# TESTIMONY

# HB2275, HD2

HTH/HMS
Committee Hearing
03-20-2012

LATE

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

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

FROM: Patricia McManaman, Director

SUBJECT: **H.B. 2275, H.D.2 - RELATING TO HOSPITALS** -w/ amendments.

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

**PURPOSE**: The purpose of the bill is to establish a Hospital Sustainability Program and a special fund into which hospital provider 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 hospitals.

**DEPARTMENT'S POSITION**: The Department of Human Services (DHS) supports increasing the sustainability of the State's service delivery system. We recognize that our hospitals provide vital services to our community. The DHS has continued to work with stakeholders to develop a model so that proposed language may be provided to amend the bill.

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 the State an opportunity to obtain additional federal matching funds which could be used to help reduce hospital losses resulting from uncompensated care costs.

There are many methods in which this provider fee has 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. Highlights of the proposed amendment include:

1) The private hospitals statewide will be assessed a provider fee based on their total inpatient and outpatient hospital revenues beginning July 1, 2012.
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 hospital facility sustainability special fund.
3) The special fund will then be accessed by the DHS to make direct payments to the hospitals for their uncompensated care losses. No payments would pass through the QUEST and QExA health plans. The direct payment mechanism proposed by the DHS assures timely payments to the hospitals in sums certain. The DHS will work with the hospitals to determine payment schedules that are appropriate to their needs.
4) A portion of the revenue would be available to the DHS to support the overall Medicaid program. The exact percentage of the provider fee has not been yet agreed upon by all parties.

The Department believes that this methodology will benefit the hospitals as a whole. Under this proposal, hospitals will be fully compensated for their uncompensated costs. For example, this proposal will address the hospital's long standing concerns regarding uncompensated costs for patients waitlisted for placement in a long term care nursing facility.

Additionally, this measure makes the hospitals whole for all costs associated with the provision of services to medically uninsured patients.

Thank you for the opportunity to testify on this bill.

# H.B. NO. 2275
PROPOSED SD1

# A BILL FOR AN ACT

RELATING TO HOSPITALS.

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

1 SECTION 1. Hospitals in the State face major financial
2 challenges in providing quality health care for Hawaii
3 residents. These challenges are largely the result of payments
4 for care of medicaid enrollees that do not cover the actual
5 costs of care. The legislature finds that federal funding to
6 help financially sustain Hawaii's hospitals may be accessed
7 through a provider fee.
8 Provider fees are used in forty-six states and the District
9 of Columbia as a means of drawing down federal funds to sustain
10 state medicaid programs due to rising state budget deficits,
11 increasing health care costs, and expanding medicaid rolls.
12 Implementation of a provider fee in Hawaii would help stabilize
13 declining medicaid payments to facilities and slow the erosion
14 of access to care for beneficiaries served by the program.
15 Medicaid is jointly financed by the federal and state
16 governments, but by statutory formula, the federal government
17 pays between fifty per cent and seventy-six per cent of medicaid

1 costs incurred by states for care delivered to their medicaid
2 beneficiaries. Federal assistance percentages vary by state,
3 with states that have lower per capita incomes receiving higher
4 federal matching rates. Under federal rules, the state share
5 must be paid through public funds that are not federal funds.
6 Provider fees, which are collected from specific categories
7 of health care providers that agree to the fee, may be imposed
8 on nineteen different classes of health care services, including
9 inpatient and outpatient hospital and nursing facility
10 services. However, there are limitations on the way provider
11 fees may be structured. The Medicaid Voluntary Contribution and
12 Provider-Specific Tax Amendments of 1991, P.L. 102-234, passed
13 by Congress in 1991, imposes the following requirements:
14 (1) Broad-based. To be considered broad-based, a provider
15 fee must be imposed on all health care items or
16 services furnished by all non-federal, non-public
17 providers in the class in the State. Provider fee
18 programs may exclude public facilities without
19 violating federal law;
20 (2) Uniformly imposed. In general, a provider fee is
21 uniformly imposed if it is the same amount or rate for
22 each provider in the class; and
23 (3) Hold harmless prohibition. States may not hold
24 providers harmless. A provider fee is considered to

1 hold the provider harmless if the providers paying the
2 fee receive, directly or indirectly, a non-medicaid
3 payment from the state or any offset or waiver that
4 guarantees to hold the provider harmless for all or a
5 portion of the fee. A provider fee is also considered
6 to hold the provider harmless if the medicaid payments
7 to the provider vary based only on the amount of the
8 fees paid by the provider.
9 The maximum provider fee a state may impose is currently
10 six per cent of net patient revenue. A number of proposals have
11 been made, but not implemented, to eliminate medicaid provider
12 fee programs to reduce the federal deficit. However, because
13 provider fees are used by so many states, many of those who are
14 knowledgeable about this subject view elimination of provider
15 fees as unlikely due to their strong political support. A more
16 realistic expectation is a reduction of the provider fee
17 maximum, as proposed by President Barack Obama's fiscal year
18 2012 budget, which would reduce the maximum to three and one-
19 half per cent in 2017. This proposal recognizes that provider
20 fees are essential for most states to maintain a stable,
21 functioning medicaid program.
22 In Hawaii, a provider fee would increase medicaid payments
23 at a time when constraints on the State's budget have forced a
24 reduction in payments and benefits. The additional federal

1 funds obtained via the fee program would reduce the amount of
2 losses incurred by hospitals. As such, the provider fee would
3 help preserve access to health care for the medicaid population
4 and sustain the State's entire health care system.

5 The purpose of this Act is to ensure access to health care
6 for medicaid recipients by establishing a hospital
7 sustainability fee assessed on provider fees on health care
8 items or services provided by hospitals and by establishing a
9 hospital sustainability program special fund to receive moneys
10 from the hospital sustainability fee to receive federal medicaid
11 matching funds under the QUEST Expanded Medicaid Section 1115
12 Demonstration Waiver.

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

16 **"CHAPTER**

17 **HOSPITAL SUSTAINABILITY PROGRAM**

18 § -1 **Title.** This chapter shall be known and may be cited
19 as the "Hospital Sustainability Program Act".

20 § -2 **Findings and declaration of necessity.** It is the
21 intent of the legislature to encourage the maximum drawdown of
22 federal medicaid funds by establishing a fund within the state
23 treasury to receive revenue from the imposition of a hospital
24 sustainability fee revenues to be administered by the department

1 and to use the fee to receive federal medicaid matching funds
2 under the Section 1115 waiver.
3 § -3 **Definitions**. As used in this chapter:
4 "Acute care day" means a calendar day of care provided to a
5 hospital patient, including the day of admission and excluding
6 the day of discharge of the patient.
7 "Department" means the department of human services.
8 "Fiscal year" means a twelve-month period from July 1 of a
9 particular calendar year to June 30 of the following calendar
10 year, inclusive.
11 "Hospital" means any institution with an organized medical
12 staff that admits patients for inpatient care, diagnosis,
13 observation, and treatment.
14 "Inpatient care" means the care of patients whose
15 conditions require admission to a hospital.
16 "Net patient service revenue" means gross revenue from
17 inpatient and outpatient care provided to hospital patients,
18 less reductions from gross revenue resulting from an inability
19 to collect payment of charges. Inpatient and outpatient care
20 revenue excludes non-patient care revenues, such as beauty and
21 barber services, parking, rental income, vending income,
22 interest and contributions, and revenues from the sale of
23 meals. Reductions from gross revenue include bad debt;
24 contractual adjustments; uncompensated care; administrative,

1 courtesy, and policy discounts and adjustments; and other
2 similar revenue deductions.
3 "Outpatient care" means all services furnished by hospitals
4 to patients who are registered as hospital outpatients.
5 "Section 1115 waiver" means the QUEST Expanded Medicaid
6 Section 1115 Demonstration Waiver (Number 11-W-00001/9).
7 § -4 **Hospital sustainability program special fund.** (a)
8 There is created in the state treasury the hospital
9 sustainability program special fund to be administered by the
10 department into which shall be deposited all moneys collected
11 under this chapter.
12 (b) Moneys in the hospital sustainability program special
13 fund shall consist of:
14 (1) All revenue received by the department from the
15 hospital sustainability fees;
16 (2) All federal medicaid funds received by the department
17 as a result of matching revenue from the hospital
18 sustainability fees;
19 (3) Any interest or penalties levied in conjunction with
20 the administration of this chapter; and
21 (4) Any appropriations, federal funds, donations, gifts,
22 or moneys from any other sources.
23 (c) Revenue from the hospital sustainability fees shall be
24 used exclusively as follows:

1 (1) No less than _______ per cent of the revenue from the
2 hospital sustainability fees shall be used, combined
3 with matching federal medicaid funds, to make direct
4 payments to hospitals pursuant to the terms of the
5 1115 waiver
6 (2) An amount not to exceed ______ per cent of the revenue
7 from the hospital sustainability fees maybe used by
8 the department for other expenses incurred in the
9 medicaid program, including administrative costs.
10 § -5 **Hospital sustainability fees.** (a) Effective July
11 1, 2012, the department shall charge and collect a provider fee,
12 to be known as the hospital sustainability fee, on inpatient and
13 outpatient health care items or services provided by hospitals.
14 (b) The hospital sustainability fees shall be based on the
15 net patient service revenue of all hospitals that are subject to
16 the hospital sustainability fees.
17 (c) The hospital sustainability fees shall not exceed
18 three per cent of net patient service revenue as derived from
19 the hospitals' medicare cost report ending during state fiscal
20 year 2010; provided that certain hospitals may be exempted from
21 the fees, as determined by the department, within the broad-
22 based and uniformity waiver requirements imposed by federal law.

§ -6 **Hospital sustainability fee assessments.** (a) Hospitals shall pay the hospital sustainability fees to the department in accordance with this chapter.

(b) The department shall collect, and each hospital shall pay, the hospital sustainability fees on a periodic basis to be determined by the department commencing upon receipt of any necessary approvals by the Center for Medicare and Medicaid Services as specified in section -7.

§ -7 **Federal approval.** The department shall seek the broad-based or uniformity waiver and any additional approvals from the Centers for Medicare and Medicaid Services that may be necessary to implement the hospital sustainability program, including 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 hospital licensed by the department of health, the entity shall pay the hospital sustainability fees for each hospital separately.

§ -9 **Penalties for failure to pay hospital sustainability fees.** (a) If a hospital fails to pay the full amount of any hospital 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

1 fee amounts beginning with the most delinquent installment
2 rather than to penalty or interest amounts.
3 (b) In addition to the penalty imposed by subsection (a),
4 the department may seek any of the following remedies for the
5 failure of any hospital to pay its fee when due:
6 (1) Withholding any medical assistance reimbursement
7 payments until such time as the fee amount is paid in
8 full;
9 (2) Suspension or revocation of the hospital license; or
10 (3) Development of a plan that requires the hospital to
11 pay any delinquent fee in installments.
12 § -10 **Termination.** (a) Collection of the either of the
13 hospital sustainability fees established by section -5 shall
14 be discontinued if:
15 (1) The required federal approvals specified in section 5
16 or section 7 are not granted or are revoked by the
17 Centers for Medicare and Medicaid Services;
18 (2) The department reduces funding for hospital services
19 below the state appropriation in effect as of the
20 effective date of this chapter;
21 (3) The department or any other state agency uses the
22 money in the hospital sustainability program special
23 fund for any use other than the uses permitted by this
24 chapter; or

1 (4) Federal financial participation to match the revenue
2 from the hospital sustainability fee becomes
3 unavailable under federal law; provided that the
4 department shall terminate the imposition of the
5 hospital sustainability fee beginning on the date the
6 federal statutory, regulatory, or interpretive change
7 takes effect.
8 (b) If collection of the hospital sustainability fee is
9 discontinued as provided in this section, all moneys in the
10 hospital sustainability program special fund shall be
11 distributed among the hospitals on the same basis as the
12 hospital sustainability fee was assessed.
13 § -11 **Severability.** If any provision of this chapter or
14 the application thereof to any person or circumstances is held
15 invalid, the invalidity shall not affect other provisions or
16 applications of the chapter that can be given effect without the
17 invalid provision or application, and to this end the provisions
18 of this chapter are severable."
19 SECTION 3. This Act shall take effect on July 1, 2012.
20

**Report Title:**
Hospital Sustainability Fee; Hospital Sustainability Program Special Fund

**Description:**
Establishes a hospital sustainability fee and special fund to receive moneys from the hospital 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 hospitals. Effective July 1, 2012. (HB2275 HD2)

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

# THE QUEEN'S HEALTH SYSTEMS

1301 Punchbowl Street • Honolulu, Hawaii 96813 • Phone (808) 691-5900

Senator Josh Green, Chair
Senator Clarence K. Nishihara, Vice Chair
**SENATE COMMITTEE ON HEALTH**

Senator Suzanne Chun Oakland, Chair
Senator Les Ihara, Jr., Vice-Chair
**SENATE COMMITTEE ON HUMAN SERVICES**

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

**In Support of H.B. 2275, HD2 Relating to Hospitals**

My name is Paula Yoshioka, and I am the Senior Vice President for The Queen's Health Systems (QHS). I am testifying for QHS in strong support for H.B. 2275, HD2, Relating to Hospitals.

Provider fee programs are currently used in 46 states and the District of Columbia as a means of drawing down additional federal funds to sustain their Medicaid programs. 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. The additional federal funds that could be obtained via the fee program would reduce the amount of loss incurred by Hawaii's hospitals. In FY 10, it is estimated that Queen's cost for the unpaid cost of Medicaid was $28.3 million.

We defer to the Healthcare Association of Hawaii (HAH) for recommendations for specific amendments and ask the committee to pass H.B. 2275, HD2 out to allow for continued discussion of the proposal.

Thank you for the opportunity to provide testimony in support of this measure.

**HMSA**

An Independent Licensee of the Blue Cross and Blue Shield Association

March 20, 2012

The Honorable Josh Green, M.D., Chair
The Honorable Suzanne Chun Oakland, Chair
Senate Committees on Health and Human Services

**Re: HB 2275, HD2 – Relating to Hospitals**

Dear Chair Green, Chair Chun Oakland and Members of the Committee:

The Hawaii Medical Service Association (HMSA) appreciates your allowing us to testify on HB 2275, HD2. HMSA truly supports the intent of this legislation, and we continue to work with the proponents to address concerns we have regarding the legislation.

HB 2275, HD2 authorizes hospitals to charge a fee of up to three percent of "net patient service revenue," known as the Hospital Sustainability Fee (Fee). The revenue generated from the Fee is to be transferred to the State Department of Human Services (DHS) for deposit into the Hospital Sustainability Special Fund (Fund). DHS is allowed to retain up to five percent of those deposits to pay for administrative overhead. And, no less than 95 percent of those deposits are to be used to match federal Medicaid funds to increase Medicaid hospital payments.

As drafted, the Bill seems to be only an outline of the concept of the Hospital Stabilization Program (Program), but it lacks specificity regarding how the Program will be administered and will operate such as:

- While revenues from the fee and federal funds are to be used for exclusive purposes, the Bill leaves open the possibility that other deposits into the Fund may not necessarily be held in trust and subject to purposes outside of the Program.
- How will expenditures from the Fund be made?
- What will be the role of the plans that implement the QUEST and QUEST Expanded Access contracts for MedQUEST?

While we understand the need for a State overhead charge to administer the Fund, we are concerned that the Bill does not acknowledge that this program could create an administrative burden on the health plans. The fee structure should be drafted to also accommodate the additional administrative plan costs.

HB 2275, HD2, does address a specific concern we detailed in testimony on the initial drafts of the Bill, as well as on its companion measure, SB 2467, which this Committee considered. While this Bill provides for a government-sanctioned fee, the earlier drafts allowed a private entity to determine exemptions from the fee and required plans to report to that private entity, as well as to DHS. HB 2275, HD2 addresses those concerns by eliminating those provisions.

We truly understand and appreciate this innovative proposal to enhance the effectiveness of our state's Medicaid program. While we do have questions regarding the details behind this proposal, we look forward to continue working with this Committee and with everyone who have an interest in seeing such innovations proceed.

Thank you for allowing us to comment on this measure, and your consideration of our concerns is appreciated.

Sincerely,

Mark K. Oto
Director, Government Relations

**Hawaii Medical Service Association** 818 Keeaumoku St.• P.O. Box 860 Honolulu, HI 96808-0860 (808) 948-5110 Branch offices located on Hawaii, Kauai and Maui Internet address www.HMSA.com

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. 2275, H.D. 2

March 20, 2012

RELATING TO HOSPITALS

House Bill No. 2275, H.D. 2, establishes a Hospital Sustainability Program Special Fund into which shall be deposited hospital provider fees which will be used to match federal Medicaid funds to increase Medicaid payments to hospitals.

While the Department of Budget and Finance does not take any position on the policy of establishing a hospital 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. 2275, H.D. 2, it is difficult to determine whether there is a clear nexus between the hospital facilities which are assessed fees and the hospital 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.

TESTIFIER: GEORGE GREENE

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.

**Opposing HB 2275 HD 2: Relating to Hospitals**

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 opposition to HB 2275 HD 2.

The original bill was sponsored by the Healthcare Association of Hawaii as a means of making Hawaii's hospitals more sustainable by improving low Medicaid payments that do not cover the actual costs of care. However, efforts by the Department of Human Services (DHS) to divert substantial amounts of money from the program have made it unworkable.

Hawaii's Medicaid program pays hospitals an average of 70% of cost, compared with the national average of 89% of cost. As a result, Hawaii's hospitals incur substantial losses in caring for Medicaid patients, but their humanitarian missions obligate them to provide care to them.

About one-fourth of all hospital patients are Medicaid patients, so hospitals incur severe financial losses as a result of caring for Medicaid patients. In an effort to reduce their losses, hospitals proposed the Hospital Sustainability Program, as contained in the original HB 2275.

In this program, hospitals would have assessed a fee on themselves, used the revenue to draw down federal funds, and distributed the total back to hospitals. Five percent of the revenue would have been allocated to the State, which could have doubled the amount by using it as a match for federal funds if used for Medicaid services. This program would have increased Medicaid hospital payments to 83% of cost – an improvement, but still below the national average.

This program would have resulted in a win for the State as well as a win for hospitals. However, DHS has made efforts to divert substantially more than the 5% of revenues from the program. This would cause more hospitals to lose money, and all hospitals oppose it.

Federal regulations require some hospitals to lose money as a result of any provider fee program, and the model in the original HB 2275 results in some hospitals losing money. Nevertheless, the model works because those hospitals that lose money recognize the benefits to the others and are willing to make the sacrifice. Hawaii's hospitals have an uncommon cooperative spirit.

But DHS has proposed a model that goes beyond the breaking point because it would result in more hospitals losing money. Now, even those hospitals that would benefit from the DHS proposal are opposed to it.

The DHS proposal is a threat to the provider fee program because, as the agency that administers the State's Medicaid program, DHS would administer the provider fee program. As such, the Healthcare Association of Hawaii now opposes the bill.

The Healthcare Association and its member hospitals have held numerous discussions with DHS over the last several months to try to find a compromise. Unfortunately, to our disappointment, we have found no middle ground.

We request that the joint committee hold the bill so that it does not proceed any further in the legislative process.

Thank you for this opportunity to testify in strong opposition to SB 2275 SD 2.

**Testimony to the Senate Committees on Health and Human Services**
**Tuesday, March 20, 2012**
**1:30 p.m.**
**State Capitol - Conference Room 016**

## RE: HOUSE BILL NO. 2275 HD2 RELATING TO HOSPITALS

Chairs Green and Chun Oakland, Vice Chairs Nishihara and Ihara, and members of the committees:

My name is Jim Tollefson and I am the President and CEO of The Chamber of Commerce of Hawaii ("The Chamber"). The Chamber supports House Bill No. 2275 HD2 relating to Hospitals.

The Chamber is the largest business organization in Hawaii, representing more than 1,100 businesses. Approximately 80% of our members are small businesses with less than 20 employees. As the "Voice of Business" in Hawaii, the organization works on behalf of its members, which employ more than 200,000 individuals, to improve the state's economic climate and to foster positive action on issues of common concern.

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

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

Therefore, The Chamber supports improvements to the quality of our health care system. They include legislation that will improve payments to health care providers of essential health care services and increase long term care capacity and access statewide. 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.

We are also aware that ongoing discussion are occurring amongst the various stakeholders within the health care provider community and Department representatives in order to ensure that this program is implemented and administered in a fair and equitable manner. We therefore urge the joint committee to

pass the bill to keep it alive in the legislative process so that the relevant stakeholders can continue their ongoing discussions.

In light of the above, The Chamber of Commerce of Hawaii supports the passage of HB 2275 HD2 for further discussion. Thank you for the opportunity to provide testimony.

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

**Senate Committee on Human Services**
**Senator Suzanne Chu 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 2275, HD2, Relating to Hospitals**
**Establishes a hospital sustainability fee and special fund to receive moneys from the hospital 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 hospitals. Effective July 1, 2012, 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 2275, HD2 that establishes the Hospital Sustainability Program into which hospital 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 hospitals would be a good financing mechanism that could leverage federal funds to increase the reimbursements to hospitals 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 hospitals 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 hospitals, 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 hospitals for lack of timely payment, there are no such penalties for DHS or the QUEST and QEXA plans to make sure that the hospitals receive the enhanced reimbursements due them.

Third, the bill does not specify what data source will be used to assess the hospital sustainability fee. While the bill specifies that the fee will be assessed on the hospital's "net patient service revenue," the data source is critical for hospitals 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 hospitals are participating providers with the QUEST and QEXA plans. It is unclear how hospitals 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.

Mar 19, 2012

Senator Josh Green
State Capitol, Room 222
415 South Beretania Street
Honolulu, HI 96813

Dear Senator Green,

Thank you for this opportunity to testify in support of HB 2275 HD 2, which creates the Hospital Sustainability Program that strengthens the financing of hospitals in Hawaii by drawing down federal funds and distributing these funds to hospitals.

Please support the hospitals' efforts to keep more Hawaii hospitals from closing.

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 hospitals and the entire health care delivery system.

Hawaii's Medicaid program pays hospitals only 70% of cost, compared with the national average of 89% of cost. The federal government has a program that allows hospitals 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 raise the average Medicaid payment to 83% of cost.

North Hawaii Community Hospital provides $8 million of direct service cost to Medicaid patients but only receives $.3.75 million in return. This $4.1 million accounts for 100% of our operating losses and over the past three years has pushed the hospital to the bring of financial collapse.

Today, we only have $3.5 million of unrestricted capital in our bank account. IF WE ARE GOING TO SURVIVE, WE MUST HAVE PROGRAMS LIKE HB 2275 HD2 TO OFFSET THESE SUBSTANTIAL LOSSES. I cannot overestimate the importance of this bill to the long term survival of North Hawaii.

I urge the joint committee to pass the bill to keep it alive in the legislative process, understanding that HAH will be proposing an amendment to clarify the financial model.

Sincerely,

Mr. Kenneth Wood
North Hawaii Community Hospital
67-1125 Mamalahoa Hwy
Kamuela, HI 96743-8496

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**Tuesday – March 20, 2012 – 1:30pm**
**Conference Room 016**

**The Senate Committee on Health**

To: Senator Josh Green, M.D., Chair
Senator Clarence Nishihara, Vice chair

**The Senate Committee on Human Services**

To: Senator Suzanne Chun Oakland, Chair
Senator Les Ihara, Vice Chair

From: David Okabe
Executive Vice President
Chief Financial Officer

**Re: HB 2275 HD2 RELATING TO HOSPITALS - Testimony in Support**

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My name is David Okabe, Executive Vice President and Chief Financial Officer for Hawai'i Pacific Health (HPH). HPH is a nonprofit health care system and the state's largest health care provider anchored by its four nonprofit hospitals: Kapi'olani Medical Center for Women & Children, Pali Momi Medical Center, Straub Clinic & Hospital and Wilcox Memorial Hospital on Kauai. HPH is committed to providing the highest quality medical care and service to the people of Hawai'i and the Pacific Region through its four affiliated hospitals, 49 outpatient clinics, more than 5,400 employees and 1,300 physicians on staff.

HPH is writing in support of HB 2275 HD2 Relating to Hospitals. This bill establishes a provider fee program - the Hospital Sustainability Program Act - and creates a special fund to receive moneys from the hospital sustainability fee enabling additional federal Medicaid matching funds under the QUEST Expanded Medicaid Section 1115 Demonstration Waiver.

Provider fee programs are currently used in 46 states as a means to draw down additional federal funds to sustain their Medicaid programs. At a time when state budget and hospital operating deficits are rising due to declining government reimbursement and expanding Medicaid rolls, Hawaii is one of only four states without a provider fee program. The implementation of a provider fee program in Hawaii could help stabilize declining Medicaid payments to hospital facilities and slow down the erosion of access to care for those beneficiaries served by the program. The recent closure of HMC West and East are recent painful examples where the environment of declining government reimbursement has negatively impacted patient access to medical care.

HPH has voluntarily agreed to participate in the Hospital Sustainability Program in response to the dire Medicaid reimbursement situation that all providers are confronting. HPH has been an active participant in the Health care Association of Hawai'i's discussions with the numerous private and government stakeholders required to ensure that this program is created and administered in a fair and equitable manner. This bill requires no state or tax payer money and creates a program enabling the draw down of additional Federal matching funds utilizing fees generated solely from the health care provider community. Since these complex discussions are still ongoing, we ask that you pass this bill in its current form so that the dialogue amongst the key healthcare industry stakeholders can continue. Thank you for this opportunity to testify.

Testimony of
Phyllis Dendle
Director of Government Relations

Before:
Senate Committee on Health
The Honorable Josh Green, M.D., Chair
The Honorable Clarence K Nishihara, Vice Chair

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

March 20, 2012
1:30 pm
Conference Room 016

**HB2275 HD2 RELATING TO HOSPITALS**

Chair Green and Chair Chun Oakland, and committee members, thank you for this opportunity to provide testimony on HB2275 HD2. This bill proposes the state assess a fee on all private hospitals. The money collected would then be available to secure federal matching funds to reimburse hospitals the costs of uncompensated care. This uncompensated care is a result of payments by the state Medicaid program that do not cover the actual cost of care.

**Kaiser Permanente Hawaii supports the intent of this bill but requests that the committee defer it.**

Kaiser Permanente Hawaii values this effort to reduce uncompensated care provided by private hospitals. It is without question a problem and we are happy to see an attempt to improve the circumstances. As described in this draft, at least 95% of the money in the Hospital Sustainability Program special fund (fund) is to be used to match federal Medicaid funds to increase the reimbursements to Quest and Quest expanded access plans to in turn increase reimbursements to hospital. In return for the work of the department of human services to collect and distribute these additional funds they are designated to receive up to 5% of the funds collected.

This all sounds fine until you consider the details.

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- What is the percentage and amount of the assessment for each facility?
- What is the amount that is going back to each of the hospitals?
- Will public hospitals (HHSC) receive reimbursement even if they do not pay into the fund?
- By design and necessity there are hospitals that will pay into the fund and not recoup their payments much less any increase in reimbursement. Nearly all of the hospitals in Hawaii are non-profit without any padding to absorb these additional costs.
- What will be the impact of this bill on disproportionate share hospital money that the state is currently getting from the federal government?
- Who will make the final decisions on these questions?

Kaiser Permanente Hawaii would be happy to have additional federal funds to off-set our losses on Medicaid and we are willing to participate in such a program but the risk of passing this bill with so many unanswered questions is too great. Every discussion of this bill has had variations in the numbers. This is one of the last hearings this bill will have and still there is uncertainty as to how it will work and who will benefit and who will not.

While this bill appears to create a law in effect for one year we can't help feeling like this will set the precedent for any future years this assessment and fund are used.

We urge the committee to defer this matter for this year and direct all interested parties to collaborate on a design and model for this hospital fee that will be clear for all involved.

Thank you for your consideration.

LATE

To our Honorable Senators Chun Oakland, Green, Ihara, and Nishihara,

Thank you for your consideration of HB2275 – "Relating to Hospitals", also referred to as the Hospital Sustainability Program. As our entire community recognizes, Hawaii's healthcare system faces severe and unique challenges. These challenges were brought under particular focus with the recent closure of Hawaii Medical Centers East and West.

One of the greatest challenges for hospitals in our state is meeting the needs of those of our patients relying on Medicaid for healthcare coverage. Hawaii has one of the lowest rates of Medicaid reimbursement in the US, with Medicaid reimbursing only 70% of the cost of providing care to its beneficiaries. This inevitably results in reduced access to care for those most vulnerable in our community, including children and persons with disabilities. Nearly thirty percent of persons on Medicaid are under 65 and suffer from a disability. For them, Medicaid is a lifeline that is slipping away due to lack of funding.

For nearly sixty years, Rehabilitation Hospital of the Pacific has been dedicated to providing care to those who have suffered disabling illnesses or injuries. As the only provider of comprehensive inpatient and outpatient rehabilitation in Hawaii, we are committed to our role of serving as an advocate for the disabled persons of our state. For this reason, we at REHAB fully support the Hospital Sustainability Program.

Working in partnership with the Healthcare Association of Hawaii, all of Hawaii's hospitals and healthcare systems have come together to develop an approach that will improve funding of services provided under Medicaid. This will strengthen the safety net under the most vulnerable members of our community, while enhancing the sustainability of our state's healthcare system. For these reasons, we at REHAB urge your support for the Hospital Sustainability Program bills. Mahalo for your attention and for your public service.

Timothy J Roe, MD MBA
President & CEO
Rehabilitation Hospital of the Pacific