

JAN 26 2011

A BILL FOR AN ACT

RELATING TO HEALTH.

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

PART I

1
2 SECTION 1. Fewer physicians have been providing on-call
3 services in hospital emergency departments in recent years due
4 to liability issues and inadequate reimbursements. As a result,
5 emergency departments are experiencing increased overcrowding
6 and longer waiting times. Nationally, for example,
7 seventy-three per cent of emergency departments report
8 inadequate on-call coverage by specialist physicians.
9 Specialists who are particularly difficult to secure for on-call
10 coverage include orthopedic surgeons, neurosurgeons, plastic
11 surgeons, trauma surgeons, hand surgeons, obstetrician-
12 gynecologists, neurologists, ophthalmologists and
13 dermatologists.

14 The purpose of this part is to create a financial incentive
15 in the form of a tax credit for physicians who provide on-call
16 services to emergency departments.



1 SECTION 2. Chapter 235, Hawaii Revised Statutes, is
2 amended by adding a new section to part III to be appropriately
3 designated and to read as follows:

4 "§235- Emergency room physician tax credit. (a) There
5 shall be allowed to each qualified taxpayer subject to the taxes
6 imposed by this chapter, an emergency room physician tax credit
7 that shall be applied to the qualified taxpayer's net income tax
8 liability, if any, imposed by this chapter for the taxable year
9 in which the credit is properly claimed.

10 (b) The tax credit shall be in an amount equal to five per
11 cent of the amount of medical malpractice insurance premium paid
12 by the qualified taxpayer for the taxable year in which the
13 credit is properly claimed.

14 (c) As used in this section, "qualified taxpayer" means a
15 physician licensed under chapter 453 who:

16 (1) Provides medical care in a state-approved hospital
17 emergency room on an on-call basis;

18 (2) Has worked a minimum of five hundred and seventy-six
19 on-call hours in the year for which the tax credit is
20 claimed; and

21 (3) Does not owe the State delinquent taxes, penalties, or
22 interest.



1 (d) If the tax credit claimed by the qualified taxpayer
 2 under this section exceeds the qualified taxpayer's income tax
 3 liability, the excess of credit over liability shall be refunded
 4 to the qualified taxpayer; provided that the tax credit properly
 5 claimed by a qualified taxpayer who has no income tax liability
 6 shall be paid to the qualified taxpayer; and provided further
 7 that no refunds or payments on account of the tax credit allowed
 8 by this section shall be made for amounts less than \$1.

9 (e) The director of taxation shall prepare forms that may
 10 be necessary to claim a credit under this section, may require
 11 proof of the claim for the tax credit, and may adopt rules
 12 pursuant to chapter 91 necessary to effectuate the purposes of
 13 this section.

14 (f) Claims for the tax credit under this section,
 15 including any amended claims, shall be filed on or before the
 16 end of the twelfth month following the taxable year for which
 17 the credit may be properly claimed."

18 **PART II**

19 SECTION 3. The legislature finds that changes in
 20 demographics, the delivery of health care services, and the
 21 escalating costs of education have resulted in severe shortages
 22 of health care professionals. A poor distribution of health



1 care professionals has resulted in a surplus of these
2 professionals in some areas of the State and a shortage in other
3 parts of the State, particularly in the more rural areas. The
4 rural shortage areas often require more services because the
5 health care needs are greater due to socio-economic or
6 geographic circumstances. The salary potential for shortage
7 areas is often not as favorable when compared to non-shortage
8 areas, resulting in many health care practitioners being
9 financially unable to serve in those shortage areas.

10 The legislature further finds that to successfully address
11 the health care shortage areas within the State:

12 (1) A loan repayment program should be structured to
13 obtain federal matching funds that would be used to
14 repay eligible student loans in exchange for a service
15 commitment by physicians and dentists practicing in
16 health professional shortage areas; and

17 (2) A recruitment program should be implemented. The
18 program would not receive federal matching funds.
19 Incentives would be awarded to public or private
20 nonprofit organizations, communities, or recruitment
21 health professionals practicing in areas designated by
22 the department of business, economic development, and



1 tourism that are experiencing a shortage of health
 2 care professionals. Unlike the loan repayment
 3 program, this program will be open to all health care
 4 professionals, including physicians, dentists, mid-
 5 level practitioners, pharmacists, allied health
 6 professionals, and specialists, for example,
 7 orthopedic surgeons, for whom there is an acknowledged
 8 need in some areas of the State. The incentives could
 9 be used also to provide financial support for spouses
 10 and families of recruitment health professionals,
 11 which is critical in recruiting and retaining health
 12 care professionals in these areas. Finally, unlike
 13 the loan repayment program, recruitment health
 14 professionals would be able to practice in geographic
 15 areas not covered under the loan repayment program.

16 SECTION 4. The Hawaii Revised Statutes is amended by
 17 adding a new chapter to be appropriately designated and to read
 18 as follows:

"CHAPTER

HAWAII HEALTH CORPS PROGRAM

PART I. GENERAL PROVISIONS

§ -1 **Definitions.** As used in this chapter:



1 "Applicant" means an individual who has submitted a
2 completed application for the loan repayment program or the
3 recruitment program and meets the application requirements
4 established by the department for the respective program.

5 "Approved site" means, for the purposes of the loan
6 repayment program, a provider site that is a public or nonprofit
7 private entity located in a health professional shortage area
8 and approved by the department.

9 "Dentist" means an individual licensed to practice
10 dentistry in the state under chapter 448.

11 "Department" means the department of business, economic
12 development, and tourism.

13 "Eligible education" means education and training programs
14 approved by the department that lead to eligibility for
15 licensure as a repayment health care professional.

16 "Eligible expenses" means reasonable expenses associated
17 with the costs of acquiring an eligible education such as
18 tuition, books, equipment, fees, room and board, and other
19 expenses determined by the department.

20 "Health professional shortage area" means an area in the
21 State, designated by the department of health, where there are
22 shortages of health professionals. In making health



1 professional shortage area designations in the State, the
2 department of health shall be guided by applicable federal
3 standards.

4 "Incentives" means the cash or in-kind award made to a
5 recruitment recipient and includes awards made to a spouse or
6 the family of a recruitment health professional.

7 "Loan repayment program" means the loan repayment program
8 administered by the department.

9 "Physician" means an individual licensed to practice
10 medicine in the State pursuant to chapter 453.

11 "Qualifying educational loan" means a government or
12 commercial loan for eligible expenses.

13 "Recruitment health professional" includes physicians,
14 allopathic and osteopathic physicians (family practitioners,
15 internists, pediatricians, obstetricians and gynecologists, and
16 general psychiatrists), nurse practitioners, certified nurse-
17 midwives, physician assistants, dentists, registered clinical
18 dental hygienists, clinical or counseling psychologists, social
19 workers, psychiatric nurse specialists, mental health
20 counselors, licensed professional counselors, marriage and
21 family therapists, and health care specialists.



1 "Recruitment health professional shortage area" means a
2 health professional shortage area or other area determined by
3 the department of health to be experiencing a shortage of
4 recruitment health professionals.

5 "Recruitment program" means the health professional
6 recruitment and retention program that is administered by the
7 department.

8 "Recruitment recipient" means either a recruitment health
9 professional or a public or private nonprofit organization or
10 community that employs a recruitment health professional.

11 "Repayment health care professional" means a primary care
12 physician, family care practitioner, internist, pediatrician,
13 obstetrician, physician assistant, advance practice registered
14 nurse, naturopathic physician, general psychologist, or general
15 practice dentist.

16 "Repayment participant" means a health care professional
17 who has received a loan repayment award pursuant to the loan
18 repayment program established under section -11.

19 **PART II. LOAN REPAYMENT PROGRAM**

20 § -11 **Loan repayment program established.** There is
21 established the loan repayment program within the department.
22 The loan repayment program shall be administered in a manner



1 that is consistent with the provisions of Title 42 United States
2 Code Section 254q-1, as may be amended from time to time.

3 § -12 Administration. The loan repayment program shall
4 be administered by the department. The department shall:

- 5 (1) Accept applications from interested persons;
- 6 (2) Develop criteria for the selection of participants in
7 the loan repayment program;
- 8 (3) Select participants for the loan repayment program;
9 provided that the department shall not select more
10 than twenty individuals in one year and have no more
11 than one hundred individuals participating in the loan
12 repayment program at any one time, subject to
13 available funding and the need for health care
14 professionals in health professional shortage areas;
- 15 (4) Collect and manage repayments from repayment
16 participants who do not meet their service obligations
17 under this chapter, including enforcing the remedies
18 for breach of the service obligation;
- 19 (5) Publicize and market the loan repayment program,
20 particularly to maximize participation among
21 individuals in health professional shortage areas;

- 1 (6) Solicit and accept grants and donations from public
2 and private sources for the loan repayment program;
- 3 (7) Develop criteria for and enter into a contract with a
4 participant of the loan repayment program that
5 obligates the participant to complete the service
6 obligation and to comply fully with the terms and
7 conditions of the loan repayment program;
- 8 (8) Administer the recruitment program separately from the
9 loan repayment program;
- 10 (9) Establish a loan repayment program advisory group,
11 comprising representatives from government and the
12 health profession, including providers, community
13 health centers, and professional organizations, to:
- 14 (A) Assist the department in developing criteria to
15 select participants;
- 16 (B) Determine areas having the greatest need for
17 health professionals; and
- 18 (C) Advise on other matters related to the
19 administration of the loan repayment program.
- 20 The same members may serve on the advisory group for
21 the loan repayment program and the recruitment
22 program; and



1 (10) Take any and all other actions necessary to administer
2 the loan repayment program.

3 § -13 Eligibility. To be eligible to participate in the
4 loan repayment program, an individual shall:

5 (1) Submit an application to the department;

6 (2) Have a signed employment agreement or contract with an
7 approved site;

8 (3) Provide copies of loan documentation;

9 (4) Be a United States citizen or a naturalized citizen of
10 the United States;

11 (5) Have no other outstanding contractual obligations for
12 health professional services to the federal
13 government, state government, or other entity or
14 organization, unless that service obligation will be
15 completely satisfied before the contract for the
16 service obligation under the loan repayment program is
17 signed;

18 (6) Have no judgment lien against the individual's
19 property for a debt to the United States;

20 (7) Have no history of failing to comply with, or
21 inability to comply with, service or payment
22 obligations;



- 1 (8) Has not defaulted on any federal payment obligation,
2 even if the creditor considers the obligation to be in
3 good standing;
- 4 (9) Has not breached a prior service obligation to the
5 federal, state, or local government or other entity or
6 organization, even if the obligation was subsequently
7 satisfied;
- 8 (10) Has not had any federal debt written off as
9 uncollectible (pursuant to Title 31 United States Code
10 Section 3711(a)) or had any federal service or payment
11 obligation waived;
- 12 (11) Perform the service obligation at an approved site;
- 13 (12) Provide full-time clinical services at an approved
14 site;
- 15 (13) Charge for the individual's professional services at
16 the usual and customary prevailing rates in the area
17 where the services are provided; except that if any
18 patient is unable to pay the charge, that patient may
19 be charged at a reduced rate or not charged any fee;
- 20 (14) Agree not to discriminate on the basis of the
21 patient's ability to pay or on the basis that the
22 payment for care will be made pursuant to medicare,



- 1 medicaid, or the state children's health insurance
2 program;
- 3 (15) Agree to accept assignment under medicare under Title
4 XVIII of the Social Security Act, enter into an
5 appropriate agreement with the state agency that
6 administers the state plan for medicaid under Title
7 XIX of the Social Security Act, and enter into an
8 appropriate agreement with the state children's health
9 insurance program to provide service to children under
10 Title XXI of the Social Security Act;
- 11 (16) Agree to pay back an amount specified by the
12 department if the service obligation is not completed
13 for any reason;
- 14 (17) Be a licensed and qualified repayment health care
15 professional in the State and maintain licensure and
16 qualifications during the service obligation period;
- 17 (18) Obtain and maintain any other licensure required of a
18 repayment health care professional in the State; and
- 19 (19) Meet any other requirements that may be established by
20 the department.



1 § -14 **Preference and selection.** (a) In selecting
2 participants for the loan repayment program, the department
3 shall give preference to the following, in descending priority:

4 (1) Graduates of the University of Hawaii John A. Burns
5 school of medicine;

6 (2) Graduates of out-of-state medical schools who are
7 legal residents of Hawaii and are engaged in medical
8 residency or practicing medicine in Hawaii; and

9 (3) Graduates of out-of-state medical schools who are
10 graduates of high schools located in Hawaii and are
11 engaged in medical residency or practicing medicine in
12 Hawaii.

13 (b) The criteria used to select repayment participants for
14 the loan repayment program shall be determined by the
15 department. The criteria may include:

16 (1) The need for primary care physicians and dentists in
17 health professional shortage areas;

18 (2) The willingness of an applicant to work full-time in
19 the health professional shortage area; and

20 (3) The likelihood of the applicant continuing to practice
21 in the health professional shortage area after the
22 service obligation has been completed.



1 § -15 **Eligible expenses.** The department shall only
2 repay qualifying educational loans.

3 § -16 **Amount of the award.** Subject to the availability
4 of funding and the need for repayment health care professionals
5 in health professional shortage areas, the amount of the award
6 shall be determined by the department but shall not exceed the
7 maximum amounts permitted to be awarded to participants of the
8 loan repayment program under Title 42 United States Code Section
9 254q-1, as may be amended from time to time.

10 § -17 **Service obligation.** A repayment participant shall
11 serve full-time at an approved site for a minimum of two years
12 with the possibility of extending the service obligation for
13 one-year terms, for a total service obligation not to exceed
14 five years. Periods of internship, preceptorship, clinical
15 training, or other postgraduate training shall not be counted
16 toward the service obligation.

17 § -18 **Cancellation of service obligation.** The
18 department may cancel a contract with a repayment participant
19 only upon the death of the repayment participant.

20 § -19 **Waiver of service obligation.** The department may
21 permanently waive the service obligation of a repayment
22 participant upon the receipt of documentation from the repayment



1 participant that a medical condition or a personal situation
2 makes compliance with the service obligation permanently
3 impossible, as determined by the department.

4 § -20 **Suspension.** The department may temporarily
5 suspend a repayment participant's service obligation upon the
6 receipt of documentation from the repayment participant of a
7 medical condition or personal situation that makes compliance
8 with the service obligation temporarily impossible, as
9 determined by the department.

10 § -21 **Default.** A repayment participant who fails to
11 complete the service obligation shall pay as a penalty the sum
12 of the following:

- 13 (1) The pro rata amount paid to or on behalf of a
14 repayment participant for any period of obligated
15 service not served;
- 16 (2) The amount equal to the number of months of obligated
17 service not served multiplied by \$7,500; and
- 18 (3) Interest on the amounts under paragraphs (1) and (2)
19 at the maximum prevailing interest rate determined by
20 the Treasurer of the United States from the day of the
21 default;



1 provided that the amount the State is entitled to collect shall
2 not be less than \$31,000.

3 § -22 **Hawaii health corps first responder service**
4 **obligation.** If a civil defense or other emergency is proclaimed
5 under chapter 127 or 128, physicians and dentists participating
6 in the Hawaii health corps program may be ordered into service
7 by the governor as a critical action relief lineup to serve in
8 areas of the State and in a capacity determined by the director.

9 § -23 **Hawaii health corps special fund.** (a) There is
10 established within the state treasury a special fund to be known
11 as the Hawaii health corps special fund to be administered and
12 expended by the department.

13 (b) The fund shall be used to provide stipends to
14 qualifying Hawaii health corps physicians and dentists pursuant
15 to this chapter.

16 (c) Moneys deposited into the fund shall include
17 appropriations made by the legislature from general funds,
18 private contributions, stipend repayments, and interest on and
19 other income from the fund, which shall be separately accounted
20 for.

21 § -24 **Rules.** The department may adopt rules under
22 chapter 91 relating to the loan repayment program.



PART III. RECRUITMENT PROGRAM

§ -31 Established. There is established the recruitment program within the department.

§ -32 Administration. The recruitment program shall be administered by the department and shall:

- (1) Maintain listings of communities and areas within the State with a need for recruitment health professionals;
- (2) Maintain listings of recruitment health professionals interested in working in the communities and areas within the State with a need for recruitment health professionals;
- (3) Serve as an intermediary between communities or public or private nonprofit organizations and recruitment health professionals desiring to practice in recruitment health professional shortage areas;
- (4) Collaborate with communities and public or private nonprofit organizations to recruit and retain recruitment health professionals to work and live in communities experiencing a shortage of recruitment health professionals;



- 1 (5) Collaborate with recruitment health professionals
2 desiring to work in recruitment health professional
3 shortage areas;
- 4 (6) Develop funding models for the recruitment program
5 that provide for security and flexibility for
6 recruitment health professionals;
- 7 (7) Develop incentive payment structures and packages that
8 support recruitment health professionals, their
9 spouses, and families, including professional
10 liability insurance relief, cost of living allowances,
11 income guarantee payments, housing allowances,
12 vehicles, vehicle allowances, continuing medical
13 education, telemedicine capabilities, waivers of fees,
14 or employment opportunities for the spouses of
15 recruitment health professionals;
- 16 (8) Collaborate with other agencies to minimize or remove
17 regulatory barriers to relocating or practicing in
18 health professional shortage areas;
- 19 (9) Select recruitment recipients using criteria
20 established by the department;
- 21 (10) Publicize and market the recruitment program;



- 1 (11) Solicit and accept grants and donations from public
2 and private sources for the recruitment program;
- 3 (12) Administer the recruitment program separately from the
4 loan repayment program, except to the extent provided
5 in this chapter;
- 6 (13) Enter into a contract with a recruitment recipient
7 that obligates the recruitment health professional to
8 provide the services of the recruitment health
9 professional in a recruitment health professional
10 shortage area for the length of the service
11 obligation;
- 12 (14) Establish a recruitment program advisory group,
13 comprising representatives from government and the
14 health profession, including providers, community
15 health centers, and professional organizations, to:
- 16 (A) Assist the department in developing criteria to
17 select participants for the recruitment program;
- 18 (B) Identify areas having the greatest need for
19 health professionals; and
- 20 (C) Advise on other matters related to the
21 administration of the recruitment program.



1 The same members may serve on the advisory group for
2 the loan repayment program and the recruitment
3 program; and

4 (15) Take any and all other actions necessary to administer
5 the recruitment program.

6 § -33 **Selection and preference.** (a) In selecting
7 recruitment recipients to participate in the recruitment
8 program, the department shall give first priority preference to
9 recruitment health professionals who are:

10 (1) Graduates of the University of Hawaii John A. Burns
11 school of medicine;

12 (2) Graduates of a Hawaii residency program; or

13 (3) Residents of the State of Hawaii who have obtained
14 residency through a minimum of three of the following
15 criteria:

16 (A) Legal residence of the applicant for at least
17 twelve months;

18 (B) Legal residence of the applicant's parents;

19 (C) The applicant's place of birth;

20 (D) Location of the high school from which the
21 applicant graduated;

22 (E) The applicant is native Hawaiian;



1 (F) Location of the college or university that the
2 applicant attended; or

3 (G) The applicant's parent or legal guardian is a
4 University of Hawaii John A. Burns school of
5 medicine graduate, graduate of a Hawaii residency
6 program, or is a University of Hawaii John A.
7 Burns school of medicine faculty member.

8 (b) The department shall give second priority preference
9 to recruitment health professionals who are graduates of out-of-
10 state medical schools or residency programs.

11 (c) The department shall develop criteria for selecting
12 participants for the recruitment program. The criteria may
13 include:

14 (1) The need for recruitment health professionals in
15 recruitment health professional shortage areas;

16 (2) The willingness of a recruitment health professional
17 or a recruitment health professional employed by an
18 applicant to work full-time in recruitment health
19 professional shortage areas; and

20 (3) The likelihood that a recruitment health professional
21 or a recruitment health professional employed by the
22 applicant will continue to practice in a recruitment



1 health professional shortage area after the service
2 obligation has been completed.

3 § -34 **Award of incentives.** (a) Incentives shall be
4 awarded only to recruitment recipients selected to participate
5 in the recruitment program.

6 (b) Subject to available funding and the need for
7 recruitment health professionals in a recruitment health
8 professional shortage area, the amount of the incentives awarded
9 to each recruitment recipient shall be determined by the
10 department but shall not exceed \$17,500 per recruitment
11 recipient per year.

12 § -35 **Eligibility.** (a) The recruitment program shall
13 accept applications from recruitment health professionals or
14 public or nonprofit private entities or communities intending to
15 employ or currently employing a recruitment health professional.

16 (b) To be eligible to participate in the recruitment
17 program, a public or nonprofit private entity or community shall
18 employ or intend to employ and provide the services of a
19 recruitment health professional for the length of the service
20 obligation in the recruitment health professional shortage area.

21 (c) To be eligible to participate in the recruitment
22 program, a recruitment health professional shall:



- 1 (1) Be a United States citizen or a naturalized citizen of
2 the United States;
- 3 (2) Provide full-time services of a recruitment health
4 professional in the recruitment health professional
5 shortage area;
- 6 (3) Charge for the recruitment health professional's
7 professional services at the usual and customary
8 prevailing rates in the area where the services are
9 provided, except that if a patient is unable to pay
10 the charge, that patient may be charged at a reduced
11 rate or not charged any fee;
- 12 (4) Agree not to discriminate on the basis of the
13 patient's ability to pay or on the basis that the
14 payment for the care will be made pursuant to
15 medicare, medicaid, or the state children's health
16 insurance program;
- 17 (5) Agree to accept assignment under medicare under Title
18 XVIII of the Social Security Act, enter into an
19 appropriate agreement with the state agency that
20 administers the state plan for medicaid under Title
21 XIX of the Social Security Act, and enter into an
22 appropriate agreement with the state children's health



1 insurance program to provide service to children under
2 Title XXI of the Social Security Act;

3 (6) Agree to pay back an amount specified by the
4 department if the service obligation is not completed
5 for any reason;

6 (7) Be a licensed and qualified recruitment health
7 professional in the State and maintain the licensure
8 and qualifications during the service obligation
9 period;

10 (8) Obtain and maintain any other licensure required of
11 recruitment health professionals in the State;

12 (9) Provide the services of a recruitment health
13 professional in a recruitment health professional
14 shortage area; and

15 (10) Meet any other requirements that may be established by
16 the department.

17 § -36 **Service obligation.** A recruitment health
18 professional who participates in the recruitment program shall
19 practice full-time in a recruitment health professional shortage
20 area for a minimum of two years with the possibility of
21 extending the service obligation for one-year terms for a total
22 service obligation not to exceed five years. Periods of



1 internship, preceptorship, clinical training, or other post-
2 graduate training shall not be counted toward the service
3 obligation.

4 § -37 **Recruitment health professional shortage areas.**

5 The recruitment recipients shall be located in and shall provide
6 the services of a recruitment health professional in a
7 recruitment health professional shortage area.

8 § -38 **Waiver of service obligation.** The department may
9 permanently waive the service obligation of a recruitment
10 recipient upon the receipt of documentation from the recruitment
11 recipient that a medical condition or a personal situation makes
12 compliance with the service obligation permanently impossible,
13 as determined by the department.

14 § -39 **Suspension.** The department may temporarily
15 suspend the service obligation upon the receipt of documentation
16 by the recruitment recipient of a medical condition or personal
17 situation that makes compliance with the service obligation
18 temporarily impossible, as determined by the department.

19 § -40 **Default.** A participant of the recruitment program
20 who fails to complete the service obligation shall pay as a
21 penalty the sum of the following:



- 1 (1) The pro rata amount paid to or on behalf of a
- 2 participant of the recruitment program for any period
- 3 of obligated service not served;
- 4 (2) The amount equal to the number of months of obligated
- 5 service not served multiplied by \$7,500; and
- 6 (3) Interest on the amount under paragraphs (1) and (2) at
- 7 the maximum prevailing interest rate determined by the
- 8 Treasurer of the United States from the day of the
- 9 default;

10 provided that the amount the State is entitled to collect shall
11 not be less than \$31,000.

12 § -41 **Rules.** The department may adopt rules under
13 chapter 91 relating to the recruitment program.

14 **PART IV. FIRST RESPONDERS**

15 § -51 **First responders.** All participants of the loan
16 repayment program and recruitment program shall serve as first
17 responders in the event of a declared emergency in the State or
18 at the request of the director of health.

19 **PART V. COORDINATION OF PROGRAMS**

20 § -61 **Coordination.** Notwithstanding the requirement
21 that the loan repayment program and recruitment program shall be



1 administered separately, pursuant to sections -12 and -32,
2 the department shall:

- 3 (1) Determine the need for repayment health care
4 professionals and recruitment health professionals in
5 areas of the State experiencing a shortage of health
6 care professionals; and
- 7 (2) Select participants for the respective programs.

8 § -62 **Coordination of funds.** Funds appropriated by the
9 legislature for the purposes of this chapter or received from
10 private sources may be allocated by the department between the
11 loan repayment program and recruitment program based on the need
12 for the funds and the need for either repayment health care
13 professionals or recruitment health professionals within the
14 State."

15 SECTION 5. Chapter 201, Hawaii Revised Statutes, is
16 amended by adding a new section to part I to be appropriately
17 designated and to read as follows:

18 "§201- Hawaii health corps program. The department of
19 business, economic development, and tourism shall administer the
20 Hawaii health corp program, pursuant to chapter ."



1 SECTION 6. (a) The department of business, economic
2 development, and tourism shall implement the Hawaii health corps
3 program no later than June 30, 2012.

4 (b) For the purposes of efficiency in the implementation
5 of the Hawaii health corps program, the department shall award a
6 minimum of thirty stipends of \$30,000 per recipient in the first
7 year of the program, an additional thirty stipends of \$30,000
8 per recipient in the second year of the program, and an
9 additional thirty stipends of \$30,000 per recipient in the third
10 year of the program. Thereafter, the department shall award
11 annually a maximum of one hundred stipends.

12 (c) The director of business, economic development, and
13 tourism shall report to the legislature on the status of the
14 Hawaii health corps program no later than twenty days prior to
15 the convening of each regular session of the legislature
16 beginning with the regular session of 2012.

17 SECTION 7. If any part of this part is found to be in
18 conflict with federal requirements that are a prescribed
19 condition for the allocation of federal funds to the State, the
20 conflicting part of this part is inoperative solely to the
21 extent of the conflict and with respect to the agencies directly
22 affected, and this finding does not affect the operation of the



1 remainder of this part in its application to the agencies
 2 concerned. The rules under this Act shall meet federal
 3 requirements that are a necessary condition to the receipt of
 4 federal funds by the State.

5 SECTION 8. There is appropriated out of the general
 6 revenues of the State of Hawaii the sum of \$ or so
 7 much thereof as may be necessary for fiscal year 2011-2012 and
 8 the same sum or so much thereof as may be necessary for fiscal
 9 year 2012-2013 to carry out the purposes of this part.

10 The sums appropriated shall be expended by the department
 11 of business, economic development, and tourism for the purposes
 12 of this part.

13 **PART III**

14 SECTION 9. The legislature has historically recognized the
 15 importance of making medicaid coverage available for the State's
 16 most vulnerable populations, and understands that medicaid
 17 payments to providers must be sufficient to cover the actual
 18 costs of the care provided. Through the continued efforts of
 19 Hawaii's congressional delegation, a federal medicaid
 20 disproportionate share hospital appropriation of \$10,000,000 per
 21 year (or \$2,500,000 per quarter) has been secured for Hawaii
 22 through 2019. However, these funds cannot be drawn down without



1 a matching state appropriation. The legislature finds that the
2 combined state and federal funding will help to provide
3 continuing health care in Hawaii's communities.

4 The appropriation contained in this part matches
5 \$10,000,000 in federal disproportionate share hospital funds
6 that are available for the second, third, and fourth quarters of
7 fiscal year 2010 and the first quarter of fiscal year 2011.

8 The legislature acknowledges that the amount of the state
9 match is dependent upon the federal medical assistance
10 percentage in the year the funds are spent. For fiscal year
11 2010, Hawaii's federal medical assistance percentage is 54.24
12 per cent, meaning that in order to draw down the \$7,500,000 in
13 available federal disproportionate share hospital funds for the
14 three quarters in 2010, the State is obligated to provide the
15 remainder, or 45.76 per cent, of the total funding, which is
16 \$6,327,434. For fiscal year 2011 Hawaii's federal medical
17 assistance percentage is 51.79 per cent. To draw down the
18 \$2,500,000 in federal disproportionate share hospital funds for
19 the first quarter of 2010, the State is obligated to provide
20 \$2,327,187. The total for the four quarters is \$8,654,621.

21 SECTION 10. There is appropriated out of the general
22 revenues of the State of Hawaii the sum of \$8,654,621 or so much



1 thereof as may be necessary for fiscal year 2011-2012 to match
2 the federal disproportionate share hospital allowance allocated
3 to the State.

4 The sum appropriated shall be expended by the department of
5 human services for the purposes of this part.

6 PART IV

7 SECTION 11. The purpose of this part is to ensure that
8 Hawaii is consistent with the efforts of federal agencies to
9 control health care-associated infections. This part also
10 ensures that the department of health has access to health
11 care-associated infection data reported by Hawaii's health care
12 providers to the federal government. In addition, this part
13 requires the Hawaii legislature to be updated on federal and
14 state efforts to report health care-associated infections.

15 SECTION 12. Chapter 321, Hawaii Revised Statutes, is
16 amended by adding a new section to be appropriately designated
17 and to read as follows:

18 "§321- Health care-associated infection reporting. (a)
19 Each health care facility in Hawaii that is certified by the
20 Centers for Medicare and Medicaid Services shall report
21 information about health care-associated infections to the
22 Centers for Disease Control and Prevention's national healthcare



1 safety network, as specified in the rules of the Centers for
2 Medicare and Medicaid Services.

3 (b) Health care facilities shall authorize the Centers for
4 Disease Control and Prevention to allow the department to access
5 health care-associated infection data reported by Hawaii's
6 health care providers to the national healthcare safety network.

7 (c) The department may adopt rules pursuant to chapter 91
8 to require that health care-associated infections that are
9 multidrug-resistant be reported to the department through the
10 national healthcare safety network. The rules shall specify
11 which health care facilities are required to report those health
12 care-associated infections that are multidrug-resistant through
13 the national healthcare safety network, as well as the patient
14 populations that are to be targeted in the reports. The first
15 year of reporting required under this subsection shall be a
16 pilot test of the reporting system and shall not be reported or
17 disclosed to the public.

18 (d) The department shall preserve patient confidentiality.
19 The department shall not disclose to the public any patient
20 level data obtained from any health care provider.

21 (e) The department may issue reports to the public about
22 health care-associated infections that aggregate data so that no



1 individual patient can be identified. The reports may identify
2 individual health care facilities. The reports shall utilize
3 the methodology or any part of the methodology developed by the
4 Centers for Disease Control and Prevention and the Centers for
5 Medicare and Medicaid Services for national reporting of health
6 care-associated infections.

7 (f) Health care-associated infection information held by
8 the department as a result of reporting under this part is not
9 subject to subpoena, discovery, or introduction into evidence in
10 any civil or criminal proceeding, except that health care-
11 associated infection information otherwise available from other
12 sources is not immune from subpoena, discovery, or introduction
13 into evidence through those sources solely because they were
14 provided as required by this section.

15 (g) For the purposes of this section:

16 "Department" means the department of health.

17 "Health care facility" means any entity that falls within
18 the definition of "health care facility" in section 323D-2."

19 SECTION 13. The department of health shall submit a report
20 to the legislature providing an update on health care-associated
21 infection reporting required under section 12 of this Act. The



1 report shall be submitted no later than twenty days prior to the
2 convening of the regular session of 2012.

3 **PART V**

4 SECTION 14. The Healthcare Association of Hawaii has
5 established a patient safety and quality committee whose mission
6 is to improve the quality of health care delivered by the full
7 range of provider organizations represented by Healthcare
8 Association of Hawaii members. The committee, which includes
9 representatives of hospitals, nursing homes, home care agencies,
10 and hospices, would like to examine medical cases that apply to
11 various types of provider organizations. However, in order to
12 ensure full and free discussion, information about the cases
13 must be protected from its potential use in medical malpractice
14 lawsuits.

15 The importance of protecting peer review and quality
16 assurance of health care is recognized in Hawaii by statute in
17 section 624-25.5, Hawaii Revised Statutes. The intent of this
18 section is to encourage robust discussion that leads to changes
19 in policies, procedures, or practices. The absence of these
20 protections would limit discussion and therefore limit
21 improvements in the quality of care.

1 Until recently, these protections were restricted to
2 committees created by individual facilities. However, Act 133,
3 Session Laws of Hawaii 2010, extended protection to
4 multidisciplinary quality assurance committees convened and
5 conducted by the department of health to monitor, improve, and
6 evaluate emergency and trauma systems.

7 The purpose of this part is to establish that
8 interdisciplinary quality assurance committees composed of
9 members from various health care organizations have similar
10 protections as those committees formed by hospitals, health
11 maintenance organizations, and statewide trauma care systems.

12 SECTION 15. Section 624-25.5, Hawaii Revised Statutes, is
13 amended by amending the definition of "quality assurance
14 committee" to read as follows:

15 "Quality assurance committee" means [am]:

16 (1) An interdisciplinary committee established by the
17 board of trustees or administrative staff of a
18 licensed hospital, clinic, long-term care facility,
19 skilled nursing facility, assisted living facility,
20 home care agency, hospice, health maintenance
21 organization, preferred provider organization,
22 preferred provider network providing medical, dental,



1 or optometric care, or an authorized state agency
2 whose function is to monitor and evaluate patient
3 care[-] to identify, study, and correct deficiencies
4 in the health care delivery system [~~to reduce~~], with a
5 goal of reducing the risk of harm to patients [and
6 improve], improving patient safety, or otherwise
7 [improve] improving the quality of care delivered to
8 patients[-]; or

9 (2) An interdisciplinary committee composed of
10 representatives of a group of organizations described
11 in paragraph (1) that is established collectively by
12 the boards of trustees or administrative staff of
13 these organizations whose function is to monitor and
14 evaluate patient care to identify, study, and correct
15 deficiencies in the health care delivery system, with
16 a goal of reducing the risk of harm to patients,
17 improving patient safety, or otherwise improving the
18 quality of care delivered to patients."

19 **PART VI**

20 SECTION 16. Hawaii has enjoyed one of the highest rates of
21 health care insurance coverage in the nation for more than
22 thirty years, largely due to the prepaid health care act. The



1 director of labor and industrial relations administers the
2 prepaid health care act and has the authority to determine which
3 health plans may operate in Hawaii. The director of labor and
4 industrial relations is advised by the prepaid health care
5 advisory council.

6 The prepaid health care advisory council currently consists
7 of a maximum of seven members, appointed by the director of
8 labor and industrial relations, and includes representatives of
9 the medical and public health professions, representatives of
10 consumer interests, and persons experienced in prepaid health
11 care protection. Health care provider organizations are not
12 currently represented on the prepaid health care advisory
13 council.

14 The purpose of this part is to include representatives from
15 health care organizations on the prepaid health care advisory
16 council, in order to give the council valuable perspectives on
17 the design of health plan benefits. This part also increases
18 the maximum membership of the prepaid health care advisory
19 council from seven to nine.

20 SECTION 17. Section 393-7, Hawaii Revised Statutes, is
21 amended by amending subsection (d) to read as follows:



1 "(d) The prepaid health care advisory council shall be
2 appointed by the director and shall include representatives of
3 the medical and public health professions, representatives of
4 health care provider organizations, representatives of consumer
5 interests, and persons experienced in prepaid health care
6 protection; provided that a person representing a health
7 maintenance organization under chapter 432D, a mutual benefit
8 society issuing individual and group hospital or medical service
9 plans under chapter 432, or any other health care organization
10 shall not be a member. The membership of the council shall not
11 exceed [~~seven~~] nine individuals."

12 **PART VII**

13 SECTION 18. QUEST expanded access is a medicaid-managed
14 care program that replaced a fee-for-service program in 2009,
15 and provides care to low-income individuals who are aged, blind,
16 or disabled. These individuals typically have multiple medical
17 conditions and require care from different health care
18 providers. The annual budget for QUEST expanded access is
19 \$500,000,000.

20 The goals of QUEST expanded access include a reduction in
21 the fragmentation of care and the assurance of coordination
22 across the health care continuum. In addition, the program is



1 designed to be fiscally predictable, stable, and sustainable in
2 order to assure access to high quality, cost-effective care.

3 However, despite these high ideals, enrollees, advocates,
4 and health care providers have expressed serious concerns that
5 QUEST expanded access is failing to meet its stated goals and
6 that many enrollees are not receiving adequate care.

7 QUEST expanded access should be formally evaluated to
8 determine whether these concerns are valid, and if so, to
9 correct existing problems. In this regard, social auditing is a
10 process that evaluates programs to determine their social and
11 economic benefits and limitations. It is a way of measuring the
12 extent to which a program fulfills its stated values and
13 objectives. Social auditing information is collected through
14 various research methods, including surveys, interviews, and
15 case studies.

16 The purpose of this part is to appropriate funds to the
17 school of social work at the University of Hawaii at Manoa to
18 conduct a social audit of QUEST expanded access.

19 SECTION 19. (a) The school of social work at the
20 University of Hawaii at Manoa shall conduct a social audit of
21 the QUEST expanded access program.

22 (b) The social audit shall:



1 (1) Determine whether the goals of QUEST expanded access
2 are being achieved.

3 (2) Formulate recommendations if the social audit
4 determines any of the goals of QUEST expanded access
5 have not been achieved.

6 (c) The dean of the school of social work shall submit a
7 report of the social audit's findings and recommendations to the
8 legislature no later than twenty days prior to the convening of
9 the 2012 regular session.

10 SECTION 20. There is appropriated out of the general
11 revenues of the State of Hawaii the sum of \$200,000 or so much
12 thereof as may be necessary for fiscal year 2011-2012 for the
13 purpose of conducting a social audit of the QUEST expanded
14 access program.

15 The sum appropriated shall be expended by the University of
16 Hawaii for the purposes of this part.

17 **PART VIII**

18 SECTION 21. Hawaii's health care system consists of a
19 myriad of services that must be coordinated and integrated to
20 ensure access to quality care at the appropriate level for all
21 of Hawaii's residents. An individual often accesses different
22 healthcare providers delivering different products and services,



1 and may transition from one level of care to another over time.
2 It is important to effectively manage patient transition to
3 facilities providing the appropriate level of care to maintain
4 the availability of services at all levels, more accurately
5 address patient needs, and ensure efficient and cost effective
6 service delivery.

7 This transition has been particularly difficult between
8 acute care hospitals and long-term care facilities. Often,
9 patients no longer needing hospitalization, but still requiring
10 medical services, are waitlisted for long-term care due to a
11 shortage of available space in long-term care facilities. The
12 unfortunate consequence is a shortage of available space and
13 service delivery at acute care hospitals. Additionally, acute
14 care hospitals are facing a financial crisis due to the manner
15 in which medicaid reimbursements are allocated.

16 When a medicaid-eligible patient is treated by an acute
17 care hospital, medicaid pays a rate based upon the level of care
18 needed by the patient. When the patient is well enough to be
19 transferred to long-term care, the medicaid reimbursement is
20 reduced to a rate that is twenty to thirty per cent of the
21 actual cost of acute care hospitalization. If the hospital is
22 not able to transfer the patient to long-term care, it must



1 absorb the financial loss. This creates an unnecessary fiscal
2 burden on acute care hospitals as its cost of care is generally
3 more fixed due to stringent regulatory and quality-control
4 requirements.

5 At any particular time, a total of about two hundred
6 patients in Hawaii's hospitals are waiting to be transferred to
7 long-term care. Patients with certain conditions have been
8 waitlisted for up to a year. The total loss to hospitals was
9 estimated at \$72,500,000 in 2008.

10 A significant portion of that loss is due to underpayment
11 by medicaid and its contracted health plans. Medicaid is, in
12 effect, a public-private partnership because the public sector
13 provides the funding and the private sector provides the
14 services. Unfortunately, medicaid reimbursements seldom cover
15 the actual cost of provided services, resulting in fiscally
16 weakened health care facilities and instability in the health
17 care system as a whole.

18 In the past, acute care hospitals were able to absorb
19 medicaid losses using payments from commercial and other payers
20 to offset under-funded medicaid reimbursements. But as the cost
21 of health care has increased, and significant developments in
22 medical technology has required acute care hospitals to increase



1 its capital investments, even these payments are no longer
2 enough to bridge the fiscal gap. The result for many of these
3 hospitals is financial failure. For example, without annexation
4 by the Hawaii health systems corporation, which is subsidized by
5 the State, Kahuku hospital would have ceased operations due to
6 bankruptcy. Underpayment by medicaid was cited as one of the
7 major reasons for Kahuku hospital's financial difficulties.

8 Long-term care facilities are also facing financial
9 hardship as a result of inappropriate medical reimbursements.
10 Payments for patients with complex medical conditions requiring
11 additional care should be cost-based rather than acuity-based to
12 address the disparities in the cost of services and service
13 delivery.

14 The purpose of this part is to provide fair compensation to
15 acute care hospitals for the service they provide to medicaid
16 patients who have been treated for acute illnesses and injuries
17 and who have recovered sufficiently so that they may be
18 transferred to long-term care, but for whom long-term care is
19 not available. In addition, this part provides fair
20 compensation to long-term care facilities for patients with
21 medically complex conditions when their level of care changes
22 from acute to long-term care.



1 SECTION 22. Chapter 346, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:

4 "§346- Medicaid reimbursements. (a) Reimbursements by
5 medicaid and its contracted health plans to hospitals for
6 patients occupying acute care licensed beds who are on a
7 waitlist for long-term care shall be at least equal to the rate
8 paid for acute care services.

9 (b) Reimbursements by medicaid and its contracted health
10 plans to facilities with long-term care beds for patients with
11 medically complex conditions who, prior to admission to the
12 facility were receiving acute care services in an acute care
13 hospital, shall be at least equal to the rate paid for subacute
14 care services.

15 (c) As used in this section:

16 "Medically complex condition" means a combination of
17 chronic physical conditions, illnesses, or other medically
18 related factors that significantly impact an individual's health
19 and manner of living and cause reliance upon technological,
20 pharmacological, and other therapeutic interventions to sustain
21 life.



1 "Subacute care" means a level of care that is needed by a
2 patient not requiring acute care, but who needs more intensive
3 skilled nursing care than is provided to the majority of
4 patients in a skilled nursing facility."

5 SECTION 23. Section 346D-1.5, Hawaii Revised Statutes, is
6 amended to read as follows:

7 "**§346D-1.5 Medicaid reimbursement equity.** Not later than
8 July 1, 2008, there shall be no distinction between hospital-
9 based and nonhospital-based reimbursement rates for
10 institutionalized long-term care under medicaid. Reimbursement
11 for institutionalized intermediate care facilities and
12 institutionalized skilled nursing facilities shall be based
13 solely on the level of care rather than the location. This
14 section shall not apply to critical access hospitals[-] or to
15 reimbursements made in accordance with section 346- ."

16 SECTION 24. There is appropriated out of the general
17 revenues of the State of Hawaii the sum of \$ or so
18 much thereof as may be necessary for fiscal year 2011-2012 for
19 increased medicaid reimbursement in accordance with this Act.

20 The sum appropriated shall be expended by the department of
21 human services for the purposes of this part.

22

PART IX

1 SECTION 25. United States healthcare spending in 2009
2 consumed 17.3 per cent of the gross domestic product which
3 surpassed the rise in the general rate of inflation. Much of
4 the cost of health care is used to treat obesity, diabetes, and
5 heart disease, which are often caused or exacerbated by poor
6 lifestyle choices.

7 These preventable conditions are increasing. For example,
8 obesity in Hawaii has risen from twelve per cent in 1996 to
9 almost double that amount, twenty-three per cent, in 2009. Poor
10 lifestyle choices, such as high fat diets and lack of exercise,
11 contribute to loss of lifetime expectancy from five to seven
12 years. In addition, poor lifestyle leads to an eighty-two per
13 cent increase in heart disease and a ninety-one per cent
14 increase in diabetes.

15 Employers can help their employees make better lifestyle
16 choices by establishing wellness programs that seek to maintain
17 and promote good health rather than correct poor health. From
18 the perspective of employers, wellness programs can reduce
19 health care costs, reduce absenteeism, and improve employee
20 retention.

21 Successful wellness programs provide resources that are
22 convenient to employees, offer them attractive incentives, and



1 focus on helping them feel better rather than just looking
2 better. Wellness programs provide consistent education about
3 healthy lifestyles and often use social forces present in
4 natural groups at the workplace to encourage them.

5 Wellness programs at some businesses have resulted in
6 walking clubs at lunchtime. Educational and skills training
7 activities can be promoted in short videos that play during
8 break or lunch times at the work-site locations. Vending
9 machine changes that include healthier choices can be led by an
10 employee workgroup that can involve participation from other
11 associates in choosing items to replace candy and high fat
12 snacks.

13 The purpose of this part is to encourage businesses to
14 create wellness programs for their employees by creating a tax
15 credit. This tax credit will supplement discounts for health
16 care insurance that will be offered under federal health care
17 reform to businesses with wellness programs.

18 SECTION 26. Chapter 235, Hawaii Revised Statutes, is
19 amended by adding a new section to be appropriately designated
20 and to read as follows:

21 "§235- Wellness program tax credit. (a) There shall be
22 allowed to any corporate, partnership, or limited liability



1 company taxpayer a qualified wellness program tax credit that
2 shall be deductible from the taxpayer's net income tax liability
3 imposed by this chapter for the taxable year in which the tax
4 credit is properly claimed.

5 (b) For the purposes of this section:

6 "Qualified costs" means the expenses incurred in
7 establishing and developing a qualified wellness program.

8 "Qualified wellness program" means a program offered by an
9 employer to all employees that includes the following
10 components:

11 (1) Health awareness, such as health education, preventive
12 screenings, and health risk assessment;

13 (2) Employee engagement mechanisms that encourage employee
14 participation;

15 (3) Behavioral change elements that have been proven to
16 help improve unhealthy lifestyles, such as counseling,
17 seminars, on-line programs, and self-help materials;
18 and

19 (4) A supportive environment, such as creating on-site
20 policies that encourage healthy lifestyles, healthy
21 eating, physical activity, and mental health.



1 In addition, each employer shall provide evidence that employees
2 have participated in the qualified wellness program.

3 (c) To qualify for the tax credit, the taxpayer shall be
4 in compliance with all applicable federal, state, and county
5 statutes, rules, and regulations.

6 (d) The tax credit shall be equal to ten per cent of the
7 qualified costs related to providing qualified wellness programs
8 to employees.

9 (e) If the tax credit under this section exceeds the
10 taxpayer's net income tax liability, the amount of the excess
11 tax credit over payments due shall be refunded to the eligible
12 taxpayer.

13 (f) Every claim, including amended claims, for the tax
14 credit under this section shall be filed on or before the end of
15 the twelfth month following the close of the taxable year for
16 which the tax credit may be claimed. Failure to meet the filing
17 requirements of this subsection shall constitute a waiver of the
18 right to claim the tax credit.

19 (g) No taxpayer shall claim a credit under this chapter
20 for the qualified costs used to properly claim a tax credit
21 under this section for the taxable year.

22 (h) The director of taxation:



- 1 (1) Shall prepare forms as may be necessary to claim the
- 2 tax credit under this section;
- 3 (2) May require the taxpayer to furnish information to
- 4 ascertain the validity of the claim for the tax
- 5 credit; and
- 6 (3) May adopt rules pursuant to chapter 91 to effectuate
- 7 the purposes of this section."

PART X

9 SECTION 27. The legislature finds that it is in the

10 State's best interest to ensure that patients who are waitlisted

11 for long-term care or other types of care receive appropriate

12 medical care by authorizing the department of human services to

13 apply medicaid presumptive eligibility to qualified waitlisted

14 patients. Action based on presumptive eligibility means that

15 the department of human services shall make a preliminary or

16 "presumptive" determination to authorize medical assistance in

17 the interval between application for assistance and the final

18 medicaid eligibility determination based on the likelihood that

19 the applicant will be eligible.

20 On average, there are at any given time one hundred fifty

21 patients in acute care hospital settings across the State who

22 are waitlisted for long-term care. Waitlisted patients are



1 those who are deemed medically ready for discharge and are no
2 longer in need of acute care services, but who cannot be
3 discharged due to various barriers, such as delays in medicaid
4 eligibility determinations, and therefore must remain in the
5 higher-cost hospital setting. Discharge timeframes for
6 waitlisted patients range from a few days to over one year.
7 This situation creates a poor quality of life for the patient,
8 presents an often insurmountable dilemma for providers and
9 patients, and causes a serious drain on the financial resources
10 of acute care hospitals, with ripple effects felt throughout
11 other health care service sectors.

12 Regulatory and government mandates create barriers to
13 transferring waitlisted patients. One such barrier is the delay
14 in completing medicaid eligibility determinations for waitlisted
15 patients. Senate Concurrent Resolution No. 198, adopted by the
16 legislature in 2007, requested the Healthcare Association of
17 Hawaii to conduct a study of patients in acute care hospitals
18 who are waitlisted for long-term care, and to propose solutions
19 to the problem. The following is an excerpt from the resulting
20 2008 report to the legislature addressing the critical problem
21 of waitlisted patients and the regulatory barrier of medicaid
22 eligibility determinations:



1 "Hawaii State Medicaid eligibility/re-eligibility

2 determinations:

3 (a) Presumptive eligibility/re-eligibility: The task
4 force is very concerned about the amount of time it
5 takes to complete the Medicaid eligibility and
6 re-eligibility process. Staff within hospitals,
7 nursing facilities, etc. report spending a significant
8 amount of time assisting families with Medicaid
9 applications, following up with families to ensure
10 their compliance in submitting the required
11 documentation to support the application, hand
12 carrying applications to the Medicaid eligibility
13 office, following up with eligibility workers on the
14 status of applications, etc. They report that hand-
15 carried applications are often misplaced, the time
16 clock for eligibility does not start until the
17 completed application is located within the DHS,
18 family members may be non-compliant in completing the
19 necessary paperwork since the patient is being cared
20 for safely and the facility has no option for
21 discharging the patient, and the providers believe
22 that they have taken on a beneficiary services role of



1 assisting consumers that should be assumed by DHS.
2 The Medicaid eligibility and re-eligibility
3 application process in Hawaii is obsolete and unable
4 to handle the current volume. It relies on a
5 paper-driven system that receives a high volume of
6 applications per day. Delays in processing
7 applications in a timely manner translates to delays
8 in access to care for Medicaid beneficiaries. Acute
9 care hospitals report that in many cases they have not
10 been able to transfer patients to long term care
11 because the delay in making a determination of
12 Medicaid eligibility resulted in too long a delay in
13 placement in a nursing facility or home and community
14 based setting. By the time the Medicaid eligibility
15 was approved, the bed in the long-term care
16 facility/setting was taken. The direct labor hours
17 involved in following up on the process negatively
18 impact providers across the continuum. Many have
19 hired outside contractors to assist in the application
20 process.

21 (b) Shifting responsibility for consumer assistance in
22 completing the Medicaid application from the provider



1 of service to the state department of human services:
2 Providers have taken on the role of consumer services
3 representatives when patients/families need to submit
4 applications for Medicaid eligibility or to reapply
5 for eligibility. Often, providers end up spending
6 hours to days "tracking down" required documentation
7 to include with the Medicaid application and it has
8 become labor intensive. Many have hired external
9 organizations to assist in this process. Delays by
10 patients/families in completing Medicaid applications
11 result in bad debt and charity care incurred by
12 providers and they have no recourse but to hold the
13 family members accountable and/or discharge the
14 patient due to non-payment.

15 (c) Non-compliance by family members/guardians in
16 completing Medicaid eligibility/re-eligibility
17 applications: In other states (ex: Nevada),
18 legislation has been passed to impose financial
19 penalties on family members/guardians who did not
20 actively participate in completing/submitting
21 documentation for Medicaid eligibility/re-eligibility



1 determinations when fraudulent activity was
2 suspected."

3 The purpose of this part is to require the department of
4 human services to provide medicaid presumptive eligibility to
5 patients who have been waitlisted for long-term care.

6 This part also begins the process of developing a long-term
7 solution to severe problems associated with processing medicaid
8 applications that include extended application processing times
9 and misplaced applications. The existing application process is
10 obsolete because it is paper-based. A computer-based system
11 would be much more efficient. This part requires the department
12 of human services to conduct a study of a computerized medicaid
13 applications system.

14 SECTION 28. Chapter 346, Hawaii Revised Statutes, is
15 amended by adding a new section to be appropriately designated
16 and to read as follows:

17 "§346- Presumptive eligibility under medicaid for
18 waitlisted patients. (a) The department shall presume that a
19 waitlisted patient applying for medicaid is eligible for
20 coverage; provided that the applicant is able to show:

21 (1) Proof of an annual income at or below the maximum
22 level allowed under federal law or under a waiver



1 approved for Hawaii under Title 42 United States Code
2 Section 1396n, as applicable;

3 (2) Verification of assets;

4 (3) Confirmation of waitlisted status as certified by a
5 health care provider licensed in Hawaii; and

6 (4) Proof of meeting the level of care requirement for
7 institutional or home- and community-based long-term
8 care as determined by a physician licensed in Hawaii.

9 The department shall notify the applicant and the facility of
10 the presumptive eligibility on the date of receipt of the
11 application. The applicant shall submit the remaining documents
12 necessary to qualify for medicaid coverage within ten business
13 days after the applicant's receipt of notification of
14 presumptive eligibility from the department. The department
15 shall notify the applicant of eligibility within five business
16 days of receipt of the completed application for medicaid
17 coverage.

18 Waitlisted patients who are presumptively covered by
19 medicaid shall be eligible for services and shall be processed
20 for coverage under the State's qualifying medicaid program.

21 (b) If the waitlisted patient is later determined to be
22 ineligible for medicaid after receiving services during the



1 period of presumptive eligibility, the department shall
2 disenroll the patient and notify the provider and the plan, if
3 applicable, of disenrollment by facsimile transmission or
4 electronic mail. The department shall provide reimbursement to
5 the provider or the plan for the time during which the
6 waitlisted patient was enrolled."

7 SECTION 29. The department of human services shall submit
8 a report to the legislature no later than twenty days prior to
9 the convening of the regular sessions of 2012 through 2016,
10 inclusive, of findings and recommendations, including proposed
11 legislation, regarding the costs and other issues related to
12 medicaid presumptive eligibility.

13 SECTION 30. The department of human services shall conduct
14 a study for a potential computerized system for processing
15 medicaid applications. The study shall consider different
16 alternatives, assess each alternative, and recommend the best
17 alternative. The study shall consider the requirements of
18 Hawaii's medicaid program, the ability of each alternative to
19 meet these requirements, and costs. The department of human
20 services shall submit a report of its findings and
21 recommendations, including proposed legislation, to the



1 legislature no later than twenty days prior to the convening of
2 the regular session of 2012.

3 SECTION 31. There is appropriated out of the general
4 revenues of the State of Hawaii the sum of \$200,000 or so much
5 thereof as may be necessary for fiscal year 2011-2012 to cover
6 the cost of any reimbursements made to providers or plans for
7 services provided during the time that waitlisted patients are
8 enrolled but eventually determined to be ineligible.

9 The sum appropriated shall be expended by the department of
10 human services for the purposes of this part.

11 **PART XI**

12 SECTION 32. In our democratic form of government, the
13 legislature is responsible for setting public policy, and the
14 executive branch is responsible for carrying out these policies.
15 Part of the legislature's policymaking role involves holding
16 hearings on bills as a means of receiving input from the public
17 and creating a forum for discussion. The opportunity for the
18 public to have a voice in the creation of public policy is a
19 fundamental principle of democracy.

20 The department of human services operates the State's
21 medicaid program, expending more than a billion dollars annually
22 for a state program that is second in size only to public



1 education. However, due to the vagaries of history, the
2 legislature has very little oversight of the medicaid program.

3 As a result, the department of human services, in effect,
4 sets medicaid policy. Significant changes have been made to
5 Hawaii's medicaid program without any role played by the
6 legislature or the public.

7 The purpose of this part is to bring more transparency into
8 the operations of Hawaii's medicaid program and to make explicit
9 the legislature's role in setting medicaid policy.

10 SECTION 33. Chapter 346, Hawaii Revised Statutes, is
11 amended by adding a new section to be appropriately designated
12 and to read as follows:

13 "§346- Medicaid program. (a) The department shall
14 notify the standing committees of the state senate and state
15 house of representatives with primary responsibility for
16 medicaid issues about any intended change to Hawaii's medicaid
17 program. The notification shall be made in advance of the
18 intended change and no later than sixty days prior to its
19 implementation. The notification shall include the full text of
20 the intended change. For any proposed state plan amendment
21 submitted to the Centers for Medicare and Medicaid Services, the
22 notification shall be made prior to its submission.



1 (b) The state senate or state house of representatives may
2 hold a hearing on any intended change to the medicaid program or
3 any proposed state plan amendment.

4 (c) The legislature may by statute prohibit the department
5 from making any intended change to the medicaid program or
6 require the department to withdraw any proposed state plan
7 amendment that has been submitted to the Centers for Medicare
8 and Medicaid Services. In addition, the legislature may by
9 statute require the department to submit a state plan amendment
10 to the Centers for Medicare and Medicaid Services or to make any
11 other change to Hawaii's medicaid program."

12 **PART XII**

13 SECTION 34. The department of health currently licenses
14 home health agencies, but it is using a definition for "home
15 health agency" that is overly restrictive. As a result, some
16 agencies that are providing home health services are not
17 licensed.

18 "Home health agency" is generally defined as an
19 organization that provides medical care by nurses and other
20 licensed professionals under a physician's direction to people
21 in their own homes. It is differentiated from "home care
22 agency", which provides non-medical care by unlicensed personnel



1 under the direction of the client to people in their own homes.
2 Home care includes assistance with bathing, preparing meals, and
3 transportation.

4 The department of health is preparing to license home care
5 agencies pursuant to Act 21, First Special Session Laws of
6 Hawaii 2009, which requires home care agencies to be licensed.

7 Section 321-11, Hawaii Revised Statutes, authorizes the
8 department of health to license home health agencies, and the
9 department has adopted rules for that purpose. Chapter 97 of
10 Title 11, Hawaii Administrative Rules, defines "home health
11 agency" for the purpose of licensing. According to that
12 definition, a home health agency is one that provides "skilled
13 nursing services and other therapeutic services". The
14 department of health has interpreted that definition to mean
15 that a home health agency provides both skilled nursing services
16 and other therapeutic services. An agency that provides only
17 skilled nursing services or only other therapeutic services is
18 not deemed to be a home health agency subject to licensing by
19 the department. This interpretation puts the public in
20 jeopardy, since there are unlicensed agencies that are providing
21 health care.



1 The purpose of this part is to statutorily establish an
2 accurate and meaningful definition of "home health agency" and
3 to require the department of health to license these agencies so
4 that all agencies that provide skilled nursing services or other
5 therapeutic services, or both, are licensed.

6 SECTION 35. Chapter 321, Hawaii Revised Statutes, is
7 amended by adding a new section to be appropriately designated
8 and to read as follows:

9 "§321- Home health agencies; licensing. (a) All home
10 health agencies shall be licensed by the department to ensure
11 the health, safety, and welfare of clients.

12 (b) The department shall adopt rules in accordance with
13 chapter 91 that shall:

14 (1) Protect the health, safety, and civil rights of
15 clients of home health agencies; and

16 (2) Provide for the licensure of home health agencies.

17 (c) For purposes of this section:

18 "Home health agency" means a public or proprietary agency,
19 a private, nonprofit organization, or a subdivision of an agency
20 or organization that is engaged in providing skilled nursing
21 services, other therapeutic services, or both under a
22 physician's direction to clients in the client's residence.



1 "Home health agency" does not apply to an individual, even when
2 the individual is incorporated as a business, or an unpaid or
3 stipended volunteer."

4 **PART XIII**

5 SECTION 36. In the regular session of 2009, the
6 legislature passed Senate Bill No. 415, S.D. 2, H.D. 1, C.D. 1,
7 which was enacted as Act 21, First Special Session Laws of
8 Hawaii 2009. The purpose of Act 21 is to ensure that home care
9 agencies meet minimum standards when delivering services to
10 clients by requiring these agencies to be licensed. Act 21
11 designated the department of health as the licensing agency.
12 Since Act 21's enactment, the department has collaborated with
13 home care agencies, consumer advocates, and other stakeholders
14 to draft the administrative rules needed to implement the
15 licensing provisions of Act 21. These draft rules have gone
16 through the State's rulemaking process and have been approved.

17 The department of health intends that licensing fees
18 charged to home care agencies will cover the administrative
19 costs associated with licensing. However, initial funding is
20 needed to start the licensing process so that fees can be
21 collected. After the first year, licensing fees will cover the
22 administrative costs of licensing.



1 The purpose of this part is to appropriate funds for
2 staffing and other costs to begin the licensing process for home
3 care agencies.

4 SECTION 37. There is appropriated out of the general
5 revenues of the State of Hawaii the sum of \$ or so
6 much thereof as may be necessary for fiscal year 2011-2012 for
7 staffing and other costs associated with the licensing of home
8 care agencies.

9 The sum appropriated shall be expended by the department of
10 health for the purposes of this part.

11 PART XIV

12 SECTION 38. Statutory material to be repealed is bracketed
13 and stricken. New statutory material is underscored.

14 SECTION 39. This Act shall take effect upon its approval;
15 provided that parts II, III, VII, VIII, X, and XIII of this Act
16 shall take effect on July 1, 2011; provided that parts I and IX
17 shall apply to taxable years beginning after December 31, 2010;
18 and provided further that section 28 shall be repealed on
19 July 1, 2016.

20

INTRODUCED BY:

John

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Report Title:

Emergency Room Physicians; Health; Health care; Tax Credit; Medicaid; Home Health Agencies; Licensing; Quality Assurance Committee; Prepaid Health Advisory Council; Social Audit; QUEST Expanded Access; Hawaii Health Corp; Notification to Legislature; DOH; Appropriation

Description:

Establishes a tax credit for physicians who provide on-call services to emergency departments; creates the Hawaii health corps program; establishes health care-associated infection reporting requirements; expands definition of "quality assurance committee" to include interdisciplinary quality assurance committees; allows representatives of health care provider organizations to serve on the prepaid health advisory council; Requires rates for medicaid reimbursements to hospitals to be equal to rates for similarly related services; creates a tax credit for certain employers; creates presumptive medicaid eligibility for waitlisted patients; requires notification of intended changes to state medicaid programs; defines "home health agency"; appropriates funds.

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

