HB 2274, HD2

Measure Title:	RELATING TO LONG-TERM CARE FACILITIES.
Report Title:	Long-Term Care Facilities; Nursing Sustainability Fee; Nursing Facility Sustainability Program Special Fund
Description:	Establishes a nursing facility sustainability fee and a special fund to receive moneys from the nursing facility sustainability fee to receive federal Medicaid matching funds under the QUEST Expanded Medicaid Section 1115 Demonstration Waiver. Requires the Department of Human Services to charge and collect a provider fee on health care items or services provided by nursing facilities. Effective July 1, 2030, and repealed on June 30, 2013. (HB2274 HD2)
Companion:	SB2466
Package:	None
Current Referral:	HMS/HTH, WAM
Introducer(s):	YAMANE, CHONG, MIZUNO, SAY

NEIL ABERCROMBIE
GOVERNOR

PATRICIA MCMANAMAN
DIRECTOR

BARBARA A. YAMASHITA
DEPUTY DIRECTOR

STATE OF HAWAII
DEPARTMENT OF HUMAN SERVICES
P. O. Box 339
Honolulu, Hawaii 96809-0339

March 20, 2012

TO: The Honorable Suzanne Chun Oakland, Chair
Senate Committee on Human Services

The Honorable Josh Green, M.D., Chair
Senate Committee on Health

FROM: Patricia McManaman, Director

SUBJECT: **H.B. 2274, H.D.2 - RELATING TO LONG-TERM CARE FACILITIES**

Hearing: Tuesday, March 20, 2012; 1:30 p.m.
Conference Room 016, State Capitol

PURPOSE: The purpose of the bill is to establish the Nursing Facility Sustainability Program special fund into which nursing facility sustainability fees shall be deposited and requires the department of human services to charge and collect a provider fee on health care items or services provided by nursing facilities.

DEPARTMENT'S POSITION: The Department of Human Services (DHS) supports increasing the sustainability of the long-term care services delivery system. The DHS has continued to work with stakeholders to develop a model so that proposed language may be provided to amend the bill. We have submitted a proposed long term care model to the Hawaii Association of Hospitals and the Hawaii Long Term Care Association last week and are awaiting comments.

Provider assessments are commonly used to generate revenue for a state by leveraging federal funds through Medicaid. The DHS and stakeholders recognize that the provider fee would provide an opportunity for the State to obtain additional federal matching funds which will reduce the amount of losses incurred by nursing facilities.

There are many methods in which provider fees have been implemented in other states. Under federal law, provider fees must meet three essential tests: the tax must be broad-based; uniformly imposed; and cannot exceed the maximum allowed by federal regulation.

The DHS has examined several different models for Hawai'i and proposes to amend this bill to reflect the model we believe is best suited for Hawai'i. Highlights of the proposed amendment include:

1) The nursing facilities will be assessed a provider fee based, not to exceed 3%, on revenues calculated utilizing total patient days beginning July 1, 2012. The revenues would exclude non-patient services such as beauty or barber shop services, vending income and all outpatient revenues.
2) The DHS would collect the provider fees, seek a match of the provider fees from the Centers for Medicare and Medicaid Services (CMS) and deposit all funds into the nursing facility sustainability special fund.
3) The special funds will then be used by DHS to enhance capitation rates to the QUEST and QExA plans for the purpose of increasing Medicaid nursing facility payments to the maximum permitted by federal law.
4) The DHS will seek a waiver from CMS to exclude nursing facilities with less than 10 licensed Medicaid beds, nursing facilities owned and operated by the Hawaii Health System Corporation, and continuing care retirement communities. In addition the department may seek additional exemptions to satisfy CMS rules.

A portion of the revenue would be available to the DHS to support the overall Medicaid program to ensure maximum services to beneficiaries by leveraging additional federal matches where appropriate. The exact percentage for the provider fee has not been yet agreed upon by all parties.

The Department believes that this methodology offers the greatest benefits to the nursing facilities that provide needed long term care beds for Medicaid beneficiaries. This proposal also compensates long term care facilities for their uncompensated or under compensated services to Medicaid patients and the uninsured.

Thank you for the opportunity to testify on this bill.

H.B. NO.2274

PROPOSED SD1

A BILL FOR AN ACT

RELATING TO LONG-TERM CARE FACILITIES.

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

SECTION 1. Long-term care facilities in the State face major financial challenges in providing quality health care for Hawaii residents. These challenges are largely the result of payments to medicaid enrollees for care that do not cover the actual costs of care. The legislature finds that federal funding to help sustain Hawaii's long-term care facilities financially may be accessed through a provider fee.

Provider fees exist in forty-six states and the District of Columbia as a means of drawing down federal funds to sustain their medicaid programs due to rising state budget deficits, increasing health care costs, and expanding medicaid rolls. Implementation of a provider fee in Hawaii would help stabilize declining medicaid payments to facilities and slow the erosion of access to care for beneficiaries served by the program.

Medicaid is jointly financed by the federal and state government, but by statutory formula, the federal government pays between fifty per cent and seventy-six per cent of medicaid

costs incurred by states for care delivered to their medicaid beneficiaries. Federal assistance percentages vary by state, with states that have lower per capita incomes receiving higher federal matching rates. Under federal rules, the state share must be public funds that are not federal funds.

Provider fees, which are collected from specific categories of health care providers that agree to the fee, may be imposed on nineteen different classes of health care services, including inpatient and outpatient hospital and nursing facility services. However, there are limitations on the way provider fees are structured. The Medicaid Voluntary Contribution and Provider-Specific Tax Amendments of 1991, P.L. 102-234, passed by Congress in 1991, imposes the following requirements:

(1) Broad-based. To be considered broad-based, a provider fee must be imposed on all health care items or services furnished by all non-federal, non-public providers in the class in the State. Provider fee programs may exclude public facilities without violating federal law;

(2) Uniformly imposed. In general, a provider fee is uniformly imposed if it is the same amount or rate for each provider in the class; and

(3) Hold harmless prohibition. States may not hold providers harmless. A provider fee is considered to hold the provider harmless if the providers paying the fee receive, directly or indirectly, a non-medicaid payment from the state or any offset or waiver that guarantees to hold the provider harmless for all or a portion of the fee. A provider fee is also considered to hold the provider harmless if the medicaid payments to the provider vary based only on the amount of the fees paid by the provider.

The maximum provider fee a state may receive is currently six per cent of net patient revenue. A number of proposals have been made, but not implemented, to eliminate medicaid provider fee programs in order to reduce the federal deficit. However, since provider fees are used by so many states, many of those who are knowledgeable about this subject view elimination of provider fees as unlikely due to strong political support for the fees. A more realistic expectation is a reduction of the provider fee maximum, as proposed by President Barack Obama's fiscal year 2012 budget, which would reduce the maximum to three and one-half per cent in 2017. This proposal recognizes that

provider fees are essential for most states to maintain a stable, functioning medicaid program.

In Hawaii, a provider fee would increase medicaid payments at a time when constraints on the State's budget have forced a reduction in payments and benefits. The additional federal funds obtained via the fee program would reduce the amount of losses incurred by nursing facilities. As such, the provider fee would help preserve access to health care for the medicaid population and sustain the State's entire health care system.

The purpose of this Act is to ensure access to health care for medicaid recipients by establishing a nursing facility sustainability fee and a special fund to receive moneys from the nursing facility sustainability fee in order to receive federal medicaid matching funds under the QUEST expanded medicaid Section 1115 demonstration waiver.

SECTION 2. The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read as follows:

"CHAPTER

NURSING FACILITY SUSTAINABILITY PROGRAM

§ **-1 Title.** This chapter shall be known and may be cited as the "Nursing Facility Sustainability Program Act".

§ -2 **Findings and declaration of necessity.** It is the intent of the legislature to encourage the maximum drawdown of federal medicaid funds by establishing a special fund within the state treasury to receive revenue from the nursing facility sustainability fee to be administered by the department and to use it to receive federal medicaid matching funds under the Section 1115 waiver.

§ -3 **Definitions.** As used in this chapter:

"Continuing care retirement community" means an entity providing nursing facility services, along with assisted living or independent living on a contiguous campus with the number of assisted living and independent living beds in the aggregate being at least twice the number of nursing facility beds. For purposes of this definition, "contiguous" means land adjoining or touching other property held by the same or related organization, and includes land divided by a public road.

"Department" means the department of human services.

"Net patient service revenue" means gross inpatient revenues from services provided to nursing facility patients less reductions from gross inpatient revenue resulting from an inability to collect payment of charges. Inpatient service revenue excludes non-patient care revenues, such as revenues

from beauty and barber services, vending income, interest and contributions, revenues from the sale of meals, and all outpatient revenues. Reductions from gross revenue include bad debt; contractual adjustments; uncompensated care; administrative, courtesy, and policy discounts and adjustments; and other revenue deductions.

"Nursing facility" means any facility licensed pursuant to chapter 11-94.1, Hawaii administrative rules.

"Resident day" means a calendar day of care provided to a nursing facility resident, including the day of admission and excluding the day of discharge; provided that one resident day shall be deemed to exist when admission and discharge occur on the same day. A resident day includes a day on which a bed is held for a patient and for which the facility receives compensation for holding the bed.

§ -4 Nursing facility sustainability program special fund. (a) There is created in the state treasury the nursing facility sustainability program special fund to be administered by the department into which shall be deposited all moneys collected under this chapter.

(b) Moneys in the special fund shall consist of:

(1) All revenues collected or received by the department from the nursing facility sustainability fee required by this chapter;

(2) All federal matching funds received by the department as a result of expenditures made by the department that are attributable to moneys deposited into the special fund;

(3) Any interest or penalties levied in conjunction with the administration of this chapter; and

(4) Any appropriations, federal funds, donations, gifts, or moneys from any other sources.

(c) Revenue from the nursing facility sustainability fee shall be used exclusively as follows:

(1) No less than _____per cent of the revenue from the nursing facility sustainability fee shall be used to match federal medicaid funds, with the combined total to be used to enhance capitated rates to the QUEST and QUEST expanded access plans for the purpose of increasing medicaid nursing facility payments to the maximum permitted by federal law; and

(2) Any portion of the revenue not used as set forth in paragraph (a) may be used to support the overall

medicaid program of the department including payment of administrative expenses.

§ -5 **Nursing facility sustainability fee.** (a) Effective July 1, 2012, the department shall charge and collect a provider fee on health care items or services provided by nursing facilities.

(b) The nursing home sustainability fee shall be based on the net patient service revenue or the resident days of all nursing facilities that are subject to the sustainability fee, as determined by the Department.

(c) The nursing facility sustainability fee shall not exceed three per cent of net patient service revenue. The fee shall be the same amount for each affected facility, except as prescribed in subsection (d)(2).

(d) In accordance with the redistribution method set forth in title 42 Code of Federal Regulations section 433.68(e)(1) and (2), the department shall seek a waiver of the broad-based provider fee requirements under federal law to exclude certain nursing facilities from, as follows:

(1) The department shall exempt the following nursing facility providers from the nursing facility sustainability fee subject to federal approval under

title 42 Code of Federal Regulations section 433.68(e)(2):

(A) Nursing facilities with fewer than ten medicaid licensed beds;

(B) Nursing facilities owned or operated by the Hawaii Health Systems Corporation; and

(C) Continuing care retirement communities; and

(2) The department may modify, add to or reduce the categories of facilities exempt from the assessment if necessary to obtain and maintain approval of the waiver by the Centers for Medicare and Medicaid Services, if the modification is consistent with the purposes of this chapter.

§ -6 Nursing facility sustainability fee assessment. (a) Nursing facilities shall pay the nursing facility sustainability fee to the nursing facility sustainability program special fund in accordance with this chapter.

(b) The department shall determine, in conjunction with the Health Care Association of Hawaii or its successor organization and the Hawaii Long Term Care Association or its successor organization, the fee rate prospectively for the applicable fiscal year.

(c) The department shall collect, and each nursing facility shall pay, the nursing facility sustainability fee on a monthly basis, subject to the terms of this section. The fee shall be due on the first day of each month, with the initial payment due on the first day of the ensuing quarter after the required federal approvals for the assessment and any increase in health plan capitation payments have been secured from the Centers for Medicare and Medicaid Services.

§ -7 **Federal approval.** The department shall seek a waiver and other approvals from the Centers for Medicare and Medicaid Services that may be necessary to implement the nursing facility sustainability program, including the approval of the contracts between the State and the medicaid health plans.

§ -8 **Multifacility locations.** If an entity conducts, operates, or maintains more than one nursing facility, the entity shall pay the nursing facility sustainability fee for each nursing facility separately.

§ -9 **Penalties for failure to pay nursing facility sustainability fee.** (a) If a nursing facility fails to pay the full amount of the nursing facility sustainability fee when due, there shall be added to the fee, unless waived by the department for reasonable cause, a penalty equal to five per cent of the

fee that was not paid when due. Any subsequent payments shall be credited first to unpaid fee amounts rather than to penalty or interest amounts, beginning with the most delinquent installment.

(b) In addition to the penalty identified in this section, the department may seek any of the following remedies for failure of any nursing facility to pay its fee when due:

(1) Withholding any medical assistance reimbursement payments until such time as the fee amount is paid in full;

(2) Suspension or revocation of the nursing facility license; or

(3) Development of a plan that requires the nursing facility to pay any delinquent fee in installments.

§ -10 **Enhanced rates to QUEST expanded access plans.** In accordance with title 42 Code of Federal Regulations section 438, the department shall use revenues from the nursing facility sustainability fee and federal matching funds to enhance the capitated rates paid to the QUEST expanded access plans for the subject fiscal year consistent with the following objectives:

(1) The rate enhancement shall be used exclusively for increasing nursing facility reimbursements to support

the availability of services and to ensure access to care to QUEST expanded access enrollees;

(2) The rate enhancement shall be made part of the monthly capitated rates by the department to the QUEST expanded access plans, which shall provide documentation to the department, the Health Care Association of Hawaii or its successor organization and the Hawaii Long Term Care Association or its successor organization, certifying that the revenues received under paragraph (1) are used in accordance with this section;

(3) The rate enhancement shall be actuarially sound and approved by the federal government for federal fund participation.

§ -11 **Termination.** (a) Collection of the nursing facility sustainability fee under section -5 shall be discontinued if:

(1) The waiver in section -7 or the enhanced capitation rates in section 10 have not been approved by the Centers for Medicare and Medicaid Services;

(2) The department reduces funding for nursing facility services below the state appropriation in effect on June 30, 2012;

(3) The department or any other state agency uses the money in the special fund for any use other than the uses permitted pursuant to this chapter; or

(4) Federal financial participation to match the nursing facility sustainability fee becomes unavailable under federal law. In such case, the department shall terminate the collection of the fee beginning on the effective date of the federal statutory, regulatory, or interpretive change.

(b) If collection of the nursing facility sustainability fee is discontinued as provided in this section, all money in the special fund shall be returned to the nursing facilities from which the fee was collected on the same basis as the fee was assessed.

§ **-12 Severability.** If any provision of this chapter or the application thereof to any person or circumstances is held invalid, the invalidity shall not affect other provisions or applications of the chapter which can be given effect without

the invalid provision or application, and to this end the provisions of this chapter are severable."

SECTION 3. This Act shall take effect on July 1, 2012.

__.B. NO._____

Report Title:
Long-Term Care Facilities; Nursing Sustainability Fee; Nursing Facility Sustainability Program Special Fund

Description:
Establishes the nursing facility sustainability program special fund into which nursing facility sustainability fees shall be deposited. Requires DHS to charge and collect a provider fee on health care items or services provided by nursing facilities. Effective 07/01/2012.

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

WRITTEN ONLY

TESTIMONY BY KALBERT K. YOUNG
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE
STATE OF HAWAII
TO THE SENATE COMMITTEES ON HEALTH AND HUMAN SERVICES
ON
HOUSE BILL NO. 2274, H.D. 2

March 20, 2012

RELATING TO LONG-TERM CARE FACILITIES

House Bill No. 2274, H.D. 2, establishes a Nursing Facility Sustainability Program Special Fund into which shall be deposited nursing facility provider fees which will be used to match federal Medicaid funds to increase Medicaid payments to nursing facilities.

While the Department of Budget and Finance does not take any position on the policy of establishing a nursing facility sustainability program, as a matter of general policy, the department does not support the creation of special funds which do not meet the requirements of Section 37-52.3, Hawaii Revised Statutes. Special or revolving funds should: 1) reflect a clear nexus between the benefits sought and charges made upon the users or beneficiaries of the program; 2) provide an appropriate means of financing for the program or activity; and 3) demonstrate the capacity to be financially self-sustaining. In regards to House Bill No. 2274, H.D. 2, it is difficult to determine whether there is a clear nexus between the nursing facilities which are assessed fees and the nursing facilities which receive increased Medicaid payments, and it does not appear that the special fund will be self-sustaining.

I encourage the Legislature to scrutinize the fiscal and operational plan for this program to ensure that it does conform to the requirements of Section 37-52.3, Hawaii Revised Statutes.

HAH
Healthcare Association
of Hawaii

SENATE COMMITTEE ON HEALTH
Senator Josh Green, M.D., Chair

SENATE COMMITTEE ON HUMAN SERVICES
Senator Suzanne Chun Oakland, Chair

Conference Room 016
March 20, 2012 at 1:30 p.m.

Supporting HB 2274 HD 2: Relating to Long-Term Care Facilities

The Healthcare Association of Hawaii advocates for its member organizations that span the entire spectrum of health care, including all acute care hospitals, as well as long term care facilities, home care agencies, and hospices. In addition to providing quality care to all of Hawaii's residents, our members contribute significantly to Hawaii's economy by employing over 40,000 people. Thank you for this opportunity to testify in support of HB 2274 HD 2, which creates the Nursing Facility Sustainability Program that strengthens the financing of nursing facilities in Hawaii by drawing down federal funds and distributing these funds to nursing facilities.

Medicaid is a critical component of Hawaii's health care system because it pays for medical care for more than one in five Hawaii residents. However, Hawaii's Medicaid program has serious shortcomings that create a burden for nursing facilities and the entire health care delivery system.

The simple fact is that Medicaid pays nursing facilities less than the actual costs they incur in providing care to Medicaid patients. In other words, a nursing facility that provides the same care to a Medicaid patient and a patient with private funds is paid much less by Medicaid than with private funds.

Hawaii's Medicaid program pays nursing facilities, on average, $7 to $8 less than the actual costs of care per patient per day. Exacerbating the situation, Medicaid patients represent 70% of all nursing facility patients. Despite the substantial losses incurred by nursing facilities, they have humanitarian missions that obligate them to provide care to those Medicaid patients.

The federal government has a program that allows nursing facilities to assess themselves a fee and use these funds as a "match" to draw down federal dollars. A total of 46 states have some kind of provider fee program. If Hawaii implements a program as developed by the Healthcare Association of Hawaii (HAH), we believe we can substantially reduce the losses due to Medicaid.

Due to the severity of the losses, nursing facilities decided to explore the possibility of developing and implementing a provider fee program. However, they were hesitant because they will have to pay an assessment from unbudgeted revenues and trust that they will be reimbursed.

But because the situation today is so dire, nursing facilities decided to pursue a provider fee program. Even though the program requires no State funding and no taxpayer money, nursing facilities have agreed to concede part of the revenue from the provider fee to the State. This would mean unanticipated funding for the State that could be doubled with a federal match if used for Medicaid services.

The State recently submitted a counter-proposal, which we are reviewing. We may consider amending the bill. We urge the joint committee to pass the bill to keep it alive in the legislative process. If the bill should be amended, we will submit a proposal when the bill proceeds to the Ways and Means Committee.

For your information, this bill creates a provider fee program for nursing facilities, and another bill being considered by the Legislature creates a separate provider fee program for hospitals.

Thank you for the opportunity to testify in support of HB 2274 HD 2.

HALE MAKUA HEALTH SERVICES

COMPASSION COMMITMENT COMMUNITY

March 19, 2012

TO: **Senator Suzanne Chun Oakland, Chair-SENATE COMMITTEE ON HUMAN SERVICES**
Senator Josh Greene, M.D., Chair- SENATE COMMITTEE ON HEALTH

Tuesday, March 20, 2012, 1:30 p.m.
Conference Room 016

FROM: **Tony Krieg, Chief Executive officer**

RE: **SUPPORT FOR HB 2274 HD2 RELATING TO LONG-TERM CARE FACILITIES**

Aloha Chairs Chun Oakland, Greene and members of the Health and Human Service Committees,

My name is Tony Krieg, C.E.O. of Hale Makua Health Services. . I am writing in strong support of HB 2274, HD2 which will provide additional revenues at minimal cost to the State of Hawaii to help make up a significant shortfall for our nursing facilities For over 65 years Hale Makua Health Services has provided nursing homes, care home, and home and community based services for people needing long term care on Maui. In addition to home health, case management and adult day health services, we operate two nursing homes with a total of 378 beds. Seventy-nine percent (79%) of the patient days in these homes are occupied by Medicaid recipients. The only other nursing home beds on Maui are part of Kula Hospital (a critical access hospital with 100 nursing home beds).

Medicaid does not cover the cost of providing care to our residents, and there have been reimbursement cuts in Medicaid and Medicare reimbursement which will result in a serious budget shortfall totaling $1.7 million for both facilities in 2012.

These cuts come at a time when federal and state regulations are calling for increases in quality, and renovations to provide homelike environments. The residents in Hawaii's nursing homes have some of the highest acuity care needs in the nation. I have illustrated this in the last table below this testimony.

Over 70% of the cost of providing care is for labor costs. As you well know, the cost of energy, food, supplies and other commodities are also on the rise. Due to these budget shortfalls, last year the Hale Makua Health Services Board of Directors was forced to seriously considered closing Hale Makua Wailuku because we could not get the largest labor union to agree to wage concessions. This would have meant that between 50 and 60 nursing home residents would have had to be placed in other facilities on Oahu or in other homes across the State.

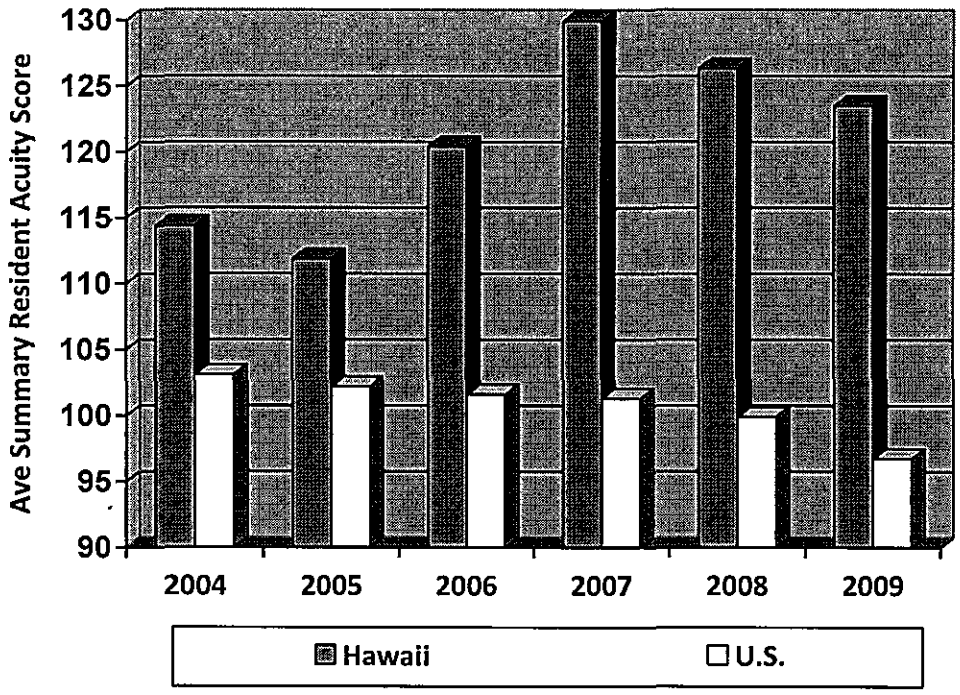
This bill provides a mechanism to draw down additional federal funds to ease this severe budget deficit. Barring an influx of state general funds, this is the one of the few means for nursing facilities to maintain services to our elderly and frail nursing home residents. **I strongly urge you to pass this bill with the original formula as proposed by the Healthcare Association of Hawaii.**

The following table illustrates the patient days and shortfalls due to the current Medicaid reimbursement system for our organization.

HALE MAKUA KAHULUI & WAILUKU
2011 RESULTS

	SHORTFALL = COST > REIMBURSEMENT	TOTAL # OF PATIENT DAYS	% MEDICAID
MEDICAID	-$1,688,821.00	93,821	79%
ALL PAYERS		118,499	

Average Summary Score for Nursing Facility Resident Acuity Using the Management Minute Index



From: Nursing Facilities, Staffing, Residents and Facility Deficiencies, 2004-2009
Charlene Harrington, Ph.D.Helen Carrillo, M.S.Brandee Woleslagle Blank, M.A –
.Department of Social & Behavioral Sciences *University of California San Francisco 2010*

The table above shows the average summary score for resident acuity using the management minute approach. This index is based on a compilation of resident characteristics including being bedfast, needing assistance with ambulation, needing full eating assistance, needing some eating assistance, having an indwelling catheter, being incontinent, having a pressure ulcer receiving bowel or bladder retraining, and receiving special skin care. Each of these characteristics was weighted by the average amount of management minutes or the time needed to provide nursing care.

The average index was 103.10 in 2004 which declined to 96.74 in 2009 for all facilities surveyed in the U.S. **This index allows for comparisons of acuity differences in facilities across states, which ranged from 73.07 in Iowa to 123.49 in Hawaii in 2009**

472 Kaulana St., Kahului, Hi 96732

HAWAII HEALTH SYSTEMS
CORPORATION
"Touching Lives Everyday"

Senate Committee on Health
Senator Josh Green, M.D. – Chair
Senator Clarence K. Nishihara – Vice Chair

Senate Committee on Human Services
Senator Suzanne Chun Oakland – Chair
Senator Les Ihara, Jr. – Vice Chair

Tuesday, March 20, 2012
Conference Room 016
1:30 p.m.
Hawaii State Capitol

Testimony Supporting House Bill 2274, HD2, Relating to Long-Term Care Facilities Establishes a nursing facility sustainability fee and a special fund to receive moneys from the nursing facility sustainability fee to receive federal Medicaid matching funds under the QUEST Expanded Medicaid Section 1115 Demonstration Waiver. Requires the Department of Human Services to charge and collect a provider fee on health care items or services provided by nursing facilities. Effective July 1, 2030, and repealed on June 30, 2013.

Bruce S. Anderson, Ph.D.
President and Chief Executive Officer
Hawaii Health Systems Corporation

On behalf of the Hawaii Health Systems Corporation (HHSC) Corporate Board of Directors, thank you for the opportunity to present testimony in support of the concept of HB 2274, HD2 that establishes a nursing facility sustainability fee and a special fund to receive moneys from the nursing facility sustainability fee to receive federal Medicaid matching funds under the QUEST Expanded Medicaid Section 1115 Demonstration Waiver.

Given that health care provider reimbursements are declining at both the federal and state level, it is imperative that health care providers find innovative ways to generate revenues to offset the decline in reimbursements. We believe that the concept of a provider fee on health care items or services provided by nursing facilities would be a good financing mechanism that could leverage federal funds to increase the reimbursements to nursing facilities from the QUEST and QUEST Expanded Access (QEXA) programs.

However, we have several concerns that will need to be addressed before we can provide our full support of this bill. First, the bill requires that the nursing facilities would pay the sustainability fee 45 days after the end of each calendar quarter. That means that there would be a gap of approximately three months at a minimum before a nursing facility would be able to recoup the amount of the sustainability fee paid from the enhanced reimbursements from the QUEST and QEXA plans. This would create a severe cash flow issue for HHSC's nursing facilities, since they do not have adequate cash reserves to make the initial payment and then wait for the reimbursements to come in over the next three months.

Second, the bill does not contain any language that requires deadlines for the Department of Human Services (DHS) to facilitate the drawdown of federal funds or to pay the enhanced capitation rates to the QUEST and QEXA plans. Also, the bill does not contain any language that requires deadlines for the QUEST and QEXA plans to make the enhanced reimbursements to the providers. Further, while the bill contains penalties for nursing facilities for lack of timely payment, there are no such penalties for DHS or the QUEST and QEXA plans to make sure that the nursing facilities receive the enhanced reimbursements due them.

Third, the bill does not specify what data source will be used to assess the nursing facility sustainability fee. While the bill specifies that the fee will be assessed on the nursing facility's "net patient service revenue," the data source is critical for nursing facility providers to know in order for them to determine whether the amount of the fee assessed to them is correct or not.

Fourth, the bill assumes that all nursing facilities are participating providers with the QUEST and QEXA plans. It is unclear how nursing facilities that are not participating providers would receive enhanced reimbursements under this bill.

These concerns have been communicated to the Healthcare Association of Hawaii, whom we understand will be providing technical amendments to this bill to address these concerns as the bill moves through the Legislative session.

Thank you for the opportunity to testify before these committees. We would respectively recommend the Committees' support of this measure.

March 20, 2012

To: Chairs Suzanne Chun Oakland and Josh Green, Members
Senate Committees on Human Services and Health
From: Bob Ogawa, President
Re: HB 2274 HD 2, Establishing the Nursing Facility Sustainability Program Special Fund

The Hawaii Long Term Care Association (HLTCA) strongly supports HB 2274, HD2. I will not go into extensive detail on the problems this measure seeks to address. You are all well-familiar with the substantial financial and services challenges that face our State medicaid system. Long term care facilities, in particular, have been falling into increasingly dire straits just as the leading edge of the Baby Boomer Generation has begun to turn 65. We must act now, or we will find ourselves with a decimated senior care infrastructure at precisely the time when the need for a robust one is the greatest in our history.

Very simply, as is employed in some form or fashion in nearly every other state in the country, this measure proposes a provider fee that will be used to draw down additional federal funds to cope with budget shortfalls, rising healthcare costs and ever-expanding medicaid rolls. This will enable increased payments to nursing facilities, thus reducing the losses they are presently incurring, preserving access to care for the medicaid population and helping to ensure sustainability for our long term care system.

The HLTCA membership comprises 33 facilities with a total of 3,200+ beds, including 1,750 skilled nursing beds. Between the HLTCA and the Healthcare Association of Hawaii, we represent basically all the nursing facility beds in the State of Hawaii. As such, we present to you a united front in pursuit of the passage of this legislation.

In all candor, this is a work in progress. This is not a simple program to configure or implement. There are a myriad moving parts and variables. However, while the devil may be in the details, we cannot let the details bedevil us into inaction. That is not an option. Part of HLTCA's mission statement says: *How we provide for Hawaii's kupuna, chronically ill and convalescent disabled is a measure of the respect and compassion we have for them . . . a reflection of our dignity as a society.*

Moving this measure forward will indeed reflect our dignity as a society. We cannot let the system fail, because we cannot fail our kupuna. Thank you.

1188 Bishop Street, Suite 3105 • Honolulu, Hawaii 96813 • Phone (808) 394-0810 • Fax (808) 395-8728
E-mail: sogawa@hltca.org • bogawa@hltca.org

C

From: mailinglist@capitol.hawaii.gov
Sent: Wednesday, March 14, 2012 3:15 PM
To: HMS Testimony
Cc: robertscottwall@yahoo.com
Subject: Testimony for HB2274 on 3/20/2012 1:30:00 PM

Testimony for HMS/HTH 3/20/2012 1:30:00 PM·HB2274

Conference room: 016
Testifier position: Support
Testifier will be present: Yes
Submitted by: Scott Wall
Organization: United Self Help
E-mail: robertscottwall@yahoo.com
Submitted on: 3/14/2012

Comments:
Aloha Sen. Green, Sen. Chun-Oakland, members of the committees.

My name is Scott Wall and I am speaking on behalf of United Self Help. We support this measure and feel that long term care is an integral part of reconstructing Hawai'i's health care system.

The lack of long term care facilities has proven a stumbling block in the treatment of the elderly and the disabled. People languish in acute care settings just burning up taxpayer dollars simply because there are no supervised facilities for them to go to.

Just think about what is going to happen when (as the U.S. Dept. of Health and Human Services has fortold,) twenty million Americans become aflicted with Altzheimers over the next twenty years. Neither the country nor our State are prepared for this.

We support this bill as a first step in correcting a horrible lapse in foresight.

Mahalo,
Scott Wall
United Self Help