supplement coverage
14 under a group health plan.

15 "Individual market" means the market for health insurance
16 coverage offered to individuals other than in connection with a
17 group health plan.

18 "Provider" means any person or entity licensed, certified,
19 or otherwise authorized to provide direct or indirect health
20 care services, or has contracts or subcontractors who provide or
21 could provide services to an enrollee or potential enrollee of
22 health insurance coverage. This designation shall apply to the



1 person, corporation, facility, or institution in its entirety
2 and any contracted entities or partnerships.

3 "Qualified employer" means a small employer that elects to
4 make, at a minimum, all of its full-time employees eligible for
5 one or more qualified plans in the small group market offered
6 through the connector.

7 "Small employer" means an employer who employed an average
8 of at least one and not more than fifty employees on business
9 days during the preceding calendar year and who employs at least
10 one employee on the first day of the plan year. Beginning on
11 January 1, 2016, "small employer" means an employer who employed
12 an average of at least one and not more than one hundred
13 employees on business days during the preceding calendar year
14 and who employs at least one employee on the first day of the
15 plan year.

16 "Small group market" means the health insurance market
17 under which individuals obtain health insurance coverage on
18 behalf of themselves and their dependents through a group health
19 plan maintained by a small employer."

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



1 " ~~[H]~~ §435H-4 ~~[H]~~ Board of directors; composition; operation.

2 (a) The Hawaii health connector shall be a nonprofit
3 entity governed by a board of directors that shall comprise
4 fifteen members appointed by the governor and with the advice
5 and consent of the senate pursuant to section 26-34; provided
6 that the governor shall submit nominations to the senate for
7 advice and consent no later than February 1, 2012 ~~[+]~~, and no
8 later than February 1 in any year thereafter in which
9 nominations are made; and provided further that the senate shall
10 timely advise and consent to nominations for terms to begin
11 July 1, 2012 ~~[+]~~, and no later than July 1 in any year thereafter
12 in which nominations are made. Members of the interim board
13 shall be eligible for appointment to the board.

14 (b) The membership of the board shall reflect geographic
15 diversity and the diverse interests of stakeholders, including
16 five consumers, ~~[employers,]~~ one employer, three insurers, and
17 ~~[dental-benefit]~~ two providers; provided that the insurers and
18 providers on the board may serve only in an advisory capacity
19 and shall not be voting members. The director of commerce and
20 consumer affairs or the director's designee, the director of
21 health or the director's designee, the director of human
22 services or the director's designee, and the director of labor



1 and industrial relations or the director's designee shall be ex-
2 officio, voting members of the board.

3 (c) Board members shall serve staggered terms [~~and the~~
4 ~~interim board shall recommend an appropriate schedule for~~
5 ~~staggered terms; provided that this]~~ and shall be appointed to
6 terms of four years; provided that of the initial appointees,
7 five shall be appointed to a two-year term, and five shall be
8 appointed to a three-year term. Each member shall hold office
9 until the member's successor is appointed and qualified. This
10 subsection shall not apply to ex-officio members, who shall
11 serve during their entire term of office.

12 (d) The board shall adopt policies prohibiting conflicts
13 of interest and procedures for recusal of a member in the case
14 of an actual or potential conflict of interest, including
15 policies prohibiting a member from taking part in official
16 action on any matter in which the member had any financial
17 involvement or interest prior to the commencement of service on
18 the board. Members of the board may retain private counsel for
19 matters relating to service on the board according to rules
20 recommended by the board.

21 (e) The board shall manage the budget of the connector
22 according to generally accepted accounting principles and a plan



1 for financial organization adopted by the legislature based on
2 recommendations of the interim board.

3 (f) The board shall maintain transparency of board
4 actions, including public disclosure and posting of board
5 minutes on the connector's website [~~according to~~] in accordance
6 with the requirements of section 435H-C and other provisions
7 adopted by the legislature based on recommendations of the
8 interim board."

9 SECTION 4. Section 435H-7, Hawaii Revised Statutes, is
10 amended to read as follows:

11 "[+] §435H-7 [+] Eligibility determination for applicants in
12 medicaid adult and children's health insurance program. The
13 department of human services shall be the agency to determine
14 qualifications and eligibility of individuals to participate in
15 medicaid [~~adult~~] or children's health insurance programs. [~~The~~
16 ~~agency's determination of eligibility shall enable qualified~~
17 ~~individuals and authorized adults on behalf of qualified~~
18 ~~children to purchase qualified plans and qualified dental plans~~
19 ~~from the connector. The department of human services shall~~
20 ~~verify for the connector individuals and children able to~~
21 ~~participate in subsidized plans purchased through the~~
22 ~~connector.] The agency shall make a determination of eligibility~~



1 for each individual who applies through the connector unless the
2 applicant declines an eligibility determination."

3 SECTION 5. The changes to the composition of the Hawaii
4 health connector board of directors made to subsection (b) of
5 section 435H-4, Hawaii Revised Statutes, in section 3 of this
6 Act are not intended to replace any member of the board prior to
7 the end of that member's term.

8 SECTION 6. If any provision of this Act, or the
9 application thereof to any person or circumstance, is held
10 invalid, the invalidity does not affect other provisions or
11 applications of the Act that can be given effect without the
12 invalid provision or application, and to this end the provisions
13 of this Act are severable.

14 SECTION 7. Statutory material to be repealed is bracketed
15 and stricken. New statutory material is underscored.

16 SECTION 8. This Act shall take effect on July 1, 2050.



Report Title:

Hawaii Health Insurance Exchange; Hawaii Health Connector

Description:

Requires the Hawaii Health Connector to conduct an assessment before establishing a program to serve the individual and the small group markets. Establishes a navigator program. Clarifies the conduct of board meetings. Establishes staggered terms for board members and clarifies board composition. Clarifies role of the Department of Human Services in determining Medicaid eligibility. Effective July 1, 2050.
(SB2434 HD2)

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

