

DAVID Y. IGE
GOVERNOR

JOSH GREEN M.D.
LT. GOVERNOR



STATE OF HAWAII
DEPARTMENT OF TAXATION
P.O. BOX 259
HONOLULU, HAWAII 96809
PHONE NO: (808) 587-1540
FAX NO: (808) 587-1560

RONA M. SUZUKI
DIRECTOR OF TAXATION

DAMIEN A. ELEFANTE
DEPUTY DIRECTOR

To: The Honorable John M. Mizuno, Chair;
The Honorable Bertrand Kobayashi, Vice Chair;
and Members of the House Committee on Health

From: Rona M. Suzuki, Director
Department of Taxation

Re: **H.B. 2235, Relating to Taxation**

Date: Thursday, February 13, 2020

Time: 9:00 A.M.

Place: Conference Room 329, State Capitol

The Department of Taxation (Department) appreciates the intent of H.B. 2235 and offers the following comments.

H.B. 2235 creates a new nonrefundable income tax credit of an unspecified amount for qualified physicians who accept patients on Medicare or Medicaid. The measure defines “qualified physician” to include a physician or osteopath licensed under chapter 453, HRS; a qualified out-of-state physician who is currently licensed to practice in the state in which the physician resides; or a commissioned medical officer in the U.S. Army, Navy, Marine Corps, or Public Health Service. The measure requires the Department to prescribe forms and to certify a qualified physician’s acceptance of a Medicare or Medicaid patient. H.B. 2235 applies to taxable years beginning after December 31, 2019, and is repealed for taxable years beginning after December 31, 2021.

The Department notes that as currently written, this measure would provide a tax credit to certain physicians who officially *accept* Medicaid or Medicare patients, but does require that the physician actually see or treat a patient who uses Medicare or Medicaid. The Department suggests amending the measure to require that the physician provide some amount of treatment to qualify for the credit.

In lieu of providing a tax credit, the Department believes that it may be more appropriate to provide an exemption from general excise tax (GET) for amounts received from providing services to a patient that is covered by Medicare or Medicaid. By doing this, the amount of the tax benefit received will depend on the amount of services provided to the target group. For example, a physician on Oahu that receives \$10,000 from treating the target group would receive a GET exemption (4% retail rate + 0.5% county surcharge) in the amount of \$450 whereas a physician who received \$1,000 for treating the target group would only receive a GET exemption of \$45.

Although this is not the Department’s area of expertise, there may be also legal issue with requiring a physician to disclose that their patients are using Medicare or Medicaid. Healthcare information is strongly protected under the federal Health Insurance Portability and Accountability

Act (HIPAA). According to the U.S. Department of Health and Human Services' website, "[t]he HIPAA Privacy Rule establishes national standards to protect individuals' medical records and other personal health information and applies to health plans, health care clearinghouses, and those health care providers that conduct certain health care transactions electronically. The Rule requires appropriate safeguards to protect the privacy of personal health information, and sets limits and conditions on the uses and disclosures that may be made of such information without patient authorization. The Rule also gives patients rights over their health information, including rights to examine and obtain a copy of their health records, and to request corrections."

The Department also notes that the measure's definition of "qualified physician" referencing commissioned medical officers does not include the U.S. Air Force, U.S. Coast Guard, or the National Oceanic Atmospheric and Administration Commissioned Officer Corps. Again, this is not the Department's area of expertise, but if the Legislature's intent is to make the credit available to qualified physicians in every U.S. military service branch, it may wish to amend the measure and update the definition accordingly.

Finally, the Department respectfully requests that the measure be amended so that this new income tax credit is applicable to taxable years beginning after December 31, 2020. This will allow sufficient time to make the necessary form and computer system modifications.

Thank you for the opportunity to provide comments.

Harry Kim
Mayor



Roy Takemoto
Managing Director

Barbara J. Kossow
Deputy Managing Director

County of Hawai'i Office of the Mayor

25 Aupuni Street, Suite 2603 • Hilo, Hawai'i 96720 • (808) 961-8211 • Fax (808) 961-6553
KONA: 74-5044 Ane Keohokālole Hwy., Bldg C • Kailua-Kona, Hawai'i 96740
(808) 323-4444 • Fax (808) 323-4440

February 11, 2020

Representative John M. Mizuno, Chair
Representative Bertrand Kobayashi, Vice Chair
Committee on Health

Dear Chair Mizuno, Vice Chair Kobayashi, and Committee Members:

**RE: HB 2228 Relating to the General Excise Tax Exemptions
HB 2235 Relating to Taxation**

Thank you for this opportunity to testify again on a crucial issue facing our State.

"Making Hawai'i a nice place to live" is simple to say, and almost too obvious a goal to highlight, but nevertheless that phrase sums up the most important task facing our elected community leaders. For this reason alone, I want to thank and praise any effort to deal with one of the most critical issues that we must confront, and that is the crisis in our healthcare system caused by our healthcare provider shortage.

We are justly proud of the Hawai'i Prepaid Healthcare Act, but how valuable is insurance if you cannot find a provider? How can we expect our people, especially our aging population, to live comfortably, if they believe that quality healthcare is only available if they have the time and ability to travel to the mainland? How can we attract more providers when they realize that they will be expected to work extraordinary hours because there is not a reasonable number of other providers to share the burden?

And the ramifications are important, too. To what extent do we limit our primary economic driver, tourism, when visitors are warned "Don't get sick in Hawai'i"?

I am not smart enough to know how to entirely solve our provider shortage. However, I am told, and do believe, that eliminating the General Excise Tax on healthcare services would be a very positive step in improving the economics for healthcare providers, thereby encouraging existing providers to stay in practice and enticing new providers to join us.

Likewise, providing a tax credit for those physicians who accept Medicare and Medicaid would surely be welcomed.

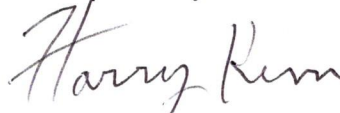
February 11, 2020

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When I testified before your committee in favor of HB 138, I noted that I try to use the word "provider" because, in truth, our healthcare crisis goes beyond our physician shortage. For that reason, HB 2228 is the preferred approach if it is not too expensive, because it would create a general excise tax exemption for medical services provided both by physicians and by advanced practice registered nurses acting in the capacity of primary care provider. It seems to me that broadening the exemption to APRNs is a sensible way to go, if the State is able to absorb the initial additional loss of revenue ("initial" because most or all of the loss would be offset as the higher earnings of the APRNs are spent and circulate through the community, generating new tax revenue).

I support both HB 2228 and HB 2235 and thank you again for addressing our healthcare dilemma.

Respectfully Submitted,

A handwritten signature in cursive script that reads "Harry Kim".

Harry Kim
MAYOR



HAWAII MEDICAL ASSOCIATION

1360 S. Beretania Street, Suite 200, Honolulu, Hawaii 96814
Phone (808) 536-7702 Fax (808) 528-2376
www.hawaiimedicalassociation.org

HOUSE COMMITTEE ON HEALTH

Rep. John Mizuno, Chair

Rep. Bertrand Kobayashi, Vice Chair

Date: February 13, 2020

Time: 9:00 a.m.

Place: Conference Room 329

From: Hawaii Medical Association

Elizabeth A. Ignacio, MD, Chair, HMA Legislative Committee

Christopher Flanders, DO, Executive Director

Re: HB2235 - Relating to Taxation

Position: SUPPORT

The Hawaii Medical Association supports a tax credit for providing medical services under the Medicare and Medicaid programs. In that Medicaid and Medicare operate below the costs of providing service, it is becoming extremely difficult to manage practices in the ultrahigh cost Hawaii market, particularly in rural areas with a high proportion of Medicare and Medicaid patients.

Continued discussions between physician candidates, recruiters and the HMA reveal that the two biggest obstacles to practice in Hawaii are the high costs of living and conducting business and the low payment for service rates. Helping to alleviate some of this disparity with the rest of the nation through the issuance of tax credits will help in bringing Hawaii into a competitive position for physician services.

Thank you for allowing the Hawaii Medical Association to testify on this issue.

HMA OFFICERS

President – Michael Champion, MD President-Elect – Angela Pratt, MD Secretary – Thomas Kosasa, MD
Immediate Past President – Jerry Van Meter, MD Treasurer – Elizabeth A. Ignacio, MD
Executive Director – Christopher Flanders, DO

HB-2235

Submitted on: 2/11/2020 1:55:16 PM

Testimony for HLT on 2/13/2020 9:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Louis Erteschik	Hawaii Disability Rights Center	Comments	No

Comments:

We do know that there is a shortage of physicians, especially on the neighbor islands, who accept Medicare or Medicaid. While we are not certain of the fiscal implications of this bill or whether it will be a sufficient incentive, we do appreciate the creative thinking behind this bill and believe it is an idea that may be worth exploring further.

HB-2235

Submitted on: 2/10/2020 7:49:57 PM

Testimony for HLT on 2/13/2020 9:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Margaret Maupin	Individual	Support	No

Comments:

Kelley Withy, MD, PhD

February 11, 2020

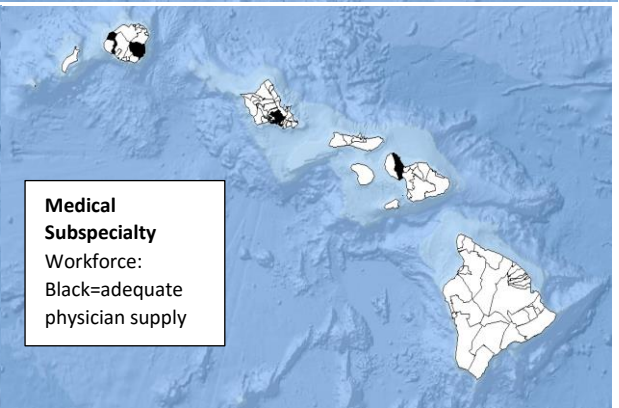
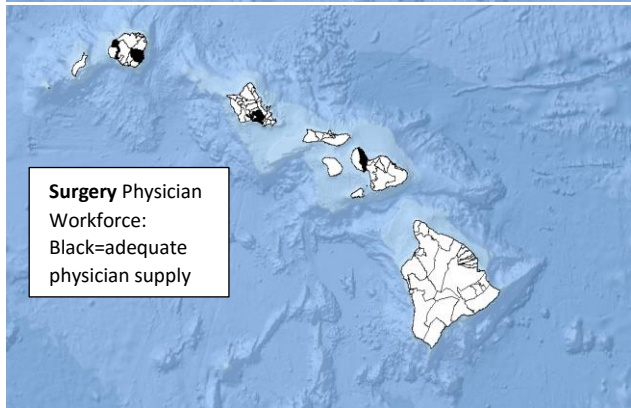
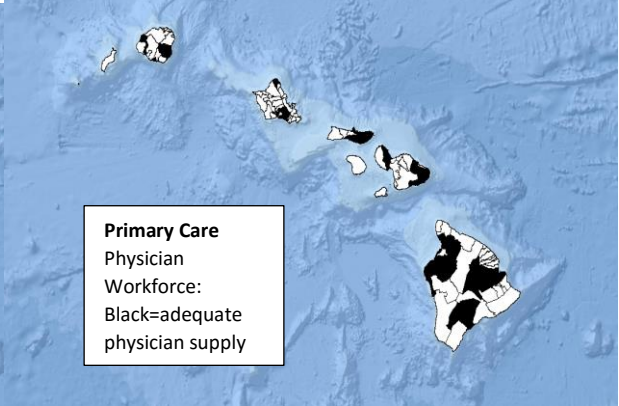
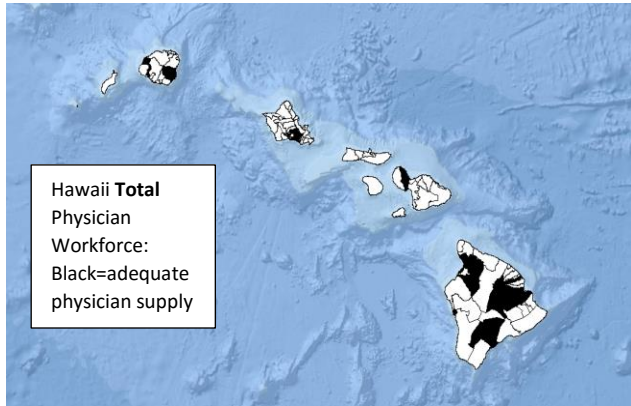
RE: HB2235 In Support

Dear Chair Mizuno, Vice Chair Kobayashi and Committee Members,

As you have heard my say many times, we have a severe shortage of physicians, as well as nurse practitioners, physician assistants and almost all types of healthcare professionals and providers. There are many reasons for this, but the number one reason is high cost of living and low pay. For physicians with private offices, it is very difficult to make ends meet. I know it sounds funny to say that doctors are not making much money, BUT IT'S TRUE. We have dozens of solo and small practice owners in Hawaii who have told me that they may have to close their practices because of the high overhead and low reimbursement. Unfortunately I have watched many practices do just that. This includes primary care, surgery and specialty care.

Some people say, "That's okay, they should close their medical practice and work for a larger medical group, it's more efficient." BUT, what if there is no large medical group in their area? If they close their office, then there is NOBODY to help the patients in that area. At the end of this letter I provide maps of where the shortages are in Hawaii, and to my eye it looks like the greatest shortages and biggest needs are where we have less representation from large medical groups. Therefore we must help the small and solo practices survive.

I applaud your efforts in introducing this bill, because it will eliminate the double tax on doctors taking care of Medicare patients. My understanding is that the GET is charged on all good and services. Therefore it is charged on all supplies, rent and employees a doctor pays. Then, when a doctor supplies services, s/he has to charge excise tax on that service. BUT, Medicare and Medicaid/MedQuest won't let any doctor charge more than the accepted rate. So the doctor can't charge the tax and absorbs that cost (pays it him/herself). I believe that hospitals and hospital clinics are exempt from this, so I believe that small and solo practices should be exempted too, as they are suffering. We need to keep these practices open to care for the patients in Hawaii!



HB-2235

Submitted on: 2/10/2020 10:17:21 PM

Testimony for HLT on 2/13/2020 9:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
inam Rahman MD	Individual	Support	Yes

Comments:

Honorable Representatives!

I am a private practicing medical doctor in Honolulu Hawaii since 1993. I am supporting HB 2235 because it will provide a better healthcare access to patients who have Medicaid, Quest and Medicare. Currently many doctors are not accepting Medicaid, Quest and Medicare due to very low reimbursement. By giving tax credits to those doctors who accept Medicaid and Medicare will lead to better and timely access to healthcare for significant number of patients who have Medicaid Quest and Medicare. It will also save significant amount of money to state by reducing the ER visits and hospitalization

Inam Rahman MD