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

TESTIMONY ON THE FOLLOWING MEASURE:

H.B. No.1369, Relating to Nursing Facilities

BEFORE THE:

House Committee on Human Services and House Committee on Health & Homelessness

DATE: Tuesday, February 7, 2023

TIME: 8:45 a.m.

LOCATION: State Capitol, Room 329

Chairs Mizuno and Au Belatti, Vice-Chairs Amato and Takenouchi, and Members of the Committees:

The Department of Taxation ("Department") offers the following comments regarding H.B. 1369 for your consideration.

H.B. 1369 repeals chapter 346E, Hawaii Revised Statutes (HRS), relating to the Nursing Facility Tax, and repeals section 237-24.7(5), which exempts taxes on nursing facility income imposed by chapter 346E, HRS, and passed on and collected by operators of nursing facilities, from the general excise tax. This measure is effective on July 1, 2023.

The Department is able to administer this measure with the current effective date.

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

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 5, 2023

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

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

FROM: Cathy Betts, Director

SUBJECT: [HB 1369](#) - RELATING TO NURSING FACILITIES.

Hearing: February 7, 2023, 8:45 a.m.
Conference Room 329 & Videoconferencing, State Capitol

DEPARTMENT'S POSITION: The Department of Human Services (DHS) supports this bill as it is similar to SB 314 and Administration measures SB 1361 and HB 1063. DHS respectfully requests LRB review the draft to preserve the exemptions from the special fund exemptions and requests an amendment to avoid a conflict with the bill's title.

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.

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 greater 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.

We appreciate the amendments in Sections 2 and 3 that seek to exempt the Nursing Facility Sustainability Fund from certain imposed fees. Continuing to exempt the Nursing Facility Sustainability Fund from the central services expenses (section 36-27, HRS) and the administrative expenses (section 36-30, HRS) fees will maximize funds available to support the Nursing Facility Sustainability Program. Therefore, we respectfully request the Committee ask the Legislative Reference Bureau to confirm and, if necessary, conform the bill to continue the exemptions from these special fund fees.

Importantly, we agree with the Healthcare Association of Hawaii's testimony to delete proposed amendments in Section 2 and Section 3 referencing the Hospital Sustainability Special Fund, as we are concerned that these amendments may conflict with the title of the measure.

We also conferred with the Healthcare Association of Hawaii and concurred with their two technical amendments to improve the statute's clarity.

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

Testimony of
Jonathan Ching
Government Relations Director

Before:
House Committee on Human Services
The Honorable John Mizuno, Chair
The Honorable Terez Amato, Vice Chair

House Committee on Health & Human Services
The Honorable Della Au Belatti, Chair
The Honorable Jenna Takenouchi, Vice Chair

February 7, 2023
8:45 a.m.
Conference Room 329 & Via Videoconference

Re: HB 1369, Relating to the Nursing Facilities

Chair Mizuno, Chair Belatti, and committee members, thank you for this opportunity to provide testimony on HB 1369, which makes permanent and amends the state's Nursing Facility Sustainability Program.

Kaiser Permanente Hawai'i STRONGLY SUPPORTS HB 1369.

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 HB 1369 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.



**Testimony to the House Joint Committee on Human Services and Health and
Homelessness
Tuesday, February 7, 2023; 8:45 a.m.
State Capitol, Conference Room 329
Via Videoconference**

RE: HOUSE BILL NO. 1369, RELATING TO NURSING FACILITIES.

Chair San Mizuno, Chair Belatti, and Members of the Joint 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** House Bill No. 1369, 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 July 1, 2023.

Testimony on House Bill No. 1369
Tuesday, February 7, 2023; 8:45 a.m.
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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.

Tuesday, February 7, 2023 at 8:45 AM
Via Video Conference; Conference Room 329

House Committee on Human Services

To: Representative John Mizuno, Chair
Representative Terez Amato, Vice Chair

House Committee on Health & Homelessness

To: Representative Della Belatti, Chair
Representative Jenna Takenouchi, Vice Chair

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

**Re: Testimony in Support of HB 1369
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 HB 1369 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.



THE QUEEN'S HEALTH SYSTEM

To: The Honorable John M. Mizuno, Chair
The Honorable Terez Amato, Vice Chair
Members, House Committee on Human Services

The Honorable Della Au Belatti, Chair
The Honorable Jenna Takenouchi, Vice Chair
Members, House Committee on Health & Homelessness

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

Date: February 7, 2023

Re: Testimony in Support of HB1369: 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 HB1369, 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. We concur with Healthcare Association of Hawaii's testimony and urge the Committee to support HB1369.

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.

HB-1369

Submitted on: 2/5/2023 1:47:31 PM

Testimony for HUS on 2/7/2023 8:45:00 AM

Submitted By	Organization	Testifier Position	Testify
Will Caron	Individual	Support	Written Testimony Only

Comments:

I support HB1369.



February 7, 2023 at 8:45 am
Conference Room 329

House Committee on Human Services

To: Chair John M. Mizuno
Vice Chair Terez Amato

House Committee on Health and Homelessness

To: Chair Della Au Belatti
Vice Chair Jenna Takenouchi

From: Hilton Raethel
President and CEO
Healthcare Association of Hawaii

Re: Strong Support
HB 1369, 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,

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Affiliated with the American Hospital Association, American Health Care Association, National Association for Home Care and Hospice, American Association for Homecare and Council of State Home Care Associations

beneficiaries, and the state, which is why this particular legislation would make the program permanent.

We are requesting four amendments to this measure.

The first two amendments would be made in Sections 2 and 3, to portions of the measure that exempt the nursing facility sustainability fund from certain imposed fees. Currently, these sections also amend the fee exemptions for the hospital sustainability program and we are concerned that this could create an issue with the title of this measure, which is relating only to the nursing facility sustainability program.

As a result, we would request that the amendments made to the hospital sustainability program special fund on page 6, lines 9-10 and on page 9, lines 17-18, be removed from this measure. The amendments made to the nursing facility sustainability program on those same pages should be maintained.

The last two requested amendments would be technical in nature. We agree with suggestions by MedQUEST that the following amendments would allow the statute to read with more clarity.

First, in 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."

Second, in 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.