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CATHY BETTS
DIRECTOR
KA LUNA HO'OKELE

JOSEPH CAMPOS II
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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 1368](#) - RELATING TO THE HOSPITAL SUSTAINABILITY PROGRAM.

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 404 and Administration measures HB 1062 and SB 1360. DHS respectfully requests LRB review the draft to preserve the exemptions from the special fund exemptions.

PURPOSE: This bill expands the Hospital Sustainability Program and makes the program permanent. Amends the definition of "private hospital." Increases the fee cap on various hospital sustainability fees. Requires the Department of Human Services to consult and negotiate with the hospital trade association located in Hawaii regarding fee participation and rates. Requires the Hospital Sustainability Fee to discontinue under certain circumstances and provides guidelines for the distribution of remaining funds. Appropriates funds out of the Hospital Sustainability Program Special Fund.

DHS strongly supports making permanent the Hospital Sustainability Program and the exemptions on the central services and administrative fees for Hospital Sustainability Special

Fund. This program began over ten years ago and has been highly successful in helping to support hospitals' ability to continue to provide services to Medicaid recipients. The Special Fund receives moneys from the Hospital Sustainability Fee, which is then used to match with federal Medicaid matching funds. These moneys are used to increase reimbursements to the hospitals and payments for performance to the hospitals, with a greater benefit to those providing proportionately more services to Medicaid recipients. These additional moneys will increase the long-term sustainability of hospitals in Hawaii to continue as a critical part of the safety net. The Hospital Sustainability Program has been particularly crucial during the pandemic as hospitals dealt with pandemic surges, workforce shortages, and increased costs.

Without this bill, the Hospital Sustainability Program will repeal on December 31, 2023, with funding provisions repealing on June 30, 2024.

This measure also makes the exemptions from the special fund central services and administrative expenses assessments permanent. Act 217, Session Laws of Hawaii 2012, as amended, exempts the Special Fund from assessments for central services expenses and administrative expenses under sections 36-27(a) and 36-30(a), Hawaii Revised Statutes (HRS); sections 36-27(a)(31) and 36-30(a)(28), HRS, will be repealed on June 30, 2024. Unless the sunset dates are repealed, the Department estimates that the Special Fund may be subject to the central service expenses assessment of \$5,000,000 each year and the administrative expenses assessment of \$1,000,000; these funds would not be available for hospitals. Therefore, continuing the special fund exemptions will maximize the funds available for the Hospital Sustainability Program.

Finally, we conferred with Healthcare Association of Hawaii and concurred with all of their suggested amendments – two amendments adding sections that would amend the central and administrative fee special fund exemptions, retaining the original language for the use of the funds, and two technical amendments to improve the clarity of the statutes.

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 1368, Relating to the Hospital Sustainability Program

Chair Mizuno, Chair Belatti, and committee members, thank you for this opportunity to provide testimony on HB 1368, which expands and makes permanent the state's Hospital Sustainability Program.

Kaiser Permanente Hawai'i STRONGLY SUPPORTS HB 1368.

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.

Making permanent the state's Hospital Sustainability Program will allow hospitals in the state to continue to provide critical health care services despite Medicaid uncompensated care losses.

Established in 2012 as Act 217, Session Laws of Hawai'i, the Hospital Sustainability Program, created a fund to pool monies from private hospitals through the assessment of a provider tax, which in turn was used to obtain federal Medicaid matching funds. The aggregate state and federal funds would then be distributed to the private hospitals as supplemental payments to reduce any



Government Relations

Medicaid uncompensated care losses. The program has proven successful for providers, beneficiaries, and the state, given that it uses no state general funds.

Kaiser Permanente Hawai'i supports HB 1368 because it will ensure continued access to critical health care services 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. 1368, RELATING TO THE HOSPITAL SUSTAINABILITY PROGRAM.

Chair 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. 1368, RELATING TO THE HOSPITAL SUSTAINABILITY PROGRAM.

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.

The bill, as received by your Committee, would, among other things:

- (1) Expand and make permanent the Hospital Sustainability Program (Program); and
- (2) Appropriate \$200,000,000 in Hospital Sustainability Program Special Funds for fiscal year 2023-2024, and the same amount for fiscal year 2024-2025, to make supplemental payments to state hospitals and increase capitation rates to health plans for the benefit of state hospitals.

Recognizing that Medicaid payments to hospitals were far below the actual costs of care, the Legislature enacted Act 217, SLH 2012, to establish the Program and increase Medicaid payments to hospitals. The Program achieves this by assessing a fee on hospitals, using the revenue to obtain matching federal Medicaid funds, and returning a majority of the combined amount directly to hospitals. Payment is based on the amount of a hospital's uncompensated care, which consists of nonpayment by uninsured patients and underpayment by Medicaid.

Testimony on House Bill No. 1368
Tuesday, February 7, 2023; 8:45 a.m.
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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 1368
Relating to The Hospital 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 1368 which makes the hospital sustainability program permanent. The bill also requires the Department of Health (DOH) to consult and negotiate with the hospital trade association regarding fee participation and rates; and requires the Hospital Sustainability fee to discontinue under certain circumstances and appropriates funds out of the Hospital Sustainability Program special fund.

Recognizing that Medicaid payments to hospitals remain below the actual costs of delivering care in an acute care setting, the Legislature created the Hospital Sustainability Program by enacting Act 217, SLH 2012, which improves Medicaid payments to hospitals. The program achieves this increase by assessing a fee on hospitals based on their patient revenue. The funds generated by those fees enable the State to obtain additional federal Medicaid funds, which are deposited in the hospital sustainability program special fund and distributed back to private hospitals. Payment back to facilities is based on the amount of a hospital's uncompensated care, which includes the costs incurred by hospitals serving under- and uninsured patients. Importantly, no state funds are contributed to the hospital sustainability program.

Because of this program, Medicaid payments approach becoming closer to the actual costs of care, thereby reducing losses and improving the financial stability of our hospital system. Provider fees, which are collected from specific categories of health care providers that agree to the fee, may be imposed on nineteen different classes of health care services, and can result in substantial increases in Medicaid payments without putting additional constraints on the State's budget. The additional federal funds obtained via the fee program authorized by the hospital sustainability program help to maintain access to care for Medicaid recipients. This will allow hospitals in the State to continue to serve uninsured or underinsured patients in a timely, effective manner. Thus ensuring the overall sustainability of the health care system in Hawaii during the challenging time of the COVID-19 pandemic.

Making the Hospital 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: Jacce Mikulanec, Director, Government Relations, The Queen's Health System

Date: February 7, 2023

Re: Testimony in Support of HB1368: Relating to the Hospital Sustainability Program

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 provide testimony in **support** of HB1368, which expands the Hospital Sustainability Program and makes the program permanent. Now more than ever, this program is critical for the sustainability and viability of The Queen's Health Systems. Through the Hospital Sustainability Program, the State of Hawai'i is able to leverage federal matching funds for hospitals who provide services to the underserved, uninsured and underinsured. Most importantly, no state general funds are used for this program. The program accomplishes this by issuing a fee on hospital providers in the state of Hawaii and those funds generated by this fee are used by the state to obtain matching federal Medicaid funds, which are reallocated back to private hospitals.

In FY2021, Queen's contributed to the well-being of Hawai'i by giving back to the community more than \$180 million in unreimbursed health care services, education, and charitable contributions. Of that \$180 million, over \$39 million accounted for our Medicaid Reimbursement Shortfall, the cost absorbed by Queen's when Medicaid government reimbursements did not fully cover the cost of care. The Hospital Sustainability Program helps Queen's offset a portion of these costs for unreimbursed care.

We concur with Healthcare Association of Hawai'i's testimony and urge the Committee to support HB1368. Thank you for your support of this critically 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.



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 1368, Relating to the Hospital Sustainability Program

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 healthcare 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 hospital 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 hospitals, 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 five total amendments to this measure.

Two requested amendments would add new sections into this measure to make permanent two exemptions on the hospital sustainability special fund related to the central services fund and administrative expenses.

The first would be to exempt the fund from the central services fund and would read:

"(a) Except as provided in this section, and notwithstanding any other law to the contrary, from time to time, the director of finance, for the purpose of defraying the prorated estimate of central service expenses of government in relation to all special funds, except the:

- (1) Special out-of-school time instructional program fund under section 302A-1310;
- (2) School cafeteria special funds of the department of education;
- (3) Special funds of the University of Hawaii;
- (4) Convention center enterprise special fund under section 201B-8;
- (5) Special funds established by section 206E-6;
- (6) Aloha Tower fund created by section 206J-17;
- (7) Funds of the employees' retirement system created by section 88-109;
- (8) Hawaii hurricane relief fund established under chapter 431P;
- (9) Hawaii health systems corporation special funds and the subaccounts of its regional system boards;
- (10) Universal service fund established under section 269-42;
- (11) Emergency and budget reserve fund under section 328L-3;

- (12) Public schools special fees and charges fund under section 302A-1130;
- (13) Sport fish special fund under section 187A-9.5;
- (14) Neurotrauma special fund under section 321H-4;
- (15) Glass advance disposal fee established by section 342G-82;
- (16) Center for nursing special fund under section 304A-2163;
- (17) Passenger facility charge special fund established by section 261-5.5;
- (18) Solicitation of funds for charitable purposes special fund established by section 467B-15;
- (19) Land conservation fund established by section 173A-5;
- (20) Court interpreting services revolving fund under section 607-1.5;
- (21) Trauma system special fund under section 321-22.5;
- (22) Hawaii cancer research special fund;
- (23) Community health centers special fund;
- (24) Emergency medical services special fund;
- (25) Rental motor vehicle customer facility charge special fund established under section 261-5.6;
- (26) Shared services technology special fund under section 27-43;
- (27) Automated victim information and notification system special fund established under section 353-136;
- (28) Deposit beverage container deposit special fund under section 342G-104;
- (29) Hospital sustainability program special fund established under section 346G-4;

(30) Nursing facility sustainability program special fund under section 346F-4;

(31) Hawaii 3R's school improvement fund under section 302A-1502.4;

(32) After-school plus program revolving fund under section 302A-1149.5;

(33) Civil monetary penalty special fund under section 321-30.2; and

[+] (34) [+] Stadium development special fund under section 109-3.5,

shall deduct five per cent of all receipts of all other special funds, which deduction shall be transferred to the general fund of the State and become general realizations of the State. All officers of the State and other persons having power to allocate or disburse any special funds shall cooperate with the director in effecting these transfers. To determine the proper revenue base upon which the central service assessment is to be calculated, the director shall adopt rules pursuant to chapter 91 for the purpose of suspending or limiting the application of the central service assessment of any fund. No later than twenty days prior to the convening of each regular session of the legislature, the director shall report all central service assessments made during the preceding fiscal year."

The second would be to exempt the fund from the pro rata share to support administrative expenses and would read:

Section 36-30, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) Each special fund, except the:

(1) Special out-of-school time instructional program fund under section 302A-1310;

(2) School cafeteria special funds of the department of education;

(3) Special funds of the University of Hawaii;

(4) Special funds established by section 206E-6;

(5) Aloha Tower fund created by section 206J-17;

- (6) Funds of the employees' retirement system created by section 88-109;
- (7) Hawaii hurricane relief fund established under chapter 431P;
- (8) Convention center enterprise special fund established under section 201B-8;
- (9) Hawaii health systems corporation special funds and the subaccounts of its regional system boards;
- (10) Universal service fund established under section 269-42;
- (11) Emergency and budget reserve fund under section 328L-3;
- (12) Public schools special fees and charges fund under section 302A-1130;
- (13) Sport fish special fund under section 187A-9.5;
- (14) Neurotrauma special fund under section 321H-4;
- (15) Center for nursing special fund under section 304A-2163;
- (16) Passenger facility charge special fund established by section 261-5.5;
- (17) Court interpreting services revolving fund under section 607-1.5;
- (18) Trauma system special fund under section 321-22.5;
- (19) Hawaii cancer research special fund;
- (20) Community health centers special fund;
- (21) Emergency medical services special fund;
- (22) Rental motor vehicle customer facility charge special fund established under section 261-5.6;
- (23) Shared services technology special fund under section 27-43;
- (24) Nursing facility sustainability program special fund established under section 346F-4;
- (25) Automated victim information and notification system special fund established under section 353-136;

(26) Hospital sustainability program special fund established under section 346G-4;

(27) Civil monetary penalty special fund under section 321-30.2; and

[+](28)[+]Stadium development special fund under section 109-3.5,

shall be responsible for its pro rata share of the administrative expenses incurred by the department responsible for the operations supported by the special fund concerned."

One additional requested amendment would be to remove the amendment made in Section 4, page 5, line 7. We would prefer that the language continue to read "no less than" rather than "at least."

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, we would request that Section 5, page 8, lines 1-10 be amended to read:

"The department may ~~[also exclude any facility from the hospital sustainability fee if it is determined that its exclusion is required to meet federal standards of approval.]~~, upon good faith consultation and negotiations with the hospital trade association located in Hawaii, modify, add to, or exclude facilities in 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, we would request that Section 6, page 9, lines 1-8 be amended to read:

"(c) The department shall ~~[collect,~~ impose the hospital sustainability fee ~~[and each hospital shall pay, if so required,~~ on a monthly basis. The hospital shall pay the hospital sustainability fee ~~[no later than the sixtieth day]~~ within sixty calendar days after the end of ~~[each]~~ 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 notification to the hospitals 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.