

## ACT 333

S.B. NO. 1340

A Bill for an Act Relating to Long Term Care.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. For all who hope to live a long life, the eventuality of long-term care is a real possibility. For many, it is a frightening possibility fraught with questions. Among various long-term care concerns, the dilemma of how to cover the high costs of such care is gaining preeminence in both the federal and state governments because it has ramifications for the well-being of families young and old, government itself, and society in general. Not unexpectedly, the solution to the financing dilemma must be built from assumptions which recognize the future and the new realities which are upon us. In short, the solution to the financing dilemma must be based upon new paradigms which acknowledge the unalterable shape of things to come. No longer a youthful society, America is graying and the needs of its elders must be met with dignity, a sense of fairness, foresight, and compassion.

In Hawaii, the human dimensions of the unaffordability of long-term care and the escalating care needs of a mushrooming elderly population suggest that things cannot continue as they are. The cost of long-term care is expected to grow almost exponentially throughout the twenty-first century. It is expected that cash outlays for elder nursing home care by Hawaii families will grow by more than 1,100 per cent between 1991 and 2020. Hawaii families eventually will pay about \$212,300,000 for nursing home care. Average Hawaii family cash payments for elder nursing home care will increase more than 300 per cent to more than \$18,000 annually by 2020. This is an average expense across all Hawaii elderly families, including those who make no such payments. Thus, families who actually pay will spend considerably more.

Hawaii families also will be forced to convert non-housing assets such as savings and other financial accumulations toward the payment of nursing home care. Between 1991 and 2020, Hawaii family asset expenditures for nursing home care will grow more than 1,000 per cent to about \$212,300,000. The average value Hawaii family asset payments will increase nearly 400 per cent to a staggering \$59,000 annually by 2020. Average annual nursing home charges are now almost twice the average disposable income for Hawaii elderly families. By 2020,

the average annual nursing home charge will be more than \$94,000.

Between 1991 and 2020, the State's portion of expenditures for the Medicaid program for elderly nursing home care will grow by more than 1,300 per cent to \$544,800,000. This will represent only about one third of the total nursing home bill for Hawaii. Hawaii families will pay more than an equal amount out-of-pocket in cash and assets. This is assuming that the federal portion of expenditure for the Medicaid program is not slashed. The number of nursing home claims paid by the State for Medicaid for Hawaii elders will grow nearly 200 per cent and reach almost 12,000 claims by 2020. Average annual Hawaii State Medicaid nursing home benefit payments will increase nearly 400 per cent to about \$41,500 per claim by 2020.

Between 1991 and 2020, the total long-term care bill, including the costs of nursing home and paid home care, for Hawaii will grow by more than 1,000 per cent to a staggering \$2,000,000,000. Unless a financing strategy is adopted, most of that burden will be borne by Hawaii families and by the State to fund, in the case of the latter, through the Medicaid program.

In Hawaii, the elderly population sixty-five years of age and older will grow in absolute and relative terms from 124,797 or 19.2 per cent to 246,369 or 25.6 per cent. The eighty-plus population, which comprises the segment of elders most at risk, will triple in number and double in proportion from 23,299 or 3.6 per cent to 60,676 or 6.3 per cent over the same period.

Between 2016 and 2020, the absolute and relative numbers of disabled elders will rise to 55,027 or 30.9 per cent of those persons 65 plus up from 28,231 or 25.8 per cent between 1991-1995. Persons who are severely disabled with deficiencies in at least two or more activities of daily living will double during the same periods from 10,809 (7.9 per cent) to 20,247 (8.7 per cent).

The long-term care challenge is inescapable. For many, the preferable response to the problem of long-term care costs is a federal program, such as the one outlined by the United States bipartisan commission on comprehensive health care, more commonly known as the Pepper Commission. For others, the preferable alternative has been a reliance upon a private sector mechanism; most notably, the relatively new long-term care insurance products which have been developing over the last ten years. However, because neither source of protection is particularly viable at the present time, it is critical that the State adopt a strategy for making affordable, equitable, protective, and reliable long-term care available as soon as feasible.

This Act responds to the needs outlined in this section by establishing a temporary long-term care financing advisory board.

SECTION 2. (a) There is established, within the executive office on aging in the office of the governor for administrative purposes, the long-term care financing advisory board consisting of ten members to be appointed as follows:

- (1) The director of the executive office on aging, ex officio;
- (2) The director of finance, ex officio;
- (3) The director of health, ex officio;
- (4) The director of human services, ex officio;
- (5) Five members, appointed by the governor, who shall have backgrounds in insurance management, financial portfolio management, or health care management, or persons of similar experience; and
- (6) One consumer member, appointed by the governor, who shall be a senior citizen.

The advisory board shall cease to exist two years after its formation.

(b) The purpose of the advisory board shall be to advise the executive

office on aging on the establishment of a comprehensive long-term care financing program for Hawaii residents. Specifically, the advisory board shall consider the feasibility of creating a public fund to be administered by a public body. The recommendations shall include:

- (1) Guidelines for participation in the program by Hawaii residents;
- (2) A proposed schedule of required contribution rates subject to legislative approval, which, when combined with other available funding sources, are actuarially sufficient to fund program benefits promulgated under this Act;
- (3) Benefit vesting guidelines for participating Hawaii residents;
- (4) Guidelines for earning permanent benefits by participating Hawaii residents;
- (5) Guidelines for the retroactive crediting of benefits to participating Hawaii residents;
- (6) Guidelines for automatic program participation of a spouse;
- (7) Specific institutional and noninstitutional long-term care services covered, limited, and excluded by the program;
- (8) Terms and conditions for the receipt of program benefits, to include eligibility requirements;
- (9) Maximum program benefit payment amounts for institutional long-term care and for noninstitutional long-term care as a percentage of actual charges up to a maximum stipulated dollar amount;
- (10) Guidelines for automatic adjustment of program benefit payment amounts to account for inflation; and
- (11) Guidelines for the return, in whole or in part, of paid in contributions to the estate of participating Hawaii residents who claim little or no program benefits during their lives.

SECTION 3. For the purposes of this Act, "long-term care" refers to an array of services needed by individuals who have lost some capacity for independence because of chronic illness or condition. "Long-term care" includes assistance with basic activities and routines of daily living such as bathing, dressing, meal preparation, and eating. It may also include skilled and therapeutic care for the treatment and management of chronic conditions. Services can be in a variety of settings—the individual's home, the community, or an institution. "Long-term care" does not refer to services normally provided in the acute care unit of a hospital or to services normally paid for by basic medicare supplemental coverage, basic hospital expense coverage, basic medical-surgical expense coverage, hospital confinement coverage, major medical expense coverage, or specified disease or specified accident coverage.

SECTION 4. The members of the advisory board shall serve without compensation but shall be reimbursed for expenses, including travel expenses, necessary for the performance of their duties.

SECTION 5. The advisory board shall submit a preliminary copy of its report with recommendations to the governor, the president of the senate, and the speaker of the house of representatives before November 1, 1991, and a final report before July 1, 1993.

SECTION 6. This Act shall take effect upon its approval.

(Approved July 8, 1991.)