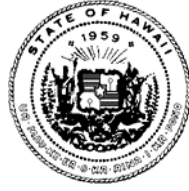


JOSH GREEN, M.D.
GOVERNOR
KE KIA'ĀINA



CATHY BETTS
DIRECTOR
KA LUNA HO'OKELE

JOSEPH CAMPOS II
DEPUTY DIRECTOR
KA HOPE LUNA HO'OKELE

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 19, 2023

TO: The Honorable Senator Donovan Dela Cruz, Chair
Senate Committee on Ways & Means

FROM: Cathy Betts, Director

SUBJECT: **SB 314 SD1 – RELATING TO NURSING FACILITIES.**

Hearing: February 22, 2023, 9:30 a.m.
Conference Room 211, State Capitol

DEPARTMENT'S POSITION: The Department of Human Services (DHS) strongly supports this bill as it is similar to administration measures and appreciates the amendments by the Health and Human Services Committee.

PURPOSE: This bill makes permanent and amends the Nursing Facility Sustainability Program. Makes certain assessment exemptions permanent as to the Nursing Facility Sustainability Program Special Fund. Repeals chapter 346E, Hawai'i Revised Statutes, relating to the Nursing Facility Tax. Appropriates funds from the Nursing Facility Sustainability Program Special Fund. Effective 12/31/2050. (SD1)

The Senate Health and Human Services Committee amended the bill by:

- (1) Deleting technical, nonsubstantive amendments made to sections 36-27 and 36-30, Hawaii Revised Statutes, that relate to the Hospital Sustainability Program Special Fund;
- (2) Clarifying that there is only one nursing facility trade association located in Hawaii;
- (3) Amending section 1 to reflect its updated purposes;

Part 2

- (4) Inserting an effective date of December 31, 2050, to encourage further discussion; and
- (5) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

DHS strongly supports this bill which will make the Nursing Facilities Sustainability Program permanent and continue the exemptions from special fund fees for the Nursing Facility Sustainability Program Special Fund. The State – government and providers - have successfully implemented the Nursing Facility Sustainability Program and the associated special fund for over ten years. The Special Fund receives moneys from the Nursing Facility Sustainability Fee, which is then used to match federal Medicaid funds. The total combined funds are used to increase reimbursements and pay for performance payments for quality improvement activities to the nursing facilities through capitation payments, with a more significant benefit to those providing proportionately more services to Medicaid recipients. These additional moneys increase the sustainability of nursing facilities in Hawaii to continue as a critical part of the safety net and to incentivize quality using pay for performance.

Finally, DHS supports the clarifying amendments proposed by the Healthcare Association of Hawaii.

Thank you for the opportunity to testify on this measure.

JOSH GREEN M.D.
GOVERNOR

SYLVIA LUKE
LT. GOVERNOR



STATE OF HAWAII
DEPARTMENT OF TAXATION

Ka 'Oihana 'Auhau
P.O. BOX 259

HONOLULU, HAWAII 96809
PHONE NO: (808) 587-1540
FAX NO: (808) 587-1560

GARY S. SUGANUMA
DIRECTOR

KRISTEN M.R. SAKAMOTO
DEPUTY DIRECTOR

**TESTIMONY OF
GARY S. SUGANUMA, DIRECTOR OF TAXATION**

TESTIMONY ON THE FOLLOWING MEASURE:
S.B. No.314, S.D. 1, Relating to Nursing Facilities

BEFORE THE:
Senate Committee on Ways and Means

DATE: Wednesday, February 22, 2023
TIME: 9:30 a.m.
LOCATION: State Capitol, Room 211

Chair Dela Cruz, Vice-Chair Keith-Agaran, and Members of the Committee:

The Department of Taxation ("Department") offers the following comments regarding S.B. 314, S.D. 1, for your consideration.

S.B. 314, S.D. 1, seeks to amend and make permanent the Nursing Facility Sustainability Program, and repeal chapter 346E, Hawaii Revised Statutes (HRS), relating to the nursing facility tax. Section 4 of the measure amends section 237-24.7, HRS, to repeal the general excise tax exemption for taxes on nursing facility income imposed by chapter 346E and passed on and collected by operators of nursing facilities to conform with the amendments made to chapter 346E. The measure has a defective effective date of December 31, 2050.

The Department will be able to administer section 4 of this measure by July 1, 2023.

The Department estimates no material revenue impact for fiscal year 2024 and thereafter.

Thank you for the opportunity to provide comments on this measure.

SB-314-SD-1

Submitted on: 2/17/2023 3:31:55 PM

Testimony for WAM on 2/22/2023 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Elena Cabatu	Testifying for Hilo Medical Center	Support	Written Testimony Only

Comments:

Hilo Medical Center supports SB 314 SD1.



**Testimony to the Senate Committee on Ways and Means
Wednesday, February 22, 2023; 9:30 a.m.
State Capitol, Conference Room 211
Via Videoconference**

RE: SENATE BILL NO. 0314, SENATE DRAFT 1, RELATING TO NURSING FACILITIES.

Chair Dela Cruz, Vice Chair Keith-Agaran, and Members of the Committee:

The Hawaii Primary Care Association (HPCA) is a 501(c)(3) organization established to advocate for, expand access to, and sustain high quality care through the statewide network of Community Health Centers throughout the State of Hawaii. The HPCA **SUPPORTS** Senate Bill No. 0314, Senate Draft 1, RELATING TO NURSING FACILITIES.

By way of background, the HPCA represents Hawaii's Federally Qualified Health Centers (FQHCs). FQHCs provide desperately needed medical services at the frontlines to over 150,000 patients each year who live in rural and underserved communities. Long considered champions for creating a more sustainable, integrated, and wellness-oriented system of health, FQHCs provide a more efficient, more effective and more comprehensive system of healthcare.

This bill, as received by your Committee, would:

- (1) Appropriate \$24,000,000 from the Nursing Facility Sustainability Fund (Fund), for fiscal year 2023-2024, and the same amount for fiscal year 2024-2025, to make supplemental payments and increase capitation rates to health plans for the benefit of State long-term care facilities;
- (2) Permanently exempt the Fund from the central service expenses assessment and the administrative expenses assessment;
- (3) Repeal the Nursing Facility Tax; and
- (4) Take effect on December 31, 2050.

Testimony on Senate Bill No. 0314, Senate Draft 1
Wednesday, February 22, 2023; 9:00 a.m.
Page 2

Recognizing that Medicaid payments to nursing facilities were far below the actual costs of care, the Legislature enacted Act 156, SLH 2012, to establish the Program and increase Medicaid payments to nursing facilities. The Program achieves this by assessing a fee on nursing facilities, using the revenue to obtain matching federal Medicaid funds, and returning a majority of the combined amount directly to nursing facilities.

We urge your favorable consideration of this bill.

Thank you for the opportunity to testify. Should you have any questions, please do not hesitate to contact Public Affairs and Policy Director Erik K. Abe at 536-8442, or eabe@hawaiiipca.net.



February 22, 2023 at 9:30 am
Conference Room 211

Senate Committee on Ways and Means

To: Chair Donovan M. Dela Cruz
Vice Chair Gilbert S.C. Keith-Agaran

From: Hilton Raethel
President and CEO
Healthcare Association of Hawaii

Re: **Strong Support**
SB 314 SD 1, Relating to Nursing Facilities

The Healthcare Association of Hawaii (HAH), established in 1939, serves as the leading voice of healthcare on behalf of 170 member organizations who represent almost every aspect of the health care continuum in Hawaii. Members include acute care hospitals, skilled nursing facilities, home health agencies, hospices, assisted living facilities and durable medical equipment suppliers. In addition to providing access to appropriate, affordable, high-quality care to all of Hawaii's residents, our members contribute significantly to Hawaii's economy by employing over 20,000 people statewide.

Thank you for the opportunity to provide testimony in strong support of this bill. The nursing facility sustainability program is a key tool for the state to help ensure access to critical services for Medicaid enrollees. Most importantly, this benefit is achieved without the use of any state general funds. This is because the program levies a fee on participating providers. The funds generated through that fee are then used to draw down federal Medicaid dollars and are distributed back to the providers to help them cover the gap between what Medicaid reimburses and what Medicare reimburses. Although neither program covers the full cost of providing care, it is essential in helping to shore up the financial sustainability of the nursing facility system in the state.

The sustainability program was first established in 2012 when, recognizing that Medicaid payments were below the actual costs of care for nursing facilities, the legislature authorized this program. While the program was reauthorized annually for several years, the legislature passed a two-year authorization of the program in 2017. This was evidence of how successful the program has been, especially in bringing together public and private entities to help increase access to care for Medicaid recipients. The nursing facility sustainability program has proven successful for providers, beneficiaries, and the state, which is why this particular legislation would make the program permanent.

We are requesting two amendments to this measure.

1. We request that Section 8, on page 24, lines 4-5 be amended to read:

"3) The department, [~~with agreement by~~] upon good faith consultation and negotiations with the nursing facility trade [~~associations~~] association located in Hawaii, may modify, add to, or [~~reduce the categories of~~] exclude facilities [~~exempt~~] from the assessment if necessary to obtain and maintain approval of the waiver by the Centers for Medicare and Medicaid Services, if the modification, addition, or exclusion is consistent with the purposes of this chapter."

2. We would request that Section 9, from page 24, lines 14-21 to page 25, lines 1-8 be amended to read:

"(c) The department shall [~~collect and each nursing facility shall pay in twelve equal installments~~] impose a nursing facility sustainability fee [~~in section 346F-5 on a monthly basis, subject to the terms of this section. The fee shall be due within sixty days after the end of each month, with the initial payment due on the later of July 31, 2012, or forty-five days after the required federal approvals for the assessment and any increase in health plan capitation payments have been secured from the Centers for Medicare and Medicaid Services.~~] on a monthly basis, which a nursing facility shall pay no later than the sixtieth day after the end of the calendar month that the department imposed the fee; provided that, if required federal approvals have not been secured by the end of a calendar month, the fees for that month shall be paid within ten days after the notification to the nursing facilities that the required approvals have been received."

Thank you for the opportunity to provide supportive testimony for this critical program, which will help the state protect access to care for hundreds of thousands of Hawaii residents. We will continue our partnership with the MedQUEST office on this measure and appreciate your consideration of this important measure.

Testimony of
Jonathan Ching
Government Relations Director

Before:
Senate Committee on Ways and Means
The Honorable Donovan M. Dela Cruz, Chair
The Honorable Gilbert S.C. Keith-Agaran, Vice Chair

February 22, 2023
9:30 a.m.
Conference Room 211 & Via Videoconference

Re: SB 314, SD1, Relating to Nursing Facilities

Chair Dela Cruz, Vice Chair Keith-Agaran, and committee members, thank you for this opportunity to provide testimony on SB 314, SD1, which makes permanent and amends the state's Nursing Facility Sustainability Program.

Kaiser Permanente Hawai'i STRONGLY SUPPORTS SB 314, SD1.

Kaiser Permanente Hawai'i is one of the nation's largest not-for-profit health plans, serving 12.6 million members nationwide, and more than 269,000 members in Hawai'i. In Hawai'i, more than 4,200 dedicated employees and more than 650 Hawai'i Permanente Medical Group physicians and advance practice providers work in our integrated health system to provide our members coordinated care and coverage. Kaiser Permanente Hawai'i has more than 20+ medical facilities, including our award-winning Moanalua Medical Center. We continue to provide high-quality coordinated care for our members and deliver on our commitment to improve the health of our members and the 1.4 million people living in the communities we serve.

Expanding the state's Nursing Facility Sustainability Program in perpetuity will allow hospitals in the state to continue to provide critical health care services despite Medicaid uncompensated care losses.

The Nursing Sustainability Program and the Nursing Facility Sustainability Program Special Fund were established via Act 156, Session Laws of Hawaii 2012. The program created a fund to pool monies from participating nursing facilities through the assessment of a provider tax, which in turn was used as a basis to obtain federal Medicaid matching funds. The aggregate state and federal funds would then be distributed to the participate nursing facilities as supplemental payments to reduce any Medicaid uncompensated care losses. The program has proven successful for providers, beneficiaries, and the state, given that it uses no state general funds.

Nursing facilities are essential to acute care hospitals like Kaiser Permanente's Moanalua Medical Center as hospitals statewide often have waitlists of patients waiting to be transferred to post and sub-acute care settings. The Nursing Sustainability Program has been integral to help offset financial losses to the industry; losses which could lead to the erosion of a safety net for our growing kupuna population.

Kaiser Permanente Hawai'i supports SB 314, SD1 because it will continue to assist providing access to health care for Medicaid recipients in Hawai'i.

Mahalo for the opportunity to testify on this important measure.

Wednesday, February 22, 2023 at 9:30 AM
Via Video Conference; Conference Room 211

Senate Committee on Ways and Means

To: Senator Donovan Dela Cruz, Chair
Senator Gilbert Keith-Agaran, Vice Chair

From: Michael Robinson
Vice President, Government Relations & Community Affairs

Re: **Testimony in Support of SB 314, SD1
Relating to The Nursing Facility Sustainability Program**

My name is Michael Robinson, and I am the Vice President of Government Relations & Community Affairs at Hawai'i Pacific Health. Hawai'i Pacific Health is a not-for-profit health care system comprised of its four medical centers – Kapi'olani, Pali Momi, Straub and Wilcox and over 70 locations statewide with a mission of creating a healthier Hawai'i.

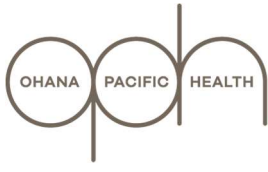
HPH writes in support of SB 314, SD1 which makes permanent and amends the Nursing Facility Sustainability Program.

Recognizing that Medicaid payments to nursing facilities remain below the actual costs of delivering care, the Legislature created the Nursing Facility Sustainability Program in 2012, which improves Medicaid payments to nursing facilities. The Nursing Facility Sustainability Program assists nursing facilities in the State by mitigating losses that are incurred when taking care of underserved populations, and ensures access for seniors needing long-term care. No general funds support the Program. Nursing facilities play a critical role in the continuum of care certain patients need upon being discharged from an acute care hospital.

Our hospital system experiences a significant waitlist of patients to be transferred to sub- or post-acute care settings. Nursing facilities fill that gap. These patients no longer need acute care but because of limited community-based resources and low Medicaid reimbursement, our hospitals are unable to discharge patients to nursing facilities. This situation in turn creates a waitlist for patients requiring admission to the hospitals for acute care.

Making the Nursing Facility Sustainability Program permanent through this measure will help to preserve and enhance access to health care for Medicaid recipients in Hawai'i.

Thank you for the opportunity to testify.



February 22, 2023 at 9:30 pm
Conference Room 211

Senate Committee on Ways and Means

To: Chair Donovan M. Dela Cruz
Vice Chair Gilbert S.C. Keith-Agaran

From: Wesley Lo
Chief Executive Officer
Ohana Pacific Management Company/Hale Makua Health Services

Re: **Support**
SB 314 SD 1, Relating to Nursing Facilities

Ohana Pacific Health (OPH) / Hale Makua Health Services (HMHS) is the largest provider of post-acute care services in the State of Hawai'i and also, the largest provider of Medicaid nursing facility services. Our organization employs almost 1,500 healthcare workers and manages approximately 950 nursing home beds that provide short-term rehab and long-term care, adult day health services and home health care, and Care Management/Navigation Services on all four major islands.

Thank you for the opportunity to provide testimony in **STRONG SUPPORT** of SB 314 SD1, with the amendments provided by Healthcare Association of Hawaii in their testimony.

The nursing facility sustainability program is critical to the financial viability of the Healthcare delivery system. A recent study was completed by the Healthcare Association of Hawaii, and they found that the cost to provide care in nursing facilities has been shrinking and at times the reimbursements has not covered costs. In particular, the reimbursements for Medicaid are substantially lower than Medicare. Approximately 75% of all beds in Nursing homes are occupied by Medicaid reimbursed residents.

Without this program the financial ability for Nursing Homes to care for these patients would be severely challenged. This program is a key tool for the state to help ensure access to critical services for Medicaid enrollees. Most importantly, this benefit is achieved without the use of any state general funds. This is because the program levies a fee on participating providers. The funds generated through that fee are then used to draw down federal Medicaid dollars and are distributed back to the providers to help them cover the gap between what Medicaid reimburses and what Medicare reimburses. Although neither program covers the full cost of providing care, it is essential in helping to shore up the financial sustainability of the nursing facility system in the state.





The sustainability program was first established in 2012 when, recognizing that Medicaid payments were below the actual costs of care for nursing facilities, the legislature authorized this program. While the program was reauthorized annually for several years, the legislature passed a two-year authorization of the program in 2017. This was evidence of how successful the program has been, especially in bringing together public and private entities to help increase access to care for Medicaid recipients. The nursing facility sustainability program has proven successful for providers, beneficiaries, and the state, which is why this particular legislation would make the program permanent.

Thank you for the opportunity to testify in STRONG SUPPORT of this program

Wesley Lo
Chief Executive Officer
Ohana Pacific Health / Hale Makua Health Services





THE QUEEN'S HEALTH SYSTEM

To: The Honorable Donovan M. Dela Cruz, Chair
The Honorable Gilbert S.C. Keith-Agaran, Vice Chair
Members, Senate Committee on Ways and Means

From: Jace Mikulanec, Director, Government Relations, The Queen's Health System

Date: February 22, 2023

Re: Testimony in **Support** for SB 314 SD1: Relating to Nursing Facilities

The Queen's Health System (Queen's) is a nonprofit corporation that provides expanded health care capabilities to the people of Hawai'i and the Pacific Basin. Since the founding of the first Queen's hospital in 1859 by Queen Emma and King Kamehameha IV, it has been our mission to provide quality health care services in perpetuity for Native Hawaiians and all of the people of Hawai'i. Over the years, the organization has grown to four hospitals, and more than 10,000 affiliated physicians, caregivers, and dedicated medical staff statewide. As the preeminent health care system in Hawai'i, Queen's strives to provide superior patient care that is constantly advancing through education and research.

Queen's appreciates the opportunity to testify in support for SB314 SD1, relating to the Nursing Facility Sustainability Program; which makes the Nursing Facility Sustainability Program permanent and appropriates funds out of the Nursing Facility Sustainability Program Special Fund. The Nursing Facility Sustainability Program assists nursing facilities in Hawai'i by mitigating losses that are incurred when taking care of underserved populations. These facilities play a crucial role in the continuum of care for our community.

For hospitals like The Queen's Medical Center-Punchbowl (QMC-PB), which experiences a waitlist of over 30 patients a day waiting to be transferred to sub- or post-acute care settings, nursing facilities are integral to the continuing care of patients. Patients on our waitlists are no longer in need of acute care, but due to the limited community based resources and low Medicaid reimbursement, our hospitals are unable to place patients ready for discharge. Other patients needing an acute level of care may not be able to access a hospital bed if census is full and waitlisted patients occupy acute care beds. We ask for your support of this measure and the continuation of the Nursing Facility Sustainability Program.

Thank you for your time and attention to this important program.

The mission of The Queen's Health System is to fulfill the intent of Queen Emma and King Kamehameha IV to provide in perpetuity quality health care services to improve the well-being of Native Hawaiians and all of the people of Hawai'i.



ALOHA NURSING REHAB CENTRE

45-545 Kamehameha Hwy. • Kaneohe, HI 96744
Phone 808-247-2220 Fax 808-235-3676

www.alohanursing.com

February 22, 2023 at 9:30am
Conference Room 211

Senate Committee on Ways and Means

To: Chair Donovan M. Dela Cruz
Vice Chair Gilbert S.C. Keith-Agaran

From: Amy Lee
Chief Executive Officer
Aloha Nursing Rehab Centre

Re: **Strong Support**
SB 314 SD 1, Relating to Nursing Facilities

Aloha Nursing Rehab Centre is a 141-bed Skilled Nursing Facility located in Kaneohe, ministering to the needs of 350 seniors and their families annually and employing 160 dedicated staff. For over thirty years, Aloha Nursing has been contributing positively to the community and to the state economy.

Thank you for the opportunity to provide testimony in **strong support** of this bill. The Nursing Facility sustainability program is a key tool for the state to help ensure access to critical services for Medicaid enrollees. Most importantly, this **benefit is achieved without the use of any state general funds**. This is because the program levies a fee on participating providers. The funds generated through that fee are then used to draw down federal Medicaid dollars and are distributed back to the providers to help them cover the gap between what Medicaid reimburses and what Medicare reimburses. Although neither program covers the full cost of providing care, it is essential in helping to shore up the financial sustainability of the hospital system in the state.

The sustainability program was first established in 2012 when, recognizing that Medicaid payments were below the actual costs of care in nursing facilities, the legislature authorized this program. While the program was reauthorized annually for several years, the legislature passed a two-year authorization of the program in 2017. This was evidence of how successful the program has been, especially in bringing together public and private entities to help increase access to care for Medicaid recipients. The hospital sustainability program has proven successful for providers, beneficiaries, and the state, which is why this particular legislation would make the program permanent.

We are requesting two amendments to this measure.

1. We request that Section 8, on page 24, lines 4-5 be amended to read:

"3) The department, [~~with agreement by~~] upon good faith consultation and negotiations with the nursing facility trade [~~associations~~] association located in Hawaii, may modify, add to, or [~~reduce the categories of~~] exclude facilities [~~exempt~~] from the assessment if necessary to obtain and maintain approval of the waiver by the Centers for Medicare and Medicaid Services, if the modification, addition, or exclusion is consistent with the purposes of this chapter."

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Thank you for the opportunity to provide supportive testimony for this critical program, which will help the state protect access to care for hundreds of thousands of Hawaii residents. We will continue our partnership with the MedQUEST office on this measure and appreciate your consideration of this important measure.



PALOLO CHINESE HOME
Better Care. Better Lives

February 22, 2023 at 9:30 am
Conference Room 211

Senate Committee on Ways and Means

To: Chair Donovan M. Dela Cruz
Vice Chair Gilbert S.C. Keith-Agaran

From: Darlene Nakayama
CEO
Palolo Chinese Home

Re: **Strong Support**
SB 314 SD 1, Relating to Nursing Facilities

The Healthcare Association of Hawaii (HAH), established in 1939, serves as the leading voice of healthcare on behalf of 170 member organizations who represent almost every aspect of the health care continuum in Hawaii. Members include acute care hospitals, skilled nursing facilities, home health agencies, hospices, assisted living facilities and durable medical equipment suppliers. In addition to providing access to appropriate, affordable, high-quality care to all of Hawaii's residents, our members contribute significantly to Hawaii's economy by employing over 20,000 people statewide.

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Thank you for the opportunity to provide supportive testimony for this critical program, which will help the state protect access to care for hundreds of thousands of Hawaii residents. We will continue our partnership with the MedQUEST office on this measure and appreciate your consideration of this important measure.