Nos. 11-393 & 11-400

IN THE
Supreme Court of the United States

NATIONAL FEDERATION OF INDEPENDENT BUSINESS, KAJ AHLBURG, AND MARY BROWN,
Petitioners,

v.

KATHLEEN SEBELIUS, *et al.*,
Respondents.

STATE OF FLORIDA, *et al.*,
Petitioners,

v.

UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES, *et al.*,
Respondents.

On Writs of Certiorari to the United States Court of Appeals for the Eleventh Circuit

BRIEF OF *AMICI CURIAE* ASIAN & PACIFIC ISLANDER AMERICAN HEALTH FORUM, *ET AL.*, IN SUPPORT OF COURT-APPOINTED *AMICUS CURIAE* (SEVERABILITY ISSUE)

MEE MOUA
PRISCILLA HUANG
ASIAN & PACIFIC ISLANDER AMERICAN HEALTH FORUM
1828 L Street, N.W.
Suite 802
Washington, DC 20036
(202) 466-7772

MARK A. PACKMAN
Counsel of Record
JONATHAN M. COHEN
KAMI E. QUINN
ALYSON A. FOSTER
MICHELLE A. PRICE
JENNA A. HUDSON
GILBERT LLP
1100 New York Avenue, N.W.
Suite 700
Washington, DC 20005
(202) 772-2320
packmanm@gotofirm.com

Counsel for Amici Curiae
[Additional *Amici* listed on inside cover]

AIDS Services in Asian Communities
Asian American Cancer Support Network
Asian American Health Coalition-HOPE Clinic
Asian & Pacific Islander Coalition on HIV/AIDS, Inc.
Asian & Pacific Islander National Cancer Survivors Network
Asian & Pacific Islander Wellness Center
Asian Health Services
Asian Pacific AIDS Intervention Team Health Center
Asian Pacific American Network of Oregon
Asian Pacific Community In Action
Asian Services In Action, Inc.
Asians and Pacific Islanders with Disabilities of California
Center for Pan Asian Community Services, Inc.
Coalition for Asian American Children and Families
Council for Native Hawaiian Advancement
Empowering Pacific Islander Communities
Filipino Community Cancer Collaborative
Guam Communications Network
Hawai'i Island HIV/AIDS Foundation
Kalusugan Coalition
Lao Assistance Center of Minnesota
Light and Salt Association
Malama Pono Health Services
Mary Queen of Viet Nam Community Development Corporation, Inc.
National Tongan American Society
Native Hawaiian and Pacific Islander Alliance
New Mexico Asian Family Center
Orange County Asian and Pacific Islander Community Alliance, Inc.
Pacific Islands Primary Care Association
Project CHARGE
Saath USA
Samoan Community Development Center
Samoan National Nurses Association
Taulama For Tongans
TOFA Inc.
Tongan Community Service Center
Vietnamese American Young Leaders Association of New Orleans
WAPI Community Services
West Michigan Asian American Association

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STATEMENT OF INTEREST OF *AMICI CURIAE*[1]

Since 1986, the Asian & Pacific Islander American Health Forum ("APIAHF") has influenced policy, mobilized communities, and strengthened programs and organizations to improve the health of Asian Americans, Native Hawaiians, and Pacific Islanders. As part of an ambitious framework for achieving health equity and addressing health disparities in Asian American, Native Hawaiian, and Pacific Islander communities, APIAHF's national policy work focuses on expanding access to health care, improving the quality of health care through cultural competency and language access, increasing research, and improving the collection, reporting, and analysis of data about our communities. APIAHF's work is possible through partnerships with community-based organizations, community leaders, health care providers and researchers, and other minority and immigrant health advocates.

The Patient Protection and Affordable Care Act ("Affordable Care Act" or the "Act") will reduce

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[1] In accordance with Supreme Court Rule 37.6, *Amici Curiae* note that the position they take in this brief has not been approved or financed by Petitioners, Respondents, Court-Appointed *Amicus Curiae*, nor their counsel. Neither Petitioners, Respondents, Court-Appointed *Amicus Curiae*, nor their counsel had any role in authoring, nor made any monetary contribution to fund the preparation or submission of, this brief. Pursuant to Supreme Court Rule 37.3, *amici curiae* state that all parties have consented to the filing of this brief; blanket letters of consent have been filed with the Clerk of the Court.

the number of uninsured Americans and provide better coverage options for those who need it the most. Additionally, the Act will improve the quality of care available to marginalized communities. APIAHF's advocacy efforts to promote fairness, respect, equity, and health justice lead to its authorship of this *amicus* brief.

Joining APIAHF as *amici curiae* are thirty-nine additional public interest groups that focus on issues impacting Asian American, Native Hawaiian, and Pacific Islander communities (collectively, "*Amici*"). The statements of interest of these additional *Amici* are included in Appendix A.

INTRODUCTION AND SUMMARY OF ARGUMENT

This brief supports the position of Court-Appointed *Amicus Curiae* H. Bartow Farr, III. Multiple states and private entities have challenged the constitutionality of the Affordable Care Act's minimum coverage provision, which requires all individuals to procure and maintain health insurance. Although undersigned *Amici* believe that Congress had constitutional authority to enact the minimum coverage provision, they submit this brief in support of severability because the other reforms of the Affordable Care Act make substantial progress toward Congress's goal of improving access to quality, appropriate, and affordable health care. As the Eleventh Circuit determined, the Affordable Care Act is fully functional without the minimum coverage provision. *Amici* accordingly agree with the Eleventh Circuit that, if the Court finds the minimum coverage provision unconstitutional, it should sever the provision and leave the remainder of the Affordable Care Act intact.

If the Court finds that the minimum coverage provision is unconstitutional, the Court will need to determine whether "the legislature [would] have preferred what is left of its statute to no statute at all." *See Ayotte v. Planned Parenthood of N. New Eng.*, 546 U.S. 320, 330 (2006) (citations omitted). The Court will need to review Congress's original goals and determine "whether the statute will function in a *manner* consistent with the intent of Congress" without the unconstitutional provision. *See Alaska Airlines, Inc. v. Brock*, 480 U.S. 678, 685

(1987); *Regan v. Time, Inc.*, 468 U.S. 641, 652-53 (1984).

In making these determinations, the Court will begin with the principle that an unconstitutional provision is presumptively severable. *See Regan*, 468 U.S. at 652-53. The Court therefore will leave intact constitutionally valid provisions that are "fully operative as law," unless "it is evident that [Congress] would not have enacted those provisions" but for the unconstitutional provision. *Id.* at 653 (citations omitted).

Here, it is clear that Congress would prefer that the remaining provisions of the Affordable Care Act remain intact even if the Court finds that the minimum coverage provision is unconstitutional. Congress passed the Affordable Care Act to improve access to quality, appropriate, and affordable health care for all Americans. This includes minorities such as Asian Americans, Native Hawaiians, and Pacific Islanders, who, as Part I below demonstrates, are inadequately served by the current health care system. For example:

- Asian Americans, Native Hawaiians, and Pacific Islanders are more likely to be uninsured than non-Hispanic white Americans.

- Because of unique cultural and language barriers, Asian Americans, Native Hawaiians, and Pacific Islanders do not receive the

recommended levels of preventive health care, counseling, or routine treatment.

- Disaggregated data reveal that ethnic subgroups within these communities are particularly disadvantaged in their access to meaningful health care.

Additionally, as the real-world experiences of the Asian American, Native Hawaiian, and Pacific Islander individuals described in Part II demonstrate, the Affordable Care Act will reduce the burdens that the current health care system places on all Americans. For example,

- The Affordable Care Act will enable more Americans to obtain health insurance coverage as individuals, through their employers, and from federal and state governments.

- The Affordable Care Act will help Americans access culturally and linguistically appropriate services and providers.

- The Affordable Care Act will help researchers, health care providers, and federal and state governments identify and reduce health disparities through expanded data collection and reporting.

Reducing these burdens on access to health care is critically important. There is no evidence that Congress would refuse to enact these crucial

reforms even if the minimum coverage provision is held unconstitutional.

In sum, even without the minimum coverage provision, the Affordable Care Act is "fully operative as law." *Regan*, 468 U.S. at 653. It is not "evident" that Congress would have enacted the remaining provisions of the Affordable Care Act only in conjunction with the minimum coverage provision. *See id.* To the contrary, the evidence demonstrates that Congress would prefer that the Affordable Care Act remain intact and serve the goals of reducing barriers to health care even without the minimum coverage provision. Accordingly, even if this Court were to hold that the minimum coverage provision is unconstitutional, it should sever that provision and uphold the remainder of the Affordable Care Act.

ARGUMENT

I. ASIAN AMERICANS, NATIVE HAWAIIANS, AND PACIFIC ISLANDERS HAVE UNIQUE HEALTH CARE NEEDS AND DISPROPORTIONATELY LESS ACCESS TO QUALITY, APPROPRIATE, AND AFFORDABLE HEALTH CARE.

More than 18 million Asian Americans, Native Hawaiians, and Pacific Islanders live in the United States and its jurisdictions. *Demographic and Socioeconomic Profiles of Asian Americans, Native Hawaiians, and Pacific Islanders in the United States*, APIAHF, 2 (July 2011), http://www.apiahf.org/sites/default/files/Demographi

c_Socioeconomic_Profiles_AANHPI.pdf ("*Demographic and Socioeconomic Profiles*"). Many of these people face unique challenges in obtaining meaningful health care.

Fourteen percent of Asian Americans, Native Hawaiians, and Pacific Islanders lack any form of health insurance. *The Impact of Health Care Reform on Health Coverage for Asian Americans, Native Hawaiians, and Pacific Islanders*, APIAHF, 1 (Dec. 2011), http://www.apiahf.org/sites/default/files/PA-Factsheet12-2011.pdf ("*Impact of Health Care Reform*") (citation omitted). This number is even higher within specific ethnic groups; over 20% of Bangladeshi, Cambodian, Korean, and Pakistani Americans. *Id.* Additionally, as many as 65.7% of Chinese Americans living in the western United States, are uninsured. *See* Chau Trinh-Shevrin et al., *Asian American Communities And Health: Context, Research, Policy and Action*, 353-54 (Albert K. Yee et al., eds., 2009).

In addition, Asian American, Native Hawaiian, and Pacific Islander children are uninsured and underinsured at unacceptably high rates. Approximately 8% of Asian American children and 11% of Native Hawaiian or Pacific Islander children are uninsured. *See Coverage Gains For Asian American, Native Hawaiian and Pacific Islander Children Under Health Care Reform*, APIAHF, 1 (Sept. 2011), http://www.apiahf.org/sites/default/files/PA-factsheet09-2011_0.pdf. Among all racial groups, Asian American children have the highest rate of underinsurance, at 28%. *Id.* at 2 (citation omitted).

These high rates of uninsurance and underinsurance result from a variety of factors. Michael D. Kogan et al., *Underinsurance Among Children in the United States*, 363 New Eng. J. Med. 841, 841-51 (2010). In many cases, individuals in these communities are self-employed and cannot afford individual coverage, or are employed at small businesses that do not provide health insurance. Trinh-Shevrin et al., *supra*, at 346.

Many Asian Americans, Native Hawaiians, and Pacific Islanders are simply unable to afford health insurance and/or health care. Although some subgroups of this population enjoy economic success and stability, others struggle with severe poverty. For example, whereas only approximately 5% of Filipino families have incomes below the poverty line, approximately 25% of Hmong American (an ethnic group from China, Vietnam, Laos, and Thailand) families have incomes below the poverty line. *See Demographic and Socioeconomic Profiles*, *supra*, at 11. Approximately 56% of all Asian Americans have personal incomes under 400% of the Federal Poverty Level. *Current Population Survey: 2011 Annual Social and Economic Supplement: Asian Alone,* U.S. Census Bureau, (2011), http://www.census.gov/hhes/www/cpstables /032011 /pov/new01_400_08.htm. Further, 15.1% of Native Hawaiians and Pacific Islanders live in poverty. *Facts for Features: Asian/Pacific American Heritage Month: May 2011*, U.S. Census Bureau News, 3 (March 8, 2011), http://www.census.gov/ newsroom/releases/pdf/cb11ff-06_asian.pdf.

When members of these communities attempt to access health care, they face unique barriers. For example, roughly one out of every three Asian Americans, and nearly one in seven Asian American children, has limited English proficiency and experiences some difficulty communicating in English. *2008-2010 American Community Survey 3-Year Estimates: Nativity By Language Spoken At Home By Ability To Speak English For the Population 5 Years And Over (Asian Alone),* U.S. Census Bureau (2010), http://www.arcticstat.org/TableViewer.aspx?S=1&ID=7996.

Finally, Asian Americans, Native Hawaiians, and Pacific Islanders experience disproportionate rates of multiple types of cancer, mental health conditions, Hepatitis B, and other diseases. *Asian American Health Concerns*, Asian Am. Health Initiative, http://aahiinfo.org/about-asian-americans/asian-american-health-concerns/ (last visited January 26, 2012); *see also Priorities in Health Care Reform for Asian American, Native Hawaiian, and Pacific Islander Communities*, APIAHF, 1 (Feb. 2010), http://www.apiahf.org/sites/default/files/PA_HealthBrief02_2010.pdf ("*Priorities in Health Care Reform*"). Pacific Islander communities also are at disproportionate risk for cardiovascular disease, obesity, and diabetes. Trinh-Shevrin et al., *supra*, at 177, 181, 183.

The Affordable Care Act will improve access to quality, appropriate, and affordable health care. The availability of health insurance will contribute to meeting this goal. Not surprisingly, there is a strong correlation between those who have

insurance and those who have access to health care: as many as 96% of Asian Americans, Native Hawaiians, and Pacific Islanders who have health insurance regularly access medical care, as compared to only 47% of those who are uninsured. *See* E. Brown et al., *Racial and Ethnic Disparities in Access to Health Insurance and Health Care*, UCLA Center for Health Policy Research and The Henry J. Kaiser Family Found. (2000), http://www.kff.org/uninsured/upload/Racial-and-Ethnic-Disparities-in-Access-to-Health-Insurance-and-Health-Care-Report.pdf. Even beyond increasing the availability of health insurance, the Affordable Care Act "includes a number of provisions that will improve the health of racial and ethnic minorities and other vulnerable populations." *Report to Congress: Report on Minority Health Activities As Required by the Patient Protection and Affordable Care Act, P.L. 111-148*, Office of Minority Health, Dept. of Health & Human Servs., vi (2011), http://www.healthcare.gov/law/resources/reports/minorities03252011a.pdf. ("*Report to Congress*").

Part II demonstrates how Congress intended multiple provisions of the Affordable Care Act to address such disparities and establishes that each operates and serves Congress's goals independently of the minimum coverage provision.

II. THE AFFORDABLE CARE ACT IMPROVES ACCESS TO HEALTH CARE FOR ALL THROUGH COMPREHENSIVE REFORMS THAT OPERATE INDEPENDENTLY FROM THE MINIMUM COVERAGE PROVISION.

Congress designed the Affordable Care Act to address, among other failures of the national health care market, the costs that the current health care system imposes on society as a whole, as well as the disparities that minorities experience in health and health care. To remedy these failures, the Act includes both (A) broad reforms designed to alleviate burdens created by the existing health care system market and improve health insurance and health care benefits and (B) more focused reforms designed to create a framework to address health care issues unique to minority populations. The focused reforms are largely based on previous legislation proposed by minority caucuses. Together, these broad and focused changes help remedy failures of the existing health care system and address disparities in minority access to quality, appropriate, and affordable health care.

A. Many Provisions Of The Affordable Care Act Directly Remedy The Current System's Burdens On Society While Increasing Access To Meaningful Health Insurance And Health Care For All Americans.

The current health care system imposes a burden on society that multiple provisions of the

Affordable Care Act help alleviate. High health care costs force many Americans who are unable to afford health care to pass their costs to others in society. *See* David Himmelstein et al., *Medical Bankruptcy in the United States, 2007: Results of a National Study*, 122 Am. J. of Med. 741, 741 (2009). In 2007, 62% of individuals who filed for bankruptcy did so as a result of high medical costs or medical-related issues. *Id.* Researchers at the Urban Institute recently estimated that the Affordable Care Act will halve the national costs of providing uncompensated care. Fredric Blavin et al., *State Progress Toward Health Reform Implementation: Slower Moving States Have Much to Gain: Timely Analysis of Immediate Health Policy Issues*, Urban Institute, 3 (2012), http://www.urban.org/Uploaded PDF/412485-state-progress-report.pdf. Currently, the federal government bears 45% of those costs, state and local governments bear 30% of those costs, and health care providers bear 25% of those costs. *Id.* Health issues create an estimated $260 billion per year of lost economic output in the United States, which equals about 2.4% of the gross domestic product. Karen Davis et al., *Health and Productivity Among U.S. Workers*, The Commonwealth Fund, 4 (2005), http://www.commonwealthfund.org/usr_doc/856_Davis_hlt_productivity_USworkers.pdf.

The Affordable Care Act also improves access to health insurance and health care. The Act both benefits all Americans and remedies the disparate access of minorities to meaningful health insurance and health care through, among other provisions: (1) the Small Business Health Options Program

("SHOP") and small business tax credits; (2) the expansion of Medicaid; (3) the premium tax credit; (4) the dependent coverage provision; and (5) the collection of provisions that bar private insurers from denying coverage or charging higher premiums based on an applicant's medical condition. While helping all Americans, these provisions reform the health care system in ways that will benefit millions of previously underserved Asian Americans, Native Hawaiians, and Pacific Islanders. Indeed, the experiences of individuals within these communities demonstrate that many people already have benefited from the Act and that these provisions are "fully operative as law" without the minimum coverage provision. *See Regan*, 468 U.S. at 653.

1. The SHOP And Small Business Tax Credits Will Enable Over 1.5 Million Asian American, Native Hawaiian, And Pacific Islander Small Business Owners To Provide Health Care For Their Families And Employees.

The SHOP and small business tax credit provisions help small business owners and their employees access affordable, quality health insurance. *See* 42 U.S.C. § 18031 (2010). The SHOP will enable small business owners to offer their employees a choice among multiple qualified health plans. *Id.* The SHOP finds qualified health plans, obtains cost and benefit information, enrolls employees, and allows for consolidated billing, relieving employees of these costs and burdens. *Affordable Insurance Exchanges: Choices,*

Competition and Clout for Small Businesses, HealthCare.gov, http://www.healthcare.gov/news/factsheets/2011/07/exchanges07112011c.html (last visited Dec. 30, 2011). The Affordable Care Act further helps small business owners with fewer than twenty-five full-time employees who provide health insurance coverage to their employees by providing the owners with a health insurance premium tax credit. *Id.*

Asian Americans, Native Hawaiians, and Pacific Islanders are in particular need of small business credits. The percentage of Asian Americans, Native Hawaiians, and Pacific Islanders with employment-based health insurance is lower than the percentage of non-Hispanic whites. *See* Trinh-Shevrin et al., *supra*, at 346. This is because Asian Americans, Native Hawaiians, and Pacific Islanders are more likely than non-Hispanic whites to be self-employed, unable to afford health insurance, or employed by small businesses that cannot afford to provide it. *Id.* In fact, more than 1.5 million Asian Americans, Native Hawaiians, and Pacific Islanders own or work for small businesses. *See* Press Release, U.S. Census Bureau, *Census Bureau Reports the Number of Asian-Owned Businesses Increased at More Than Twice the National Rate* (April 29, 2011), http://www.census.gov/newsroom/releases/archives/business_ownership/cb11-74.html. Especially high numbers of Korean Americans are self-employed or work for small businesses. A survey of Korean American small shop owners revealed that 52% could not afford to provide a health plan for their employees, and 30% could not afford health coverage for their

dependents, including children. Deeana Laurie Jang, *Plug Coverage Gap*, ModernHealthcare.com (March 11, 2010, 10:30 am), http://www.modernhealthcare.com/article/20100311/news/303119951, *available at* http://www.apiahf.org/sites/default/files/Modern_Healthcare_03_11_10.pdf .

The individual experience of Tai Kyun Kim illustrates the immediate need for the SHOP and small business tax credit provision. Mr. Kim emigrated from North Korea and now owns and operates a small fish-fry restaurant in Union City, Georgia. Mr. Kim already has suffered one heart attack. He and his wife have accumulated $30,000 in unpaid medical bills and cannot afford to pay out of pocket for care known to lower the risk of a second heart attack. In addition, the Kims cannot find affordable group health insurance for their employees, a gap that leaves four employees and their dependent children at risk. The employees and their children often end up in emergency rooms. They, like millions of other uninsured Americans, rely on such trips for care that is needlessly expensive and fails to prevent chronic conditions from getting worse. *Id.* Under the Affordable Care Act, the Kims will be able to access the SHOP and gain health coverage for their family and employees.

Under *Regan*, to hold that a "fully operative" provision of the Affordable Care Act is not severable, it must be "evident" that Congress would not have enacted that provision without the minimum coverage provision. *See* 468 U.S. at 653. As the Eleventh Circuit noted, that standard is not

satisfied here. *See* Pet. App. 11-393 at 196a (holding that all provisions of the Affordable Care Act are "fully operative as law" without the minimum coverage provision).

2. The Medicaid Expansion Provision Will Help Over One Million Previously Uninsured Asian Americans, Native Hawaiians, And Pacific Islanders.

The Affordable Care Act standardizes eligibility for Medicaid to all Americans under 65 (and their families) with incomes less than 133% of the Federal Poverty Level. 42 U.S.C. § 1396a(a)(10)(A)(i)(VIII) (2010). Prior to the Affordable Care Act, Medicaid eligibility requirements varied by state. *A Summary of the Health Reform Law*, Families USA, 3 (April 2010), http://www.familiesusa.org/assets/pdfs/health-reform/summary-of-the-health-reform-law.pdf. Prior to the Affordable Care Act, thirty-nine states did not provide Medicaid benefits to adults without dependent children. *Id.*

The Affordable Care Act's standardization of the Medicaid eligibility requirement will greatly benefit Asian Americans, Native Hawaiians, and Pacific Islanders. As of December 2011, almost 10% of Asian Americans and approximately 14% of Native Hawaiians and Pacific Islander Americans received health care through Medicaid. *See Impact of Health Care Reform*, *supra*, at 3. Dennis Chau, an eighteen-year-old Chinese American from

Houston, Texas, explains how life changed after his family no longer qualified for Medicaid due to his state's law:

> When our family didn't qualify for governmental insurance [anymore], we found ourselves foregoing quality over economy. The number of doctors changed as often as the seasons, and price was always weighing heavily on our minds. Life was always "be careful, you know you don't have insurance" and even ["]don't get sick, it'll be hard to pay for the costs if you do.["] It's just been so long without insurance that this seems like reality, and the days of coverage aren't really more than a dream.

Stories From Our Communities: Dennis Chau, APIAHF, http://www.apiahf.org/node/845 (last visited Feb. 14, 2012).

Under the Affordable Care Act's Medicaid expansion provisions, an estimated additional 9% of Asian Americans and 13% of Native Hawaiians and Pacific Islanders, totaling almost 1.3 million people, will gain coverage. *Impact of Health Care Reform*, *supra*, at 3 (citation omitted). This provision is "fully operative as law" and it is not "evident" that Congress would forgo including this provision without the minimum coverage provision. *See Regan*, 468 U.S. at 653; Pet. App. 11-393 at 196a ("The Act's other provisions remain legally operative after the [minimum coverage provision's] excision, and the high burden needed under Supreme Court

precedent to rebut the presumption of severability has not been met.").

3. The Premium Tax Credit Provision Will Help Over One Million Medicaid-Ineligible Asian Americans, Native Hawaiians, And Pacific Islanders Obtain Health Insurance.

The Affordable Care Act's tax credit for Americans with incomes between 133% and 400% of the Federal Poverty Level will help those who are ineligible for Medicaid afford insurance coverage. 26 U.S.C. § 36B (2010). These qualifying individuals and families will receive refundable tax credits to help offset part of the costs of their health insurance premiums. *Id.* The size of the tax credit depends on the tax-filer's income; those with lower incomes will receive more assistance. *Id.* These tax subsidies likely will benefit up to 25% of Asian Americans, Native Hawaiians, and Pacific Islanders. *Impact of Health Care Reform*, *supra*, at 4. This provision, too, is "fully operative as law" without the minimum coverage provision, and it is not "evident" that Congress would forgo including it without the minimum coverage provision. *See Regan*, 468 U.S. at 653; Pet. App. 11-393 at 196a.

4. The Dependent Coverage Provision Will Help Many Asian American, Native Hawaiian, And Pacific Islander Young Adults Receive Health Insurance.

The Affordable Care Act mandates that, starting in September 2010, private individual or group insurers that offer dependent coverage to children of covered parents must allow children up to age twenty-six to stay on their parents' health insurance plans. 42 U.S.C. § 300gg-14 (2010); *Explaining Health Care Reform: Questions About the Extension of Dependent Coverage to Age 26*, The Henry J. Kaiser Family Found., 1 (May 2010), http://www.kff.org/healthreform/upload/8065.pdf ("*Explaining Health Care Reform*"). These children must demonstrate that they do not have coverage through their own employer, but they no longer need be students, and their parents need not claim them as dependents for tax purposes. *Explaining Health Care Reform*, *supra*, at 1. Previously, children over the age of nineteen were only allowed to be on their parents' health insurance plans while they were students. *Impact of Health Care Reform*, *supra*, at 5. The dependent coverage provision is especially important because the economic downturn has made it difficult for many young adults to find and afford health coverage. *Health Coverage for Young Adults: Health Reform Allows You to Stay on Your Parent's Health Plan*, Families USA, (2011), http://www.familiesusa.org/assets/pdfs /health-reform/coverage-for-young-adults.pdf.

Before the Affordable Care Act, almost 25% of Asian Americans and 30% of Native Hawaiians and Pacific Islanders between the ages of eighteen and twenty-four were uninsured. *Impact of Health Care Reform*, *supra*, at 5. The Affordable Care Act undoubtedly will help many of the 300,000 young adults in these communities obtain insurance. *Id.* This includes Jessica Huang, who attends a public university and works for a small business, both part-time. She is not eligible for health insurance through her school or her employer:

> For many young adults like me, it's particularly difficult to afford insurance working in entry-level, low-wage or temporary jobs. It's even harder when you are also going to school . . . . A few years ago, I discovered that my right kidney was abnormally small and filled with about a dozen stones that were trying to pass from the kidney. I had emergency surgery to remove the kidney and was lucky that I was covered under my father's insurance because it would have cost $34,000. I now need regular check-ups and a contrast CT scan every two years to make sure my remaining kidney is still functioning. I was dropped from my father's insurance when I turned 25 last year and spent several months without those regular checkups—worrying and hoping that I would not have another emergency. Because health care reform requires private insurers to cover young adults up to age 26 [] through their parent's insurance plan, I will

> be able to afford the contrast CT scan this year.

Stories From Our Communities: Jessica Huang, APIAHF, http://www.apiahf.org /jessica-huang (last visited Feb. 15, 2012). Not only will the dependent coverage provision help many Americans, but, this provision is "fully operative as law," and it is not "evident" that Congress would forgo including it without the minimum coverage provision. *See Regan*, 468 U.S. at 653; Pet. App. 11-393 at 196a.

5. The Provisions Barring Private Insurers From Denying Coverage Or Charging Higher Premiums Based On An Applicant's Medical Condition Will Enable Millions of Previously Uninsured Asian Americans, Native Hawaiians, And Pacific Islanders To Obtain Health Insurance And Thus Health Care.

Before Congress enacted the Affordable Care Act, health insurance companies routinely denied individual health insurance coverage, or charged exorbitant premiums, to individuals with certain preexisting conditions. The Affordable Care Act alleviates this problem in three main ways. First, the Act bars private insurers from denying coverage based on preexisting conditions. Since 2010, the Act has required all employer-sponsored health plans and new individual policies to provide coverage to all persons under age nineteen without regard to

preexisting conditions. From 2010 to 2014, the Act provides coverage through state- and federal-run health programs for individuals over nineteen-years-old who have been unable to procure private insurance because of a preexisting condition. 42 U.S.C. § 300gg-3 (2010). After 2014, the Act will require private insurers that participate in state health insurance marketplace exchanges to provide coverage to individuals of all ages with preexisting conditions. *Id.* Second, the Act prohibits private insurers from charging higher premiums based on an insured's medical condition. *See* 42 U.S.C. §§ 300gg-4(b); 300gg(a)(1) (2010). Third, the Act requires all private insurers that operate in an individual or group market to accept every application for insurance coverage that they receive. *Id.* These provisions comprehensively protect individuals who previously were unable to obtain or afford insurance coverage based on their health status.

Such coverage is critically important in Asian American, Native Hawaiian, and Pacific Islander communities where chronic disease is widespread. Thirty percent of Asian Americans have asthma, diabetes, or hypertension. *Impact of Health Care Reform*, *supra*, at 4. Fifty percent of Americans with Hepatitis B are Asian American, Native Hawaiian, or Pacific Islander. *Id.* These communities experience disproportionate rates of cervical cancer, breast cancer mortality, stomach cancer, liver cancer, mental health conditions, Hepatitis B, and other diseases. *Asian American Health Concerns*, *supra*; *see also Priorities in Health Care Reform*, *supra*, at 1. Pacific Islander

communities also suffer disproportionate rates of cardiovascular disease, obesity, and diabetes risk. Trinh-Shevrin et al., *supra*, at 177, 181, 183.

The experiences of members of Asian American, Native Hawaiian, and Pacific Islander communities and their health care providers demonstrate the direct and substantial impact of the Act's provisions that remove barriers to coverage.

Anton Saleh, a 16-year-old of Filipino descent from Southern California, reports receiving life-changing benefits from the guaranteed issuance of coverage provision:

> Before health care reform, I was unable to afford my prescription medications because my cancer medications were not on my insurer's approved drug list. The drugs I must take to treat my cancer cost $40+ per capsule and I presently take 4 per day, though this may soon increase to 6. At present, the cost of my medication is nearly $5,000 per month, which was $60,000 per year. Despite knowing that this medication is necessary to save my life, [my previous insurer] has repeatedly declined further support. We even tried to get the manufacturer of the drug to place me in a program that would have reduced the cost of my prescription, but they politely declined citing my age as the reason.

> My parents, of course, did whatever they could to find the funds to pay for my treatments. In fact, my father sold our family home, which he had lived in for 50 years, to make certain we had the money for my medicine. We also found we could order the same medication from an overseas supplier in the UK for roughly half the cost. It took my father months to comb through the various questionable online offerings and vet their reliability but it did payoff with a lower cost provider.
>
> In April of [2011], thanks to [the Affordable Care Act], we were able to change insurers. We now have insurance that covers much more of my prescription costs.

Stories From Our Communities: Anton Saleh, APIAHF, http://www.apiahf.org/node/844 (last visited Feb. 14, 2012).

The Asian & Pacific Islander Coalition on HIV/AIDS similarly reports that its patients already have received greater access to health insurance and services under the Affordable Care Act. For example, one health care provider recalls an uninsured, HIV-positive patient who had rapidly growing disfiguring masses on his face and neck, and needed a biopsy and a CT-scan immediately. The patient had three options: buy private insurance, go to a private surgeon and pay out of pocket, or wait three months for an appointment at the hospital. Prior to the Affordable Care Act, even if he had been able to purchase private health

insurance, preexisting coverage restrictions would have forced him to wait up to a year for treatment. The patient did not have the financial resources to pay out of pocket for a private surgeon, and he could not wait the three months before he would be able to get an appointment at a hospital. However, because of the Affordable Care Act, he enrolled in his state's program for individuals with preexisting conditions. Once he obtained this coverage, he received a biopsy and CT scan within two days. His medical provider was then able to identify and treat his condition. *See Stories From Our Communities: Asian & Pacific Islander Coalition on HIV/AIDS*, APIAHF, http://www.apiahf.org/asian-pacific-islander-coalition-hiv/aids (last visited Feb. 14, 2012).

As these reports show, the provisions of the Affordable Care Act that bar private insurers from denying coverage or charging higher premiums based on an applicant's medical condition will have a momentous impact on the millions of Asian Americans, Native Hawaiians, and Pacific Islanders who are currently uninsured.

Further, as the Eleventh Circuit determined, these provisions are fully functional without the minimum coverage provision. Although Congress included the minimum coverage provision in part to mitigate the financial burden that provisions barring private insurers from denying coverage or charging higher premiums based on an applicant's medical condition place on those insurers, *see* 42 U.S.C. § 18091(a)(2)(I) (2010), the minimum coverage provision is not the only provision that will

alleviate that burden. The Affordable Care Act contains provisions "apart from and independent of" the minimum coverage provision that encourage Americans to purchase insurance coverage, including provisions removing substantial barriers to coverage for Americans who do want health care coverage. *See* Pet. App. 11-393 at 189a (citing numerous provisions, including 26 U.S.C. §§ 36B, 4980H (2010); 29 U.S.C. § 218A (2010); 42 U.S.C. §§ 18071, 18031(d)(4)(d) (2010)). Furthermore, the minimum coverage provision would not entirely eliminate the burden that these provisions pose to private insurers; it includes three exemptions to the requirement that individuals maintain minimum coverage and five situations under which individuals would not be penalized for non-compliance. *See* Pet. App. 11-393 at 190a; *see also* 26 U.S.C. § 5000A(d), (e) (2010). [2]

There is no question that the provisions that bar private insurers from denying coverage or charging higher premiums based on an applicant's medical condition—like the SHOP provision, the Medicaid expansion provisions, and the other provisions discussed above—can operate without, and are "fully operative" without, the minimum coverage provision. *See Regan*, 468 U.S. at 653. It

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[2] The Eleventh Circuit addressed only two of the provisions that require private insurers to provide health insurance without excluding coverage for preexisting medical conditions. *See* Pet. App. 11-393 at 184a (citing 42 U.S.C. §§ 300gg-1, 300gg-3). This same rationale applies, however, to all five of the above-listed provisions, which together bar private insurers from denying coverage or charging higher premiums based on preexisting conditions.

is far from "evident" that Congress would have elected not to make these critical and beneficial reforms in the absence of the minimum coverage provision. *See id.*

B. The Affordable Care Act Also Creates A Framework For Addressing Disparities In Minority Access To Quality, Appropriate, And Affordable Health Care.

In addition to the broad reforms discussed above, which will provide immediate health insurance and health care benefits to all Americans and will alleviate burdens created by the current health care system, the Affordable Care Act contains many reforms that target specific problems that minorities face. Many of these reforms are based on the Health Equity and Accountability Act of 2009 (the "Health Equity Act"). H.R. 3090, 111th Cong. (2009). The Health Equity Act was intended to "improve the health of minority individuals." *Id.*[3]

Congress specifically has found that racial and ethnic minority groups have poorer health status and more limited access to meaningful health care than other Americans. Congress therefore

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[3] In September 2011, the Congressional Tri-Caucus introduced the Health Equity and Accountability Act of 2011, H.R. 2954, which builds upon the foundation created by the Affordable Care Act. *See Thank You Letter From Community Groups*, APIAHF, 1 (2011), http://www.apiahf.org/sites/default/files/HEAA%20of%202011%20Thank%20you%20Letter%20from%20Community%20Groups.pdf.

sought to "eliminate racial and ethnic health disparities," because it found that:

> (1) The health status of the American populace is declining and the United States currently ranks below most industrialized nations in health status measured by longevity, sickness, and mortality;
>
> (2) Racial and ethnic minority populations tend [to] have the poorest health status and face substantial cultural, social, and economic barriers to obtaining quality health care; and
>
> (3) Efforts to improve minority health have been limited by inadequate resources (funding, staffing and stewardship) and accountability.

Id. § 411(a).

The Affordable Care Act mirrors sections of the Health Equity Act, including provisions related to: (1) culturally and linguistically appropriate health care; (2) health workforce diversity; (3) data collection and reporting; and (4) programs and evaluation related to minority health. These portions of the Affordable Care Act seek to remedy racial and ethnic disparities in health care by creating a framework that specifically targets the needs of underserved minority communities. The provisions of this framework are unconnected to, and have gone into effect before, the minimum

coverage provision. They accordingly are "fully operative as law." *See Regan*, 468 U.S. at 653. It is clear that Congress did not intend these crucial needs to go unmet in the absence of the minimum coverage provision, as Congress chose to implement these provisions years in advance of the minimum coverage provision.

1. The Affordable Care Act Improves Culturally And Linguistically Appropriate Health Care.

In drafting the Health Equity Act, Congress found that "[r]esearch establishes that the lack of language services creates barriers to and diminishes the quality of health care and health status for limited English proficient individuals." H.R. 3090 § 101(a)(2). Congress also found that, as the number of individuals with limited proficiency in English grows, there is a societal "responsibility to fund language services in the provision of health care and health care-related services." *Id.* § 101(a)(4).

Access to culturally and linguistically appropriate services and providers is imperative for Asian Americans, Native Hawaiians, and Pacific Islanders. Over 33% of Asian Americans have limited English proficiency, and 25% of Asian American households are without a member who is proficient in English. *Health Inequities in the Asian American Community*, Asian Am. Justice Center, 1, http://www.advancingequality.org/attachments/wysiwyg/1/AAJC_Health_Disparities.pdf. Although

many Asian Americans, Native Hawaiians, and Pacific Islanders have chronic conditions, 94% of immigrants from Vietnam, Laos, and Cambodia "reported having no knowledge of blood pressure and its significance, and 85 percent reported no knowledge of how to prevent heart disease." *Id.* Similarly, although the Asian American, Native Hawaiian, and Pacific Islander communities had the "highest percentage increase in HIV infection and AIDS cases among racial and ethnic groups," members of these communities "were twice as likely as non-Hispanic whites to report knowing nothing about AIDS." *Id.* Linguistically and culturally appropriate services will help Asian Americans, Native Hawaiians, and Pacific Islanders understand the diseases that they have or are at risk for, and will help them avoid contracting these diseases.

"Sheela" demonstrates the dire consequences of health care that is not culturally and linguistically appropriate. Sheela suffered from severe Post-Traumatic Stress Syndrome ("PTSD") as a result of severe physical and mental domestic abuse. Because Sheela had limited English proficiency, she was unable to communicate with her health care providers. A miscommunication caused a psychiatrist to diagnose her as a paranoid schizophrenic. Following that misdiagnosis, Child Protective Services took Sheela's children. Sheela spent the next seventeen months attempting to regain custody of her children. Eventually, Sheela sought the counsel of Arizona South Asians For Safe Families ("ASAFSF"), which provided her with language access and support. Through an ASAFSF translator, a psychiatrist treated Sheela and found

that she was neither psychotic nor schizophrenic. In the psychiatrist's professional opinion, Sheela was quite capable of taking care of her children. Eventually, Sheela was reunited with her children and received the treatment she needed. *See* Statement on file with ASAFSF.

Linguistic and cultural barriers to health care plague multiple subgroups of Asian Americans, Native Hawaiians, and Pacific Islanders. For example, Jane Ka'ala Pang, a registered nurse and program manager from Santa Ana, California, described the difficulties faced by an elder in the Marshallese community who attempted to access medical services. The elder, who had been an active leader in the Marshallese community for over 25 years, suffered from end stage renal failure, diabetes, and blindness. But because her local medical facility did not have a Marshallese translator on staff, she was unable to give informed consent or receive critical medical information. *See Stories From Our Communities: Jane Ka'ala Pang, RN, PHN,* APIAHF, http://www.apiahf.org/jane-kaala-pang-rn-phn (last visited Feb. 14, 2012).

Consequences of such failures are dire for these individuals and their families.

To address the issue of lack of culturally and linguistically appropriate health care, the Affordable Care Act requires and funds training for health care workers to learn to provide such care. For example, the Affordable Care Act establishes Primary Care Extension Programs that aim, in part, to train workers who "provide guidance to

patients in culturally and linguistically appropriate ways." 42 U.S.C. § 280g-12 (2010). The Act also provides grants for culturally appropriate training for health care providers. *See id.* § 293e.

The Affordable Care Act also requires group health plans and group and individual health insurers to establish a culturally and linguistically appropriate appeals process for claims and coverage decisions. *Id.* § 300gg-19. Plans and providers are required to supply enrollees with culturally and linguistically appropriate notice of the appeals process and notify them of any public assistance that is available to help enrollees utilize the appeals process. *Id.*

2. The Affordable Care Act Seeks To Develop A Diversity-Sensitive Health Care Workforce.

Title V of the Affordable Care Act, entitled "Health Care Workforce," seeks "to improve access to and the delivery of health care services for all individuals, particularly low income, underserved, uninsured, minority, health disparity, and rural populations." Pub. L. No. 111-148, § 5001, 124 Stat. 588 (2010). The Act focuses on researching, assembling, and evaluating data on the current state of the health care workforce and identifying aspects that need to be changed to meet the health care needs of the changing nation. 42 U.S.C. § 294q. It also focuses on supporting the health care workforce, improving health care workforce education and training, and enlarging the qualified health care workforce to expand "access to and

delivery of health care services for all individuals." *Id.* In addition, the Affordable Care Act uses grants to encourage health care workforce diversity and to serve minority populations. For instance, the Act offers grants to support community health workers "to educate, guide, and provide outreach in a community setting regarding health problems prevalent in medically underserved communities, particularly racial and ethnic minority populations." *Id.* § 280g-11. The Affordable Care Act also prioritizes grants or contracts for medical schools that "have a record of training individuals who are from underrepresented minority groups." *Id.* § 293k. It funds development and operation of nurse-managed health clinics that are associated with a school or qualified health center or agency and "provide[] primary care or wellness services to underserved or vulnerable populations." *Id.* § 254c-1a. Like the Health Equity Act, Title V of the Affordable Care Act focuses on developing and evaluating research and projects that will train a health care workforce to be culturally competent and reduce health disparities. *Id.* § 294q.

Potri Ranka Manis, a registered nurse and Community Health Worker Trainer at Kalusugan Coalition, a health advocacy and outreach non-profit dedicated to improving the health of the Filipino American community, has witnessed the obstacles posed by lack of diversity in the health workforce. She reports that the Affordable Care Act already has benefited her organization in this regard. As a result of the Act's emphasis on improving the health workforce, Ms. Manis's organization has received additional federal funding to support its community

outreach workforce. *See Stories From Our Communities: Potri Ranka Manis*, APIAHF, http://www.apiahf.org/potri-ranka-manis (last visited Feb. 14, 2012).

3. The Affordable Care Act Focuses On Understanding And Remedying Health Disparities Through Data Collection And Analysis.

For decades, medical scientists have treated Asian Americans, Native Hawaiians, and Pacific Islanders as one homogeneous group when studying serious medical conditions, leading to false conclusions about the incidence of diseases that do not take into account health disparities among different subgroups. For example, doctors have long considered all Asian women to have a lower risk of breast cancer because, in the aggregate, Asian women are diagnosed at a significantly lower rate than women of other ethnicities. *See* Scarlett Lin Gomez et al., *Hidden Breast Cancer Disparities in Asian Women: Disaggregating Incidence Rates by Ethnicity and Migrant Status*, 100 Am. J. Pub. Health S125, S130 (2010). Disaggregated data, however, reveal that United States-born Chinese and Filipina women under the age of fifty-five have higher rates of breast cancer than white women. *Id.* at S127-28. The medical community's failure to disaggregate health care data has left many individuals without proper attention. *Health Care Quality*, APIAHF, http://www.apiahf.org/policy-and-advocacy/focus-areas/health-care-quality (last visited Jan. 26, 2012).

The experience of Susan Matsuko Shinagawa, a fifty-four-year-old Japanese American woman in Spring Valley, California, illustrates one of the risks of aggregating data about the health care and status of the Asian American, Native Hawaiian, and Pacific Islander communities:

> I was denied a biopsy for a prominent and painful breast lump by a surgical oncologist who admonished me that, "Asian women don't get breast cancer." After seeking a second opinion and undergoing a surgical biopsy, I was eventually diagnosed with infiltrating breast cancer at the age of 34, and underwent a modified radical mastectomy, followed by combination chemotherapy. Ten years later, routine mammography revealed an unrelated breast cancer in my left breast, for which I underwent a second mastectomy. I have been advocating for better minority health data for the 20 years since my first breast cancer diagnosis. Yet, I continue to meet (primarily young) [Asian American, Native Hawaiian, and Pacific Islander] women diagnosed with breast cancer who were initially told by their health care providers that "Asian women don't get breast cancer."

Stories From Our Communities: Susan Matsuko Shinagawa, APIAHF, http://www.apiahf.org/node/143 (last visited Feb. 14, 2012).

In passing the Affordable Care Act, Congress recognized the need to correct the problems

resulting from inappropriate aggregation of health care data. The Affordable Care Act, like the Health Equity Act, seeks to identify and reduce health care disparities by requiring federally funded or supported health care programs to collect and analyze health-related data according to "race, ethnicity, sex, primary language," and any other demographic information on health disparities that reasonably can be collected. 42 U.S.C. § 300kk (2010). This data will be available to both the government and researchers and will be used to identify and track health disparities. *Id.* This provision of the Affordable Care Act applies to Medicare providers, Medicaid, the Children's Health Insurance Program, and population surveys, among other public programs. *See id.*; Joel S. Weissman & Romana Hasnain-Wynia, *Advancing Health Care Equity Through Improved Data Collection*, 364 New Eng. J. Med. 2276, 2276 (2011).

Further, the Affordable Care Act requires the Department of Health and Human Services ("HHS") to issue new data collection standards. These new standards, released on October 31, 2011, add seven Asian subgroups (Chinese, Filipino, Asian Indian, Vietnamese, Japanese, Korean, and other Asian) and four Native Hawaiian and Pacific Islander subgroups (Native Hawaiian, Guamanian or Chamorro, Samoan, and other Pacific Islander) to federally-funded or -supported health care programs' data collection. As HHS Secretary Kathleen Sebelius has explained, improvements in data collection will enable HHS to "get a better understanding of why disparities occur and how to eliminate them. Improving the breadth and quality

of our data collection and analysis on key areas, like race [and] ethnicity . . . is critical to better understanding who we are serving." Press Release, HHS, *HHS Announces Refined Survey Standards to Examine and Help Eliminate Differences in Care Based on Race, Ethnicity, Sex, Primary Language, or Disability* (Oct. 31, 2011), http://www.hhs.gov/news/press/2011pres/10/20111031b.html.
Consistent data standards, as required by the Act, "will help identify the significant health differences that often exist between and within ethnic groups, particularly among Asian, Hispanic/Latino and Pacific Islander populations." *Id.*

4. The Affordable Care Act Includes Programs And Evaluations Related to Minority Health.

To address further the need for regulations focused on improving access to health care for minorities, the Affordable Care Act requires that Congress and other federal agencies develop programs to advance minority health.

First, the Affordable Care Act transfers the current Office of Minority Health to the Office of the Secretary of HHS, and charges that office with "improving minority health and the quality of health care minorities receive, and eliminating racial and ethnic disparities." 42 U.S.C. § 300u-6 (2010). The office must work towards this goal by awarding grants and contracts and by working with other agencies and outside entities to:

> assure improved health status of racial and ethnic minorities, and . . . develop measures to evaluate the effectiveness of activities aimed at reducing health disparities and supporting the local community. Such measures shall evaluate community outreach activities, language services, workforce cultural competence, and other areas as determined by the Secretary.

Id.

Second, the Affordable Care Act requires the heads of six federal health agencies to establish within their agencies an Office of Minority Health, headed by a director with minority health experience. *Id.* These agencies include the Centers for Disease Control and Prevention, the Health Resources and Services Administration, the Substance Abuse and Mental Health Services Administration, the Agency for Healthcare Research and Quality, the Food and Drug Administration, and the Centers for Medicare & Medicaid Services.

Third, the Affordable Care Act promotes the National Center on Minority Health and Health Disparities to an "Institute." This new Institute is charged with interagency coordination of research and activities related to minority health and health disparities. *Id.*

Finally, the Affordable Care Act requires regular reports to Congress on the status of these activities. *Id.* On March 23, 2011, the Secretary of HHS, through the Office of Minority Health, provided the first of such reports to Congress. The

Report explained that HHS representatives developed five goals for all of the offices of minority health and the National Institute on Minority Health and Health Disparities. *Report to Congress*, *supra*, at vi. These goals are:

> (1) to reduce disparities in population health;
>
> (2) to increase the availability of data to track and monitor progress in reducing disparities;
>
> (3) to reduce disparities in health insurance coverage and access to care;
>
> (4) to reduce disparities in the quality of healthcare; and
>
> (5) to increase health care workforce diversity and cultural competency.

Id.

* * *

Together, these provisions focus on the needs of minorities and create a framework through which Congress's goal of equalizing access to health care can be realized. Nothing suggests that it is "evident" that Congress would have foregone these efforts but for the minimum coverage provision. *See* Regan, 468 U.S. at 653.

III. CONCLUSION

As Congress intended, the Affordable Care Act will significantly improve access to quality

health care for all Americans, including Asian Americans, Native Hawaiians, and Pacific Islanders. It also will lessen the burdens on currently uninsured individuals. The minimum coverage provision is not essential to the manner in which the Affordable Care Act functions. The minimum coverage provision and the remainder of the Affordable Care Act are not sufficiently dependent on one another to overcome the presumption of severability. If the Court finds that the minimum coverage provision is unconstitutional, Congress surely would prefer that the Court sever the minimum coverage provision and leave the remainder of the Affordable Care Act intact, thus preserving Congress's intent to improve access to quality, appropriate, and affordable health care for minorities and underserved populations.

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Respectfully submitted,

Mee Moua
Priscilla Huang
ASIAN & PACIFIC ISLANDER AMERICAN HEALTH FORUM
1828 L. Street, N.W.,
Suite 802
Washington, DC
20036
(202) 466-7772

Mark A. Packman
Counsel of Record
Jonathan M. Cohen
Kami E. Quinn
Alyson A. Foster
Michelle A. Price
Jenna A. Hudson
GILBERT LLP
1100 New York Ave., N.W.,
Suite 700
Washington, DC 20005
(202) 772-2320
packmanm@gotofirm.com

APPENDIX A

Statements of Interest of Additional *Amici Curiae*

AIDS Services in Asian Communities

AIDS Services in Asian Communities ("ASIAC") is a non-profit 501(c)(3) community-based organization dedicated to assisting low income and limited English proficient individuals overcome cultural and linguistic barriers to healthcare and social services. Founded in 1995, ASIAC was organized in response to early indications that HIV/AIDS was spreading within Philadelphia's Asian and Pacific Islander communities. We support this brief because we believe the Affordable Care Act will improve health care access for those in Philadelphia, Pennsylvania living with HIV/AIDS.

Asian American Cancer Support Network

The Asian American Cancer Support Network works to provide an educational, supportive, and diverse network of resources for Asian Americans affected by cancer, particularly in the San Francisco Bay area. Asian American cancer survivors and patients stand to gain many benefits from the Affordable Care Act, including increased access to insurance coverage. Therefore, we join as *amici* to the case now before the Court.

Asian American Health Coalition – HOPE Clinic

The Asian American Health Coalition ("AAHC") of the Greater Houston area is a non-profit organization dedicated to improving the health of all Asian Americans in Houston by increasing access to health care and through population-specific health promotion and health education projects. AAHC was founded in 1994 and the Coalition has actively promoted health access, knowledge, and disease prevention activities and programs in the Greater Houston area. In 2002, in recognition of the significantly unmet medical needs of the residents of Southwest Houston, we established the HOPE clinic to provide culturally and linguistically appropriate primary health care services to all, but especially to underserved Asians with limited English proficiency. AAHC supports the Affordable Care Act because of its investments in community health centers and cultural and linguistically appropriate care.

Asian & Pacific Islander Coalition on HIV/AIDS, Inc.

Asian & Pacific Islander Coalition on HIV/AIDS, Inc. ("APICHA") advocates and provides a welcoming environment for underserved and vulnerable people, especially Asians and Pacific Islanders, the LGBT community, and individuals living with and affected by HIV/AIDS. APICHA strives to improve the health of Asian American and Pacific Islander communities and to increase access to comprehensive primary care, preventive health

services, and mental health and supportive services. We are committed to providing culturally competent services that enhance quality of life. The Affordable Care Act provides important access and coverage to underserved and marginal communities and allows APICHA to continue our important and lifesaving work. It is our pursuit for a healthier quality of life that we participate in this *amicus* brief.

Asian & Pacific Islander National Cancer Survivors Network

The Asian & Pacific Islander National Cancer Survivors Network ("APINCSN") is a network of cancer survivors, their family members, health care providers, researchers, and community members and organizations who are concerned about the issue of cancer and survivorship in Asian American, Native Hawaiian, and Pacific Islander communities. APINCSN links Asian Americans, Native Hawaiians, and Pacific Islanders with critical resources, such as contact with other survivors, referrals to cancer support and survivorship services, and access to multi-lingual cancer materials. It also offers supportive and educational networking opportunities. We are supporting this brief because we see the potential benefits of the Affordable Care Act for Asian Americans, Native Hawaiians, and Pacific Islanders with cancer.

Asian & Pacific Islander Wellness Center

The Asian & Pacific Islander Wellness Center is a health services, education, research, and policy organization dedicated to educating, supporting,

empowering, and advocating for Asian and Pacific Islander communities – particularly Asians and Pacific Islanders living with or at risk for HIV/AIDS. Based in San Francisco, California, the Asian & Pacific Islander Wellness Center was founded in 1987 as a grassroots response to the HIV/AIDS crisis in Asian and Pacific Islander communities. As the oldest non-profit HIV/AIDS services organization in North America targeting Asian and Pacific Islander communities, the Asian & Pacific Islander Wellness Center operates a free health center, provides HIV/AIDS care services, conducts education awareness and testing for HIV, and provides trainings and capacity building assistance. The Asian & Pacific Islander Wellness Center supports this brief because we believe the Affordable Care Act will improve health care access for Asian Americans and Pacific Islanders living with HIV/AIDS.

Asian Health Services

Asian Health Services is a community health center that offers primary care services to over 21,000 patients, with over 101,000 patient visits annually. Asian Health Services's mission is to serve and advocate for the medically underserved, including the immigrant and refugee Asian community, and to assure equal access to health care services regardless of income, insurance status, language, or culture. The Affordable Care Act will insure that more individuals will have the opportunity to get the care they need, when they need it, and increase Asian Health Services's capacity to further fulfill its mission. Our interest in the continued and

increased care for our community leads us to participate in this *amicus* brief.

Asian Pacific AIDS Intervention Team Health Center

Asian Pacific AIDS Intervention Team ("APAIT") Health Center works to positively impact the quality of life for medically underserved communities living with or at risk for HIV/AIDS and other health disparities through culturally competent and linguistically appropriate programs in Southern California. Founded in 1987, APAIT Health Center has offices in Los Angeles County and Orange County, and operates several programs that aim to increase awareness of HIV/AIDS in Asian American and Pacific Islander communities. APAIT Health Center works to advocate, educate, and achieve optimal health and well-being for medically underserved communities. We join this brief in support of the Affordable Care Act because we believe full implementation will help improve the quality of life for medically underserved communities.

Asian Pacific American Network of Oregon

The Asian Pacific American Network of Oregon is a statewide grassroots organization, uniting Asians and Pacific Islanders to achieve social justice. We use our collective strengths to advance equity through empowering, organizing, and advocating within our communities. We envision a just and equitable world where Asians and Pacific Islanders are fully engaged in the social, economic, and

political issues that affect them. We join this brief because the Affordable Care Act will help achieve our goal of improved health outcomes for all Oregonians, particularly through the application of new data collection standards and expanded health services that are culturally and linguistically appropriate.

Asian Pacific Community In Action

Asian Pacific Community in Action ("APCA") was created in 2002 to meet the health-related needs of Asian/Pacific Islander individuals and families residing in Maricopa County, Arizona. APCA provides access to preventive services such as Hepatitis B screening and vaccination, mammograms, diabetes testing, and tobacco prevention and cessation information, among many other advocacy and direct service programs. APCA recognizes the potential for improving the health and health care for our communities under the Affordable Care Act.

Asian Services In Action, Inc.

Asian Services In Action ("ASIA"), Inc. seeks to empower Asian Americans and Pacific Islanders in Northeastern Ohio to access high-quality, culturally and linguistically appropriate information and services. Founded in 1995, ASIA, Inc. is the only comprehensive Asian American and Pacific Islander health and social services agency in the region. Through its five program areas, ASIA, Inc. believes in a "no wrong door" approach to program service delivery through in-house staff or referral services,

and similarly supports the Affordable Care Act's "no wrong door" approach to enrolling individuals for health care.

Asians and Pacific Islanders with Disabilities of California

Asians and Pacific Islanders with Disabilities of California ("APIDC") is a 501(c)(3) organization whose mission is to give a voice and a face to Asians and Pacific Islanders with physical and mental disabilities. Our goals are to help break down the service and cultural barriers faced by Asians and Pacific Islanders with disabilities; to provide Asians and Pacific Islanders with disabilities and their families with knowledge; and to create a community network for empowerment and independence. We support this *amicus* brief because the disabled community is an underserved population, and when it comes to Asians and Pacific Islanders with disabilities, we are an even more underserved population. By joining this brief, we are giving a voice and face to Asians and Pacific Islanders with disabilities who will be helped by the all important Affordable Care Act.

Center for Pan Asian Community Services, Inc.

Center for Pan Asian Community Services ("CPACS"), Inc. was founded in 1980 to create and deliver culturally and linguistically competent, comprehensive health and social services to counteract problems faced by immigrants, refugees, and racially-ethnic minorities. CPACS, Inc.

continues to focus on issues and concerns of Asian Americans, especially women, children, and families with low incomes through their many programs. The organization supports the Affordable Care Act because its provisions will help CPACS, Inc. continue to serve close to 2,500 individuals in the Atlanta area.

Coalition for Asian American Children and Families

Coalition for Asian American Children and Families ("CACF") believes that children of all backgrounds should have an equal opportunity to grow up healthy and safe, and should live in a society free from discrimination and prejudice. CACF advocates on behalf of underserved families in our community, especially immigrants struggling with poverty and limited English skills. CACF promotes better policies, funding, and services for East Asian, South Asian, Southeast Asian, and Pacific Islander children, youth, and families. We support the Affordable Care Act because it will help to achieve our goal to improve the health and well-being of Asian Pacific American children and families in New York City.

Council for Native Hawaiian Advancement

The Council for Native Hawaiian Advancement ("CNHA") is a national non-profit organization founded in 2001 to enhance the cultural, economic, and community development of Native Hawaiians. The CNHA mission is achieved through the administration of its Native Hawaiian Policy

Center, the operation of a certified community loan fund, delivery of capacity-building and leadership development services, and support of community-owned social enterprises. CNHA has over 150 member organizations in its network in Hawaii and the continental United States. We support this brief because we believe the Affordable Care Act improves health care access for Native Hawaiian communities.

Empowering Pacific Islander Communities

Empowering Pacific Islander Communities' mission is to mobilize Pacific Islander communities to foster culturally relevant opportunities for achieving social justice through advocacy, research, and development. We are committed to improving the health of our communities and welcome the advances made under the Affordable Care Act.

Filipino Community Cancer Collaborative

Filipino Community Cancer Collaborative ("FCCC") was established in 2005 by the American Cancer Society to empower the Filipino community living in the San Francisco Bay area through culturally responsive cancer-related education and outreach programs. In the state of California, among Asians subgroups, Filipinos have the highest mortality rates for female breast cancer, prostate cancer, and thyroid cancer. Therefore, FCCC's efforts have been directed to educate the community about these cancers and to promote prevention and screening. We look forward to the improved access to health

insurance coverage for members of our community under the Affordable Care Act.

Guam Communications Network

The Guam Communications Network ("GCN") is a non-profit Chamorro community-based multi-service agency headquartered in Long Beach, California. Founded as a resource for stateside Chamorros and Guamanians to reach out to relatives on Guam after Typhoons Gay and Omar in 1992, GCN facilitates increased public awareness of the issues concerning the people, island, and culture of Guam through education, coalition-building, and advocacy. GCN serves Chamorro communities in Los Angeles, Orange, Riverside, San Diego, and San Bernardino Counties through cultural enrichment/social service programs in health and welfare, cancer research, senior care management, and other specific public health issues. To that end, we support this brief and the improvements the Affordable Care Act has made to our health care system.

Hawai'i Island HIV/AIDS Foundation

The Hawai'i Island HIV/AIDS Foundation, is a registered 501(c)(3) non-profit organization located in Hawaii. Founded in 2003, the Hawai'i Island HIV/AIDS Foundation is dedicated to assisting those affected by HIV/AIDS to maximize their quality of life and to ending the spread of HIV. We also utilize the lessons learned in the HIV epidemic to care and advocate for others in the fight against related diseases. We support this brief because we

believe the Affordable Care Act will improve health care access for those in Hawaii living with HIV/AIDS.

Kalusugan Coalition

The Kalusugan Coalition is a multidisciplinary collaboration dedicated to creating a unified voice to improve the health of the Filipino American community in the New York/New Jersey area through network and resource development, educational activities, research, community action, and advocacy. As a result of the Coalition's goal of developing culturally and linguistically appropriate health education, services, and resources, and its commitment to mobilizing around health issues faced by Filipinos, we are interested in making health insurance accessible and affordable to Filipino Americans and improving the health care system in the United States.

Lao Assistance Center of Minnesota

The Lao Assistance Center of Minnesota's goals include meeting basic needs, increased self-reliance, youth development, reduced social isolation, and promoting cultural equity. Our five interconnected programs serve Lao families including at-risk, low, and moderate income households. Our key health programs focus primarily on substance abuse awareness and prevention, insurance expansion to children, Hepatitis B education, and breast cancer awareness. With the Affordable Care Act, the Lao Assistance Center of Minnesota will continue to provide assistance with health services that are

culturally appropriate and ensure that there is adequate care in our community. It is our dedication to healthier lifestyles and access to care that we participate in this *amicus* brief supporting the Affordable Care Act.

Light and Salt Association

Light and Salt Association is a 501(c)(3) non-profit organization whose mission is to serve as a resource for the Chinese community in the Houston area in taking care of needy Houstonians, Chinese and non-Chinese alike. Light and Salt Association was founded in 1997 and operates several health programs, most notably their Cancer Support Network which provides culturally, linguistically, and spiritually competent support for needy individuals including cancer patients and their families, and families affected by intellectual and developmental disabilities. Light and Salt Association supports the Affordable Care Act because it invests in prevention initiatives.

Malama Pono Health Services

The missions of Malama Pono Health Services are to stop the spread of HIV/AIDS, STDs, and infectious Hepatitis on Kaua'i through education and to serve those persons infected with or affected by these diseases. Based in Lihue, Hawaii, Malama Pono Health Services operates a case management program, referral services, and a variety of specialized, culturally appropriate HIV education programs for the community. We are guided by a vision of honoring and preserving the love of family

and community and meeting the challenges of today and the future. We believe the Affordable Care Act supports these interests, and therefore join this brief.

Mary Queen of Viet Nam Community Development Corporation, Inc.

Mary Queen of Viet Nam Community Development Corporation, Inc. ("MQVN") was established by community leaders in May 2006 to assist Vietnamese Americans in New Orleans East rebuild their lives and their community after Hurricane Katrina. Together with community partners, MQVN's work encompasses health care, environmental and agricultural concerns, education, housing, social services, economic development, and culture and the arts. Consequently, we have a strong interest in securing access to health insurance and health care for Vietnamese Americans living in Louisiana.

National Tongan American Society

The National Tongan American Society ("NTAS") is a national non-profit organization that advocates and empowers all Tongan Americans and other Pacific Islanders through programs and referrals that promote health, youth development, model citizenship, education, and cultural preservation. Founded in 1995, NTAS is based in Salt Lake City, Utah. NTAS has several programs that promote the well-being and health of Tongan Americans and other Pacific Islanders. NTAS educates and mobilizes Pacific Islanders at a grassroots level to

improve their personal and community health. NTAS supports this brief.

Native Hawaiian and Pacific Islander Alliance

The Native Hawaiian and Pacific Islander Alliance ("NHPIA") is a national non-profit organization that generates a broad base of public and private support for the further development and implementation of a Native Hawaiian and Pacific Islander health agenda. Based in Southern California, the NHPIA has worked to convene national stakeholder meetings in Washington, DC, and around California to determine strategies to advance its goals of advocacy, data collection, resources management, and workforce. Consequently, we support this brief and full implementation of the Affordable Care Act.

New Mexico Asian Family Center

The New Mexico Asian Family Center is a place for Asian immigrants and their families to share their concerns, learn about their own and others' cultures, build supportive networks, and increase self-sufficiency. We envision a world where inclusiveness is valued and equal opportunity and justice exist for all, including equal access to health insurance and health care. As a result, we support the advances made under the Affordable Care Act presently before the Court.

Orange County Asian and Pacific Islander Community Alliance, Inc.

Orange County Asian and Pacific Islander Community Alliance, Inc. ("OCAPICA") was

founded on a mission to build a healthier and stronger community by enhancing the well-being of Asians and Pacific Islanders through inclusive partnerships in the areas of service, education, advocacy, organizing, and research. OCAPICA was established 1997 as a coalition-type organization that would bring together various community organizations and partners to address the needs of low income Asian and Pacific Islander communities in Orange County. We support the Affordable Care Act because it will make a difference for the communities we serve.

Pacific Islands Primary Care Association

The Pacific Islands Primary Care Association ("PIPCA") promotes and supports quality primary health care in the United States-affiliated Pacific Island jurisdictions – American Samoa, Commonwealth of the Northern Mariana Islands, Federated States of Micronesia, Guam, Republic of the Marshall Islands, and Republic of Palau. With its office in Hawaii, PIPCA works in support of the expansion and strengthening of primary care services; advocating for the expansion and improvement of integrated systems of care; building and sustaining local and regional capacity; and supporting strong collaboration throughout the region. In that the Affordable Care Act will greatly improve access to quality, appropriate, and affordable health care, PIPCA, in keeping with its mission, supports and joins the APIAHF as *amici curiae.*

Project CHARGE

Project CHARGE (Coalition for Health Access to Reach Greater Equity) seeks to increase financial access to healthcare for Asian and Pacific Islander children and families in New York City. Project CHARGE advocates for increasing access to public and employer-based health insurance coverage, and for increasing affordability of care, including prescription medication and specialty services. We look forward to advancing both of these goals under the Affordable Care Act presently before the Court.

Saath USA

Saath USA's mission is to improve the health of South Asians (Asian Indians, Pakistanis, Bangladeshis, Sri Lankans, and Nepali) in Southern California through the use of effective health programs implemented in faith and other community settings. This mission is accomplished through collaboration with universities to conduct research involving South Asians, and through community experts trained to provide culturally-sensitive health education to South Asians. We are based in Los Angeles and support this brief because we believe full implementation of the Affordable Care Act will help improve the quality of life for South Asians in Southern California.

Samoan Community Development Center

The Samoan Community Development Center ("SCDC") was founded in 1991 by a group of highly respected members of the Samoan community in the San Francisco Bay area in response to issues facing

the local Samoan community. The SCDC is the only Samoan and Pacific Islander community-based organization in San Francisco providing services that are culturally sensitive and linguistically appropriate to lower income and disadvantaged families and individuals. The continued efficient care for the Samoan and Pacific Islander Community by the SCDC depends on the successful implementation of many provisions found in the Affordable Care Act. SCDC's interest in cultivating a community of healthy, happy, and empowered people has resulted in our participation in this *amicus* brief.

Samoan National Nurses Association

The Samoan National Nurses Association ("SNNA") was established in 2000 as a non-profit organization to assist the Samoan community and other Pacific Islanders to better health. SNNA works to improve the community's opportunities through quality health education, prevention screenings and primary health services, local and national policy advocacy, community organizing, and community-based research. As an association of care providers and advocates, SNNA recognizes the potential benefits to the health of Samoans and other Pacific Islanders under the Affordable Care Act.

Taulama For Tongans

Taulama For Tongans ("Taulama") is a non-profit, community-based organization serving Tongans in San Mateo County, California, with available health resources. Taulama seeks to educate the greater

Tongan community through linguistically and culturally relevant outreach, specifically by providing educational materials and community events on cancer, Hepatitis, and other chronic diseases. With greater access to health care through the Affordable Care Act, Taulama educates the community on how to be healthy and stay healthy by understanding what health care services are available. Our interest in the continued and increased care for our communities leads us to participate in this *amicus* brief.

TOFA Inc.

TOFA stands for *To'utupu'o e 'Otu Felenite Association*, which translates to "Friendly Islands Youth." TOFA officially launched as a 501(c)(3) non-profit organization in 2000, and started as a way to provide needed support for the growing number of Pacific Islanders in the Sacramento area. The mission of TOFA is to preserve and enhance the overall health and wellness of the Pacific Islander community in the Greater Sacramento area by providing resources that support and promote higher education, community leadership opportunities, civil rights awareness, and cultural arts. Our interest in the health and productivity of our community has resulted in our participation in this *amicus* brief.

Tongan Community Service Center

The Tongan Community Service Center ("TCSC") is a program of Special Service for Groups ("SSG"). SSG is a Los Angeles based non-profit organization

that provides community-based solutions, encouraging community involvement and self-sufficiency, to the social and economic issues facing those in greatest need. SSG serves as a bridge between people with common needs across traditional ethnic, racial, and other cultural boundaries to identify ways to pool resources. SSG does so by developing and managing programs which serve our many communities. The TCSC serves the Tongan communities of Southern California with health education, case management, patient navigation, health resources, and understanding health assessments and data. Our core belief that everyone deserves access to affordable, comprehensive care leads us to participate in this *amicus* brief.

Vietnamese American Young Leaders Association of New Orleans

The Vietnamese American Young Leaders Association of New Orleans ("VAYLA-NO") is a youth-led community-based organization that empowers Vietnamese American and underrepresented youth through supportive services focused on cultural enrichment and positive social change. Located in New Orleans, VAYLA-NO envisions a world where young people have the academic foundation, leadership skills, and opportunities to affect change for a vibrant and thriving community. We support this brief because the Affordable Care Act allows children to remain on their parents' insurance until age twenty-six.

WAPI Community Services

WAPI Community Services provides and advocates for culturally competent and age-appropriate prevention and substance abuse treatment services for Asian Pacific Islander youth and all youth of color in King County, Washington. WAPI recognizes that our vision of creating an environment for children, youth, adults, families and communities that is healthy and substance abuse free will be one step closer with the advances of the Affordable Care Act. We therefore join as *amici*.

West Michigan Asian American Association

West Michigan Asian American Association is a Michigan non-profit organization that seeks to build a collaborative, active, and committed Asian American community in West Michigan with a focus on health care, education, and empowerment. We support this *amicus* brief because the enactment of the Patient Protection and Affordable Care Act on March 23, 2010 set the foundation for historic changes to our country's health care system. These changes address many of the inefficiencies and dysfunctions of the current health care system and help to end some of the worst abuses of the insurance industry.