



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

March 17, 2011

MEMORANDUM

TO: The Honorable John M. Mizuno, Chair
House Committee on Human Services

FROM: Patricia McManaman, Director

SUBJECT: **S.B. 1360, S.D. 1 - RELATING TO COMMUNITY CARE FOSTER
FAMILY HOMES**

Hearing: Thursday, March 17, 2011; 9:00 a.m.
Conference Room 329, State Capitol

PURPOSE: The purpose of S.B. 1360, S.D. 1, is to amend the current Community Care Foster Family Home (CCFFH) caregiver requirements to specify that in the CCFFHs approved for a maximum of three clients, the primary caregiver must be a certified nurse aide and the substitute caregiver must be a nurse aide.

DEPARTMENT'S POSITION: The Department of Human Services (DHS) respectfully opposes this bill and offers an alternative to be considered.

HRS section 346-331 currently requires that all caregivers in homes certified for a maximum of three clients must be certified nurse aides. Experienced caregivers have expressed to our DHS designee for certification that the addition of a third client, who is at the nursing facility level of care, significantly raises the amount of supervision and care required by the caregiver. Because the substitute caregiver assumes the responsibilities of the primary caregiver whenever the primary caregiver is absent from the home, the substitute caregiver must have the same qualifications as the primary

caregiver in order to adequately care for the needs of the clients. The absence of the primary caregiver may be for short periods of time, or may be for as long as ten to twelve hours per day when the primary caregiver is employed outside of the home. For the health, safety and welfare of each client residing in the CCFFH, the substitute caregiver must be as knowledgeable and competent as the primary caregiver.

Certified nurse aides are required to seek certification from the Department of Commerce and Consumer Affairs (DCCA) and must obtain recertification every two years. This process ensures that the individual is able to demonstrate a skills competency commensurate with the responsibilities of a CCFFH caregiver. Nurse aides who choose not to become certified through DCCA have no requirements to demonstrate their skills following the completion of the State-approved training, even though the training may have been obtained years before.

DHS would recommend that in lieu of this bill that amendments to our existing administrative rules be promulgated to address situations when nurse aides may be used to provide coverage, such as in situations where there is a bona fide emergency for the primary caregiver. These amended rules would consider the primary caregiver's situation but would also ensure the health and safety of their very vulnerable clients.

Thank you for the opportunity to testify.



TESTIMONY IN SUPPORT OF SB1360, SD1

March 17, 2011; 9:00 a.m.; House Conference Room 329

Relating to Community Care Foster Family Homes

Description: Amends previous caregiving requirements to specify that in Community Care Foster Family Homes approved for a maximum of three clients, the primary caregiver must be a certified nurse aide and the substitute caregiver must be a nurse aide.

To: Honorable Representative John M. Mizuno, Chair, Committee on Human Services
Honorable Representative Jo Jordan, Vice Chair
Honorable Human Services Committee Members

From: Ron Menor, Chair, National Federation of Filipino American Associations ("NaFFAA") Region XII

My name is Ron Menor. I serve as the Chair of the National Federation of Filipino American Associations ("NaFFAA") Region XII which represents the interests of Filipinos in Hawaii, Guam and the Commonwealth of Northern Marianas Islands. NaFFAA Region XII is an affiliate of the national NaFFAA. Washington policy-makers, private industry and national advocacy groups recognize NaFFAA as the voice of Filipinos and Filipino Americans throughout the United States. We are a non-partisan, non-profit national affiliation of more than five hundred Filipino-American institutions and umbrella organizations that span twelve regions throughout the continental United States and U.S. Pacific territories.

I am submitting this testimony in support of the above-referenced bill because the vast majority of Hawaii's foster home operators, and a significant number of their patients, are persons of Filipino ancestry. The passage of this bill is necessary because the current requirement that only certified nurse aides can serve as substitute caregivers is cost prohibitive. Moreover, it would drive many foster care operators out of business at a time when a rapidly growing elderly population in Hawaii are in dire need of their services. Moreover, the current requirement is unnecessary because nurse aides possess the requisite skills and training that would enable them to provide quality care as substitute caregivers. Therefore, the passage of this measure will eliminate a significant cost burden for an important segment of our caregivers without affecting the health and safety of our elderly population.

Thank you for the opportunity to submit testimony in support of this bill.

c/o 220 So. King Street, Suite 1770 · Honolulu · Hawai'i 96813 · Phone/Fax: (808) 524-7773 ·

E-Mail: hnaffaa2006@yahoo.com

Ron Menor, Chair · Amy Agbayani, Vice Chair · Michael Dahilig, Vice Chair · Rouel Velasco, Youth Leader
Leslie Cabingabang, Treasurer · Charlene Cuaresma, Secretary

ADULT FOSTER HOMECARE ASSOCIATION OF HAWAII

P.O. Box 970092, Waipahu, Hawai'i 96797

March 15, 2011

Testimony in Strong Support of SB 1360 – HUS – 3/17/11 9:00 a.m. Rm 329

Thelma Ortal
President
Adult Foster
Homecare
Association of
Hawaii

Chair Mizuno, Vice Chair Jordan, and Members of the Committee:

The Adult Foster Homecare Association of Hawaii (AFHA) **strongly supports SB 1360**, which requires substitute caregivers in Community Care Foster Family Homes (foster homes) to be either Certified Nurse Aides (CNAs) or Nurse Aides (NAs).

Lani Akee
Immediate Past
President
Adult Foster
Homecare
Association of
Hawaii

Requiring substitute caregivers to be licensed as CNAs or NAs results in better quality of care and safety for elderly and disabled residents of foster homes. Both CNAs and NAs require training in skills such as first aide bathing, feeding, toileting, turning and moving patients in bed, walking with various amounts of assistance, and transferring patients to a wheelchair or stretcher. They also receive training in taking body temperature, pulse, respiration, blood pressure and measuring intake and output. CNAs and NAs have the same minimum educational requirements.

With these licensing standards, resident clients and their families can be assured of a minimum standard of care in foster homes. Both CNAs and NAs must submit their fingerprints for an identification and criminal background check. Anyone with a criminal record or history of elderly abuse can neither be a CNA nor a NA.

While CNAs undergo a 24-hour examination every two years, NAs take a minimum of 8 hours of continuing education every two years. This is the primary difference between a CNA and a NA. Nevertheless, case managers conduct a comprehensive skills check annually on NAs to ensure their skills meet minimum standards. This exam is quite onerous and costly, up to \$700 to take the test. If you fail, you have to pay extra to re-take the test.

Allowing foster home operators to use CNAs and NAs as substitutes would allow enough flexibility to ensure their continued operation. Reimbursement rates for home operators have been stagnant for many years. Without a third client, foster home operators have difficulty staying in business. When a client goes to the hospital, the operator does not get paid and may be left with one or no clients.

DHS designed the foster home program with a social model in mind, envisioning that families would take care of those who could not take care of themselves. Family members provide assistance to the operator, while pursuing other careers, and may be unable to take a 24-hour examination every two years because of the cost involved and difficulty with taking tests. Many family members use English as a second language, or may not be adept at taking tests.

In summary, AFHA reiterates its **strong support of SB1360** requiring substitute caregivers in foster homes to be either CNAs or Nurse Aides NAs.

Very truly yours,

Thelma Ortal
President

About AFHA

The Adult Foster Home Association of Hawaii (AFHA) is the industry trade association of providers under the Community Care Foster Family Home program under the Department of Human Services, State of Hawaii. With a membership of almost 750 providers, AFHA's mission is to promote the interests of providers as well as resident clients. AFHA members provide 24-hour care to resident clients 7 days a week, 365 days a year.

ALLIANCE OF RESIDENTIAL CARE ADMINISTRATORS

P.O. Box 758
Pearl City, Hawaii 96782

March 15, 2011

Testimony in **Strong Support** of SB 1360 – HUS – 3/17/11 9:00 a.m. Rm 329

Chair Mizuno, Vice Chair Jordan, and Members of the Committee:

The Alliance of Residential Care Administrators (ARCA) **strongly supports SB 1360**, which requires substitute caregivers in Community Care Foster Family Homes (foster homes) with 3 clients to be either Certified Nurse Aides (CNAs) or Nurse Aides (NAs).

Ironically, Adult Residential Care Homes (ARCHs) under the Department of Health with up to 6 clients, 3 of whom can be the same level of care as those in foster homes (expanded clients), may use NAs opposed to CNAs. HAR Chapter 100.1 of the DOH rules provide that ARCH operators and their substitutes need only be NAs. As we provide the same level of care as foster homes for our expanded clients, the standards should be applicable across the board. We believe our quality of care and patient safety are comparable with those of foster homes and in any event more than adequate, despite us using NAs for substitutes.

We have repeatedly observed the divergence between the standards of DOH with those of Department of Human Services (DHS). We find it peculiar in this case that DHS, which operates under a social model as opposed to DOH which operates under a medical model, requires CNA substitutes while DOH requires NA substitutes. We certainly want to preempt any attempt by DOH to require CNA substitutes.

Certainly, maintaining a CNA entails high costs, up to \$750 every two years to take a 24-hour test and to register with the Department of Commerce and Consumer Affairs. Although NAs must demonstrate their skills at least once a year to a RN case manager, NAs need not take the 24-hour examination, which costs an exorbitant amount, and need not pay to register.

Furthermore, the procedure to obtain a CNA remains convoluted and unclear, with no administrative rules promulgated. The very concept of a CNA is quite new. Prior to 2008, CNAs were unregulated, so any NA could call themselves a CNA. In 2008 after much debate, the 24-hour examination was imposed on CNAs wishing to recertify. There is still much confusion in the industry as to what is required to recertify as a CNA.

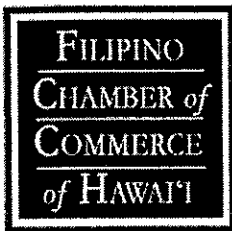
In light of the astronomical costs and the dreaded examination that lasts 24-hours, many NAs have chosen not to pursue CNA status. Yet, they possess the same skills.

For these reasons, ARCA reiterates its **strong support of SB1360** that requires substitute caregivers in foster homes to be either CNAs or NAs.

Very truly yours,

Alliance of Residential Care Administrators

Medy DeLara, President



FILIPINO CHAMBER OF COMMERCE OF HAWAII

Promoting Hawaii's Business Community since 1954

March 15, 2011

Testimony in Strong Support of SB 1360 – HUS – 3/17/11 9:00 a.m. Rm 329

Chair Mizuno, Vice Chair Jordan, and Members of the Committee:

The Filipino Chamber of Commerce (FCCH) **strongly supports SB 1360**, which requires substitute caregivers in Community Care Foster Family Homes (foster homes) with 3 clients to be either Certified Nurse Aides (CNAs) or Nurse Aides (NAs).

As over 90% of foster home operators are of Filipino descent, SB 1360 and its companion bill in the House (HB 739) are **the Chamber's #1 priority** for the 2011 legislative session. We will defer to those in the industry to point out subtle differences between a CNA and an NA. Our testimony focuses on: (1) the barriers for NAs of Filipino descent in becoming CNAs; and (2) the increase cost of doing business as a result of the CNA requirement.

First, the Chamber believes numerous barriers continue to exist that places Filipinos at a disadvantage in maintaining a CNA license. The cost to recertify as a CNA can cost up to \$750 every two years to take a 24-hour examination in addition to a \$50 registration cost. NAs do not face similar costs. The 24-hour examination is very daunting for many NAs, most of whom are Filipinos speak English as a second language. Many NAs, while skilled, experienced, and well trained in what they do, become very nervous with the thought of a 24-hour exam that is administered in a language that is not their own. As such, the CNA requirement disproportionately disadvantages Filipinos in the industry with no proven improvement in the quality of care or client safety.

Second, foster homes cannot afford to pay rates CNAs demand. Foster homes receive Medicaid reimbursement of approximately \$1,800-\$2,500 per month per client for nursing home level services. Similar services in a nursing home would cost at least \$7,000 per month per client. Thus, care in foster homes saves 65-75% of the cost of care in a full-service nursing home.

Although this cost saving is great for Medicaid, foster home operators struggle on basic expenses like making their mortgage payments and obtaining medical insurance for themselves. By requiring a CNA and not an NA substitute, operators are forced to dig even deeper. Foster home operators are well familiar with the current economic situation and the State's fiscal crisis, and appreciate that everyone must live with less. However, reimbursement rates have not been increased for many years, and operators have patiently refrained from asking otherwise.

We understand that client safety and quality of care is the overriding priority. Based on our experience working with care homes and foster homes for over 3 decades, however, there is no measurable improvement in the quality of care since the regulation of CNAs began in 2008 that would justify having exclusively CNAs as substitutes.

In summary, FCCH reiterates its **strong support of SB 1360** requires substitute caregivers in foster homes to be either CNAs or Nurse Aides NAs.

Very truly yours,

Filipino Chamber of Commerce
By: Bryan P. Andaya

2010-2011 BOARD OF DIRECTORS

JAMESNER A. DUMLAO
President

HARRY ALONSO
President Elect

MARIA ETRATA
Vice President

EDNA ALIKPALA
Secretary

CATHERINE CACHERO
Assistant Secretary

JOY AGNI
Treasurer

YONIE MALIG-ON
Assistant Treasurer

GLORIA POLAND
Auditor

ROSEMARIE V.
MENDOZA
Immediate Past President

Directors

EDDIE AGAS
BOBBY AGPAO
MARLENE BALDUEZA
PAUL BILLINGTON
ALMA CABERTO
STEPHEN CALLO
TESS de JESUS
GENE DUMARAN
BERNADETTE FAJARDO
VANESSA KOP
ALDRIN VILLAHERMOSA

ROMAN AMAGUIN, ESQ.
Legal Counsel

BRYAN ANDAYA, ESQ.
Chair, Government Affairs

1125 North King Street
Suite 302
Honolulu, Hawaii 96817

Tel.: (808) 843-8838
Fax: (808) 843-8868

Email:
filipinochamberhi@gmail.com
Website:
www.filipinochamber.org

Lou's Quality Home Health Care Services, LLC

95 212 Wailawa St., Mililani, HI 96789

Phone 808 623-7109

www.lousqualcare.com

March 15, 2011

Testimony in Strong Support of SB 1360 – HUS – 3/17/11 9:00 a.m. Rm 329

Chair Chun-Oakland, Vice Chair Ihara, and Members of the Committee:

Lou's Quality Home Health Care Services **strongly supports SB1360**, which requires substitute caregivers in Community Care Foster Family Homes (foster homes) with 3 clients to be either Certified Nurse Aides (CNAs) or Nurse Aides (NAs).

My name is Lourdes Vergara Marcelo, and I have been a trained professional Registered Nurse (RN) for approximately 30 years. I founded Lou's Quality Home Health Care Services in 2005 and provide case management services, 24 hours Department of Human Services Nurse Aide Competency Proficiency Evaluation (DHS 1646) We visit our clients monthly and ensure substitutes, both CNAs and NAs, have the nursing skills adequate to deliver safe, quality nursing care. I understand I am accountable in ensuring that my clients are serviced by competent professionals who possess the necessary skills.

I have worked with many CNAs and NAs. I believe the primary difference between them are the required examinations at the initial certification and bi-annual recertification. They perform the same duties, have the same educational requirements, and perform the same skills. Up until a few years ago, any NA could go to Red Cross and become a CNA but now have to pass an examination, including a 24-hour skills examination every two years. A CNAs is simply an NA who has successfully completed their exam. I personally know NAs who can perform just as well as a CNA.

All else being equal a CNA would appear to be more attractive but to require a CNA at this time simply because a foster home has 3 clients is unwarranted. Although I encourage all NAs to try to obtain certification, sometimes it is not feasible because of the cost to become a CNA or because of a language barrier. Some individuals do not test well under pressure and fail the exam even though they have good command of their skills. Given many caregivers do not speak English as their first language, I believe the language barrier is significant barrier for them not pursuing the CNA title.

I also know that foster homes are being singled out. In other programs offering the same services, substitutes can be CNAs, NAs, or even just CPR certified.

For these reasons, I **support SB1360** that requires substitute caregivers in foster homes to be either Certified Nurse Aide (CNA) or Nurse Aide (NA) .

Very truly yours,

Lourdes "Lou" Vergara Marcelo, RN, CDN, CM
President , CEO
Lou's Quality Home health Care Services, LLC

THE PRIMARY CARE PROVIDERS

P.O. Box 2441, Honolulu, Hawai'i 96804

March 15, 2011

Testimony in Strong Support of SB 1360 – HUS – 3/17/11 9:00 a.m. Rm 329

Chair Mizuno, Vice Chair Jordan, and Members of the Committee:

The Primary Care Providers (TPCP) **strongly supports SB1360**, which requires substitute caregivers in Community Care Foster Family Homes (foster homes) to be either Certified Nurse Aides (CNAs) or Nurse Aides (NAs). This chart illustrates that the only difference between CNAs and NAs is the requisite examination upon certification and bi-annual recertification.

CNA Substitutes v. NA Substitutes In Community Care Foster Family Homes

	Nurse Aides (NA)	Certified Nurses Aides (CNA)
Education	State-approved nurse-aide training program including Kapiolani CC and Honolulu CC; skills taught include CPR, blood pressure, vital signs, transferring, bathing, assistance with daily living activities	Same education and coursework as NA, except must pass examination
Licensing	Registration with DHS contracted CTA; final approval from RN case manager after passing comprehensive skills check	Same as NA
Recertification – Continuing Education and Skills Check	8 Hours Continuing Education (CE) annually; completion of skills check administered by RN case manager during annual service plan	12 Hours CE annually (24 hours every 2 years) including skills examination
Adult Protective Service (APS) and Criminal Background Clearance	Annually – verification of ID, including SS#, date of birth, and fingerprinting	Same as NA
Tuberculosis Clearance	Every time you are named as a substitute for a home	Same as NA

In summary, TPCP reiterates its **strong support of SB1360** requiring substitute caregivers in foster homes to be either CNAs or Nurse Aides NAs.

Very truly yours,

The Primary Care Providers (TPCP)

By: Maria Etrata

About TPCP

TPCP's mission is unite the home and community based care giving industry to improve the quality of care provided to elderly and developmentally disabled clients in various home and community based programs, as well as to improve the state of the industry. Together, members of the four organizations have a membership of about 500 and comprise about 35% of the home and community-based caregivers in the State of Hawaii.