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TO THE SENATE COMMITTEE ON WAYS AND MEANS

TWENTY-EIGHTH LEGISLATURE  
Regular Session of 2015

Friday, February 27, 2015  
1:00 p.m.

Written Testimony Only

**TESTIMONY ON SENATE BILL NO. 1028, S. D. 1 – RELATING TO THE HAWAII HEALTH CONNECTOR.**

TO THE HONORABLE JILL N. TOKUDA, CHAIR, AND MEMBERS OF THE COMMITTEE:

My name is Gordon Ito, State Insurance Commissioner (“Commissioner”), testifying on behalf of the Department of Commerce and Consumer Affairs (“Department”). The Department supports the intent of this bill to provide for other revenue options for the Connector, but submits the following comments on this bill.

The purpose of this bill is to: require qualified health plans in the Hawaii Health Connector (“Connector”) to contract with federally-qualified health centers and utilize payment methodology as specified in the federal Social Security Act; retain the current financial and service benefits of the Connector; enhance the availability of services through the Connector; and assist the Connector by authorizing the State to guarantee debentures issued by the Connector.

The Department notes that Section 1301 of the Patient Protection and Affordable Care Act (“PPACA”) defines the term “qualified health plan.” The Department also notes that Section 1311(d)(2)(B)(i) of the PPACA prohibits an exchange from making available any health plan that is not a qualified health plan.

**Senate Bill No. 1028, S.D. 1**  
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Additionally, health insurers are required to conform to the PPACA, and the Commissioner has the power to enforce the consumer protections and market reforms under the PPACA. Section 432:1-107, HRS, section 432D-28, HRS, and section 431:10A-105.5, HRS. Under 45 CFR 156.235, qualified health issuers are already required to have essential community providers, the payment of which is set by federal regulation.

Furthermore, the proposed language regarding health centers may be in conflict with federal law under PPACA section 1301 in that the exchange certifies qualified health plans and not the Commissioner. In addition, PPACA Section 1311 and other federal regulations set forth the requirements for the Connector. Finally, the Insurance Division and the Commissioner do not regulate or oversee the contractual provisions or requirements between health insurers and medical providers.

Given the different potential inconsistencies between this bill's provisions and the PPACA, we would ask the Committee to closely consider the impact of this measure on the State's compliance with the various parts of the PPACA's requirements.

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



An Independent Licensee of the Blue Cross and Blue Shield Association

February 27, 2015

The Honorable Jill N. Tokuda, Chair  
The Honorable Ronald D. Kouchi, Vice Chair  
Senate Committee on Ways and Means

**Re: SB 1028, SD1 – Relating to Hawaii Health Connector**

Dear Chair Tokuda, Vice Chair Kouchi and Members of the Committee:

The Hawaii Medical Service Association (HMSA) appreciates the opportunity to testify on SB 1028, SD1, which, among other things, requires a qualified health plan to offer to contract with each federally qualified health center (FQHC), and to reimburse the FQHC at federal Prospective Payment System (PPS) rates. HMSA opposes a portion of this Bill because it raises serious Constitutional concerns, and we take no position of the remainder of the Bill.

Constitutional Concern: Impermissible Interference with Contracts

HMSA opposes the provision in this Bill mandating issuers to offer to contract with any willing FQHC and to reimburse that FQHC at PPS rates. We believe this requirement raises Constitutional concerns. Specifically, this provision is a substantial impairment of an issuer's contract rights under the Contracts Clause of the U.S. Constitution

HMSA has existing contracts with FQHCs that are the product of previous negotiations for services based on mutually agreed upon rates. The essential terms of these contracts include specific financial terms that set forth the reimbursement rates to FQHCs. By requiring HMSA to pay Medicaid PPS rates to FQHCs, SB 1028, SD1, substantially impairs HMSA's Constitutional contract rights by precluding the performance of an essential term of the existing contracts with FQHCs and by attempting to alter a specific financial term.

To address the Constitutional question raised in this Bill, a referral to and review by the Senate Committee on Judiciary and Labor may be appropriate.

Appropriation Required

Reimbursements at the PPS level is higher than our contracted commercial reimbursement level. The provision in this Bill requiring reimbursement to the FQHCs at the PPS level will drive up costs. And, it require a General Fund appropriation to cover the additional cost that will accrue to HMSA members who are part of a State-funded plan and who use the services of the FQHCs.

Thank you for the opportunity to testify in opposition to SB 1028 SD1. Your consideration of our concerns is appreciated.

Sincerely,

Jennifer Diesman  
Vice President  
Government Relations



**Testimony to the Senate Committee on Ways and Means  
Friday, February 27, 2015 at 1:00 P.M.  
Conference Room 211, State Capitol**

**RE: SENATE BILL 1028 SD1 RELATING TO THE HAWAII HEALTH  
CONNECTOR**

Chair Tokuda, Vice Chair Kouchi, and Members of the Committee:

The Chamber of Commerce of Hawaii ("The Chamber") **opposes** SB 1028 SD1, which aligns state law with certain provisions of the Affordable Care Act by requiring qualified health plans in the connector to contract with federally-qualified health centers and utilize payment methodology as specified in the federal Social Security Act. Also retains current financial and service benefits of the Hawaii health connector and enhance the availability of services through the connector. Further authorizes the State of Hawaii to guarantee debentures issued by the connector and specifies the Hawaii hurricane relief fund shall be authorized to guarantee, approve, and oversee the issuance of the debentures by the connector.

The Chamber is the largest business organization in Hawaii, 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.

We understand the need for the Health Connector to derive other sources of revenue. However, as we read the bill, it appears that the Connector can now function as a third party benefits administrator. If this is the intent, we have some concerns on having a government created, government funded non-profit, now able to compete against other private companies. This places the Connector at an advantage over other private sector companies.

Thank you for the opportunity to testify.

# HAWAII HURRICANE RELIEF FUND

335 Merchant Street #213

Honolulu, HI 96813 (Phone: 586-2804)

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To The Senate Committee on Ways and Means

Twenty-Eighth Legislature  
Regular Session of 2015

Friday, February 27, 2015  
1:00 p.m.

TESTIMONY ON SENATE BILL NO. 1028, S.D. 1-RELATING TO THE HAWAII HEALTH CONNECTOR

TO THE HONORABLE JILL N. TOKUDA, CHAIR, AND MEMBERS OF THE COMMITTEE

My name is Lloyd Lim, acting executive director of the Hawaii Hurricane Relief Fund (“HHRF”). I am testifying on behalf of the HHRF Board of Directors.

HHRF opposes SB 1028, S.D. 1 in relation to the use of HHRF to guarantee the debentures of the Hawaii Health Connector (“Connector”) with HHRF revenues as set forth in subsection (f) on page 9 of Section 5 of the bill. Our concerns are as follows:

1. HHRF believes that HHRF moneys should be used solely for HHRF purposes.
2. HHRF is a state agency and therefore HHRF moneys cannot be used to finance a non-profit like the Connector.
3. HHRF has been operationally dormant since 2002 and no longer has any revenues, other than the interest income on its reserve which is going to the general fund. HHRF has no plans to restart, so we do not expect to have any premium revenues. It should be noted that HHRF’s enabling statute, HRS chapter 431P, does not allow the imposition of these kinds of revenues for the purposes of the Connector.
4. Because HHRF is operationally dormant, it has no dedicated staff to handle the oversight of debentures issued by the Connector. In addition, HHRF has no particular expertise in bond work as this function is typically performed by the Department of Budget and Finance.
5. Finally, as a technical matter, it is not clear what is meant by the term “debentures.” The term “debentures” typically refers to unsecured debt, which is different from what is contemplated by this bill.

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



**HPCCA**

HAWAII PRIMARY CARE ASSOCIATION

**Senate Committee on Ways and Means**

The Hon. Jill N. Tokuda, Chair

The Hon. Ronald D. Kouchi, Vice Chair

**Testimony on Senate Bill 1028 SD 1**

**Relating to the Hawaii Health Connector**

**Submitted by Nani Medeiros, Public Affairs and Policy Director**

**February 27, 2015, 1:00 pm, Room 211**

The Hawaii Primary Care Association (HPCA), which represents the federally qualified community health centers (FQHC) in Hawaii, supports Senate Bill 1028, which calls for a number of measures to strengthen the Hawaii Health Connector.

The HPCA strongly supports section 2 of the bill, which calls for an amendment to HRS §435H to state:

(a) 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.

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

**SB1028**

Submitted on: 2/25/2015

Testimony for WAM on Feb 27, 2015 13:00PM in Conference Room 211

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Javier Mendez-Alvarez	Individual	Support	No

Comments:

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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