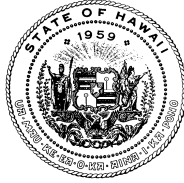


JOSH GREEN, M.D.
GOVERNOR OF HAWAII
KE KIA'ĀINA O KA MOKU'ĀINA 'O HAWAII'



KENNETH S. FINK, M.D., M.G.A, M.P.H
DIRECTOR OF HEALTH
KA LUNA HO'OKELE

STATE OF HAWAII
DEPARTMENT OF HEALTH
KA 'OIHANA OLAKINO
P. O. Box 3378
Honolulu, HI 96801-3378
doh.testimony@doh.hawaii.gov

**Testimony COMMENTING on HB408 HD1
RELATING TO HEALTH**

REPRESENTATIVE DELLA AU BELATTI, CHAIR
HOUSE COMMITTEE ON HEALTH & HOMELESSNESS

REPRESENTATIVE LISA MARTEN, CHAIR
HOUSE COMMITTEE ON HUMAN SERVICES

Thursday, February 15, 2024

11:00 a.m.

Room 420

1 **Fiscal Implications:** None

2 **Department Testimony:** The Department of Health (DOH) supports the intent of this measure,
3 and offers comments and recommendations that assure a balance between patient safety and
4 expanding housing options for individuals experiencing housing insecurity.

5 DOH's concerns are as follows:

- 6
- Repealing subparagraphs (2)(B), (ii), (iii), (iv), and (v) and (2)(C) (page 3, from line 11)
7 may adversely impact married couples with private insurance who currently reside in
8 Community Care Foster Family Homes (CCFFH) or want to reside in a CCFFH;
 - Incongruity with regulations from the Centers for Medicare and Medicaid Services and
9 Hawaii Revised Statutes;
 - Insufficient staff-to-client ratios may jeopardize life safety; and
10
 - The need for evaluation and vetting of clients.
11
12

1 Preservation of Act 30, Session Laws of Hawaii 2017

2 In 2017, Act 30 was enacted which authorized DOH and the Department of Human Services to
3 allow two private-pay individuals who are married to each other to reside in the same community
4 case foster family home.

5 Repeal of these amendments may result in the eviction of clients meeting these criteria and
6 currently residing in a CCFFH. The 2016 lawsuit, Kawamoto v. Ige, et. al., alleged violations of
7 fundamental constitutional rights, and was eventually withdrawn after enactment of Act 30, SLH
8 2017.

9 DOH strongly recommends against repeal of these provisions.

10 Statutory and Regulatory Conformance

11 This measure includes language for CCFFH certifications to include Expanded Adult Residential
12 Care Homes (EARCH) and Assisted Living Facilities. Those facility types have their own
13 defining statutes that would need to be amended. Section 321-483(a)(4), Hawaii Revised
14 Statutes, would also need to be revised, as it currently refers to three (3) bed CCFFHs.

15 If even a small portion of the unlicensed care homes would apply to be CCFFHs or EARCHs, the
16 increase in the number of available Medicaid beds would increase across the State by a
17 significant degree. Currently the Department is investigating dozens of unlicensed care homes,
18 which if they were to choose the legal route instead of the illegitimate one, the Medicaid bed
19 shortage would be lessened.

1 Staff-to-Client Ratios

2 The transition for a caregiver to go from a two (2) bed Community Care Foster Family Home
3 (CCFFH) to a three (3) bed home is significant. Increasing to four (4) beds would be a large task
4 that caregivers may not fully recognize. The Department would support an increase to four (4)
5 Medicaid beds, provided that all substitute caregiver requirements scale to require a current
6 certified nurse aide certification, and one substitute caregiver be present in the home for each
7 client of a CCFFH that is not capable of self-preservation (able to evacuate in the case of an
8 emergency.)

9 Evaluation and Vetting of Clients

10 DOH strongly recommends a requirement to evaluate potential CCFFH clients who are
11 experiencing housing instability from a qualified service provider. In particular, screening for
12 history or propensity for violence, mental illness or substance abuse, communicable diseases, or
13 other conditions that may jeopardize CCFFH staff and existing clients, who by definition, are
14 vulnerable persons. Individuals incapable of self-preservation, as mentioned above, are also
15 inappropriate unless the staffing model and physical layout of the home permit emergency
16 evacuation.

17 The Department supports the increase of Medicaid beds across the State and efforts to reduce
18 housing instability when done so in a way that ensures client safety, and we offer amendments
19 for consideration. Thank you for the opportunity to provide comment on this measure.

20

1 **Partial Proposed Amendments:**

2 "Community care foster family home" or "home" means a home
3 that:

4 (1) Is regulated by the department in accordance with
5 rules that are equitable in relation to rules that govern
6 expanded adult residential care homes;

7 (2) Is issued a certificate of approval by the department
8 or its designee to provide, for a fee, twenty-four-hour living
9 accommodations, including personal care and homemaker services,
10 for not more than two adults at any one time, at least one of
11 whom shall be a medicaid recipient, who are at the nursing
12 facility level of care, who are unrelated to the foster family,
13 and who are receiving the services of a licensed home and
14 community-based case management agency; provided that:

15 (A) The department, in its discretion, may certify a home
16 for a third adult who is at the nursing facility level
17 of care and is a medicaid recipient; provided further
18 that:

1 (i) The home has been certified and in operation for
2 not less than one year;

3 (ii) The primary caregiver is a certified nurse aide, as
4 defined in section 457A-1.5, who has completed a
5 state-approved training program and other training
6 as required by the department; and

7 (iii) The substitute caregiver is a certified nurse aide,
8 as defined in section 457A-1.5, who has completed a
9 state-approved training program and other training
10 as required by the department;

11 (B) The department, in consultation with the department of
12 human services, and in its discretion, and considering
13 the past admission history and current client mix of the
14 community care foster family home, may allow two
15 private-pay individuals to be cared for in the same
16 community care foster family home after considering the
17 following relevant factors:

18 (i) The community care foster family home is certified
19 for three or four beds;

- 1 (ii) The operator of the three or four bed community
2 care foster family home has had a vacant medicaid
3 bed for at least six months; provided that the
4 operator shall not transfer out a medicaid or
5 private-pay client from the community care foster
6 family home in order to accept a private-pay
7 individual;
- 8 (iii) The two private-pay individuals are in a
9 relationship with each other as a married couple or
10 in a civil union and one of the private-pay
11 individuals is currently residing in the community
12 care foster family home for at least six months;
- 13 (iv) The department, in its discretion, determines that
14 no other adult residential care home, expanded adult
15 residential care home, or health care facility
16 within the area has an available opening and is
17 capable of providing care to both private-pay
18 individuals; and
- 19 (v) There are no medicaid recipients seeking placement
20 in the community care foster family home that the

1 married or civil union private-pay individuals are
2 seeking to occupy;

3 (C) If the legal relationship of the marriage or civil
4 union of the individuals ceases to exist, including
5 but not limited to as a result of death or divorce,
6 one of the two private-pay beds shall immediately,
7 upon the death or the effective date of divorce,
8 become a medicaid bed; and

9 (D) The department and its officers, employees, and
10 agents, in exercising discretion and in considering
11 any other factors that the department deems relevant
12 to its decision, shall be immune from suit and
13 liability in the exercise of its discretion under this
14 section; and

15 (3) Does not include expanded adult residential care homes
16 or assisted living facilities.

17 (E) The department, in its discretion, may certify a home
18 for a fourth adult who is at the nursing facility level
19 of care, is a medicaid recipient, and has documented
20 housing instability; provided further that:

1 (i) The home has been certified for three beds and in
2 compliant operation for not less than one year;

3 (ii) The primary caregiver is a certified nurse aide, as
4 defined in section 457A-1.5, who has completed a
5 state-approved training program and other training
6 as required by the department;

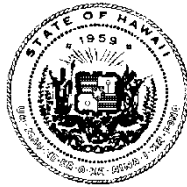
7 (iii) A second caregiver, who is a certified nurse aide,
8 as defined in section 457A-1.5, who has completed a
9 state-approved training program and other training
10 as required by the department, is on duty from 7am
11 to 7pm; and

12 (iv) Any substitute caregiver is a certified nurse aide,
13 as defined in section 457A-1.5, who has completed a
14 state-approved training program and other training
15 as required by the department."

February 13, 2024

Page 1

JOSH GREEN, M.D.
GOVERNOR
KE KIA'ĀINA



CATHY BETTS
DIRECTOR
KA LUNA HO'OKELE

JOSEPH CAMPOS II
DEPUTY DIRECTOR
KA HOPE LUNA HO'OKELE

TRISTA SPEER
DEPUTY DIRECTOR
KA HOPE LUNA HO'OKELE

STATE OF HAWAII
KA MOKU'ĀINA O HAWAI'I
DEPARTMENT OF HUMAN SERVICES
KA 'OIHANA MĀLAMA LAWELAWE KANAKA
Office of the Director
P. O. Box 339
Honolulu, Hawaii 96809-0339

February 13, 2024

TO: The Honorable Representative Della Au Belatti, Chair
House Committee on Health & Homelessness

The Honorable Lisa Marten, Chair
House Committee on Human Services

FROM: Cathy Betts, Director

SUBJECT: HB 408 HD1 - RELATING TO HEALTH.

Hearing: February 15, 2024, 11:00 AM
Conference Room 420 & Via Videoconference, State Capitol

DEPARTMENT'S POSITION: The Department of Human Services appreciates the intent of this measure and offers comments.

PURPOSE: This measure authorizes the Department of Health to certify community care foster family homes for four Medicaid beds and to place one additional Medicaid individual in the same community care foster home under certain conditions and at its discretion. This measure also requires a report to the Legislature.

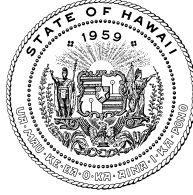
The Department of Human Services (DHS) supports the intent of this measure and supports the availability of community-based resources for residents. The Community Care Foster Family Home (CCFFH) was created under the Medicaid waiver program of the same name. The foster family home was, and still is, an integral part of the continuum of long-term

care and provides a less restrictive community-based home for Medicaid recipients at a nursing facility level of care, which is a much more expensive level of care.

The CCFFH allows recipients to remain in the community rather than go into a nursing home. Currently, CCFFHs are licensed for two residents, one of whom must be a Medicaid recipient. The CCFFH may request for a third bed, which is used for a Medicaid recipient, or a second private pay person under specific conditions - the second private pay individual must be in a relationship (spouse/civil union) with a private pay individual who has been residing in the CCFFH for at least 6 months prior, and there is no Medicaid individual. Recall, pursuant to [Act 30](#), Session Laws of Hawaii 2017, the Legislature added the criteria to allow a second private pay individual in a relationship in response to the civil case Kawamoto et al., v. Ige, Civil No. 16-00362, US District Court of Hawaii.

However, as drafted, this bill *removes* the ability for CCFFHs to have a second private pay individual and creates an opportunity for the CCFFH to add a fourth bed for a Medicaid recipient who is also experiencing housing instability. DHS recognizes that this measure would impact the ability to keep private pay individuals (e.g., spouses) living together in a CCFFH. For those related individuals who have the ability to pay privately, a viable option for care could be through licensed Expanded Adult Residential Care Homes (E-ARCHs).

Thank you for the opportunity to testify on this measure.



EXECUTIVE CHAMBERS
KE KE'ENA O KE KIA'ĀINA

JOSH GREEN, M.D.
GOVERNOR
KE KIA'ĀINA

Testimony of **John Mizuno**
Governor's Coordinator on Homelessness
Before the
House Committee on Health and Homelessness/ Human Services
February 15, 2024
11:00 a.m., Conference Room 329

In consideration of
House Bill No. 408
RELATING TO HEALTH

Aloha Chair Belatti, Chair Marten, Vice Chair Takenouchi, Vice Chair Amato and Committee Members,

I am writing in **strong support** and to **provide comments** for HB408. This measure is alignment with Governor Green's priorities for the Statewide Office on Homelessness and Housing Solutions (SOHHS), specifically on **creating more space for individuals experiencing housing instability with various health needs**.

I humbly request that HB408 allow for CCFFH's to add a third Medicaid client who is experiencing housing instability, and thus expand the capacity from a limit of two Medicaid and one private pay clients to three Medicaid clients and two private pay clients if they are married. The Department of Health and I will work together to address other concerns and to offer potential amendments.

Thank you for the opportunity to provide comments and testify in strong support of this measure.

Mahalo,

John Mizuno
Governor's Coordinator on Homelessness

ADULT FOSTER HOMECARE
ASSOCIATION OF HAWAII

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

February 15, 2024

Maribel Tan
President

Testimony in Strong Support of HB408 HD1 – HUS – 2/15/24, 11:00 a.m., Rm. 329
(Testifier to Appear via Videoconference)

Chair Della Au Bellati, Vice Chair Jenna Takenouchi, and Members of the Committees:

The Adult Foster Homecare Association of Hawaii (AFHA of HI) **strongly supports HB408 HD1**, to add a third Medicaid client who is facing housing instability (homelessness) to our CCFFH's thus expand our capacity from a limit of two Medicaid and one Private Pay client to three Medicaid clients and one Private Pay client for a total of Four clients. We support Governor Green and the Director of the Statewide Homeless and Housing Solutions Office to reduce homelessness in Hawaii and increase the capacity of CCFFH's from two Medicaid client and one Private Pay client to Three Medicaid clients and one Private Pay client.

Please SUPPORT HB408 HD1. Thank you for this opportunity to testify.

Very truly yours,



Maribel Tan
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 1,000 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.

HB-408-HD-1

Submitted on: 2/14/2024 2:30:27 PM

Testimony for HLT on 2/15/2024 11:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Elma V. Tierra	Alliance of Professional Primary Care Administrator	Support	Written Testimony Only

Comments:

My name is Elma Tierra, President of APPCA organization, in support to expand our CCFFH capacity from a limit of 2 medicaid and 1 private pay client to 3 Medicaid clients and 1 private pay client for a total of 4 clients. We support Gov. Josh Green and the Dir. of the Statewide Home less and Housing Solutions Office to reduce homelessness in Hawaii. Thank you for the opportunity to support HB 408.

HB-408-HD-1

Submitted on: 2/13/2024 9:40:59 PM

Testimony for HLT on 2/15/2024 11:00:00 AM

Submitted By	Organization	Testifier Position	Testify
MARFE RETUNDO	CCFFH	Support	Written Testimony Only

Comments:

Aloha,

As one of a caregiver in big island and have my own business as CCFFH I support this bill.
Thank you very much for hearing our testimony.

Mahalo

Marfe Retundo

HB-408-HD-1

Submitted on: 2/13/2024 10:35:18 PM

Testimony for HLT on 2/15/2024 11:00:00 AM

Submitted By	Organization	Testifier Position	Testify
loriella fiesta	CCFFH	Support	Written Testimony Only

Comments:

I support this testimony.

I proudly stand behind HB 408 in recognizing its potential to enhance our state's well-being. This bill reflects a commitment to progress and addresses vital issues, making it deserving of widespread support.

HB-408-HD-1

Submitted on: 2/13/2024 8:53:51 PM

Testimony for HLT on 2/15/2024 11:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Claribel Cabantog	Individual	Support	Written Testimony Only

Comments:

To: Chair Rep. Della Au Belatti and Vice Chair Rep. Jenna Takenouchi (Committee on Health & Homelessness) and Chair Rep. Lisa Marten & Vice Chair Rep. Terez Amato (Committee on Human Services), open.

I'm supporting this Bill to help the State to place medicaid clients waiting in the hospitals, behavioral health and homelessness in CCFFH. As a caregiver for almost 17 years, its been so hard to keep our Foster Carehome open. There are times the client that we're getting is like for 2 people assist and our pay is not adequate for work we do 24/7. It will help our family for getting the 4th client. The cost of living here in Hawaii is too high and we cannot afford to pay substitute caregivers for getting pay less as \$44.16 per day. Please help us caregivers to get the 4th client also to get a raise for work so we can provide for our Kupuna.

Mahalo for all the time and consideration for this matter.

Sincerely,

Claribel M. Cabantog - CCFFH Provider

94-058 Awamoku St. Waipahu Hawaii 96797

Home: 808-664-4140

Cel: 808-469-5607

HB-408-HD-1

Submitted on: 2/13/2024 9:16:24 PM

Testimony for HLT on 2/15/2024 11:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Maria Corazon E. Cariaga	Individual	Support	Written Testimony Only

Comments:

Good morning Chair and Co chair . I am supporting this HB408, to help the elderly and disabled individuals who are in need of assistance with their health and wellbeing. And vice versa to help the State from the very expensive cost of healthcare once these needy individuals are placed in a big facility. . Thank you for allowing me to send my testimony.

HB-408-HD-1

Submitted on: 2/13/2024 10:31:32 PM

Testimony for HLT on 2/15/2024 11:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Myrna Caro	Individual	Support	Written Testimony Only

Comments:

I support HB 408

HB-408-HD-1

Submitted on: 2/14/2024 3:40:34 PM

Testimony for HLT on 2/15/2024 11:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Marina gamatero	Individual	Support	Written Testimony Only

Comments:

My name is Marina Gamatero. I am in support of HB408

which would increase the number of clients from 3 to 4.

Thank you for your kind considering my testimony.

Sincerely yours,

Marina Gamatero

HB-408-HD-1

Submitted on: 2/14/2024 3:48:11 PM

Testimony for HLT on 2/15/2024 11:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Charly Micua	Individual	Support	Written Testimony Only

Comments:

HB 408 (In Support)

My name is Charly Micua, member of Alliance of Professional Primary Care Administrators. I am strongly in support of HB 408 which would increase the number of our clients from 3 to 4. thank you for the oppurtunity to testify.

Respectfully,

Charly Micua

Alliance of Professional Primary Care Administrators (APPCA)

HB-408-HD-1

Submitted on: 2/14/2024 9:12:55 PM

Testimony for HLT on 2/15/2024 11:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Carina Ocampo	United Community Healthcare of Hawaii	Support	Written Testimony Only

Comments:

HB 408 HD1

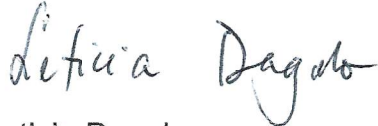
I'm in support to allow another medicaid client(third) or 4 clients to be cared for in the same community care foster family home

LATE *Testimony submitted late may not be considered by the Committee for decision making purposes.

Chair Lisa Marten and all Committees:

I am Leticia Dagulo, caregiver for 20 years. I support all the hard-working caregivers that work none stop to care for their patients. Therefore, I support HB408

Sincerely,

A handwritten signature in black ink that reads "Leticia Dagulo". The signature is written in a cursive style with a large, looped 'L' and 'D'.

Leticia Dagulo

95-528 Wailoa Loop

Mililani, HI 96789

Cell # 808-383-9106

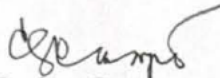
TESTIMONY IN STRONG SUPPORT OF HB408 HD1

Chair Rep. Della Au Bellati, Vice Chair Rep. Jenna Takenouchi and Members of the Committees:

We, the Presidents of the Three Associations of Community Care Foster Family Homes (CCFFH's) in the State of Hawaii representing nearly 80% of the community caregiver industry, which are under Adult Foster Homecare Association of Hawai'i (AFHA of HI), United Community Healthcare of Hawai'i (UCH), and Alliance of Professional Primary Care Administrators (APPCA), humbly requests your support to add a third Medicaid client who is facing housing instability (homelessness) to our CCFFH's thus expand our capacity from a limit of two Medicaid and one Private Pay client to three Medicaid clients and one Private Pay client for a total of Four clients. We support Governor Green and the Director of the Statewide Homeless and Housing Solutions Office to reduce homelessness in Hawaii. On behalf of the Presidents and organizations of this coalition we thank you for the opportunity to provide our testimony in support to HB408 HD1.



Maribel B. Tan
President
AFHA of HI



Carina Ocampo
President
UCHH



Elma Tierra
President
APPCA

HB-408-HD-1

Submitted on: 2/15/2024 7:24:47 AM

Testimony for HLT on 2/15/2024 11:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Ruthie Agbayani	Individual	Support	Written Testimony Only

Comments:

I am in full support of HB408 HD1 with amendments.

Currently, CCFFHs in Hawaii may be certified for up to 3 clients. Meaning a CCFFH may care for:

- 1) 3 Medicaid clients, or
- 2) 2 Medicaid clients and 1 Private Pay client, or
- 3) 1 Medicaid client and 2 Private Pay clients if both Private Pay clients are a married couple or in a civil union and meet other conditions for placement in a CCFFH.

For **HB408 HD1**, as currently written, this House Bill would authorize the DOH to certify CCFFHs (community care foster family homes) for up to four (4) Medicaid beds and to place one additional Medicaid individual in the same community care foster home under certain conditions. We are requesting amendments to clarify that an eligible CCFFH may be able to be certified for up to 4 clients, meaning a CCFFH may care for:

- 1) 4 Medicaid clients, or
- 2) 3 Medicaid clients and 1 Private Pay client, or
- 3) 2 Medicaid clients and 2 Private Pay clients if both Private Pay clients are a married couple or in a civil union and meet other conditions for placement in a CCFFH.

Thank you for the opportunity to testify.