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JOSH GREEN, M.D.
GOVERNOR
KE KIA'ĀINA

Testimony of **John Mizuno**
Governor's Coordinator on Homelessness
Before the
House Committee on Finance
February 28, 2024
10:00 a.m., Conference Room 308

In consideration of
House Bill No. 408 HD2
RELATING TO HEALTH

Aloha Chair Yamashita, Vice Chair Kitagawa, and Committee Members,

I am writing in **strong support** of HB408 HD2. This measure is in 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.**

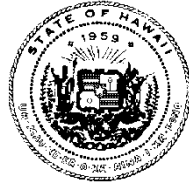
I humbly request that HB408 allow for community care foster family homes to add a third Medicaid client who is experiencing housing instability, and thus expand the capacity from a limit of two Medicaid and one private pay clients to three Medicaid clients and two private pay clients if they are married.

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

Mahalo,

John Mizuno
Governor's Coordinator on Homelessness

JOSH GREEN, M.D.
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KE KIA'ĀINA



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STATE OF HAWAII
KA MOKU'ĀINA O HAWAI'I
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KA 'OIHANA MĀLAMA LAWELAWE KANAKA
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February 26, 2024

TO: The Honorable Representative Kyle T. Yamashita, Chair
House Committee on Finance

FROM: Cathy Betts, Director

SUBJECT: **HB 408 HD2 - RELATING TO HEALTH.**

Hearing: February 28, 2024, 10:00 AM
Conference Room 308 & Via Videoconference, State Capitol

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

PURPOSE: This measure authorizes the Department of Health to, in its discretion, certify community care foster family homes for a fourth adult who is a Medicaid recipient and has documented housing instability, if certain conditions are met. Requires the Department of Health to submit a report to the Legislature. Effective 7/1/3000. (HD2)

The Committee on Health & Homelessness amended the measure by inserting substantive contents of the bill in long form so that a public hearing may be properly held on its substantive contents. (HD1)

The Committees on Health & Homelessness and Human Services amended the measure by:

- (1) Reverting to existing statutory language allowing married private-pay individuals to reside in the same community care foster family home;
- (2) Clarifying requirements for certification for a fourth bed;

- (3) Removing language that would have expanded community care foster family home certifications to include expanded adult residential care homes and assisted living facilities; and
- (4) Making technical, nonsubstantive amendments for the purposes of clarity, consistency, and style. (HD2)

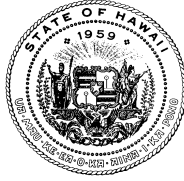
The Department of Human Services (DHS) appreciates the intent of this measure and supports the availability of community-based resources for residents. The Community Care Foster Family Home (CCFFH) is an integral part of the continuum of long-term care and provides a less restrictive community-based 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.

This bill would allow a fourth individual who is a Medicaid recipient with housing instability as long as certain conditions are met. Although today's criteria would allow for an individual who is experiencing housing instability and who meets the nursing facility level of care to live at a CCFFH, this may increase the capacity and bring increased focus on helping to serve the needs of this vulnerable population.

Thank you for the opportunity to testify on this measure.

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

REPRESENTATIVE KYLE YAMASHITA, CHAIR
HOUSE COMMITTEE ON FINANCE

Wednesday, February 28, 2024

11:00 a.m.

Room 420

1 **Fiscal Implications:** Additional FTE is required to complete additional surveys of higher
2 census CCFFHs.

3 Department Testimony: The Department of Health (DOH) provides recommendations that
4 assure a balance between patient safety and expanding housing options for individuals
5 experiencing housing insecurity.

6 The DOH understands the intent of this measure and would like to offer that there are sufficient
7 vacant Community Care Foster Family Home (CCFFH) beds across the State to address this
8 need. If the purpose is to make bed space available to people experiencing housing insecurity,
9 who also qualify for nursing facility level care, accessing these existing vacant beds would be the
10 most expedient means to expand housing options with minimal bureaucracy.

11 As of January 2024 there are currently 521 open beds in the CCFFH inventory across the State.

12 This is a 41% vacancy rate, see breakdown by County below. Overall demand for CCFFH bed

13 space appears to be down. In the last two years, new CCFFH operators have left the industry due

1 to the lack of new clients. DOH recommends maximizing existing empty bed space in lieu of
2 authorizing higher capacity.

- 3 • Oahu - 433
- 4 • Big Island - 50
- 5 • Maui - 29
- 6 • Kauai - 10

7 DOH Concerns are summarized as follows:

- 8 • Increasing “new” beds will require additional onsite certification and assessment of
9 homes seeking to expand services, which will delay the current recertifications or result
10 in additional staffing costs to stay current;
- 11 • DOH anticipates increased complaints requiring onsite investigations. In 2023, there were
12 130 complaints of which 61.5% were from 3 bed homes;
- 13 • The transition for a caregiver to go from a two (2) bed Community Care Foster Family
14 Home (CCFFH) to a three (3) bed home is significant. Increasing to four (4) beds would
15 be a large task that caregivers may not fully recognize;
- 16 • The harm to existing CCFFHs who have vacancies who are not being prioritized to serve
17 this need. In the last two years, new CCFFH operators have left the industry due to the
18 lack of new clients;

19 In addition to the 521 CCFFH’s vacant beds, if even a small portion of the unlicensed care
20 homes would apply to be CCFFHs or EARCHs, the increase in the number of available Medicaid

1 beds would increase across the State by a significant degree. Currently the Department is
2 investigating dozens of complaints of unlicensed care homes, which if they were to follow the
3 law, could be eligible to lessen the Medicaid bed shortage.

4 DOH Recommendations:

- 5 • Use existing vacant CCFFH beds to refer clients to who are experiencing housing
6 instability;
- 7 • Evaluate clients for their appropriateness for placement in a CCFFH by a qualified
8 service provider or health care professional. This includes screening for a history or
9 propensity for violence, active untreated, mental illness or substance use, or other
10 conditions that may jeopardize CCFFH staff and existing clients, who by definition, are
11 vulnerable persons. Furthermore, CCFFH operators' may need to be trained to work with
12 clients not accustomed to living in a home.
- 13 • As many CCFFH clients have physical mobility issues and/or are incapable of self-
14 preservation (exiting the home without physical assistance in the event of a fire or other
15 need for emergency evacuation), a second caregiver should be available onsite and on
16 duty from 7a to 7p.

17 Statutory and Regulatory Conformance

- 18 • This measure includes language for CCFFH certifications to include Expanded Adult
19 Residential Care Homes (EARCH) and Assisted Living Facilities. Those facility types
20 have their own defining statutes that would need to be amended. Section 321-483(a)(4),

1 Hawaii Revised Statutes, would also need to be revised, as it currently refers to three (3)
2 bed CCFFHs.

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

6 **Partial Proposed Amendments:**

7 "Community care foster family home" or "home" means a home
8 that:

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

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

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

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

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

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

15 (B) The department, in consultation with the department of
16 human services, and in its discretion, and considering
17 the past admission history and current client mix of the
18 community care foster family home, may allow two
19 private-pay individuals to be cared for in the same

1 community care foster family home after considering the
2 following relevant factors:

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

5 (ii) The operator of the three or four bed community
6 care foster family home has had a vacant medicaid
7 bed for at least six months; provided that the
8 operator shall not transfer out a medicaid or
9 private-pay client from the community care foster
10 family home in order to accept a private-pay
11 individual;

12 (iii) The two private-pay individuals are in a
13 relationship with each other as a married couple or
14 in a civil union and one of the private-pay
15 individuals is currently residing in the community
16 care foster family home for at least six months;

17 (iv) The department, in its discretion, determines that
18 no other adult residential care home, expanded adult
19 residential care home, or health care facility
20 within the area has an available opening and is

1 capable of providing care to both private-pay
2 individuals; and

3 (v) There are no medicaid recipients seeking placement
4 in the community care foster family home that the
5 married or civil union private-pay individuals are
6 seeking to occupy;

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

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

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

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

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

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

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