

JOSH GREEN M.D.
GOVERNOR

SYLVIA LUKE
LT. GOVERNOR



STATE OF HAWAII
DEPARTMENT OF TAXATION

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GARY S. SUGANUMA
DIRECTOR

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DEPUTY DIRECTOR

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

TESTIMONY ON THE FOLLOWING MEASURE:

S.B. No. 1134, Relating to Taxation

BEFORE THE:

Senate Committee on Health and Human Services

DATE: Friday, February 3, 2023

TIME: 1:00 p.m.

LOCATION: State Capitol, Room 225

Chair San Buenaventura, Vice-Chair Aquino, and Members of the Committee:

The Department of Taxation ("Department") offers the following comments regarding S.B. 1134 for your consideration.

S.B. 1134 adds a new section to Chapter 237, Hawaii Revised Statutes, to provide an exemption for gross proceeds arising from the sale of "medical services" rendered under chapters 436E, 442, 447, 448, 448B, 451A, 451J, 451K, 452, 453, 453D, 455, 457, 457A, 457G, 458, 459, 461, 461J, 463E, 465, 465D, 466D, 466J, or 468E by hospitals, medical clinics, and facilities licensed by the appropriate state agencies from the imposition of the general excise tax (GET). The measure further clarifies that the exempted "medical services" do not include services in connection with a "cosmetic medical procedure," which is also defined within the bill.

S.B. 1134 takes effect on July 1, 2023.

The Department requests that the effective date of the bill be amended to January 1, 2024 to allow the Department sufficient time to make the necessary form and computer system modifications.

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



February 3, 2023

1 p.m.

VIA VIDEOCONFERENCE

Conference Room 225

To: Senate Committee on Health and Human Services

Senator Joy A. San Buenaventura, Chair

Senator Henry J.C. Aquino, Vice Chair

From: Grassroot Institute of Hawaii

Ted Kefalas, Director of Strategic Campaigns

RE: SB1134 — RELATING TO TAXATION

Comments Only

Dear Chair and Committee Members:

The Grassroot Institute of Hawaii would like to offer its comments on [SB1134](#), which would provide a general excise tax exemption for all medical services with the exception of certain cosmetic procedures.

With this bill, the Legislature would bring Hawaii into the mainstream of states that do not tax medical services. At present, Hawaii is one of only two states that levies a tax on medical services and the only state to tax Medicare and TRICARE.

Though nonprofit facilities are currently exempt from the GET, private practice physicians are not. Thus, private practice doctors and clinics must pay the 4% GET plus any county surcharge. As the Grassroot Institute explains in its new report, "[The case for exempting medical services from Hawaii's general excise tax](#)," the GET becomes a significant expense for doctor offices, making it difficult for such practices to thrive in our state.

A further problem comes with the application of the GET to TRICARE, Medicare, and Medicaid beneficiaries. As explained in the Grassroot Institute report, the GET cannot legally be passed on to TRICARE or Medicare patients, forcing doctors to absorb those costs entirely.

Similarly, in the case of Medicaid, doctors are forced to either pursue an indigent patient for their share of the GET, which may result in higher administrative costs than can be recouped, or deny service based on the patient's inability to pay the tax.

Under the circumstances, many private practice doctors consider it impossible to pass the tax on to Medicaid patients as well.

The result is that physicians are either disincentivized from treating Medicare, Medicaid and TRICARE patients or forced to absorb the GET for those patients.

Fortunately, there is a simple and effective solution, as described in this bill: creating a GET exemption for medical services.

According to research from the Grassroot Institute of Hawaii, exempting medical services from the excise tax would help make healthcare more affordable in the state for both doctors and residents.¹

Healthcare spending for medical services in Hawaii totals about \$9 billion a year, of which the for-profit private sector accounts for \$5 billion. An exemption from the state's 4% GET would save private, for-profit medical providers approximately \$200 million. Waiving the GET surcharges imposed by the counties would save an additional \$22 million more.

This would result in substantial savings for individual practices. According to the Grassroot Institute study, the savings from that base 4% GET exemption would be about \$5,275 each for the approximately 38,000 full-time workers in the medical industry. That's the equivalent to 6.7% of the average medical service worker's wage and 5.8% of current GET collections.

Given that the state is projecting a surplus of more than \$10 billion over the next four years, the budget could easily absorb the expense of this exemption.

There are other possible benefits to this exemption. Not only would it help reduce the cost of medical care for Hawaii residents, it likely would help alleviate the state's doctor shortage.

The most recent report from the Hawaii Physician Workforce Assessment Project estimates that the state has an unmet need for 776 full-time equivalent physicians. The largest area of need is in primary care, but there are significant shortages across multiple specialities.

¹ "How the state GET affects healthcare costs in Hawaii," Grassroot Institute of Hawaii, January 2020, www.grassrootinstitute.org/wp-content/uploads/2020/01/How-the-state-GET-affects-health-care-costs-in-Hawaii.pdf

The COVID-19 crisis helped emphasize the importance of improving healthcare access in Hawaii. It also demonstrated that we must pursue multiple strategies to address the shortage of healthcare professionals in the state.

Luring new doctors to Hawaii — and keeping those who are already here — is a complicated proposition. Many proposals would take years to demonstrate success in addressing the issue.

In the meantime, Hawaii residents will continue to suffer from the shortage of available medical professionals and the high cost of healthcare in our state.

It is hard to know exactly how beneficial a GET exemption for medical services would be, but it would at least remove a major burden for existing local practices. If this bill prevents more doctors and clinics from leaving the state or closing, it will have accomplished its goal.

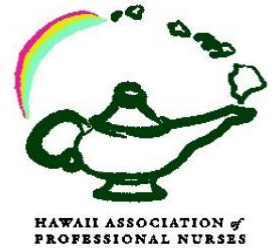
It is common practice for the state to use GET exemptions to encourage or aid certain industries. Already, Hawaii exempts petroleum refining, aircraft maintenance and leasing, and orchards from the GET. We think healthcare is at least as important as any of those industries, if not more so, and I would hope that the members of this committee think so too.

State policymakers are rightly concerned with making healthcare more affordable and addressing the shortage of medical professionals in Hawaii. By creating a general excise tax exemption for medical services, there is an opportunity to make Hawaii a more attractive — and less expensive — place to practice medicine.

Thank you for the opportunity to submit our comments.

Sincerely,
Ted Kefalas
Director of Strategic Campaigns
Grassroot Institute of Hawaii

Hawai'i Association of Professional Nurses (HAPN)



To: The Honorable Senator Joy San Buenaventura, Chair of
the Senate Committee on Health and Human Services; and

From: Hawaii Association of Professional Nurses (HAPN)
Subject: SB1134 – Relating to Taxation, in Support

Hearing: February 3, 2023, 1p.m.

Aloha Senator San Buenaventura, Chair; Senator Aquino, Vice Chair; and Committee Members,

Thank you for the opportunity to submit testimony regarding SB1134. HAPN stands with countless community organizations, private practices throughout the state, and all residents of Hawaii who receive healthcare. HAPN believes that healthcare access in Hawaii is at a point where provider supply is not in line with healthcare demand. As such, HAPN is in **Support** of removing the General Excise Tax (GET) on all services that are provided by **Advanced Practice Registered Nurses, Physician Assistants (Physician Associates), and Physicians. This GET exemption must include care provided by primary care providers and specialists.**

Our organization has always supported patient access to care in our communities and we are seeing a fast erosion of care due to clinic closures or providers no longer practicing. This is happening for many reasons to include providers moving out of state for more favorable business environments; provider retirement or death; poor reimbursement from all insurance plans to include private, state, and federal sinking clinics trying to provide care; and insurance reimbursement received not in line with the cost of doing business and the cost of living. In the Access to Care statewide survey by the Hawai'i Rural Health Association and Community First, nearly half of healthcare providers were considering leaving medicine, retiring, cutting hours or leaving the state. Hawaii is the only American state which taxes medical care. Healthcare providers have to absorb this tax, which federal Medicare and TriCare policies forbid passing to patients. The GET taxes gross revenues, even when practices lose money providing care, which makes many practices nonprofitable.

HAPN's mission, to be the voice of APRNs in Hawaii, has been the guiding force that propelled us to spearhead the advancement of patients access to healthcare as well as supporting the recognition of the scope of practice for APRNs in Hawaii which led us to full practice authority. We have worked to improve the physical and mental health of our communities. As our ability to provide close care with our patients progressed, we also opened up our own clinics to provide the care our patients deserve. APRNs have played an important role in the healthcare of our communities and we will continue to be by our patients' side.

HAPN respectfully asks your Committee to pass this bill. Thank you for the opportunity to share the perspective of HAPN with your committee. Thank you for your enduring support of the nursing profession in the Aloha State.

Respectfully,
Dr. Jeremy Creekmore, APRN
HAPN President

Dr. Bradley Kuo, APRN
HAPN Legislative Committee, Chair
HAPN Past President

SB-1134

Submitted on: 1/31/2023 8:02:26 PM

Testimony for HHS on 2/3/2023 1:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Scott Grosskreutz, M.D.	Testifying for Hawaii Provider Shortage Crisis Task Force	Support	Written Testimony Only

Comments:

Dear Senators,

Hawaii’s healthcare provider community would like to express our deep appreciation for the Senate’s past support of GET reform for healthcare services. In the 2020 session, the Senate voted to pass SB2542, exempting services by APRNs and doctors by a vote of 25-0. That bill was not heard by the House, as the session was cut short by the pandemic.

Hawaii’s access to care crisis has worsened since the COVID pandemic, which has severely stressed our healthcare system. In the Access to Care statewide survey by the Hawai’i Rural Health Association and Community First, many patients report delays in healthcare and almost 20% of respondents were considering moving from the state or their island to find care.



Nearly half of healthcare providers were considering leaving medicine, retiring, cutting hours or leaving the state.



The unfortunate fact is that many private medical practices in Hawai’i are under serious financial stress. Many are losing money and facing closure. This is simple to understand from a business perspective. Nation wide many medical practices report breaking even providing care to Medicare patients. Almost all practice lose money caring for Medicaid patients. Hawaii is the

only American state which taxes Medicare, Medicaid and TriCare medical care, which is half of Hawaii's population. Healthcare providers have to absorb this tax, which federal Medicare and TriCare policies forbid passing to patients. The GET taxes gross revenues, even when practices lose money providing care, which makes many if not most practices non-profitable.



To make things worse reimbursements are decreasing from Medicare and local insurance companies despite medical inflation that exceed the CPI. There is no business in the world that can long survive with constantly increasing costs and falling revenues.



There is no more optimal time to pass a GET exemption for healthcare than with billion dollar budget surpluses. The Healthcare Association of Hawai'i has noted that if the GET was applied to our hospitals, many would have to close or cut back services. The GET is a practice killer for our private medical practices, and in a few years few will remain. That would result in the worst of all possible worlds, where the revenues from GET taxation of healthcare trend toward zero, and a healthcare disaster where lack of access to healthcare results in worsening healthcare outcomes, with severe disparities on our Neighbor Islands. Hawaii is already dead last in the number of providers able to accept Medicare patients.



The patients are the ones who suffer. This afternoon I spoke to a very nice woman at our Hilo mammography center who had a palpable breast mass since July. She could not find a health providers to refer her for workup. Her large cancer was invading the skin with metastatic adenopathy. This is over 15 patients that I have seen present with advanced disease because they could find a primary care provider in East Hawaii in the last year.

Scott Grosskreutz, M.D., FACR

Hawaii Provider Shortage Crisis Task Force.

THE KŪPUNA CAUCUS



Feb 1 2023

**TO: The Committee on Health and Human Services
Chair Senator Joy A San Buenaventura
Vice Chair Senator Henry J.C. Aquino**

**Concerning: SB314, SB397, SB404, SB102, SB761, SB1477, SB1035, SB1118, SB1128,
SB1134, SB1239, SB1348**

POSITION: Enthusiastic Support of all bills

ALOHA Chair Buenaventura and Vice Chair Aquino, and all members of the committee

On behalf of the Kupuna Caucus' Health and Medical Services sub-committee I am testifying in support of all of the proposed legislation as listed above.

Each one represents a vital step towards keeping our medical professionals here in Hawaii and keeping practitioner offices open for everybody but especially for seniors who often depend on Medicare and Medicaid for health related care and procedures.

Currently it is almost impossible for individual doctors to maintain their own offices without 2 to 4 additional doctors sharing the financial burdens. The extraordinary amount of insurance related paperwork they must file to get paid is over whelming and complicated and often redundant. They have to hire accounting specialists to deal with it so only Medical Corporations survive under those conditions.

I have done my own research and ever single doctor I spoke with (and every doctor my friends/fellow seniors from precinct 2 District 27spoke with) said that the one thing that is affecting them the most are the State's excise taxes which are being addressed in SB102, 761, 1472, 1035, 1118, 1128,1134,1239, and 1348.

When patients receive a bill, they usually do not pay the tax themselves, even if their insurance Company does not pay the tax. The same applies to medical products, prescriptions, any and all support services provided by health and medical practices. In addition Medicare and Medicaid covered bill also never pay the state tax leaving the practitioners or health related institutions and facilities to cover the taxes out of pocket. A number of doctors do not accept Medicare and/Medicaid covered clients or are forced to refer current clients to other medical groups for that reason. This is as concerning as the shortage of doctors all over the state. These bills are what our state can do to encourage them to stay.

Martha E Randolph
Precinct 2 Rep, District 27 Council
DPH Environmental Caucus SCC Representative and
Member of the DPH Legislative Priorities Committee

LATE

SB-1134

Submitted on: 2/2/2023 1:42:11 PM

Testimony for HHS on 2/3/2023 1:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Keith Marrack	Testifying for Hawaii Island Chamber of Commerce	Support	Written Testimony Only

Comments:

Dear Senators,

The Hawai'i Island Chamber of Commerce Economic Development Committee recently hosted Dr. Lynda Dolan and Dr. Dan Belcher to get a better handle on the challenges facing private practice physicians in the state. One of the issues they brought up is the general excise tax (GET). While federal and state facilities are exempt, private practice physicians are required to pay the GET for their services. They can pass this cost on to private payers, but the federal government prohibits them from passing these costs on to Medicare and Medicaid patients. So basically they are forced to eat this cost. Hawai'i already has the lowest Medicare and Medicaid reimbursement rates in the nation and these rates are set to be cut by 8% in 2023. In addition, 50% of patients in the state are covered by Medicare and Medicaid. We are already 1000 doctors short across the state and 300 on Hawai'i Island alone. We should be doing everything we can to make it attractive for a physician to be in Hawai'i.

As such, we strongly encourage you to support the exemption of all medical practices from the GET. This will benefit current physicians and make it more attractive for future physicians to want to work and stay in Hawai'i. We are one of only two states in the nation that taxes medical care, and the results are being felt as physicians choose to practice elsewhere, retire, or change careers. Private physicians in East Hawai'i take care of about 1/3 of all patients. They are critical to our health care needs and the needs of prospective employers and employees. If we can't get the needed coverage on the island, business will choose to go somewhere else.

Thank you for doing all you can to support our local physicians so they can provide the healthcare we so badly need in the state and on the Island.

Aloha,

Keith Marrack

Hawaii Island Chamber of Commerce Vice President and Economic Development Chair

Michael Traub, ND, FABNO
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Phone 808-329-2114
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January 31, 2023

Re: SB1134

Hearing Friday February 3, 2023 1:00 pm

Committee on Health and Human Services
Senator Joy A. San Buenaventura, Chair
Senator Henry J.C. Aquino, Vice Chair

There are several bills scheduled for this hearing that pertain to exemptions to the Hawaii General Excise tax.

Some of them, such as SB1134, contain provisions that would include naturopathic physicians (NDs); others do not include NDs, and should be amended to do so. SB1134 is an example of a bill that is inclusive, and I urge that you vote to support it as is.

Mahalo for your consideration.

Sincerely,

Michael Traub ND

TAX FOUNDATION OF HAWAII

126 Queen Street, Suite 305

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: GENERAL EXCISE, Exemption for Medical Services

BILL NUMBER: SB 1134

INTRODUCED BY: MCKELVEY, KEITH-AGARAN, WAKAI

EXECUTIVE SUMMARY: Exempts medical services from the general excise tax.

SYNOPSIS: Adds a new section to chapter 237, HRS, that exempts from GET all of the gross proceeds arising from the sale of medical services.

Medical services include reconstructive surgery but do not include cosmetic medical procedures, as stated in these definitions:

"Cosmetic medical procedure" means any medical procedure performed on an individual that is directed at improving the individual's appearance and that does not meaningfully promote the proper function of the body or prevent or treat illness or disease. "Cosmetic medical procedure" does not include reconstructive surgery.

"Medical services" means professional services provided by hospitals and medical clinics and facilities that are licensed by the appropriate state agencies and services rendered under chapters 436E, 442, 447, 448, 448B, 451A, 451J, 451K, 452, 453, 453D, 455, 457, 457A, 457G, 458, 459, 461, 461J, 463E, 465, 465D, 466D, 466J, or 468E. "Medical services" does not include services in connection with a cosmetic medical procedure.

"Reconstructive surgery" includes any surgery performed on abnormal structures caused by or related to congenital defects, developmental abnormalities, trauma, infection, tumors or disease, including procedures to improve function or give a more normal appearance."

EFFECTIVE DATE: July 1, 2023.

STAFF COMMENTS: Medical services rendered at a nonprofit hospital, infirmary, or sanitarium are exempt from the tax, whereas the same services rendered by individual or group practices or clinics are fully taxable. Insurance providers and Medicare do not compensate for the tax differential, leading some health care providers to bear additional economic costs.

This problem is especially acute when the payer is a governmental health program. Medicare regulations (42 CFR sec. 424.55(b)) prohibit the surcharging of most additional costs to patients, including taxes. Medicare Claims Processing Manual, ch. 23, sec. 80.3.1.A

<https://www.cms.gov/Regulations-and-Guidance/Guidance/Manuals/Downloads-/clm104c23.pdf> . We understand that Medicaid and TRICARE have similar prohibitions.

In the meantime, there is a physician shortage in Hawaii that has been well documented. The final Hawai'i Physician Workforce Assessment Project Report for 2020

(https://www.hawaii.edu/govrel/docs/reports/2021/act18-sslh2009_2021_physician-workforce_annual-report_508.pdf) conducted by the University of Hawai‘i at Mānoa John A. Burns School of Medicine (JABSOM) and submitted to the Hawai‘i State Legislature in December 2020, the pandemic has challenged continued physician practice in Hawai‘i and is expected to increase the relative shortage of physicians for the state for the next several years as older physicians leave their practices.

Some physician groups have alleged that the GET applied to medical services has been one of the drivers of this shortage. This assertion is backed up by the 2008-2010 experience of Hawaii Medical Center (HMC), a for-profit hospital which went into bankruptcy and tried to reorganize as a nonprofit. That plan, according to HMC’s then-CFO, would relieve the hospitals of as much as \$6 million in annual taxes, including general excise and property taxes.

The Foundation does believe that there is evidence supporting an industry-specific GET exemption here.

Digested: 2/1/2023

SB-1134

Submitted on: 2/1/2023 4:02:43 PM

Testimony for HHS on 2/3/2023 1:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Dr. Guy Yatsushiro	Individual	Support	Written Testimony Only

Comments:

Support

SB-1134

Submitted on: 2/1/2023 4:05:29 PM

Testimony for HHS on 2/3/2023 1:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Dara Yatsushiro	Individual	Support	Written Testimony Only

Comments:

Stand in SUPPORT

SB-1134

Submitted on: 1/31/2023 9:10:02 PM

Testimony for HHS on 2/3/2023 1:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Kimberly Matsunaga	Individual	Oppose	Written Testimony Only

Comments:

APRNs and nursing in general looks at a patient as a whole. Why do nurses and APRNs get punished for wanting a more personable approach to medicine?! Why should medical clinics be exempt from general excise tax (GET) when services are provided by an APRN? Honestly, more patient attention and patient satisfaction come from nursing care! Since I give orders, these services are "performed by an APRN". I support SB1128, SB102, SB761 and oppose SB1134 as it specifically excludes cosmetic procedures.