HAWAII HEALTH SYSTEMS
CORPORATION
"Touching Lives Everyday"

House Committee on Health
Representative Ryan I. Yamane, Chair
Representative Dee Morikawa, Vice Chair

House Committee on Human Services
Representative John M. Mizuno, Chair
Representative Jo Jordan, Vice Chair

January 31, 2012
Conference Room 329
Hawaii State Capitol

Testimony Supporting House Bill 2274, Relating to Long-Term Care Facilities Establishes the Nursing Facility Sustainability Program Special fund into which nursing facility sustainability fees shall be deposited. Requires the department of human services to charge and collect a provider fee on health care items or services provided by nursing facilities.

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 that establishes the Nursing Facility Sustainability Program Special fund into which nursing facility sustainability fees shall be deposited.

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.

January 31, 2012

To: Chairs Ryan Yamane and John Mizuno and Members of the House Committees on Health and Human Services
From: Bob Ogawa, President
Re: HB 2274, Establishing the Nursing Facility Sustainability Program Special Fund

The Hawaii Long Term Care Association (HLTCA) strongly supports HB 2274. 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.

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HAH
Healthcare Association
of Hawaii

HOUSE COMMITTEE ON HEALTH
Rep. Ryan Yamane, Chair

HOUSE COMMITTEE ON HUMAN SERVICES
Rep. John Mizuno, Chair

Conference Room 329
January 31, 2012 at 10:00 a.m.

Supporting HB 2274: 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, which creates the Nursing Facility Sustainability Program, which strengthens the financing of long term care in Hawaii by drawing down federal funds.

Provider fee programs are used in 46 states and the District of Columbia as a means of drawing down additional federal funds to sustain their Medicaid programs. Hawaii is one of only four states without such a program, at a time when state budget deficits are rising due to increasing health care costs and expanding Medicaid rolls. The implementation of a provider fee in Hawaii could assist in stabilizing declining Medicaid payments to facilities and slow down the erosion of access to care for those beneficiaries served by the program.

Provider fees are not taxes, as they are created voluntarily by different categories of health care providers and are collected only from these providers. These fees are not assessed on other organizations, nor on individuals. Provider fees are used in this limited way to draw down federal funds.

Medicaid is jointly financed by the states and the federal government. By statutory formula, the federal government pays between 50% and 76% of Medicaid costs incurred by states for care delivered to their Medicaid beneficiaries, based on each state's Federal Medical Assistance Percentage (FMAP). Under federal rules, the state share must be public funds that are not federal funds. The non-federal public funds may come from three sources:

Category 1: Direct appropriations to the state Medicaid agency;

Category 2: Intergovernmental transfers (IGTs); or

Category 3: Certified public expenditures (CPEs).

Provider fees fall under Catetory 1 above. The provider fee program may be utilized by 19 different classes of health care services, including inpatient/outpatient hospital and nursing facility services. Fee programs produce revenues that flow into special funds and are then directly appropriated to the state Medicaid agency in order to draw down matching federal funds for Medicaid covered services.

In the past few years, states have increasingly relied on provider fee revenues to fund their Medicaid programs. This growth is a direct result of the downturn in state revenues during the last two recessions. Provider fees have served as the primary vehicle for maintaining and enhancing Medicaid funding during the last two recessions.

Federal regulations allow states to use revenue from provider fees to help fund Medicaid, as long as they satisfy the following requirements established by the Medicaid Voluntary Contribution and Provider-Specific Tax Amendments (P.L. 102-234):

(1) They must be broad-based. In order to be considered broad-based, a provider fee must be imposed on all the health care items or services furnished by all the non-federal, non-public providers in the class in the state.

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

(3) There is a hold harmless prohibition. A fee program may not hold providers harmless. A provider fee is considered to hold the provider harmless if the providers paying the fee receive a non-Medicaid payment from the state or any offset or waiver that guarantees to hold the provider harmless for the fee.

The Secretary of Health and Human Services is authorized to waive the broad-based and uniformity provisions, provided that a state can demonstrate through a quantitative statistical test that its fee program is generally redistributive in nature. This means that the increase in Medicaid reimbursements a provider would receive are not positively correlated to the amount of fees paid by the provider. Obtaining a waiver from CMS permits a state to exempt certain providers from the fee, or reduce their assessment amounts to reduce the financial impact on net contributors (i.e. fee paid is greater than the distribution earned).

In Hawaii a provider fee would increase Medicaid payments at a time when constraints on the State 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 hospitals and long term care facilities. As such, the provider fee would help to preserve access to health care for the Medicaid population and to preserve our health care system.

This bill creates a provider fee for nursing facilities. Another bill being considered by the Legislature creates a separate provider fee for hospitals.

Besides helping existing SNFs, the Nursing Facility Sustainability Program could enhance the creation of new long term care facilities. For example, the Hawaii Medical Center East facility, will likely be repurposed as a nursing facility. A substantial proportion of its residents are expected to be Medicaid enrollees since Medicaid enrollees represent about 70% of the total population of all Hawaii nursing homes. However, nursing facilities are losing $7 to $8 per day on each Medicaid resident. If a provider fee program were implemented in the manner supported by the Healthcare Association, Medicaid payments would be increased to a level that is close to the actual cost of care. This increase would make the Hawaii Medical Center East facility more attractive to a potential purchaser.

It should be noted that this bill is still in the process of being finalized. The model for the Nursing Facility Sustainability Program is still being developed because the data required to design it is still being gathered. The data is expected shortly, and at that time the Healthcare Association of Hawaii will propose amendments to the bill. We would like to thank the Department of Human Services and the Hawaii Long Term Care Association for working cooperatively with the Healthcare Association to complete the model.

In addition to those amendments that will be proposed later, the Healthcare Association would like to propose an HD 1 version of the bill (attached) that includes the following amendments:

1. Exempts continuing care retirement communities.
2. Reschedules the fee payment from a quarterly basis to a monthly basis.
3. Provides specific examples of CMS approvals that may be needed.
4. Corrects an error referring to inpatient care.
5. Authorizes the State to modify the categories of exempt facilities and the rate adjustment provisions if needed for CMS approval.

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

To: Representative Ryan I. Yamane, Chair, Committee on Health
Representative Dee Morikawa, Vice Chair, Committee on Health
Representative John M. Mizuno, Chair, Committee on Human Services
Representative Jo Jordan, Vice Chair, Committee on Human Services

Re: Testimony in opposition to House Bill 2274

The Palolo Chinese Home (PCH) is a 501 (c) (3) not-for-profit organization. For more than a hundred years, PCH has been providing shelter and care to Hawaii's seniors. Its origins date back to 1896 with original intent to care for aging plantation workers who had no family support. Currently, PCH is Hawaii's largest and second oldest Adult Residential Care Home (ARCH II – Expanded Care). PCH has 61 nursing home and 50 residential care beds; an adult day care program for 30 senior participants and an adult respite care program that provides short-term overnight stays for community seniors. PCH also provides hospice care on its campus through partnerships with all hospice care providers in Hawaii.

Although the intent of S.B. 2466 is to increase the amount of federal matching funds to Hawaii's Medicaid program, based on financial projections of the Healthcare Association of Hawaii's consultants, Palolo Chinese Home will be negatively impacted and is projected to incur a loss of approximately $230,000 annually. A loss of this magnitude will significantly impair our ability to continue serving Hawaii's seniors.

We urge the Committee to hold H.B. 2274. Thanks you for the opportunity to voice our opposition to this bill.

Sincerely,

Darryl N. Ing
Chief Executive Officer