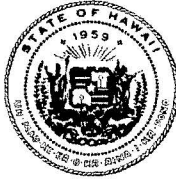


LINDA LINGLE
GOVERNOR



LILLIAN B. KOLLER, ESQ.
DIRECTOR

HENRY OLIVA
DEPUTY DIRECTOR

STATE OF HAWAII
DEPARTMENT OF HUMAN SERVICES
P. O. Box 339
Honolulu, Hawaii 96809

April 3, 2009

MEMORANDUM

TO: Honorable Marcus R. Oshiro, Chair
House Committee on Finance

FROM: Lillian B. Koller, Director

SUBJECT: **S.B. 415, S.D. 2 - RELATING TO HOME CARE AGENCIES**
Hearing: Friday, April 3, 2009, 2:00 p.m.
Conference Room 308, State Capitol

PURPOSE: The purpose of S.B. 415, S.D. 2, is to require the Department of Health to license home care agencies.

DEPARTMENT'S POSITION: The Department of Human Services (DHS) respectfully opposes this bill as written. However, we can support this bill with the addition of several amendments discussed below.

First, we respectfully recommend that the authority to certify these agencies be placed with the Department of Human Services, Adult and Community Care Services Branch, or its designee. The Department has considerable expertise in monitoring these types of services through its history with the certification of Community Care Foster Family Homes (CCHHFs), as well as the administration and monitoring of the 1915(c) Medicaid Waiver and Chore Service programs. We are pleased to report that

AN EQUAL OPPORTUNITY AGENCY

the Department of Health (DOH) defers to our request to have the certification of home care agencies placed with DHS rather than with DOH.

DHS sees the certification of home care agencies through its Social Services Division, Adult and Community Care Services Branch, as an important regulatory and support function for its Med-QUEST Division, which provides Home and Community-Based non-medical personal care to Medicaid clients. The Med-QUEST Division is not in a position to both provide and regulate its own programs; therefore, we see the role of certification and oversight as belonging most appropriately with the Social Services Division, Adult and Community Care Services Branch, which serves many of the same clients through its other adult programs. Med-QUEST Division clients are significant consumers of home care services, causing DHS to hold a compelling interest in providing the standards and regulation needed to keep this resource safe and plentiful.

Second, we would recommend that home care agencies receive certification rather than licensure to be consistent with the requirements already in place for providers such as community care foster family homes.

Third, the Department strongly recommends that the language in this bill defining "home care agency" be replaced with the following language:

"Home care agency" means a public or proprietary agency, a private, non-profit organization, or a subdivision of such agency or organization, engaged in providing home

care services to clients in the client's residence. The term "home care agency" does not apply to an individual, including an individual who is incorporated as a business, or is an unpaid or stipended volunteer, nor to any home and community-based service under the jurisdiction of the department of human services."

This language is important for the fact that it will exempt certification requirements for senior service programs administered by DHS, with respect to family members, neighbors and friends who provide chore, personal care, and respite services for their loved ones, including those individuals participating in the State Medicaid Home and Community-Based and the Chore Service programs.

There is a strong likelihood that individuals who provide these services might be deterred from pursuing certification requirements, since their interest in providing care is motivated by their relationship with the client and not the pursuit of a professional career. Inevitably, this gap in care service would be extremely detrimental to the State.

This amendment is also important to avoid unnecessary expenditures for agencies that are providing personal assistance through the Department of Human Services. These providers are already monitored and regulated by State agencies for quality, and through criminal and protective service background checks.

Finally, given the latest revenue forecast from the Council on Revenues in March with decreased revenues and another forecast due next month in which revenues are expected to decrease again,

further budget cuts maybe necessary. Therefore, we would recommend that further consideration of this bill be deferred until the State regains the fiscal stability to maintain DHS' current level of funding with which we can implement this new certification program.

Thank you for this opportunity to testify.



LINDA LINGLE
GOVERNOR OF HAWAII



CHIYOME LEINAALA FUKINO, M.D.
DIRECTOR OF HEALTH

STATE OF HAWAII
DEPARTMENT OF HEALTH
P.O. Box 3378
HONOLULU, HAWAII 96801-3378

In reply, please refer to:
File:

HOUSE COMMITTEE ON FINANCE

SB 0415, SD2, RELATING TO HOME CARE AGENCIES

Testimony of Chiyome Leinaala Fukino, M.D.
Director of Health

April 3, 2009
2:00 p.m.

1 **Department's Position:** The department appreciates the intent of this bill and respectfully defers to the
2 Department of Human Services (DHS).

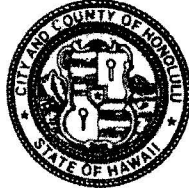
3 **Fiscal Implications:** None

4 **Purpose and Justification:** While the intent of the bill continues to have merit, the Department of
5 Health will defer to the Department of Human Services with their considerable expertise in monitoring
6 these types of services through its history with the certification of Community Care Foster Family
7 Homes, the administration and monitoring of the 1915(c) Medicaid Waiver and Chore Service
8 programs, and through its Social Services Division, Adult and Community Care Services Branch. DHS
9 also has a compelling interest in providing the standards and regulation needed to keep home care safe
10 and plentiful since this is more of a social model rather than a medical or health model of service.

11 Thank you for the opportunity to testify.

DEPARTMENT OF COMMUNITY SERVICES
CITY AND COUNTY OF HONOLULU

715 SOUTH KING STREET, SUITE 311 • HONOLULU, HAWAII 96813 • AREA CODE 808 • PHONE: 768-7762 • FAX: 768-7792



MUFI HANNEMANN
MAYOR

DEBORAH KIM MORIKAWA
DIRECTOR

ERNEST Y. MARTIN
DEPUTY DIRECTOR

April 3, 2009

The Honorable Marcus R. Oshiro, Chair
and Members of the Committee on Finance
The House of Representatives
State Capitol
Honolulu, Hawaii 96813

Dear Chair Oshiro and Members:

**Subject: Providing Comments on S.B. 415, S.D. 2
Relating to Home Care Agencies**

The City and County of Honolulu's Elderly Affairs Division is Honolulu's designated Area Agency on Aging and operates in accordance with the Older Americans Act of 1965 to coordinate, advocate, and improve or expand our services to assist older persons in leading independent, meaningful, and dignified lives in their own homes and communities for as long as possible. We support the intent of S.B. 415, S.D. 2, which is to protect consumers.

We further endorse §321(c), which allows contractors of the Elderly Affairs Division to be exempt from licensure. The Division contracts with non-profit agencies to provide home and community-based custodial care under the Kupuna Care program such as bathing and homemaker services. Contractors are already closely monitored on a monthly basis and formal on-site assessments are conducted annually. Many of our contractors rely on volunteer workers to provide homemaker tasks such as shopping and meal preparation. The non-profit agencies also solicit donations, conduct fundraisers, and apply for grants to supplement the government funding they receive. Licensure would add another administrative layer of bureaucracy, make it more difficult to secure providers, and increase the cost of services.

Thank you for the opportunity to submit this testimony.

Sincerely,

A handwritten signature in black ink that reads "Deborah Kim Morikawa". The signature is written in a cursive style.

Deborah Kim Morikawa
Director

A handwritten signature in black ink that reads "Karen K. Miyake". The signature is written in a cursive style.

Karen K. Miyake
County Executive on Aging
Elderly Affairs Division

CY:ab
sb 415

TO : COMMITTEE ON FINANCE
Representative Marcus R. Oshiro, Chair
Representative Marilyn B. Lee, Vice chair

FROM: Eldon L. Wegner, Ph.D.
Policy Advisory Board for Elder Affairs (PABEA)

SUBJECT: **SB 415 SD2, Relating to Home Care Agencies**

HEARING: 2:00 pm, Friday, April 3, 2009
Conference Room 308, Hawaii State Capitol

PURPOSE: Requires the Department of Health to license home care agencies.

POSITION: **PABEA strongly supports SB 415 SD2.**

RATIONALE:

The Policy Board for Elder Affairs has a statutory obligation to advocate on behalf of the senior citizens of Hawaii. While we advise the Executive Office on Aging, we do not speak on behalf of the Executive Office of Aging.

- Families increasingly rely upon home care agencies for care of the frail elderly family members. However, there are no quality standards established and enforced for the agencies addressed by this bill. Licensing would provide at least a measure of quality control over this growing segment of the long-term care continuum.
- The Department of Health currently licenses Adult Residential Care Homes and Nursing Homes, and so this would simply expand the activity with which they are already familiar.
- This proposal is basically a consumer protection measure, and we urgently request that you provide this measure of assuring some standard of quality for the care of our most frail citizens.

Thank you for allowing me to testify.



Testimony to the House Committees on Human Services and Health

Thursday, March 19, 2009

9:30 a.m.

Conference Room 329, State Capitol

RE: SENATE BILL NO. 415 SD2 RELATING TO HOME CARE AGENCIES

Chairs Mizuno and Yamane, Vice Chairs Brower and Nishimoto, and Members of the Committees:

My name is Jim Tollefson and I am the President and CEO of The Chamber of Commerce of Hawaii ("The Chamber"). The Chamber supports Senate Bill 415 SD2 relating to Home Care Agencies.

The Chamber is the largest business organization in Hawaii, representing more than 1,100 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 its members, which employ more than 200,000 individuals, to improve the state's economic climate and to foster positive action on issues of common concern.

This measure requires the Department of Health to license home care agencies..

Quality health care is critical to the people and economy of Hawaii. As one of the largest private industries in Hawaii, the health care industry plays an important role in our economy, particularly through attractive, well-paying jobs and through the purchase of goods and services that contribute to our state's economy. As such, the health care industry plays a crucial role in the economic development and sustainability of our state and all of Hawaii's businesses. Also, Hawaii's healthcare system provides quality care for our families and serves to attract and retain a professional workforce, new companies, and even tourists to our state.

However, the quality healthcare that Hawaii has enjoyed for years is now in jeopardy. It is on the verge of declining because healthcare providers are no longer being paid for essential services at a level sufficient to cover annually increasing costs. The health care system must be maintained and challenges must be addressed.

Therefore, The Chamber supports improvements to the quality of our health care system that will increase long term care capacity and access statewide. Implementing a license requirement of home care agencies is the first step in the right direction in ameliorating the current state and quality of health care in Hawaii.

In light of the above, The Chamber of Commerce of Hawaii supports SB 415 SD2. Thank you for the opportunity to testify.



HOUSE COMMITTEE ON FINANCE
Rep. Marcus Oshiro, Chair

Conference Room 308
April 3, 2009 at 2:00 p.m. (Agenda #1).

Testimony in support of SB 415 SD 2 with an amendment.

The Healthcare Association of Hawaii advocates for its member organizations that span the entire spectrum of health care, including acute care hospitals, two-thirds of the long term care beds in Hawaii, as well as home care and hospice providers. Thank you for this opportunity to express strong support for SB 415 SD 2, with an amendment that will be described below, which requires all home care agencies to be licensed.

The mandatory licensure of home care agencies is designed to assure the public that the services provided by such agencies comply with appropriate standards. Without mandatory licensure, these assurances cannot be given.

Home care is a rapidly growing sector of the health care continuum. It is a cost-effective service for many individuals who are recuperating from a hospital stay and also for many who, because of a functional or cognitive disability, are unable to take care of themselves.

Elderly and disabled people increasingly prefer to remain living in their homes rather than being institutionalized. Home care reinforces and supplements care provided in the home by family members and friends, maintaining the recipient's dignity and independence.

Unfortunately, home care is often confused with other types of health care. Home health agencies are currently licensed by the Department of Health. Home health is directed by a physician and focuses on services provided by licensed professionals, such as registered nurses, physical and occupational therapists, and speech therapists.

On the other hand, the Department of Health does not license home care agencies. Home care services are consumer directed, focusing primarily on services provided by non-medical personnel, often called custodial care. Home care services include assistance with tasks of daily living such as bathing and meal preparation, laundry, light housekeeping, errands, shopping, transportation, and companionship.

Also, the similarity between the terms "home care" and "care homes" may be confusing. Since care homes are licensed, many people incorrectly believe that home care agencies are also licensed.

Without licensure, the safety of those who receive home care is at risk, especially since home care is in many cases provided to frail and elderly consumers. Unlike in an institutional setting, the home care worker is often alone with the consumer of services.

The State has an obligation to protect consumers from improper care, exploitation, and abuse. At a minimum, the competence of home care agency employees should be established, and criminal background checks should be performed.

This bill directs the Department of Health (DOH) to establish a licensure system that protects the health and safety of clients receiving services from home care agencies. Any home care agency that is not licensed would not be allowed to operate.

This bill has been needed for some time now to protect the many elderly and disabled people who receive home care. Any delay will only extend the potential for abuse at a time when the demand for home care is increasing.

The Healthcare Association would like to suggest an amendment to the bill, which includes an exemption for home care agencies that are contracted by the Elderly Affairs Division of the City and County of Honolulu. That exemption would in effect create two levels of quality, one for licensed agencies and a lower level for unlicensed agencies. In addition, government may incur greater liability when contracting with unlicensed agencies that would otherwise be licensed. As such, lines 10-12 on page 3 should be deleted.

With the suggested amendment, the Healthcare Association strongly supports SB 415 SD 2.